

The Ontario Securities Commission

# OSC Bulletin

January 14, 2016

Volume 39, Issue 2

(2016), 39 OSCB

The Ontario Securities Commission administers the *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)

**The Ontario Securities Commission**

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

416-593-8314 or Toll Free 1-877-785-1555

Contact Centre – Inquiries, Complaints:

Office of the Secretary:

Published under the authority of the Commission by:

**Carswell, a Thomson Reuters business**

One Corporate Plaza  
2075 Kennedy Road  
Toronto, Ontario  
M1T 3V4

416-609-3800 or 1-800-387-5164

Fax: 416-593-8122  
TTY: 1-866-827-1295

Fax: 416-593-2318



**THOMSON REUTERS**

The OSC Bulletin is published weekly by Carswell, a Thomson Reuters business, under the authority of the Ontario Securities Commission.

Subscriptions are available from Carswell at the price of \$827 per year.

Subscription prices include first class postage to Canadian addresses. Outside Canada, these airmail postage charges apply on a current subscription:

U.S.	\$8 per issue
Outside North America	\$12 per issue

Single issues of the printed Bulletin are available at \$20 per copy as long as supplies are available.

Carswell also offers every issue of the Bulletin, from 1994 onwards, fully searchable on *SecuritiesSource*<sup>™</sup>, Canada's pre-eminent web-based securities resource. *SecuritiesSource*<sup>™</sup> also features comprehensive securities legislation, expert analysis, precedents and a weekly Newsletter. For more information on *SecuritiesSource*<sup>™</sup>, as well as ordering information, please go to:

<http://www.westlawecarswell.com/SecuritiesSource/News/default.htm>

or call Carswell Customer Relations at 1-800-387-5164 (416-609-3800 Toronto & Outside of Canada).

Claims from *bona fide* subscribers for missing issues will be honoured by Carswell up to one month from publication date.

Space is available in the Ontario Securities Commission Bulletin for advertisements. The publisher will accept advertising aimed at the securities industry or financial community in Canada. Advertisements are limited to tombstone announcements and professional business card announcements by members of, and suppliers to, the financial services industry.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise without the prior written permission of the publisher.

The publisher is not engaged in rendering legal, accounting or other professional advice. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

© Copyright 2016 Ontario Securities Commission  
ISSN 0226-9325  
Except Chapter 7 ©CDS INC.



---

One Corporate Plaza  
2075 Kennedy Road  
Toronto, Ontario  
M1T 3V4

Customer Relations  
Toronto 1-416-609-3800  
Elsewhere in Canada/U.S. 1-800-387-5164  
Fax 1-416-298-5082  
[www.carswell.com](http://www.carswell.com)  
Email [www.carswell.com/email](mailto:www.carswell.com/email)

# Table of Contents

<p><b>Chapter 1 Notices / News Releases ..... 225</b></p> <p><b>1.1 Notices ..... 225</b></p> <p>1.1.1 OSC Staff Notice 11-739 (Revised) – Policy Reformulation – Table of Concordance and List of New Instruments ..... 225</p> <p>1.1.2 Notice of Ministerial Approval of Multilateral Instrument 45-108 Crowdfunding and Consequential Amendments ..... 228</p> <p>1.1.3 CSA Staff Notice 52-306 (Revised) – Non-GAAP Financial Measures ..... 229</p> <p><b>1.2 Notices of Hearing ..... 232</b></p> <p>1.2.1 Paul Christopher Darrigo – ss. 8, 21.7 ..... 232</p> <p><b>1.3 Notices of Hearing with Related Statements of Allegations ..... (nil)</b></p> <p><b>1.4 News Releases ..... (nil)</b></p> <p><b>1.5 Notices from the Office of the Secretary ..... 233</b></p> <p>1.5.1 Sino-Forest Corporation et al. .... 233</p> <p>1.5.2 Blue Gold Holdings Ltd. et al. .... 234</p> <p>1.5.3 Clifford Todd Monaghan ..... 235</p> <p>1.5.4 Paul Christopher Darrigo ..... 236</p> <p>1.5.5 Neil Suresh Chandran et al. .... 237</p> <p><b>1.6 Notices from the Office of the Secretary with Related Statements of Allegations ..... (nil)</b></p> <p><b>Chapter 2 Decisions, Orders and Rulings ..... 239</b></p> <p><b>2.1 Decisions ..... 239</b></p> <p>2.1.1 Guardian Capital LP et al. .... 239</p> <p>2.1.2 Guardian Capital LP et al. .... 242</p> <p>2.1.3 Norrep Capital Management Ltd. .... 245</p> <p>2.1.4 Jessica M. Brown ..... 249</p> <p>2.1.5 Norrep Capital Management Ltd. .... 250</p> <p>2.1.6 Sprott Asset Management LP ..... 254</p> <p>2.1.7 Amica Mature Lifestyles Inc. – s. 1(10)(a)(ii) .... 257</p> <p>2.1.8 Borden Ladner Gervais LLP – s. 1(10)(a)(ii) .... 258</p> <p><b>2.2 Orders ..... 259</b></p> <p>2.2.1 Canadian Imperial Bank of Commerce – 104(2)(c) ..... 259</p> <p>2.2.2 Sino-Forest Corporation et al. .... 263</p> <p>2.2.3 Blue Gold Holdings et al. – s. 127 ..... 264</p> <p>2.2.4 Global Autotrading Inc. and Jimmy Talbot – s. 25(3) ..... 266</p> <p>2.2.5 Clifford Todd Monaghan ..... 268</p> <p>2.2.6 Toronto Dominion Bank – s. 104(2)(c) ..... 269</p> <p>2.2.7 Neil Suresh Chandran, et al. – ss. 127(1), 127(10) ..... 273</p> <p><b>2.3 Orders with Related Settlement Agreements ..... (nil)</b></p> <p><b>2.4 Rulings ..... (nil)</b></p> <p><b>Chapter 3 Reasons: Decisions, Orders and Rulings ..... (nil)</b></p> <p><b>3.1 OSC Decisions ..... (nil)</b></p> <p><b>3.2 Director’s Decisions ..... (nil)</b></p> <p><b>3.3 Court Decisions ..... (nil)</b></p>	<p><b>Chapter 4 Cease Trading Orders ..... 275</b></p> <p>4.1.1 Temporary, Permanent &amp; Rescinding Issuer Cease Trading Orders ..... 275</p> <p>4.2.1 Temporary, Permanent &amp; Rescinding Management Cease Trading Orders ..... 275</p> <p>4.2.2 Outstanding Management &amp; Insider Cease Trading Orders ..... 275</p> <p><b>Chapter 5 Rules and Policies ..... 277</b></p> <p>5.1.1 Multilateral Instrument 45-108 Crowdfunding .. 277</p> <p>5.1.2 Form 45-108F1 – Crowdfunding Offering Document ..... 298</p> <p>5.1.3 Form 45-108F2 – Risk Acknowledgement ..... 313</p> <p>5.1.4 Form 45-108F3 – Confirmation of Investment Limits ..... 315</p> <p>5.1.5 Form 45-108F4 – Notice of Specified Key Events ..... 317</p> <p>5.1.6 Form 45-108F5 – Personal Information Form and Authorization to Collect, Use and Disclose Personal Information ..... 318</p> <p>5.1.7 Companion Policy 45-108CP Crowdfunding .... 328</p> <p>5.1.8 Amendments to NI 45-102 Resale of Securities ..... 342</p> <p>5.1.9 Amendments to OSC Rule 11-501 Electronic Delivery of Documents to the Ontario Securities Commission ..... 343</p> <p>5.1.10 Amendments to OSC Rule 45-501 Ontario Prospectus and Registration Exemptions ..... 344</p> <p>5.1.11 Changes to Companion Policy 45-501CP Ontario Prospectus and Registration Exemptions ..... 345</p> <p><b>Chapter 6 Request for Comments ..... (nil)</b></p> <p><b>Chapter 7 Insider Reporting ..... 347</b></p> <p><b>Chapter 9 Legislation ..... (nil)</b></p> <p><b>Chapter 11 IPOs, New Issues and Secondary Financings ..... 713</b></p> <p><b>Chapter 12 Registrations ..... 715</b></p> <p>12.1.1 Registrants ..... 715</p> <p><b>Chapter 13 SROs, Marketplaces, Clearing Agencies and Trade Repositories ..... (nil)</b></p> <p><b>13.1 SROs ..... (nil)</b></p> <p><b>13.2 Marketplaces ..... (nil)</b></p> <p><b>13.3 Clearing Agencies ..... (nil)</b></p> <p><b>13.4 Trade Repositories ..... (nil)</b></p> <p><b>Chapter 25 Other Information ..... (nil)</b></p> <p><b>Index ..... 716</b></p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



# Chapter 1

## Notices / News Releases

### 1.1 Notices

#### 1.1.1 OSC Staff Notice 11-739 (Revised) – Policy Reformulation – Table of Concordance and List of New Instruments

#### OSC STAFF NOTICE 11-739 (REVISED)

#### POLICY REFORMULATION TABLE OF CONCORDANCE AND LIST OF NEW INSTRUMENTS

The following revisions have been made to the Table of Concordance and List of New Instruments. A full version of the Table of Concordance and List of New Instruments as of December 31, 2015 has been posted to the OSC Website at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

#### Table of Concordance

Item Key
The third digit of each instrument represents the following: 1-National/Multilateral Instrument; 2-National/Multilateral Policy; 3-CSA Notice; 4-CSA Concept Release; 5-Local Rule; 6-Local Policy; 7-Local Notice; 8-Implementing Instrument; 9-Miscellaneous

#### Reformulation

Instrument	Title	Status
	None	

#### New Instruments

Instrument	Title	Status
58-307	Staff Review of Women on Boards and in Executive Officer Positions – Compliance with NI 58-101 Disclosure of Corporate Governance Practices	<b><i>Published October 1, 2015</i></b>
21-101	Marketplace Operation – Amendments	<b><i>Ministerial approval published October 1, 2015</i></b>
23-101	Trading Rules – Amendments	<b><i>Ministerial approval published October 1, 2015</i></b>
21-706	Marketplaces' Initial Operations and Material System Changes	<b><i>Published October 1, 2015</i></b>
13-502	Fees – Amendments	<b><i>Commission approval published October 1, 2015</i></b>
11-739	Policy Reformulation Table of Concordance and New Instruments (Revised)	<b><i>Published October 8, 2015</i></b>
45-714	Summaries of Exempt Distribution Information	<b><i>Published October 15, 2015</i></b>
11-737	Securities Advisory Committee (Revised)	<b><i>Published October 22, 2015</i></b>
45-106	Prospectus Exemptions – Amendments (Offering Memorandum)	<b><i>Commission approval published October 29, 2015</i></b>
52-107	Acceptable Accounting Principles and Auditing Standards – Amendments (Offering Memorandum)	<b><i>Commission approval published October 29, 2015</i></b>
45-102	Resale of Securities – Amendments (Offering Memorandum)	<b><i>Commission approval published October 29, 2015</i></b>
11-203	Process for Exempt Relief Applications in Multiple Jurisdictions – Amendments (Offering Memorandum)	<b><i>Commission approval published October 29, 2015</i></b>
11-501	Requirement for the Electronic Delivery of Documents to the Ontario Securities Commission – Amendments (Offering Memorandum)	<b><i>Commission approval published October 29, 2015</i></b>
13-502	Fees – Amendments (Offering Memorandum)	<b><i>Commission approval published October 29, 2015</i></b>

Instrument	Title	Status
45-501	Exempt Distributions – Amendments (Offering Memorandum)	<b>Commission approval published October 29, 2015</b>
15-601	Whistleblower Policy	<b>Request for comment published October 29, 2015</b>
48-501	Trading During Distributions, Formal Bids and Share Exchange Transactions – Amendments	<b>Ministerial approval of amendments published October 29, 2015</b>
45-108	Crowdfunding	<b>Commission approval published November 5, 2015</b>
45-102	Resale of Securities – Amendments (Crowdfunding)	<b>Commission approval published November 5, 2015</b>
11-501	Requirement for Electronic Delivery of Documents to the Ontario Securities Commission – Amendments (Crowdfunding)	<b>Commission approval published November 5, 2015</b>
51-345	Disclosure of Abandonment and Reclamation Costs in National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities and Related Forms	<b>Published November 5, 2015</b>
11-773	The Investor Perspective	<b>Published November 5, 2015</b>
41-101	General Prospectus Requirements – Amendments (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
44-101	Short Form Prospectus Distribution – Amendments (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
45-106	Prospectus Exemptions – Amendments (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
51-102	Continuous Disclosure Obligations – Amendments (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
52-109	Certification of Disclosure in Issuers' Annual and Interim Filings (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
52-110	Audit Committees – Amendments (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
58-101	Disclosure of Corporate Governance Practices – Amendments (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
61-101	Protection of Minority Security Holders in Special Transactions – Amendments (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
71-102	Continuous Disclosure and Other Exemptions Relating to Foreign Issuers – Amendments (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
81-101	Mutual Fund Prospectus Disclosure – Amendments (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
46-201	Escrow for Initial Public Offerings – Amendments (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
56-501	Restricted Shares – Amendments (Aequitas)	<b>Ministerial approval published November 5, 2015</b>
31-343	Conflicts of interest in distributing securities of related or connected issuers	<b>Published November 26, 2015</b>
91-507	Trade Repositories and Derivatives Trade Reporting – Amendments	<b>Request for comment published November 5, 2015</b>
24-102	Clearing Agency Requirements	<b>Commission approval published December 3, 2015</b>
45-106	Prospectus Exemptions – Amendments (Rights Offerings)	<b>Ministerial approval published December 3, 2015</b>
41-101	General Prospectus Requirements – Amendments (Rights Offerings)	<b>Ministerial approval published December 3, 2015</b>
44-101	Short Form Prospectus Distributions – Amendments (Rights Offerings)	<b>Ministerial approval published December 3, 2015</b>

**Notices / News Releases**

Instrument	Title	Status
45-102	Resale of Securities – Amendments (Rights Offerings)	<b>Ministerial approval published December 3, 2015</b>
45-101	Rights Offerings – Amendments (Rights Offerings)	<b>Ministerial approval of repeal published December 3, 2015</b>
13-101	System for Electronic Document Analysis and Retrieval (SEDAR) – Amendments (Rights Offerings)	<b>Ministerial approval published December 3, 2015</b>
13-102	System Fees for SEDAR and NRD – Amendments (Rights Offerings)	<b>Ministerial approval published December 3, 2015</b>
11-501	Electronic Delivery of Documents to the Ontario Securities Commission – Amendments (Rights Offerings)	<b>Ministerial approval published December 3, 2015</b>
13-502	Fees – Amendments (Rights Offerings)	<b>Ministerial approval published December 3, 2015</b>
61-101	Protection of Minority Security Holders in Special Transactions – Amendments (Rights Offerings)	<b>Ministerial approval published December 3, 2015</b>
13-502	Fees – Amendments	<b>Ministerial approval published December 3, 2015</b>
24-102CP	Clearing Agency Requirements – Amendments	<b>Request for comment published December 3, 2015</b>
13-315	Securities Regulatory Authority Closed Dates 2016 (Revised)	<b>Published December 10, 2015</b>
81-102	Investment Funds – Amendments (CSA Mutual Fund Risk Classification Methodology)	<b>Request for comment published December 10, 2015</b>
81-101	Mutual Fund Prospectus Disclosure – Amendments (CSA Mutual Fund Risk Classification Methodology)	<b>Request for comment published December 10, 2015</b>
41-101	General Prospectus Requirements – Amendments (CSA Mutual Fund Risk Classification Methodology)	<b>Request for comment published December 10, 2015</b>
13-706	SEDAR Filer Manual Update	<b>Published December 17, 2015</b>

For further information, contact:

Darlene Watson  
Project Specialist  
Ontario Securities Commission  
416-593-8148

January 14, 2016

1.1.2 Notice of Ministerial Approval of Multilateral Instrument 45-108 Crowdfunding and Consequential Amendments

**NOTICE OF MINISTERIAL APPROVAL OF  
MULTILATERAL INSTRUMENT 45-108 CROWDFUNDING  
AND CONSEQUENTIAL AMENDMENTS**

**January 14, 2016**

On December 16, 2015, the Minister of Finance approved Multilateral Instrument 45-108 *Crowdfunding* (**MI 45-108**) made by the Ontario Securities Commission (**OSC** or **Commission**) and amendments to other instruments that are consequential to MI 45-108 (the **Consequential Amendments**).

MI 45-108 includes a crowdfunding prospectus exemption and a registration framework for funding portals.

MI 45-108 and the Consequential Amendments are referred to collectively as the Rules and include amendments to the following instruments:

- National Instrument 45-102 *Resale of Securities*
- Ontario Securities Commission Rule 11-501 *Electronic Delivery of Documents to the Ontario Securities Commission*, and
- Ontario Securities Rule 45-501 *Ontario Prospectus and Registration Exemptions*.

The Rules, together with related policy changes, were made by the Commission on November 5, 2015. They were published on the OSC website at <http://www.osc.gov.on.ca> and in the OSC Bulletin in (2015), 38 OSCB (Supp 4) on November 5, 2015.

The Rules come into force in Ontario on January 25, 2016.

The text of the Rules approved by the Minister of Finance, as well as the related policy changes, is set out in Chapter 5 of this Bulletin.



1.1.3 CSA Staff Notice 52-306 (Revised) – Non-GAAP Financial Measures



Canadian Securities  
Administrators

Autorités canadiennes  
en valeurs mobilières

CSA Staff Notice 52-306 (Revised)  
Non-GAAP Financial Measures

January 14, 2016

**I. Purpose**

The primary purpose of this notice is to provide guidance to an issuer that discloses non-GAAP financial measures. The guidance applies both to an issuer that uses International Financial Reporting Standards (IFRS) and to an issuer that uses accounting principles other than IFRS. Non-GAAP financial measures may mislead investors if they are not accompanied by the appropriate disclosure. Therefore, staff will monitor disclosure accompanying non-GAAP financial measures.

The notice also provides guidance on additional subtotals presented in the financial statements but disclosed before the financial statements are filed, and additional subtotals presented in the statement of cash flows for IFRS financial statements.

The guidance is intended to help ensure that the information disclosed does not mislead investors.

Staff cautions issuers that regulatory action may be taken if an issuer discloses information in a manner considered misleading and therefore potentially harmful to the public interest.

**II. Non-GAAP Financial Measures**

For the purpose of this notice, a non-GAAP financial measure is a numerical measure of an issuer's historical or future financial performance, financial position or cash flow that is not specified, defined or determined under the issuer's GAAP (as that term is defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*) and is not presented in an issuer's financial statements. A non-GAAP financial measure excludes amounts that are included in, or includes amounts that are excluded from, the most directly comparable measure specified, defined or determined under the issuer's GAAP.

Some issuers disclose non-GAAP financial measures in press releases, management's discussion and analysis, prospectus filings, websites and marketing materials.

Many non-GAAP financial measures are derived from profit or loss determined under an issuer's GAAP and, by omission of selected items, present a more positive picture of financial performance. Terms used to identify non-GAAP financial measures may include "pro forma earnings", "cash earnings", "free cash flow", "distributable cash", "Adjusted EBITDA", "adjusted earnings", and "earnings before non-recurring items". Many of these terms lack standard meanings and different issuers may use the same term to refer to different calculations.

Staff is concerned that investors may be confused or even misled by non-GAAP financial measures. Staff is also concerned about the prominence of disclosure given to non-GAAP financial measures related to earnings compared to the prominence of earnings measures specified, defined or determined under an issuer's GAAP. In staff's view, these concerns can be addressed by appropriate disclosure accompanying non-GAAP financial measures.

Some issuers disclose performance measures that are calculated without using financial measures (for example, number of units or number of subscribers). Some issuers disclose performance measures that are calculated using financial information presented in the financial statements (for example, sales per square foot, where the sales figure is extracted directly from the financial statements). In both of the preceding scenarios, such performance measures are not considered to be non-GAAP financial measures. However, if a non-GAAP financial measure is used to calculate a performance measure (such as an "adjusted earnings" financial measure used to calculate an "adjusted earnings per unit" measure), then that non-GAAP financial measure should be disclosed and Section III of this notice applies to that non-GAAP financial measure.

**III. Disclosure Accompanying Non-GAAP Financial Measures**

Financial statements prepared in accordance with an issuer's GAAP provide investors with a clear basis for financial analysis and comparison among issuers. Staff recognizes that non-GAAP financial measures may provide investors with additional information to assist them in understanding critical components of an issuer's financial performance. However, an issuer should not present a non-GAAP financial measure in a way that confuses or obscures the most directly comparable measure specified, defined or determined under the issuer's GAAP presented in its financial statements.

Staff reminds issuers of their responsibility to ensure that information they provide to the public is not misleading. Staff also reminds certifying officers of their obligations under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* to make certifications regarding misrepresentations, fair presentation, and disclosure controls and procedures. A

non-GAAP financial measure may be misleading if it includes positive components of the most directly comparable measure specified, defined or determined under the issuer's GAAP presented in its financial statements but omits similar negative components.

In order to ensure that a non-GAAP financial measure does not mislead investors, an issuer should:

1. state explicitly that the non-GAAP financial measure does not have any standardized meaning under the issuer's GAAP and therefore may not be comparable to similar measures presented by other issuers;
2. name the non-GAAP financial measure in a way that distinguishes it from disclosure items specified, defined or determined under an issuer's GAAP and in a way that is not misleading. For example, in presenting EBITDA as a non-GAAP financial measure, it would be misleading to exclude amounts for items other than interest, taxes, depreciation and amortization;
3. explain why the non-GAAP financial measure provides useful information to investors and the additional purposes, if any, for which management uses the non-GAAP financial measure;
4. present with equal or greater prominence to that of the non-GAAP financial measure, the most directly comparable measure specified, defined or determined under the issuer's GAAP presented in its financial statements;
5. provide a clear quantitative reconciliation from the non-GAAP financial measure to the most directly comparable measure specified, defined or determined under the issuer's GAAP and presented in its financial statements, referencing to the reconciliation when the non-GAAP financial measure first appears in the document, or in the case of content on a website, in a manner that meets this objective (for example, by providing a link to the reconciliation);
6. ensure that the non-GAAP financial measure does not describe adjustments as non-recurring, infrequent or unusual, when a similar loss or gain is reasonably likely to occur within the next two years or occurred during the prior two years; and
7. present the non-GAAP financial measure on a consistent basis from period to period; however, where an issuer changes the composition of the non-GAAP financial measure, explain the reason for the change and restate any comparative period presented.

#### **IV. Disclosing Additional Subtotals before Filing Financial Statements**

An issuer's GAAP may require the presentation of additional subtotals in the financial statements when such presentation is relevant to an understanding of the issuer's financial position or financial performance. An example of this requirement is found in paragraphs 55 and 85 of IAS 1 *Presentation of Financial Statements* (IAS 1). An issuer may choose to present these additional subtotals in a press release or some other location outside of an issuer's financial statements before filing on SEDAR its financial statements. In order to avoid any confusion about these additional subtotals, management should explain their composition. This may be accomplished by:

- including a copy of the statement that contains these additional subtotals (for example, the statement of profit or loss and other comprehensive income), or
- reconciling these additional subtotals to the most directly comparable line item specified or defined by IFRS that will be presented in financial statements (for example, profit or loss).

#### **V. Presentation of Additional Subtotals in the Statement of Cash Flows for IFRS Financial Statements**

IAS 1 includes requirements that apply to additional subtotals presented in the statement of financial position and statement of profit or loss and other comprehensive income (see paragraphs 55A, 85A and 85B of IAS 1). The practices outlined in the paragraphs noted, will also help ensure that additional subtotals presented in the statement of cash flows do not mislead investors.

In addition, if an issuer chooses to present additional subtotals from the statement of cash flows in a press release or some other location outside of an issuer's financial statements before filing on SEDAR its financial statements, then in order to avoid any confusion about these additional subtotals, management should explain their composition (as discussed in Section IV of this notice).

#### **VI. Distributable Cash**

National Policy 41-201 *Income Trusts and Other Indirect Offerings* provides additional guidance on measures of cash available for distribution.

## VII. Forward-Looking Information

The contents of this notice apply equally to disclosure of forward-looking non-GAAP financial measures.

## VIII. Revision and Republication

Staff updated this notice on November 9, 2010 to reflect the changeover to IFRS.

Staff updated this notice on February 17, 2012 to provide further guidance on accompanying disclosure for additional line items, headings or subtotals presented in financial statements and additional financial measures presented in notes to financial statements under IFRS.

Staff updated this notice on January 14, 2016 to reflect amendments to IAS 1 regarding additional subtotals presented in the financial statements.

## IX. Questions

Please refer your questions to any of the following individuals:

Carla-Marie Hait  
Chief Accountant  
British Columbia Securities Commission  
Phone: (604) 899-6726  
E-mail: chait@bcsc.bc.ca

Anita Cyr  
Associate Chief Accountant  
British Columbia Securities Commission  
Phone: (604) 899-6579  
E-mail: acyr@bcsc.bc.ca

Lara Gaede  
Chief Accountant  
Alberta Securities Commission  
Phone: (403) 297-4223  
E-mail: lara.gaede@asc.ca

Brian Banderk  
Associate Chief Accountant  
Alberta Securities Commission  
Phone: (403) 355-9044  
E-mail: brian.banderk@asc.ca

Cameron McInnis  
Chief Accountant  
Ontario Securities Commission  
Phone: (416) 593-3675  
E-mail: cmcinnis@osc.gov.on.ca

Ritika Rohailla  
Accountant  
Ontario Securities Commission  
Phone: (416) 595-8913  
E-mail: rrohailla@osc.gov.on.ca

Hélène Marcil  
Chef Comptable  
Autorité des marchés financiers  
Phone: (514) 395-0337 ext. 4291  
Email: Hélène.marcil@lautorite.qc.ca

Josée Deslauriers,  
Directrice principale de l'information continue  
Autorité des marchés financiers  
Phone: (514) 395-0337 ext. 4371  
Email: josee.deslauriers@lautorite.qc.ca

1.2 Notices of Hearing

1.2.1 Paul Christopher Darrigo – ss. 8, 21.7

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

**AND**

**IN THE MATTER OF  
A REQUEST FOR A HEARING AND  
REVIEW OF A DECISION OF  
A HEARING PANEL OF THE  
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA**

**AND**

**IN THE MATTER OF  
PAUL CHRISTOPHER DARRIGO**

**NOTICE OF HEARING  
(Sections 8 and 21.7 of the Securities Act)**

**TAKE NOTICE THAT** the Ontario Securities Commission (the “Commission”) will hold a hearing pursuant to sections 8 and 21.7 of the Securities Act, R.S.O. 1990, c. S.5, as amended, at the offices of the Commission at 20 Queen Street West, 17th Floor, Toronto, Ontario on May 11, 2016 at 10:00 a.m., or as soon thereafter as the hearing can be held;

**AND TAKE FURTHER NOTICE THAT** the purpose of the hearing is to consider an application by Paul Christopher Darrigo for a hearing and review of the decision on the merits of a hearing panel of the Investment Industry Regulatory Organization of Canada (the “Panel”), dated October 16, 2014, and the Panel’s decision on sanctions dated January 19, 2015.

**Dated** at Toronto this 8th day of January, 2016.

“Josée Turcotte”  
Secretary to the Commission

1.5 Notices from the Office of the Secretary

1.5.1 Sino-Forest Corporation et al.

FOR IMMEDIATE RELEASE  
January 7, 2016

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

AND

IN THE MATTER OF  
SINO-FOREST CORPORATION, ALLEN CHAN,  
ALBERT IP, ALFRED C.T. HUNG, GEORGE HO,  
SIMON YEUNG and DAVID HORSLEY

**TORONTO** – The Commission issued an Order in the above named matter which provides that our oral ruling of December 14, 2015 stands and Mr. Chan's renewed Adjournment Motion, as set out in his counsel's letter of December 23, 2015, is dismissed.

A copy of the Order dated January 7, 2016 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOSÉE TURCOTTE  
SECRETARY

For media inquiries:  
[media\\_inquiries@osc.gov.on.ca](mailto:media_inquiries@osc.gov.on.ca)

For investor inquiries:

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

1.5.2 Blue Gold Holdings Ltd. et al.

FOR IMMEDIATE RELEASE  
January 7, 2016

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

**AND**

**IN THE MATTER OF  
BLUE GOLD HOLDINGS LTD., DEREK BLACKBURN,  
RAJ KURICHH AND NIGEL GREENING**

**TORONTO** – The Commission issued an Order in the above named matter which provides that the hearing of the Disclosure Motion scheduled to be heard on January 8, 2016 is adjourned *sine die* returnable, if necessary, to a date as agreed to by the parties and set by the Office of the Secretary.

A copy of the Order dated January 7, 2016 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOSÉE TURCOTTE  
SECRETARY

For media inquiries:  
[media\\_inquiries@osc.gov.on.ca](mailto:media_inquiries@osc.gov.on.ca)

For investor inquiries:

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

1.5.3 Clifford Todd Monaghan

FOR IMMEDIATE RELEASE  
January 8, 2016

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

**AND**

**IN THE MATTER OF  
A HEARING AND REVIEW OF  
THE DECISION OF THE  
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF  
CANADA REGARDING PORTFOLIO STRATEGIES SECURITIES INC.**

**AND**

**IN THE MATTER OF  
CLIFFORD TODD MONAGHAN**

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

1. the January 25, 2016 hearing date scheduled for the motion is vacated;
2. the Moving Parties shall serve and file a motion record by March 1, 2016;
3. the Applicant shall serve and file a responding motion record by March 8, 2016;
4. cross-examinations on affidavits, if any, will be completed by March 18, 2016;
5. the Moving Parties shall file a memorandum of fact and law by March 21, 2016;
6. the Applicant shall file a memorandum of fact and law by April 1, 2016;
7. the Moving Parties shall file a reply memorandum of fact and law, if any, by April 8, 2016; and
8. the motion hearing shall take place on April 15, 2016 at 10:00 a.m.

A copy of the Order dated January 7, 2016 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOSÉE TURCOTTE  
SECRETARY

For media inquiries:

[media\\_inquiries@osc.gov.on.ca](mailto:media_inquiries@osc.gov.on.ca)

For investor inquiries:

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

1.5.4 Paul Christopher Darrigo

FOR IMMEDIATE RELEASE  
January 11, 2016

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

**AND**

**IN THE MATTER OF  
A REQUEST FOR A HEARING AND REVIEW OF  
A DECISION OF A HEARING PANEL OF  
THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA**

**AND**

**IN THE MATTER OF  
PAUL CHRISTOPHER DARRIGO**

**TORONTO** – On January 8, 2016, the Commission issued a Notice of Hearing pursuant to sections 8 and 21.7 of the Ontario *Securities Act* to consider an application by Paul Christopher Darrigo for a hearing and review of the decision on the merits of a hearing panel of the Investment Industry Regulatory Organization of Canada (the “Panel”), dated October 16, 2014, and the Panel’s decision on sanctions dated January 19, 2015.

The hearing will be held at the offices of the Commission at 20 Queen Street West, 17th Floor, Toronto, Ontario on May 11, 2016 at 10:00 a.m., or as soon thereafter as the hearing can be held.

A copy of the Notice of Hearing dated January 8, 2016 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOSÉE TURCOTTE  
SECRETARY

For media inquiries:  
[media\\_inquiries@osc.gov.on.ca](mailto:media_inquiries@osc.gov.on.ca)

For investor inquiries:

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



1.5.5 Neil Suresh Chandran, et al.

FOR IMMEDIATE RELEASE  
January 12, 2016

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:

- (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 January 21, 2016;
- (c) the Respondents' responding materials shall be served and filed no later than February 18, 2016; and
- (d) Staff's reply materials, if any, shall be served and filed no later than March 3, 2016.

A copy of the Order dated January 11, 2016 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOSÉE TURCOTTE  
SECRETARY

For media inquiries:  
[media\\_inquiries@osc.gov.on.ca](mailto:media_inquiries@osc.gov.on.ca)

For investor inquiries:

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

This page intentionally left blank

## Chapter 2

# Decisions, Orders and Rulings

### 2.1 Decisions

(the Jurisdiction)

#### 2.1.1 Guardian Capital LP et al.

AND

#### Headnote

National Policy 11-203 – relief granted from sections 15.3(2), 15.3(4)(c), 15.6(1)(a)(i), 15.6(1)(d), 15.8(2)(a.1) and 15.8(3)(a.1) of National Instrument 81-102 Mutual Funds to permit mutual funds, including mutual funds that have not distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months, to include in their sales communications performance data for the period when the funds were not reporting issuers – relief also granted from section 2.1 of National Instrument 81-101 Mutual Fund Prospectus Disclosure for the purposes of the relief requested from Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document, to permit the Funds to include in their respective fund facts for a certain series, the past performance data for the period when the funds were not reporting issuers.

National Policy 11-203 – relief granted from section 4.4 of National Instrument 81-106 Investment Fund Continuous Disclosure for the purposes of the relief requested from Form 81-106F1, Items 3.1(7), 4.1(1), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-106F1, and Items 3(1) and 4 of Part C of Form 81-106F1, to permit mutual funds, including mutual funds that have not distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months, to include in annual and interim management reports of fund performance the financial highlights and past performance of the funds that are derived from the funds' annual financial statements that pertain to time periods when the funds were not a reporting issuer.

#### Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 15.3(2), 15.3(4)(c), 15.6(1)(a)(i), 15.6(1)(d), 15.8(2)(a.1), 15.8(3)(a.1) and 19.1.  
National Instrument 81-101 Mutual Fund Prospectus Disclosure, s. 2.1.  
Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document.  
National Instrument 81-106 Mutual Fund Continuous Disclosure, ss. 4.4 and 17.1.  
Items 3.1(7), 4.1(1), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-106F1 and Items 3(1) and 4 of Part C of Form 81-106F1.

December 30, 2015

IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO

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

AND

IN THE MATTER OF  
GUARDIAN CAPITAL LP  
(the Filer)

AND

IN THE MATTER OF  
GUARDIAN FUNDAMENTAL GLOBAL  
EQUITY FUND AND  
GUARDIAN SHORT DURATION BOND FUND  
(each a Fund, and collectively, the Funds)

#### DECISION

#### Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting the Series I units of the Funds from:

- (a) Section 4.4 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) for the purposes of relief requested herein from Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* (**Form 81-106F1**); and
- (b) Items 3.1(7), 4.1(1) in respect of the requirement to comply with sections 15.3(2) and 15.3(4)(c) of National Instrument 81-102 *Investment Funds* (**NI 81-102**), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-106F1 and Items 3(1) and 4 of Part C of Form 81-106F1 to permit each Fund to include in its annual and interim management reports of fund performance the past performance data of the Fund notwithstanding that:
  - (i) such performance data relates to a period prior to the Fund offering its securities under a simplified prospectus; and
  - (ii) in the case of Guardian Fundamental Global Equity Fund, the Fund has not

distributed its securities under a simplified prospectus for 12 consecutive months,

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

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

- (a) the Ontario Securities Commission is the principal regulator for the 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, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon 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**

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

- 1. Each Fund is an open-ended mutual fund trust created under the laws of the Province of Ontario on the following dates:

Fund Name	Date of Inception
Guardian Fundamental Global Equity Fund	July 31, 2014
Guardian Short Duration Bond Fund	August 29, 2013

(individually, an **Inception Date**, and collectively, the **Inception Dates**).

- 2. Each Fund is governed by an amended and restated master declaration of trust dated March 14, 2011, as amended.
- 3. The Filer is the investment fund manager of the Funds. The head office of the Filer is located in Ontario.
- 4. The Filer is registered as a portfolio manager and exempt market dealer in each province of Canada and as an investment fund manager in each of Ontario, Québec and Newfoundland and Labrador. The Filer is also registered as a commodity trading counsel and commodity trading manager in Ontario.
- 5. Since the respective Inception Dates until April 24, 2014 with respect to Guardian Short Duration

Bond Fund and until April 22, 2015 with respect to Guardian Fundamental Global Equity Fund, Series I units (**Series I Units**) of each Fund were distributed to investors on a prospectus-exempt basis in accordance with National Instrument 45-106 *Prospectus Exemptions (NI 45-106)* in each Jurisdiction.

- 6. Since the issuance of the receipt for the simplified prospectus, annual information form and funds facts (the **Disclosure Documents**) on April 24, 2014 with respect to Guardian Short Duration Bond Fund and on April 22, 2015 with respect to Guardian Fundamental Global Equity Fund, each Fund has distributed Series I Units to the public and each Fund also became a reporting issuer under the securities legislation of each province and territory of Canada, other than Québec (collectively, the **Jurisdictions**). Each Fund also offers series W units to the public pursuant to the Disclosure Documents. In addition, each Fund became subject to the requirements of NI 81-102 and NI 81-106 that apply only to investment funds that are reporting issuers.
- 7. The Filer and the Funds are not in default of securities legislation in any province or territory of Canada.
- 8. Since its Inception Date, as a “mutual fund in Ontario”, each Fund has prepared and sent audited annual and unaudited interim financial statements to all holders of its securities in accordance with NI 81-106.
- 9. Since its Inception Date, each Fund has complied with the investment restrictions and practices contained in NI 81-102, including not using leverage in the management of its portfolio.
- 10. Each Fund has been managed substantially similarly after it became a reporting issuer as it was prior to becoming a reporting issuer. As a result of each Fund becoming a reporting issuer:
  - i. the Fund’s investment objectives have not changed, other than to provide additional detail as required by National Instrument 81-101 – *Mutual Fund Prospectus Disclosure (NI 81-101)*;
  - ii. Series I unitholders of each Fund continue to pay a negotiated investment advisory fee;
  - iii. the day-to-day administration of the Fund has not changed, other than to comply with the additional regulatory requirements associated with being a reporting issuer (none of which would have impacted the portfolio management of the Fund) and to provide additional features that are available to investors of

- mutual funds managed by the Filer, as described in the Disclosure Documents; and
- iv. the management expense ratio of the Series I Units of each Fund has not increased by more than 0.10%, which the Filer considers to be an immaterial amount.
11. As a reporting issuer, each Fund is required under NI 81-106 to prepare and send annual and interim management reports of fund performance (individually, an **MRFP** and collectively, the **MRFPs**) to all holders of its securities on an annual and interim basis.
12. Without the Requested Relief, the MRFP of each Fund cannot include financial highlights and performance data of the Fund that relate to a period prior to its becoming a reporting issuer.
13. The Filer also proposes to present the performance data of the Series I Units of each Fund for the time period since its inception in sales communications and fund facts of each Fund. The Filer has filed a separate application for exemptive relief from certain provisions of NI 81-102 and Form 81-101F3 – *Contents of Fund Facts Document* to permit each Fund, with respect to its Series I Units, to include its performance data since its inception in sales communications and fund facts (the **NI 81-102 and NI 81-101 Relief**).
14. The performance data and other financial data of each Fund for the time period before it became a reporting issuer is significant and meaningful information for existing and prospective investors of the Series I Units of the Fund.
- (iii) that the financial statements of the Fund for such period are posted on the Fund's website and are available to investors upon request;
- (b) the Filer posts the financial statements of each Fund for the past 10 years, or since the Fund's inception, whichever period is lesser, on the Fund's website and makes those financial statements available to investors upon request; and
- (c) the Funds prepare sales communications and fund facts in accordance with the NI 81-102 and NI 81-101 Relief.

*"Raymond Chan"*  
Manager, Investment Funds and Structured Products  
Branch  
Ontario Securities Commission

### Decision

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

The decision of the principal regulator under the Legislation is that the Requested Relief is granted provided that:

- (a) any MRFP that includes performance data of Series I Units of each Fund relating to a period prior to when each Fund was a reporting issuer discloses:
- (i) that the Fund was not a reporting issuer during such period;
- (ii) that the expenses of the Fund would have been higher during such period had the Fund been subject to the additional regulatory requirements applicable to a reporting issuer; and

2.1.2 Guardian Capital LP et al.

Headnote

National Policy 11-203 – relief granted from sections 15.3(2), 15.3(4)(c), 15.6(1)(a)(i), 15.6(1)(d), 15.8(2)(a.1) and 15.8(3)(a.1) of National Instrument 81-102 Mutual Funds to permit mutual funds, including mutual funds that have not distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months, to include in their sales communications performance data for the period when the funds were not reporting issuers – relief also granted from section 2.1 of National Instrument 81-101 Mutual Fund Prospectus Disclosure for the purposes of the relief requested from Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document, to permit the Funds to include in their respective fund facts for a certain series, the past performance data for the period when the funds were not reporting issuers.

National Policy 11-203 – relief granted from section 4.4 of National Instrument 81-106 Investment Fund Continuous Disclosure for the purposes of the relief requested from Form 81-106F1, Items 3.1(7), 4.1(1), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-106F1, and Items 3(1) and 4 of Part C of Form 81-106F1, to permit mutual funds, including mutual funds that have not distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months, to include in annual and interim management reports of fund performance the financial highlights and past performance of the funds that are derived from the funds' annual financial statements that pertain to time periods when the funds were not a reporting issuer.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 15.3(2), 15.3(4)(c), 15.6(1)(a)(i), 15.6(1)(d), 15.8(2)(a.1), 15.8(3)(a.1) and 19.1.  
National Instrument 81-101 Mutual Fund Prospectus Disclosure, s. 2.1.  
Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document.  
National Instrument 81-106 Mutual Fund Continuous Disclosure, ss. 4.4 and 17.1.  
Items 3.1(7), 4.1(1), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-106F1 and Items 3(1) and 4 of Part C of Form 81-106F1.

December 30, 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  
GUARDIAN CAPITAL LP  
(the Filer)

AND

IN THE MATTER OF  
GUARDIAN FUNDAMENTAL GLOBAL EQUITY FUND  
AND GUARDIAN SHORT DURATION BOND FUND  
(each a Fund, and collectively, the Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting the Series I units of the Funds from:

- (a) Sections 15.3(2), 15.3(4)(c), 15.6(1)(a)(i), 15.6(1)(d), 15.8(2)(a.1) and 15.8(3)(a.1) of National Instrument 81-102 *Investment Funds (NI 81-102)* to permit each Fund to include performance data in sales communications notwithstanding that:
  - (i) the performance data will relate to a period prior to the Fund offering its securities under a simplified prospectus; and
  - (ii) in the case of Guardian Fundamental Global Equity Fund, the Fund has not distributed its securities under a simplified prospectus for 12 consecutive months,
- (b) Section 2.1 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure (NI 81-101)* for the purposes of relief requested herein from Form 81-101F3 *Contents of Fund Facts Document (Form 81-101F3)*; and
- (c) Items 5(2), 5(3) and 5(4), and Instructions (1) and (5) of Part I of Form 81-101F3 in respect of the requirement to comply with sections 15.3(2), 15.3(4)(c), 15.6(1)(a)(i), 15.6(1)(d), 15.8(2)(a.1) and 15.8(3)(a.1) of NI 81-102 to permit each Fund to include in its fund facts the past performance data of the Fund notwithstanding that:
  - (i) such performance data relates to a period prior to the Fund offering its securities under a simplified prospectus; and
  - (ii) in the case of Guardian Fundamental Global Equity Fund, the Fund has not

distributed its securities under a simplified prospectus for 12 consecutive months,

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

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

- (a) the Ontario Securities Commission is the principal regulator for the 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, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon 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**

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

- 1. Each Fund is an open-ended mutual fund trust created under the laws of the Province of Ontario on the following dates:

Fund Name	Date of Inception
Guardian Fundamental Global Equity Fund	July 31, 2014
Guardian Short Duration Bond Fund	August 29, 2013

(individually, an **Inception Date**, and collectively, the **Inception Dates**).

- 2. Each Fund is governed by an amended and restated master declaration of trust dated March 14, 2011, as amended.
- 3. The Filer is the investment fund manager of the Funds. The head office of the Filer is located in Ontario.
- 4. The Filer is registered as a portfolio manager and exempt market dealer in each province of Canada and as an investment fund manager in each of Ontario, Québec and Newfoundland and Labrador. The Filer is also registered as a commodity trading counsel and commodity trading manager in Ontario.
- 5. Since the respective Inception Dates until April 24, 2014 with respect to Guardian Short Duration

Bond Fund and until April 22, 2015 with respect to Guardian Fundamental Global Equity Fund, Series I units (**Series I Units**) of each Fund were distributed to investors on a prospectus-exempt basis in accordance with National Instrument 45-106 *Prospectus Exemptions (NI 45-106)* in each Jurisdiction.

- 6. Since the issuance of the receipt for the simplified prospectus, annual information form and funds facts (the **Disclosure Documents**) on April 24, 2014 with respect to Guardian Short Duration Bond Fund and on April 22, 2015 with respect to Guardian Fundamental Global Equity Fund, each Fund has distributed Series I Units to the public and each Fund also became a reporting issuer under the securities legislation of each province and territory of Canada, other than Québec (collectively, the **Jurisdictions**). Each Fund also offers series W units to the public pursuant to the Disclosure Documents. In addition, each Fund became subject to the requirements of NI 81-102 and National Instrument 81-106 *Investment Fund Continuous Disclosure (NI 81-106)* that apply only to investment funds that are reporting issuers.
- 7. The Filer and the Funds are not in default of securities legislation in any province or territory of Canada.
- 8. Since its Inception Date, as a “mutual fund in Ontario”, each Fund has prepared and sent audited annual and unaudited interim financial statements to all holders of its securities in accordance with NI 81-106.
- 9. Since its Inception Date, each Fund has complied with the investment restrictions and practices contained in NI 81-102, including not using leverage in the management of its portfolio.
- 10. Each Fund has been managed substantially similarly after it became a reporting issuer as it was prior to becoming a reporting issuer. As a result of each Fund becoming a reporting issuer:
  - i. the Fund’s investment objectives have not changed, other than to provide additional detail as required by NI 81-101;
  - ii. Series I unitholders of each Fund continue to pay a negotiated investment advisory fee;
  - iii. the day-to-day administration of the Fund has not changed, other than to comply with the additional regulatory requirements associated with being a reporting issuer (none of which would have impacted the portfolio management of the Fund) and to provide additional features that are available to investors of

mutual funds managed by the Filer, as described in the Disclosure Documents; and

- iv. the management expense ratio of the Series I Units of each Fund has not increased by more than 0.10%, which the Filer considers to be an immaterial amount.
- 11. The Filer proposes to present the performance data of the Series I Units of each Fund for the time period since its inception in sales communications pertaining to each Fund.
- 12. Without the Requested Relief, the sales communications pertaining to each Fund cannot include performance data of the Fund that relate to a period prior to its becoming a reporting issuer.
- 13. Without the Requested Relief, sales communications pertaining to Guardian Fundamental Global Equity Fund would not be permitted to include performance data until the Fund has distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months.
- 14. As a reporting issuer, each Fund is required under NI 81-101 to prepare and file fund facts.
- 15. The Filer proposes to include in the fund facts for the Series I Units of each Fund, past performance data in the chart required by items 5(2), 5(3) and 5(4) under the sub-headings "Year-by-year returns", "Best and worst 3-month returns" and "Average return", respectively, related to periods prior to the Funds becoming reporting issuers in a Jurisdiction. Without the Requested Relief, the fund facts of each Fund cannot include performance data of the Fund that relate to a period prior to its becoming a reporting issuer.
- 16. As a reporting issuer, each Fund is required under NI 81-106 to prepare and send annual and interim management reports of fund performance (individually, an **MRFP** and collectively, the **MRFPs**) to all holders of its securities on an annual and interim basis.
- 17. The Filer has filed a separate application for exemptive relief from certain provisions of NI 81-106 (the **NI 81-106 Relief**) to enable each Fund to include in its MRFPs the performance data of the Series I Units of the Fund that relate to a period prior to its becoming a reporting issuer.
- 18. The performance data of each Fund for the time period before it became a reporting issuer is significant and meaningful information for existing and prospective investors of Series I Units 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 Requested Relief is granted provided that:

- (a) any sales communication and any fund facts that contains performance data of Series I Units of a Fund relating to a period prior to when that Fund was a reporting issuer discloses:
  - (i) that the Fund was not a reporting issuer during such period; and
  - (ii) that the expenses of the Fund would have been higher during such period had the Fund been subject to the additional regulatory requirements applicable to a reporting issuer;
- (b) the information contained under the heading "Fund Expenses Indirectly Borne by investors" in Part B of the simplified prospectus of Guardian Fundamental Global Equity Fund based on the management expense ratio (**MER**) for the Series I Units of the Fund for the financial year ended December 31, 2015 be accompanied by disclosure that:
  - (i) the information is based on the MER of the Fund for its last completed financial year when its Series I Units were offered privately during a period of time in such financial year; and
  - (ii) the MER of the Fund may increase as a result of the Fund offering its Series I Units under the simplified prospectus; and
- (c) the Funds prepare their MRFPs in accordance with the NI 81-106 Relief.

*"Raymond Chan"*  
Manager, Investment Funds and Structured Products Branch  
Ontario Securities Commission



2.1.3 Norrep Capital Management Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Application in Multiple Jurisdictions – Relief granted from the self-dealing provision in s.4.2(1) of NI 81-102 Investment Funds to permit inter-fund trades in debt securities between investment funds subject to NI 81-102 and pooled funds managed by the same manager – Inter-fund trades will comply with the conditions in s.6.1(2) of NI 81-107 Independent Review Committee for Investment Funds, including the requirement for independent review committee approval.

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from ss. 13.5(2)(b)(ii) and (iii) of NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations to permit inter-fund trades between investment funds subject to NI 81-102 and pooled funds managed by the same manager – Inter-fund trades subject to conditions, including independent review committee approval and pricing requirements – Trades involving exchange-traded securities permitted to occur at last sale price as defined in the Universal Market Integrity Rules.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 4.2(1), 4.3(1), 4.3(2), 19.2.

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.5(2)(b) and 15.1.

National Instrument 81-107 Independent Review Committee for Investment Funds, s. 6.1(2).

Citation: Re Norrep Capital Management Ltd., 2015 ABASC 927

November 5, 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  
NORREP CAPITAL MANAGEMENT LTD.  
(THE FILER)

DECISION

Background

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

- (a) an exemption (**Subsection 4.2(1) Relief**) from the prohibition in subsection 4.2(1) of National Instrument 81-102 *Investment Funds (NI 81-102)* to permit each NI 81-102 Fund (defined below) to purchase debt securities from, or sell debt securities to, a Pooled Fund (defined below); and
- (b) an exemption (the **Inter-Fund Trading Relief**) from the prohibitions in subparagraphs 13.5(2)(b)(ii) and (iii) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* against a registered adviser knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase or sell a security from or to the investment portfolio of an associate of a responsible person, or from or to the investment portfolio of an investment fund for which a responsible person acts as an adviser, in order to permit:
  - (i) a Fund (defined below) to purchase securities from or sell securities to a Fund (an **Inter-Fund Trade**); and
  - (ii) an Inter-Fund Trade of an Exchange-Traded Security (defined below) to be executed at the “last sale price”, as defined in the UMIR (defined below) prior to the execution of the trade (the **Last Sale Price**), in lieu of the closing sale price on the day of the transaction (the **Closing Sale Price**) contemplated by the definition of “current market price of the security” in subparagraph 6.1(1)(a)(i) of National Instrument 81-107 *Independent Review Committee for Investment Funds (NI 81-107)*.

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

- (a) the Alberta Securities Commission is the principal regulator for this application;
- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon by the Filer in each of the provinces and territories of Canada other than Ontario; 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 the Legislation, MI 11-102, National Instrument 14-101 *Definitions*, NI 31-103, NI 81-102 or NI 81-107 have the same meaning if used in this decision, unless otherwise defined herein. The following terms have the following meanings:

**Exchange-Traded Security** means a security of a class that is listed for trading on an exchange in Canada or a foreign jurisdiction.

**Fund** means each NI 81-102 Fund or Pooled Fund.

**NI 81-102 Fund** means each existing or future investment fund that is a reporting issuer and subject to NI 81-102, for which the Filer acts as manager, portfolio adviser or both.

**Pooled Fund** means each existing or future investment fund that is not a reporting issuer, for which the Filer acts as manager, portfolio adviser or both.

**UMIR** means the Universal Market Integrity Rules of the Investment Industry Regulatory Organization of Canada.

### Representations

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

- 1. The Filer is a corporation established under the laws of Alberta with its head office in Calgary, Alberta.
- 2. The Filer is registered as a portfolio manager in Alberta, Ontario and British Columbia, as an exempt market dealer in Alberta and Ontario and as an investment fund manager in Alberta, Ontario and Newfoundland.
- 3. The Filer is the portfolio manager and manager of each existing Fund and may, in the future, be the portfolio manager, manager or both of other Funds.
- 4. Each of the NI 81-102 Funds is, or will be, established under the laws of Canada or a

province or territory of Canada as an investment fund and is, or will be, a reporting issuer in one or more provinces and territories of Canada.

- 5. The securities of each NI 81-102 Fund are, or will be, qualified for distribution under a prospectus.
- 6. Each Pooled Fund is, or will be, an investment fund established as a trust, partnership or corporation under the laws of Canada or a province or territory of Canada, or a jurisdiction outside of Canada.
- 7. The securities of each Pooled Fund are, or will be, distributed on a private placement basis pursuant to one or more available exemptions from the prospectus requirement. None of the Pooled Funds are, or will be, reporting issuers in any province or territory of Canada or other jurisdiction and none are, or will be, subject to NI 81-102 or NI 81-107.
- 8. Neither the Filer nor any of the existing Funds are in default of securities legislation of any province or territory of Canada.
- 9. The Filer wishes to be able to permit Inter-Fund Trades between
  - (a) an NI 81-102 Fund and another NI 81-102 Fund or a Pooled Fund, and
  - (b) a Pooled Fund and another Pooled Fund or an NI 81-102 Fund.
- 10. Different sections of NI 31-103, NI 81-102 and NI 81-107 impose different prohibitions and exceptions on different types of Funds with respect to Inter-Fund Trades. These prohibitions apply because the Filer acts, or will act, as the advisor to the Funds and in some cases is, or will be, an “associate” of the Funds by virtue of direct or indirect ownership of voting securities of Funds that are corporations.
- 11. An exception from the inter-fund trading prohibition in subsection 4.2(1) of NI 81-102 currently exists in subsection 4.3(1) of NI 81-102, which permits the NI 81-102 Funds to inter-fund trade listed equity securities with the Pooled Funds. The NI 81-102 Funds are unable to rely on the exception in subsection 4.3(1) of NI 81-102 to inter-fund trade debt securities because debt securities are typically not subject to public quotations as required by subsection 4.3(1) of NI 81-102. The NI 81-102 Funds are further unable to rely on the exception in subsection 4.3(2) to inter-fund trade debt securities with the Pooled Funds because that exception only applies where funds on both sides of the inter-fund trade are investment funds governed by NI 81-107.

12. The Filer submits that effecting Inter-Fund Trades amongst the Funds allows the Filer to properly manage the Funds and has the effect of reducing transaction costs for the Funds due to reduced commission costs. Inter-Fund Trades can also reduce market impact costs and increase the speed of execution of trading, all of which will be to the benefit of the Funds.
13. The Filer has determined that it would be in the best interests of the Funds to receive the Exemption Sought because subjecting the Funds to a consistent set of rules governing the execution of Inter-Fund Trades will result in
- (a) cost and timing efficiencies in respect of the execution of Inter-Fund Trades, and
  - (b) simplified and more efficient monitoring thereof for the Filer in connection with the execution of Inter-Fund Trades.
14. Each Inter-Fund Trade will be consistent with the investment objective of the relevant Fund.
15. At the time of an Inter-Fund Trade, the Filer will have policies and procedures in place to enable the applicable Funds to engage in Inter-Fund Trades.
16. The Filer, as manager of each NI 81-102 Fund, has established an independent review committee (IRC) in respect of each existing NI 81-102 Fund and will establish an IRC in respect of any future NI 81-102 Fund, as required by NI 81-107.
17. The Filer, as manager of each Pooled Fund, will establish an IRC in respect of each Pooled Fund to review and provide its approval for any proposed Inter-Fund Trades between a Pooled Fund and another Fund.
18. Each Pooled Fund and each IRC of a Pooled Fund will comply with the following provisions of NI 81-107 as if the Pooled Fund was a reporting issuer: (a) composition of the IRC as set out in section 3.7 and (b) the standard of care set out in section 3.9. The IRC of the Pooled Funds will not approve an Inter-Fund Trade involving a Pooled Fund unless it has made the determination set out in subsection 5.2(2) of NI 81-107.
19. Inter-Fund Trades involving an NI 81-102 Fund will be referred to the IRC of the NI 81-102 Fund under subsection 5.2(1) of NI 81-107 and the Filer as manager and the IRC of the NI 81-102 Fund will comply with section 5.4 of NI 81-107 in respect of any standing instructions the IRC has provided in connection with the Inter-Fund Trade. The IRC of the NI 81-102 Funds will not approve an Inter-Fund Trade involving an NI 81-102 Fund unless it has made the determination set out in subsection 5.2(2) of NI 81-107.
20. The Filer cannot rely on the exemption in subsection 6.1(4) of NI 81-107 for any trade involving a Pooled Fund because each party to the transaction would not be an investment fund subject to NI 81-107 and, in the case of Exchange-Traded Securities, the Inter-Fund Trade would not occur at the Closing Sale Price.
21. The Filer considers that it would be in the best interests of the Funds if an Inter-Fund Trade could be made at the Last Sale Price prior to the execution of the trade, in lieu of the Closing Sale Price, as this will result in the trade being done at the price which is closest to the price at the time the decision to make the trade is made.
22. When the Filer engages in an Inter-Fund Trade, the Filer will follow the following procedures:
- (a) the applicable portfolio manager of the Filer will request approval of the Inter-Fund Trade from the chief compliance officer of the Filer, or his or her designated alternate;
  - (b) upon receipt of the required approval, the portfolio manager of the Filer will deliver the trading instructions to a trader on a trading desk of the Filer;
  - (c) upon receipt of the trade instructions and the required approval for the Inter-Fund Trade, the trader on the trading desk, regardless of whether either Fund is a reporting issuer, will execute the trade in accordance with the requirements of paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107 provided that, for Exchange-Traded Securities, the Inter-Fund Trade may be executed at the Last Sale Price of the security in lieu of the Closing Sale Price;
  - (d) the policies applicable to the trading desk of the Filer must require that all orders are to be executed on a timely basis; and
  - (e) upon execution of the trade, the trader on the trading desk will advise the portfolio manager of the price at which the Inter-Fund Trade occurred.

- 23. If the IRC of an NI 81-102 Fund becomes aware of an instance where the Filer did not comply with (a) the terms of this decision or (b) a condition imposed by the Legislation or the IRC in its approval, the IRC of the NI 81-102 Fund will, as soon as practicable, notify in writing the securities regulatory authority or regulator in the jurisdiction under the laws of which the Fund is organized.
- 24. The Filer has determined that it is in the best interests of the Funds to obtain the Exemption Sought.
- 25. Absent the Exemption Sought, neither the Funds nor the Filer on their behalf will be permitted to engage in Inter-Fund Trades.

the IRC of that Fund in the manner contemplated by section 5.1 of NI 81-107 and the Filer and the IRC of the Fund have complied with section 5.4 of NI 81-107 in respect of any standing instructions the IRC has provided in connection with the Inter-Fund Trade;

(iii) the IRC of each Fund has approved the Inter-Fund Trade in respect of the Fund in accordance with the terms of subsection 5.2(2) of NI 81-107; and

**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:

(iv) the Inter-Fund Trade complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107 except that for purposes of paragraph (e) of subsection 6.1(2) of NI 81-107 in respect of Exchange-Traded Securities, the Last Sale Price may be used in lieu of the Closing Sale Price.

- (a) the Subsection 4.2(1) Relief is granted in respect of the Inter-Fund Trade of debt securities provided that, whether or not the Fund is a reporting issuer, the following conditions are satisfied:
  - (i) the Inter-Fund Trade is consistent with the investment objective of each of the Funds involved in the trade;
  - (ii) the IRC of each Fund involved in the trade has approved the Inter-Fund Trade in accordance with the terms of subsection 5.2(2) of NI 81-107; and
  - (iii) the transaction complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107; and
- (b) the Inter-Fund Trading Relief is granted provided that, whether or not the Fund is a reporting issuer, the following conditions are satisfied:
  - (i) the Inter-Fund Trade is consistent with the investment objective of each Fund;
  - (ii) the Inter-Fund Trade has been referred by the Filer, as manager of each Fund, to

“Tom Graham”, CA  
Director, Corporate Finance

2.1.4 Jessica M. Brown

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – application for an order that the issuer is not a reporting issuer.

Applicable Legislative Provisions

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

**Citation:** Re Platinum Communications Corporation, 2016 ABASC 5

January 7, 2016

File No.: CMP0031539

Burnet, Duckworth & Palmer LLP  
2400, 525 – 8 Avenue SW  
Calgary, AB T2P 1G1

Attention: Jessica M. Brown

Dear Madam:

**Re: Platinum Communications Corporation (the Applicant) – Application for a decision under the securities legislation of Alberta and Ontario (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 deemed to have ceased to be a reporting issuer.

“Denise Weeres”  
Manager, Legal  
Corporate Finance

2.1.5 Norrep Capital Management Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Application in Multiple Jurisdictions – Relief granted from the self-dealing provision in s.4.2(1) of NI 81-102 Investment Funds to permit inter-fund trades in debt securities between investment funds subject to NI 81-102 and pooled funds managed by the same manager – Inter-fund trades will comply with the conditions in s.6.1(2) of NI 81-107 Independent Review Committee for Investment Funds, including the requirement for independent review committee approval.

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from ss.13.5(2)(b)(ii) and (iii) of NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations to permit inter-fund trades between investment funds subject to NI 81-102 and pooled funds managed by the same manager – Inter-fund trades subject to conditions, including independent review committee approval and pricing requirements – Trades involving exchange-traded securities permitted to occur at last sale price as defined in the Universal Market Integrity Rules.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 4.2(1), 4.3(1), 4.3(2), 19.2.

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.5(2)(b) and 15.1.

National Instrument 81-107 Independent Review Committee for Investment Funds, s. 6.1(2).

Citation: Re Norrep Capital Management Ltd., 2015 ABASC 927

November 5, 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  
NORREP CAPITAL MANAGEMENT LTD.  
(THE FILER)

DECISION

Background

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

- (a) an exemption (**Subsection 4.2(1) Relief**) from the prohibition in subsection 4.2(1) of National Instrument 81-102 *Investment Funds (NI 81-102)* to permit each NI 81-102 Fund (defined below) to purchase debt securities from, or sell debt securities to, a Pooled Fund (defined below); and
- (b) an exemption (the **Inter-Fund Trading Relief**) from the prohibitions in subparagraphs 13.5(2)(b)(ii) and (iii) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* against a registered adviser knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase or sell a security from or to the investment portfolio of an associate of a responsible person, or from or to the investment portfolio of an investment fund for which a responsible person acts as an adviser, in order to permit:
  - (i) a Fund (defined below) to purchase securities from or sell securities to a Fund (an **Inter-Fund Trade**); and
  - (ii) an Inter-Fund Trade of an Exchange-Traded Security (defined below) to be executed at the “last sale price”, as defined in the UMIR (defined below) prior to the execution of the trade (the **Last Sale Price**), in lieu of the closing sale price on the day of the transaction (the **Closing Sale Price**) contemplated by the definition of “current market price of the security” in subparagraph 6.1(1)(a)(i) of National Instrument 81-107 *Independent Review Committee for Investment Funds (NI 81-107)*.

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

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

- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon by the Filer in each of the provinces and territories of Canada other than Ontario; 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 the Legislation, MI 11-102, National Instrument 14-101 *Definitions*, NI 31-103, NI 81-102 or NI 81-107 have the same meaning if used in this decision, unless otherwise defined herein. The following terms have the following meanings:

**Exchange-Traded Security** means a security of a class that is listed for trading on an exchange in Canada or a foreign jurisdiction.

**Fund** means each NI 81-102 Fund or Pooled Fund.

**NI 81-102 Fund** means each existing or future investment fund that is a reporting issuer and subject to NI 81-102, for which the Filer acts as manager, portfolio adviser or both.

**Pooled Fund** means each existing or future investment fund that is not a reporting issuer, for which the Filer acts as manager, portfolio adviser or both.

**UMIR** means the Universal Market Integrity Rules of the Investment Industry Regulatory Organization of Canada.

### Representations

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

1. The Filer is a corporation established under the laws of Alberta with its head office in Calgary, Alberta.
2. The Filer is registered as a portfolio manager in Alberta, Ontario and British Columbia, as an exempt market dealer in Alberta and Ontario and as an investment fund manager in Alberta, Ontario and Newfoundland.
3. The Filer is the portfolio manager and manager of each existing Fund and may, in the future, be the portfolio manager, manager or both of other Funds.
4. Each of the NI 81-102 Funds is, or will be, established under the laws of Canada or a province or territory of Canada as an investment fund and is, or will be, a reporting issuer in one or more provinces and territories of Canada.

5. The securities of each NI 81-102 Fund are, or will be, qualified for distribution under a prospectus.
6. Each Pooled Fund is, or will be, an investment fund established as a trust, partnership or corporation under the laws of Canada or a province or territory of Canada, or a jurisdiction outside of Canada.
7. The securities of each Pooled Fund are, or will be, distributed on a private placement basis pursuant to one or more available exemptions from the prospectus requirement. None of the Pooled Funds are, or will be, reporting issuers in any province or territory of Canada or other jurisdiction and none are, or will be, subject to NI 81-102 or NI 81-107.
8. Neither the Filer nor any of the existing Funds are in default of securities legislation of any province or territory of Canada.
9. The Filer wishes to be able to permit Inter-Fund Trades between
  - (a) an NI 81-102 Fund and another NI 81-102 Fund or a Pooled Fund, and
  - (b) a Pooled Fund and another Pooled Fund or an NI 81-102 Fund.
10. Different sections of NI 31-103, NI 81-102 and NI 81-107 impose different prohibitions and exceptions on different types of Funds with respect to Inter-Fund Trades. These prohibitions apply because the Filer acts, or will act, as the advisor to the Funds and in some cases is, or will be, an "associate" of the Funds by virtue of direct or indirect ownership of voting securities of Funds that are corporations.
11. An exception from the inter-fund trading prohibition in subsection 4.2(1) of NI 81-102 currently exists in subsection 4.3(1) of NI 81-102, which permits the NI 81-102 Funds to inter-fund trade listed equity securities with the Pooled Funds. The NI 81-102 Funds are unable to rely on the exception in subsection 4.3(1) of NI 81-102 to inter-fund trade debt securities because debt securities are typically not subject to public quotations as required by subsection 4.3(1) of NI 81-102. The NI 81-102 Funds are further unable to rely on the exception in subsection 4.3(2) to inter-fund trade debt securities with the Pooled Funds because that exception only applies where funds on both sides of the inter-fund trade are investment funds governed by NI 81-107.
12. The Filer submits that effecting Inter-Fund Trades amongst the Funds allows the Filer to properly manage the Funds and has the effect of reducing transaction costs for the Funds due to reduced commission costs. Inter-Fund Trades can also

reduce market impact costs and increase the speed of execution of trading, all of which will be to the benefit of the Funds.

13. The Filer has determined that it would be in the best interests of the Funds to receive the Exemption Sought because subjecting the Funds to a consistent set of rules governing the execution of Inter-Fund Trades will result in

- (a) cost and timing efficiencies in respect of the execution of Inter-Fund Trades, and
- (b) simplified and more efficient monitoring thereof for the Filer in connection with the execution of Inter-Fund Trades.

14. Each Inter-Fund Trade will be consistent with the investment objective of the relevant Fund.

15. At the time of an Inter-Fund Trade, the Filer will have policies and procedures in place to enable the applicable Funds to engage in Inter-Fund Trades.

16. The Filer, as manager of each NI 81-102 Fund, has established an independent review committee (IRC) in respect of each existing NI 81-102 Fund and will establish an IRC in respect of any future NI 81-102 Fund, as required by NI 81-107.

17. The Filer, as manager of each Pooled Fund, will establish an IRC in respect of each Pooled Fund to review and provide its approval for any proposed Inter-Fund Trades between a Pooled Fund and another Fund.

18. Each Pooled Fund and each IRC of a Pooled Fund will comply with the following provisions of NI 81-107 as if the Pooled Fund was a reporting issuer: (a) composition of the IRC as set out in section 3.7 and (b) the standard of care set out in section 3.9. The IRC of the Pooled Funds will not approve an Inter-Fund Trade involving a Pooled Fund unless it has made the determination set out in subsection 5.2(2) of NI 81-107.

19. Inter-Fund Trades involving an NI 81-102 Fund will be referred to the IRC of the NI 81-102 Fund under subsection 5.2(1) of NI 81-107 and the Filer as manager and the IRC of the NI 81-102 Fund will comply with section 5.4 of NI 81-107 in respect of any standing instructions the IRC has provided in connection with the Inter-Fund Trade. The IRC of the NI 81-102 Funds will not approve an Inter-Fund Trade involving an NI 81-102 Fund unless it has made the determination set out in subsection 5.2(2) of NI 81-107.

20. The Filer cannot rely on the exemption in subsection 6.1(4) of NI 81-107 for any trade involving a Pooled Fund because each party to the transaction would not be an investment fund

subject to NI 81-107 and, in the case of Exchange-Traded Securities, the Inter-Fund Trade would not occur at the Closing Sale Price.

21. The Filer considers that it would be in the best interests of the Funds if an Inter-Fund Trade could be made at the Last Sale Price prior to the execution of the trade, in lieu of the Closing Sale Price, as this will result in the trade being done at the price which is closest to the price at the time the decision to make the trade is made.

22. When the Filer engages in an Inter-Fund Trade, the Filer will follow the following procedures:

(a) the applicable portfolio manager of the Filer will request approval of the Inter-Fund Trade from the chief compliance officer of the Filer, or his or her designated alternate;

(b) upon receipt of the required approval, the portfolio manager of the Filer will deliver the trading instructions to a trader on a trading desk of the Filer;

(c) upon receipt of the trade instructions and the required approval for the Inter-Fund Trade, the trader on the trading desk, regardless of whether either Fund is a reporting issuer, will execute the trade in accordance with the requirements of paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107 provided that, for Exchange-Traded Securities, the Inter-Fund Trade may be executed at the Last Sale Price of the security in lieu of the Closing Sale Price;

(d) the policies applicable to the trading desk of the Filer must require that all orders are to be executed on a timely basis; and

(e) upon execution of the trade, the trader on the trading desk will advise the portfolio manager of the price at which the Inter-Fund Trade occurred.

23. If the IRC of an NI 81-102 Fund becomes aware of an instance where the Filer did not comply with (a) the terms of this decision or (b) a condition imposed by the Legislation or the IRC in its approval, the IRC of the NI 81-102 Fund will, as soon as practicable, notify in writing the securities regulatory authority or regulator in the jurisdiction under the laws of which the Fund is organized.

24. The Filer has determined that it is in the best interests of the Funds to obtain the Exemption Sought.



25. Absent the Exemption Sought, neither the Funds nor the Filer on their behalf will be permitted to engage in Inter-Fund Trades.

(iv) the Inter-Fund Trade complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107 except that for purposes of paragraph (e) of subsection 6.1(2) of NI 81-107 in respect of Exchange-Traded Securities, the Last Sale Price may be used in lieu of the Closing Sale Price.

**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:

- (a) the Subsection 4.2(1) Relief is granted in respect of the Inter-Fund Trade of debt securities provided that, whether or not the Fund is a reporting issuer, the following conditions are satisfied:
  - (i) the Inter-Fund Trade is consistent with the investment objective of each of the Funds involved in the trade;
  - (ii) the IRC of each Fund involved in the trade has approved the Inter-Fund Trade in accordance with the terms of subsection 5.2(2) of NI 81-107; and
  - (iii) the transaction complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107; and
- (b) the Inter-Fund Trading Relief is granted provided that, whether or not the Fund is a reporting issuer, the following conditions are satisfied:
  - (i) the Inter-Fund Trade is consistent with the investment objective of each Fund;
  - (ii) the Inter-Fund Trade has been referred by the Filer, as manager of each Fund, to the IRC of that Fund in the manner contemplated by section 5.1 of NI 81-107 and the Filer and the IRC of the Fund have complied with section 5.4 of NI 81-107 in respect of any standing instructions the IRC has provided in connection with the Inter-Fund Trade;
  - (iii) the IRC of each Fund has approved the Inter-Fund Trade in respect of the Fund in accordance with the terms of subsection 5.2(2) of NI 81-107; and

“Tom Graham”  
CA  
Director, Corporate Finance

2.1.6 Sprott Asset Management LP

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from certain specified derivatives and custodial requirements to permit mutual funds and non-redeemable investment funds to enter into swap transactions that are cleared through a clearing corporation – relief required because of U.S. and European requirements to clear over-the-counter derivatives including swaps – decision treats cleared swaps similar to other cleared derivatives – National Instrument 81-102 Investment Funds.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.7(1) and (4), 6.8(1), 19.1.

January 7, 2016

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)

DECISION

Background

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

- (a) the Existing Sprott Mutual Funds (as defined below) and all mutual funds for which the Filer becomes the manager in the future (together with the Existing Sprott Mutual Funds, the **Sprott Mutual Funds**, or each individually, a **Sprott Mutual Fund**) that enter into Swaps (as defined below) in the future:
  - (i) from the requirement in subsection 2.7(1) of NI 81-102 that a mutual fund must not

purchase an option or a debt-like security or enter into a swap or a forward contract unless, at the time of the transaction, the option, debt-like security, swap or contract has a designated rating or the equivalent debt of the counterparty, or of a person or company that has fully and unconditionally guaranteed the obligations of the counterparty in respect of the option, debt-like security, swap or contract, has a designated rating; and

- (ii) from the limitation in subsection 2.7(4) of NI 81-102 that the mark-to-market value of the exposure of a mutual fund under its specified derivatives positions with any one counterparty other than an acceptable clearing corporation or a clearing corporation that settles transactions made on a futures exchange listed in Appendix A to NI 81-102 shall not exceed, for a period of 30 days or more, 10 percent of the net asset value of the mutual fund; and

- (b) the Existing Sprott Non-Redeemable Investment Funds (as defined below) and all non-redeemable investment funds for which the Filer becomes the manager in the future (together with the Existing Sprott Non-Redeemable Investment Funds, the **Sprott Non-Redeemable Investment Funds**, or each individually, a **Sprott Non-Redeemable Investment Fund**) and the Sprott Mutual Funds that enter into Swaps (as defined below) in the future from the requirement in subsection 6.1(1) of NI 81-102 to hold all portfolio assets of an investment fund under the custodianship of one custodian in order to permit each Sprott Investment Fund to deposit cash and other portfolio assets directly with a Futures Commission Merchant (as defined below) and indirectly with a Clearing Corporation (as defined below) as margin,

in each case, with respect to cleared Swaps (**the Requested Relief**).

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

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

- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in each of the other provinces and territories of Canada (the **Other Jurisdictions**) and collectively 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. Capitalized terms used in this decision have the following meanings:

**CFTC** means the U.S. Commodity Futures Trading Commission

**Clearing Corporation** means any clearing organization registered with the CFTC or central counterparty authorized by ESMA, as the case may be, that, in either case, is also permitted to operate in the Jurisdiction or the Other Jurisdiction, as the case may be, where the Sprott Fund is located

**Dodd-Frank Act** means the *Dodd-Frank Wall Street Reform and Consumer Protection Act*

**EMIR** means the European Market Infrastructure Regulation

**ESMA** means the European Securities and Markets Authority

**European Economic Area** means all of the European Union countries and also Iceland, Liechtenstein and Norway

**Existing Sprott Funds** means collectively, the Existing Sprott Non-Redeemable Investment Funds and the Existing Sprott Mutual Funds

**Existing Sprott Non-Redeemable Investment Funds** means all non-redeemable investment funds currently managed by the Filer

**Existing Sprott Mutual Funds** means all mutual funds currently managed by the Filer

**Futures Commission Merchant** means any futures commission merchant that is registered with the CFTC and/or clearing member for purposes of EMIR, as applicable, and is a member of a Clearing Corporation

**OTC** means over-the-counter

**Portfolio Advisor** means each of the Filer and each affiliate of the Filer and each third party portfolio manager retained from time to time by the Filer to manage the investment portfolio of one or more Sprott Funds

**Sprott Funds** means collectively, the Sprott Non-Redeemable Investment Funds and the Sprott Mutual Funds

**Swaps** means the swaps that are, or will become, subject to a clearing determination or a clearing obligation issued by the CFTC or ESMA, as the case may be, including fixed-to-floating interest rate swaps, basis swaps, forward rate agreements in U.S. dollars, the Euro, Pounds Sterling or the Japanese Yen, overnight index swaps in U.S. dollars, the Euro and Pounds Sterling and untranching credit default swaps on certain North American indices (CDX.NA.IG and CDX.NA.HY) and European indices (iTraxx Europe, iTraxx Europe Crossover and iTraxx Europe HiVol) at various tenors

**U.S. Person** has the meaning attributed thereto by the CFTC

### Representations

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

#### *The Filer and the Sprott Funds*

1. The Filer is, or will be, the investment fund manager of each Sprott Fund. 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 Québec 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. The head office of the Filer is in Toronto, Ontario.
2. The Filer is, or will be, the portfolio manager to the Sprott Funds.
3. Each Sprott Fund is, or will be, an investment fund created under the laws of the Province of Ontario and is, or will be, subject to the provisions of NI 81-102.
4. Neither the Filer nor any of the Existing Sprott Funds is in default of securities legislation in any Jurisdiction.
5. The securities of each Sprott Fund are, or will be, qualified for distribution pursuant to a prospectus that was, or will be, prepared and filed in accordance with the securities legislation of the Jurisdictions. Accordingly, each Sprott Fund is, or will be, a reporting issuer or the equivalent in each Jurisdiction.

**Cleared Swaps**

6. The investment objective and investment strategies of each Spratt Fund permit, or will permit, the Spratt Fund to enter into derivative transactions, including Swaps. The Portfolio Advisor for the Existing Spratt Funds considers Swaps to be an important investment tool that is available to it to properly manage the Existing Spratt Funds' portfolio.
7. Dodd-Frank Act requires that certain OTC derivatives be cleared through a Futures Commission Merchant at a clearing organization recognized by the CFTC. Generally, where one party to a Swap is a U.S. Person, that Swap must be cleared.
8. EMIR also requires that certain OTC derivatives be cleared through a central counterparty authorized to provide clearing services for purposes of EMIR. Generally, where one party to a Swap is a financial counterparty or a non-financial counterparty whose OTC derivative trading activity exceeds a certain threshold, in each case established in a state that is a participant in the European Economic Area, that Swap will be required to be cleared. The first clearing directive has been issued in respect of certain interest rate swaps and will be phased-in based on the category of both parties to the trade.
9. In order to benefit from both the pricing benefits and reduced trading costs that a Portfolio Advisor may be able to achieve through its trade execution practices for its advised investment funds and other accounts and from the reduced costs associated with cleared OTC derivatives as compared to other OTC trades, the Filer wishes to provide the Spratt Funds with the ability to enter into cleared Swaps.
10. In the absence of the Requested Relief, the Portfolio Advisor will need to structure the Swaps entered into by the Spratt Funds so as to avoid the clearing requirements of the CFTC and under EMIR, as applicable. The Filer respectfully submits that this would not be in the best interest of the Spratt Funds and their investors for a number of reasons, as set out below.
11. The Filer strongly believes that it is in the best interests of the Spratt Funds and their investors to be able to execute OTC derivatives with global counterparties, including U.S. and European swap dealers.
12. In its role as a fiduciary for the Spratt Funds, the Filer has determined that central clearing represents the best choice for the investors in the Spratt Funds to mitigate the legal, operational and back office risks faced by investors in the global swap markets.
13. The Portfolio Advisor may use the same trade execution practices for all of its advised funds and other accounts, including the Spratt Funds. An example of these trade execution practices is block trading, where a large number of securities are purchased or sold or large derivative trades are entered into on behalf of a number of investment funds and other accounts advised by one Portfolio Advisor. These practices include the use of cleared Swaps. If the Spratt Funds are unable to employ these trade execution practices, then the affected Portfolio Advisor will have to create separate trade execution practices only for the Spratt Funds and will have to execute trades for the Spratt Funds on a separate basis. This will increase the operational risk for the Spratt Funds, as separate execution procedures will need to be established and followed only for the Spratt Funds. In addition, the Spratt Funds will no longer be able to enjoy the possible price benefits and reduction in trading costs that the Portfolio Advisor may be able to achieve through a common practice for its advised funds and other accounts. In the Filer's opinion, best execution and maximum certainty can best be achieved through common trade execution practices, which, in the case of OTC derivatives, involve the execution of Swaps on a cleared basis.
14. As a member of the G20 and a participant in the September 2009 commitment of G20 nations to improve transparency and mitigate risk in derivatives markets, Canada has expressly recognized the systemic benefits that clearing OTC derivatives offers to market participants, such as the Spratt Funds. The Filer respectfully submits that the Spratt Funds should be encouraged to comply with the robust clearing requirements established by the CFTC and under EMIR by granting them the Requested Relief.
15. The Requested Relief is analogous to the treatment currently afforded under NI 81-102 to other types of derivatives that are cleared, such as clearing corporation options, options on futures and standardized futures. This demonstrates that, from a policy perspective, the Requested Relief is consistent with the views of the Canadian securities authorities in respect of cleared derivative trades.
16. For the reasons provided above, the Filer submits that it would not be prejudicial to the public interest to grant the Requested Relief.

**Decision**

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

The decision of the principal regulator under the Legislation is that the Requested Relief is granted provided that when any rules applicable to customer clearing of OTC derivatives enter into force, the Clearing Corporation is permitted to offer customer clearing of OTC derivatives in the Jurisdiction or the Other Jurisdiction, as the case may be, where the Sprott Fund is located and provided further that, in respect of the deposit of cash and other portfolio assets as margin:

- (a) in Canada,
  - (i) the Futures Commission Merchant is a member of a SRO that is a participating member of CIPF; and
  - (ii) the amount of margin deposited and maintained with the Futures Commission Merchant does not, when aggregated with the amount of margin already held by the Futures Commission Merchant, exceed 10 percent of the net asset value of the Sprott Fund as at the time of deposit; and
- (b) outside of Canada,
  - (i) the Futures Commission Merchant is a member of a Clearing Corporation and, as a result, is subject to a regulatory audit;
  - (ii) the Futures Commission Merchant has a net worth, determined from its most recent audited financial statements that have been made public or from other publicly available financial information, in excess of the equivalent of \$50 million; and
  - (iii) the amount of margin deposited and maintained with the Futures Commission Merchant does not, when aggregated with the amount of margin already held by the Futures Commission Merchant, exceed 10 percent of the net asset value of the Sprott Fund as at the time of deposit.

This decision will terminate on the coming into force of any revisions to the provisions of NI 81-102 that address the clearing of OTC derivatives.

*"Darren McKall"*

Manager, Investment Funds and Structured Products Branch  
Ontario Securities Commission

## 2.1.7 Amica Mature Lifestyles 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).

January 11th, 2016

Amica Mature Lifestyles Inc.  
1111 Melville Street, 10th floor  
Vancouver B.C. V6E 3V6

Dear Sirs/Mesdames:

**Re: Amica Mature Lifestyles Inc. (the Applicant) - application for a decision under the securities legislation of Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Québec, and Saskatchewan (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.

*"Kathryn Daniels"*

Deputy Director, Corporate Finance  
Ontario Securities Commission

## 2.1.8 Borden Ladner Gervais LLP – s. 1(10)(a)(ii)

### Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Application under securities legislation of each of the provinces and territories, except British Columbia, that the applicant is not a reporting issuer.

### Applicable Legislative Provisions

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

January 6, 2016

Borden Ladner Gervais LLP  
Scotia Plaza  
40 King Street West  
Toronto, Ontario Canada  
M5H 3Y4

Dear Sirs/Mesdames:

**Re: Canadian Scholarship Trust Plan II (the "Applicant")**

**Application for a decision under the securities legislation of Ontario, Nova Scotia, Alberta, Prince Edward Island, Manitoba, Quebec, New Brunswick, Saskatchewan, Newfoundland and Labrador, Northwest Territories, Yukon and Nunavut (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 of each of the Jurisdictions (the **Legislation**) that the Applicant is not a reporting issuer (the **Application**).

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 security holders in each of the jurisdictions of Canada and fewer than 51 security holders 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.

*“Stephen Paglia”*

Acting Manager, Investment Funds and Structured Products Branch  
Ontario Securities Commission

## 2.2 Orders

### 2.2.1 Canadian Imperial Bank of Commerce – s. 104(2)(c)

#### Headnote

Subsection 104(2)(c) of the Act – Issuer bid – relief from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act – Issuer proposes to purchase, at a discounted purchase price, up to 2,666,667 of its common shares from one of its shareholders – due to the discounted purchase price, proposed purchases cannot be made through the TSX trading system – but for the fact that the proposed purchases cannot be made through the TSX trading system, the Issuer could otherwise acquire the subject shares in reliance upon the issuer bid exemption available under section 101.2 of the Act and in accordance with the TSX rules governing normal course issuer bid purchases – the selling shareholder did not purchase the subject shares in anticipation or contemplation of resale to the Issuer and has not, for a minimum of 30 days prior to the date of the application seeking the requested relief, purchased common shares of the Issuer in anticipation or contemplation of a sale of common shares to the Issuer – no adverse economic impact on, or prejudice to, the Issuer or public shareholders – proposed purchases exempt from the issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act, subject to conditions, including that the Issuer not purchase, in the aggregate, more than one-third of the maximum number of shares to be purchased under its normal course issuer bid by way of off-exchange block purchases, and that the Issuer not make any proposed purchase unless it has first obtained written confirmation from the selling shareholder that between the date of the order and the date on which the proposed purchase is completed, the selling shareholder has not purchased, had purchased on its behalf, or otherwise accumulated, any common shares of the Issuer to re-establish its holdings of common shares which will have been reduced as a result of the sale of the subject shares pursuant to the proposed purchases.

#### Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as amended, ss. 94 to 94.8, 97 to 98.7 and 104(2)(c).

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

**AND**

**IN THE MATTER OF  
CANADIAN IMPERIAL BANK OF COMMERCE**

**ORDER  
(Clause 104(2)(c))**

**UPON** the application (the “**Application**”) of Canadian Imperial Bank of Commerce (the “**Issuer**”) to the Ontario Securities Commission (the “**Commission**”) for an order

pursuant to clause 104(2)(c) of the *Securities Act* (Ontario) (the “**Act**”) exempting the Issuer from the requirements of sections 94 to 94.8, inclusive, and sections 97 to 98.7, inclusive, of the Act (the “**Issuer Bid Requirements**”) in connection with the proposed purchases by the Issuer of up to 2,666,667 common shares of the Issuer (collectively, the “**Subject Shares**”) in one or more tranches, from BMO Nesbitt Burns Inc. (the “**Selling Shareholder**”);

**AND UPON** considering the Application and the recommendation of staff of the Commission;

**AND UPON** the Issuer (and the Selling Shareholder in respect of paragraphs 5, 6, 7, 8, 9, 10, 12, 22 and 24 as they relate to the Selling Shareholder) having represented to the Commission that:

1. The Issuer is a Schedule 1 Bank amalgamated under and governed by the *Bank Act* (Canada).
2. The registered and head office of the Issuer is located at 199 Bay Street, Toronto, Ontario, Canada, M5L 1A2.
3. The authorized share capital of the Issuer consists of (a) an unlimited number of common shares (the “**Common Shares**”), (b) an unlimited number of Class A Preferred Shares issuable in series (the “**Class A Preferred Shares**”), provided that the maximum aggregate consideration for all outstanding Class A Preferred Shares at any time does not exceed \$10,000,000,000, and (c) an unlimited number of Class B Preferred Shares issuable in series (the “**Class B Preferred Shares**”), provided that the maximum aggregate consideration for all outstanding Class B Preferred Shares at any time does not exceed \$10,000,000,000. As at November 30, 2015, the Issuer had issued and outstanding: (i) 397,362,212 Common Shares; (ii) 16,000,000 Series 39 Class A Preferred Shares; (iii) 12,000,000 Series 41 Class A Preferred Shares; (iv) 12,000,000 Series 43 Class A Preferred Shares; and (v) no Class B Preferred Shares.
4. The Issuer is a reporting issuer in each of the provinces and territories of Canada. The Common Shares are listed for trading on the Toronto Stock Exchange (the “**TSX**”) and the New York Stock Exchange (“**NYSE**”) under the symbol “CM”, and each series of the Class A Preferred Shares are listed on the TSX. The Issuer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.
5. The corporate headquarters of the Selling Shareholder are located in the Province of Ontario. Each Proposed Purchase (as defined below) under this Order will be executed and settled in the Province of Ontario.
6. The Selling Shareholder does not own, directly or indirectly, more than 5% of the issued and outstanding Common Shares.
7. The Selling Shareholder is the beneficial owner of at least 2,666,667 Common Shares. None of the Subject Shares were acquired by, or on behalf of, the Selling Shareholder in anticipation or contemplation of resale to the Issuer.
8. No Common Shares were purchased by, or on behalf of, the Selling Shareholder on or after November 29, 2015, being the date that was 30 days prior to the date of the Application, in anticipation or contemplation of a sale of Common Shares to the Issuer.
9. The Subject Shares are held by the Selling Shareholder in connection with arrangements to hedge client transactions in respect of the Common Shares. Between the date of this Order and the date on which a Proposed Purchase is to be completed, the Selling Shareholder will not purchase, have purchased on its behalf, or otherwise accumulate, any Common Shares to re-establish its holdings of Common Shares which will have been reduced as a result of the sale of Subject Shares pursuant to the Proposed Purchases.
10. The Selling Shareholder is at arm’s length to the Issuer and is not an “insider” of the Issuer or an “associate” of an “insider” of the Issuer, or an “associate” or “affiliate” of the Issuer, as such terms are defined in the Act, and no director or officer of the Selling Shareholder is also a director or officer of the Issuer. The Selling Shareholder is an “accredited investor” within the meaning of National Instrument 45-106 *Prospectus Exemptions*.
11. Pursuant to the terms of a “Notice of Intention to Make a Normal Course Issuer Bid” (the “**Original Notice**”), which was accepted by the TSX, the Issuer was permitted to make a normal course issuer bid (the “**Normal Course Issuer Bid**”) to purchase up to 8,000,000 Common Shares, representing approximately 2% of the Issuer’s issued and outstanding Common Shares as of the date specified in the Notice, during the 12-month period beginning on September 18, 2015 and ending on September 17, 2016. The Original Notice specifies that purchases under the Normal Course Issuer Bid will be conducted through the facilities of the TSX, alternative Canadian trading systems or the NYSE. An amended “Notice of Intention to Make a Normal Course Issuer Bid” (the “**Amended Notice**”, and together with the Original Notice, the “**Notice**”) was filed with, and conditionally accepted by the TSX on December 30, 2015 to permit the Issuer to make purchases by private agreements under issuer bid exemption



- orders issued by securities regulatory authorities (each, an “**Off-Exchange Block Purchase**”).
12. The Issuer and the Selling Shareholder intend to enter into one or more agreements of purchase and sale (each, an “**Agreement**”), pursuant to which the Issuer will, subject to market conditions, agree to acquire some or all of the Subject Shares from the Selling Shareholder in one or more tranches, such tranches to occur not more than once per calendar week and, in each case, prior to March 29, 2016 (each such purchase, a “**Proposed Purchase**”) for a purchase price (each such price, a “**Purchase Price**” in respect of such Proposed Purchase) that will be negotiated at arm’s length between the Issuer and the Selling Shareholder. The Purchase Price, in each case, will be at a discount to the prevailing market price and below the prevailing bid-ask price for the Common Shares on the TSX at the time of the relevant Proposed Purchase.
  13. The Subject Shares acquired under each Proposed Purchase will constitute a “block”, as that term is defined in the rules of the TSX in respect of normal course issuer bids, contained in sections 628 to 629.3 of Part VI of the TSX Company Manual (the “**TSX NCIB Rules**”).
  14. The purchase of any of the Subject Shares by the Issuer pursuant to an Agreement will constitute an “issuer bid” for the purposes of the Act, to which the Issuer Bid Requirements would apply.
  15. Because the Purchase Price, in each case, will be at a discount to the prevailing market price and below the prevailing bid-ask price for the Common Shares on the TSX at the time of the relevant Proposed Purchase, none of the Proposed Purchases can be made through the TSX trading system and, therefore, will not occur “through the facilities” of the TSX. As a result, the Issuer will be unable to acquire Subject Shares from the Selling Shareholder in reliance upon the exemption from the Issuer Bid Requirements that is available pursuant to subsection 101.2(1) of the Act.
  16. But for the fact that the Purchase Price will be at a discount to the prevailing market price and below the prevailing bid-ask price for the Common Shares on the TSX at the time of the relevant Proposed Purchase, the Issuer could otherwise acquire the applicable Subject Shares through the facilities of the TSX as a “block purchase” (a “**Block Purchase**”) in accordance with the block purchase exception in clause 629(l)7 of the TSX NCIB Rules and the exemption from the Issuer Bid Requirements that is available pursuant to subsection 101.2(1) of the Act.
  17. The sale of any of the Subject Shares to the Issuer will not be a “distribution” (as defined in the Act).
  18. For each Proposed Purchase, the Issuer will be able to acquire the applicable Subject Shares from the Selling Shareholder without the Issuer being subject to the dealer registration requirements of the Act.
  19. Management of the Issuer is of the view that: (a) the Issuer will be able to purchase the Subject Shares at a lower price than the price at which it would otherwise be able to purchase Common Shares under the Normal Course Issuer Bid in accordance with the TSX NCIB Rules and the exemption from the Issuer Bid Requirements available pursuant to subsection 101.2(1) of the Act; and (b) the Proposed Purchases are an appropriate use of the Issuer’s funds.
  20. The purchase of the Subject Shares will not adversely affect the Issuer or the rights of any of the Issuer’s security holders and it will not materially affect the control of the Issuer. To the knowledge of the Issuer, the Proposed Purchases will not prejudice the ability of other security holders of the Issuer to otherwise sell Common Shares in the open market at the then prevailing market price. The Proposed Purchases will be carried out at minimal cost to the Issuer.
  21. The Common Shares are “highly-liquid securities” within the meaning of section 1.1 of OSC Rule 48-501 *Trading during Distributions, Formal Bids and Share Exchange Transactions* and section 1.1 of the Universal Market Integrity Rules.
  22. Other than the Purchase Price, no fee or other consideration will be paid by the Issuer in connection with the Proposed Purchases.
  23. The Issuer will not make any Proposed Purchase until it has first obtained confirmation in writing from the Selling Shareholder that between the date of this Order and the date on which a Proposed Purchase is to be completed, the Selling Shareholder has not purchased, had purchased on its behalf, or otherwise accumulated, any Common Shares to re-establish its holdings of Common Shares which will have been reduced as a result of the sale of Subject Shares pursuant to the Proposed Purchases.
  24. At the time that each Agreement is entered into by the Issuer and the Selling Shareholder and at the time of each Proposed Purchase, neither the Issuer, nor any member of the Trading Products Group of the Selling Shareholder, nor any personnel of the Selling Shareholder that negotiated the Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares, will be aware of any “material change” or “material fact” (each as defined in the Act) in respect of the Issuer that has not been generally disclosed, and each

- Agreement will contain a representation from each of the Issuer and the Selling Shareholder to that effect.
25. No Subject Shares will be acquired at such times when the Issuer would not be permitted to trade in its Common Shares, including regularly scheduled quarterly blackout periods (each such time, a “**Blackout Period**”), and no Agreement will be negotiated or entered into during a Blackout Period.
26. The Issuer may implement an automatic share purchase plan (“**ASPP**”) to permit the Issuer to make purchases under its Normal Course Issuer Bid during a Blackout Period. Under the ASPP, at times when it is not subject to blackout restrictions, the Issuer may, but is not required to, instruct its designated broker to make purchases under its Normal Course Issuer Bid in accordance with the terms of the ASPP. Such purchases will be determined by the Issuer’s designated broker in its sole discretion based on parameters established by the Issuer prior to the relevant Blackout Period in accordance with TSX rules, applicable securities laws (including this Order) and the terms of the agreement between the designated broker and the Issuer. The ASPP has been approved by the TSX and was previously in effect from September 29, 2015 to December 4, 2015.
27. As of December 30, 2015, an aggregate of 159,400 Common Shares have been acquired by the Issuer pursuant to the Normal Course Issuer Bid, none of which were purchased pursuant to Off-Exchange Block Purchases.
28. The Issuer will not purchase, pursuant to Off-Exchange Block Purchases, in the aggregate, more than one-third of the maximum number of Common Shares that the Issuer can purchase under the Normal Course Issuer Bid, such one-third being equal to 2,666,667 Common Shares as of the date of this Order.
29. Assuming completion of the purchase of the maximum number of Subject Shares, being 2,666,667 Common Shares, the Issuer will have purchased under the Normal Course Issuer Bid an aggregate of 2,666,667 Common Shares pursuant to Off-Exchange Block Purchases, representing 33% of the maximum 8,000,000 Common Shares authorized to be purchased under the Normal Course Issuer Bid.
- AND UPON** the Commission being satisfied to do so would not be prejudicial to the public interest;
- IT IS ORDERED** pursuant to clause 104(2)(c) of the Act that the Issuer be exempt from the Issuer Bid Requirements in connection with the Proposed Purchases, provided that:
- (a) the Proposed Purchases will be taken into account by the Issuer when calculating the maximum annual aggregate limit that is imposed upon the Issuer’s Normal Course Issuer Bid in accordance with the TSX NCIB Rules;
  - (b) the Issuer will refrain from conducting either a Block Purchase in accordance with the TSX NCIB Rules or another Off-Exchange Block Purchase during the calendar week in which it completes a Proposed Purchase and will not make any further purchases under its Normal Course Issuer Bid for the remainder of the calendar day on which it completes a Proposed Purchase;
  - (c) the Purchase Price in respect of each Proposed Purchase will be at a discount to the last “independent trade” (as that term is used in paragraph 629(l)1 of the TSX NCIB Rules) of a board lot of Common Shares immediately prior to the execution of such Proposed Purchase;
  - (d) the Issuer will otherwise acquire any additional Common Shares pursuant to the Normal Course Issuer Bid in accordance with the Notice and the TSX NCIB Rules and, subject to condition (i) below, by Off-Exchange Block Purchases;
  - (e) immediately following each Proposed Purchase of Subject Shares from the Selling Shareholder, the Issuer will report the purchase of Subject Shares to the TSX;
  - (f) at the time that each Agreement is entered into by the Issuer and the Selling Shareholder and at the time of each Proposed Purchase, neither the Issuer, nor any member of the Trading Products Group of the Selling Shareholder, nor any personnel of the Selling Shareholder that negotiated the Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares, will be aware of any “material change” or “material fact” (each as defined in the Act) in respect of the Issuer that has not been generally disclosed, and each Agreement will contain a representation from each of the Issuer and the Selling Shareholder to that effect;
  - (g) in advance of the first Proposed Purchase, the Issuer will issue a press release disclosing (i) its intention to make

the Proposed Purchases, and (ii) that information regarding each Proposed Purchase, including the number of Subject Shares purchased and the aggregate Purchase Price, will be available on the System for Electronic Document Analysis and Retrieval ("SEDAR") following the completion of each Proposed Purchase;

- (h) the Issuer will report information regarding each Proposed Purchase, including the number of Subject Shares purchased and the aggregate Purchase Price, on SEDAR before 5:00 p.m. (Toronto time) on the business day following such purchase;
- (i) the Issuer does not purchase, pursuant to Off-Exchange Block Purchases, in the aggregate more than one-third of the maximum number of Common Shares the Issuer can purchase under its Normal Course Issuer Bid, such one-third being equal to, as of the date of this Order, 2,666,667 Common Shares; and
- (j) the Issuer will not make any Proposed Purchase unless it has first obtained confirmation in writing from the Selling Shareholder that between the date of this Order and the date on which a Proposed Purchase is to be completed, the Selling Shareholder has not purchased, had purchased on its behalf, or otherwise accumulated, any Common Shares to re-establish its holdings of Common Shares which will have been reduced as a result of the sale of Subject Shares pursuant to the Proposed Purchases.

**DATED** at Toronto this 5th day of January, 2016.

"Sarah B. Kavanagh"  
Commissioner  
Ontario Securities Commission

"Christopher Portner"  
Commissioner  
Ontario Securities Commission

**2.2.2 Sino-Forest Corporation et al.**

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

**AND**

**IN THE MATTER OF  
SINO-FOREST CORPORATION, ALLEN CHAN,  
ALBERT IP, ALFRED C.T. HUNG, GEORGE HO,  
SIMON YEUNG and DAVID HORSLEY**

**ORDER**

**WHEREAS:**

1. the Ontario Securities Commission ("the Commission") issued a Notice of Hearing (the "Notice of Hearing") and Enforcement Staff of the Commission ("Staff") filed a Statement of Allegations in this matter, both dated May 22, 2012 in respect of Sino-Forest Corporation ("Sino-Forest"), Allen Chan ("Chan"), Albert Ip ("Ip"), Alfred C.T. Hung ("Hung"), George Ho ("Ho"), Simon Yeung ("Yeung") and David Horsley ("Horsley");
2. the hearing on the merits in this matter commenced on September 2, 2014 and has continued for 173 days as of the most recent hearing date of December 16, 2015;
3. on numerous occasions throughout the hearing on the merits, we communicated to the parties that the last date on which evidence would be heard was December 17, 2015;
4. a witness called by Mr. Chan, Mr. Lei Guangyu, testified on April 10, 15, 16, 17 and 20, 2015 by videoconference from Shenzhen, China, but was not able to complete his testimony during that time;
5. when Mr. Lei did not return to complete his testimony, we ordered on September 2, 2015 that Mr. Lei must return for three consecutive days ending not later than December 4, 2015 to complete his testimony;
6. on October 26, 2015, we amended our order of September 2, 2015 and ordered that Mr. Lei must return for three non-consecutive days ending not later than December 4, 2015 to complete his testimony;
7. Mr. Lei did not return to complete his testimony at any time between April 20, 2015 and December 4, 2015;
8. on December 9, 2015, Mr. Chan brought a motion requesting an order that the hearing be adjourned to permit Mr. Lei to re-attend at the hearing for

three non-consecutive sessions between January 15 and 25, 2016 so that Staff could complete its cross-examination of Mr. Lei and the Panel could have the benefit of Mr. Lei's testimony (the "Adjournment Motion");

9. on December 14, 2015, the Panel heard oral arguments on the Adjournment Motion and gave its decision dismissing the Adjournment Motion, with written reasons to follow;
10. on December 16, 2015 the evidence portion of the hearing on the merits was concluded, subject to the filing of certain documents discussed during the hearing on December 16, 2015, and the hearing was adjourned until April 18, 2016 on which date closing submissions will commence;
11. on December 23, 2015 counsel for Mr. Chan filed a letter with the Secretary to the Commission renewing Mr. Chan's Adjournment Motion on the basis of new evidence;
12. on December 23, 2015 counsel for Staff indicated by e-mail to the Secretary to the Commission that they are of the view that on December 14, 2015 the Panel ruled on the Adjournment Motion and the evidentiary portion of the hearing ended on December 16, 2015;
13. having reviewed and considered the December 23, 2015 letter from counsel for Mr. Chan and its attachment and the December 23, 2015 e-mail from counsel for Staff, we are of the view that it is in the public interest to make this order, with reasons to follow;

**IT IS HEREBY ORDERED** that our oral ruling of December 14, 2015 stands and Mr. Chan's renewed Adjournment Motion, as set out in his counsel's letter of December 23, 2015, is dismissed.

Dated at Toronto this 7<sup>th</sup> day of January, 2016.

*"James D. Carnwath"*  
Q.C.

*"Edward P. Kerwin"*

*"Deborah Leckman"*

**2.2.3 Blue Gold Holdings et al. – s. 127**

**IN THE MATTER OF  
THE SECURITIES ACT,  
R.S.O. 1990, c. S.5, as amended  
("the Act")**

**AND**

**IN THE MATTER OF  
BLUE GOLD HOLDINGS LTD., DEREK BLACKBURN,  
RAJ KURICHH AND NIGEL GREENING**

**ORDER  
(Section 127 of the Act)**

**WHEREAS:**

1. On March 11, 2015, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the Act in relation to a Statement of Allegations filed by Staff of the Commission ("Staff") on March 11, 2015, to consider whether it is in the public interest to make certain orders against Blue Gold Holdings Ltd. ("Blue Gold"), Derek Blackburn ("Blackburn"), Raj Kurichh ("Kurichh"), and Nigel Greening ("Greening");
2. On April 1, 2015, the Commission issued an Amended Notice of Hearing with respect to the Respondents, which set a hearing in this matter for April 10, 2015 at 10:00 a.m.;
3. On April 10, 2015, Staff, counsel for Kurichh, George Schwartz as agent on behalf of Blackburn and on behalf of Blue Gold, and Greening personally attended;
4. On April 10, 2015, George Schwartz, as agent for Blackburn and Blue Gold, took the position that the Commission has no constitutional jurisdiction to proceed, declined the opportunity to bring a motion or present submissions in that regard at this time, and then withdrew representation on behalf of Blackburn and Blue Gold;
5. On April 10, 2015, the Commission ordered that the respondents Blackburn and Blue Gold need not be served with any further documentation or notice of proceedings in this matter;
6. This matter was adjourned to a confidential pre-hearing conference on July 27, 2015;
7. On July 8, 2015, Staff requested an additional confidential pre-hearing conference to seek a determination in respect of the disclosure of documents by Greening;
8. On July 17, 2015 the Commission held a confidential pre-hearing conference which Staff

- attended in person, and Greening and counsel for Kurichh attended via teleconference;
9. The Panel heard submissions from Staff and the parties in attendance;
  10. On July 17, 2015, the Commission ordered that by October 28, 2015, Staff:
    - a. serve on Greening and Kurichh (the "Participating Respondents") copies of all documents that Staff intends to produce or enter as evidence at the hearing on the merits;
    - b. serve on the Participating Respondents and file a list of witnesses Staff intends to call to testify at the hearing; and
    - c. serve on the Participating Respondents summaries of the evidence that Staff's witnesses are expected to give at the hearing;
  11. On July 17, 2015, the Commission ordered that by October 28, 2015, each of the Participating Respondents:
    - a. serve on Staff and the other Participating Respondent copies of all documents that the Participating Respondent intends to produce or enter as evidence at the hearing on the merits;
    - b. serve on Staff and the other Participating Respondent and file a list of witnesses the Participating Respondent intends to call to testify at the hearing; and
    - c. serve on Staff and the other Participating Respondent summaries of the evidence that the Participating Respondent's witnesses are expected to give at the hearing;
  12. On July 17, 2015, the Commission ordered that the hearing on the merits in this matter will commence at 10:00 a.m. on April 18, 2016, and continue on April 20 to 22, 2016, or at such other time or times and such other dates as may be ordered by the Commission;
  13. This matter was adjourned to a confidential pre-hearing conference on November 4, 2015;
  14. On November 4, 2015 the Commission held a confidential pre-hearing conference which Staff attended in person, and Greening and counsel for Kurichh attended via teleconference;
  15. The Panel heard submissions from Staff and the parties in attendance;
  16. Counsel for Kurichh advised that Kurichh intends to bring a motion for disclosure ("Disclosure Motion");
  17. On November 4, 2015 the Commission ordered that:
    1. By November 16, 2015 counsel for Kurichh will file and serve on each party a notice of motion accompanied by a motion record, in respect of the Disclosure Motion;
    2. The Disclosure Motion shall be heard on January 8, 2016 at 10:00 a.m.; and
    3. By January 15, 2016, the Participating Respondents will:
      - a. serve on Staff and the other Participating Respondent copies of all documents that the Participating Respondent intends to produce or enter as evidence at the hearing on the merits; and
      - b. serve on Staff and the other Participating Respondent summaries of the evidence that the Participating Respondent's witnesses are expected to give at the hearing.
  18. This matter was adjourned to a confidential pre-hearing conference on January 22, 2016, at 9:00 a.m.
  19. On December 3, 2015, at the request of one of the Participating Respondents, the Commission held a confidential pre-hearing conference which Staff attended in person and Greening and counsel for Kurichh attended via teleconference;
  20. The Panel heard submissions from Staff and the parties in attendance;
  21. On December 3, 2015 the Commission ordered that:
    1. By December 11, 2015 counsel for Kurichh will file and serve on each party a notice of motion accompanied by a motion record, in respect of the Disclosure Motion returnable on January 8, 2016 at 10:00 a.m.; and
    2. By January 4, 2016 Greening shall make any requests for additional disclosure if necessary;
  22. On January 6, 2016 an adjournment was sought on consent of the moving party and the third

parties and Staff not objecting, with respect to the Disclosure Motion;

23. Any return of the Disclosure Motion will not alter the dates scheduled for the hearing on the merits; and
24. The Commission is of the opinion that it is in the public interest to make this order.

**IT IS ORDERED that:**

25. The hearing of the Disclosure Motion scheduled to be heard on January 8, 2016 is adjourned *sine die* returnable, if necessary, to a date as agreed to by the parties and set by the Office of the Secretary.

**DATED** at Toronto this 7<sup>th</sup> day of January, 2016.

*“Janet Leiper”*

*“Alan J. Lenczner”*

*“Timothy Moseley”*

**2.2.4 Global Autotrading Inc. and Jimmy Talbot – s. 25(3)**

**Headnote**

Investment advice by a U.S. registered investment adviser exempted from the requirements of paragraph 25(3) of the Act, subject to certain conditions, for investment advice provided to persons or entities who are resident in the United States with respect to securities of U.S. issuers – Supervisory memorandum of understanding between the Ontario Securities Commission and the Filer’s principal regulator.

**Applicable Legislative Provisions**

**Statutes Cited**

Securities Act, R.S.O. 1990, c. S.5, as amended s. 25(3).

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

**AND**

**IN THE MATTER OF  
GLOBAL AUTOTRADING INC.  
(the Filer)**

**AND**

**JIMMY TALBOT**

**VARIATION ORDER  
(Subsection 144(1) of the Act)**

**WHEREAS** the Ontario Securities Commission (**Commission**) issued an order (**Previous Relief**) dated December 20, 2013 pursuant to subsection 74(1) of the Act for an exemption from the adviser registration requirement in subsection 25(3) of the Act;

**AND WHEREAS** the Commission issued an order (**Subsequent Relief**) dated December 16, 2014 pursuant to section 144 of the Act to vary the Previous Relief by extending the termination date of the Previous Relief from December 20, 2014 to December 31, 2015;

**AND WHEREAS** pursuant to Ontario Securities Commission Rule 32-505 Conditional Exemption from Registration for United States Broker-Dealers and Advisers Servicing U.S. Clients from Ontario, which came into effect on June 5, 2015, the Filer does not require the Previous Relief in respect of clients in the United States of America (**US**);

**AND WHEREAS** the Filer requires relief with respect to existing clients in the United Kingdom, Australia, Bermuda, Italy and Switzerland (**Secondary Countries**);

**AND WHEREAS** the Commission has received an application from the Filer pursuant to section 144 of the Act requesting that the Commission further vary the Previous Relief to: (a) extend the termination date of the Previous Relief from December 31, 2015 to December 31, 2016; and (b) amend the Previous Relief such that it does not grant unneeded relief with respect to the Filer's clients in the US but maintains the existing relief in respect of the Filer's clients in the Secondary Countries;

**AND WHEREAS** the Commission has been advised that the Filer has pending applications for registration under a category set out in the Act and for exemptive relief from certain requirements of Ontario securities law;

**AND WHEREAS** the Commission has determined that it is not prejudicial to the public interest to issue this order that further varies the Previous Relief to extend it in the manner contemplated above;

**IT IS ORDERED**, pursuant to section 144 of the Act, that the Previous Relief, as varied by the Subsequent Relief, be further varied by:

- (1) replacing  
"an exemption from the adviser registration requirement in section 25(3) of the Act for: (a) the Filer; and (b) Jimmy Talbot, who is engaging in, or holding himself out as engaging in the business of advising others when acting on behalf of the Filer (the **Filer's Adviser**), in respect of advice to persons or companies that are not resident in Canada (the **Exemption Sought**)."

with

"an exemption from the dealer and adviser registration requirements in sections 25(1) and 25(3) of the Act for: (a) the Filer; and (b) Jimmy Talbot, who is engaging in, or holding himself out as engaging in the business of advising others or trading in securities when acting on behalf of the Filer (the **Filer's Representative**), in respect of advice to or trades on behalf of persons or companies that are not resident in: (a) Canada; or (b) a jurisdiction where the Filer and the Filer's Representative are able to rely on an exemption from registration under Ontario securities law (the **Exemption Sought**).";

- (2) deleting paragraph 16 of the Previous Relief and replacing it with:

"The Filer provides its services to residents in the United States of America (**U.S.**) as well as to a nominal number of

clients in the United Kingdom, Australia, Bermuda, Italy and Switzerland (the **Secondary Countries**).";

- (3) deleting paragraph 17 of the Previous Relief and replacing it with:

"The Filer does not currently have any clients who are resident in Canada. Furthermore, the Filer and the Filer's Representative will only provide their services, including activities that require registration under Ontario securities law, to clients who are not resident in Canada. The Filer will not accept new clients who are resident in any jurisdiction other than the U.S. until such time that the Filer and the Filer's Representative obtain the appropriate registrations, or are able to rely on an applicable exemption from registration.";

- (4) deleting paragraph 18 of the Previous Relief and replacing it with:

"The Filer and the Filer's Representative will confirm the residency of all new clients who open an account with the Filer to ensure they are resident in the U.S. If the Filer and the Filer's Representative obtain the appropriate registrations, or are able to rely on an applicable exemption from registration, such that they are able to accept new clients who are resident in a jurisdiction other than the U.S., the Filer and the Filer's Representative will confirm the residency of each such client prior to the client opening an account with the Filer. The Filer will confirm the residency of each of its clients on an annual basis.";

- (5) deleting paragraph 24 of the Previous Relief and replacing it with:

"Pursuant to Ontario Securities Commission Rule 32-505 *Conditional Exemption from Registration for United States Broker-Dealers and Advisers Servicing U.S. Clients from Ontario (OSC Rule 32-505)*, which came into effect on June 5, 2015, the Filer and the Filer's Representative do not require relief in respect of clients in the U.S.";

- (6) adding the following paragraph 25 immediately after paragraph 24 of the Previous Relief:

"There is no relief comparable to that in OSC Rule 32-505 available to the Filer and the Filer's Representative with

respect to clients in the Secondary Countries.”;

- (7) adding the following condition as paragraph (a.1) immediately after paragraph (a) of the Previous Relief:

“the Filer and the Filer’s Representative will not accept any new clients who are resident in any jurisdiction other than the U.S., until such time that the Filer and the Filer’s Representative obtain the appropriate registrations, or are able to rely on an applicable exemption from registration.”;

- (8) deleting the condition in paragraph (c) of the Previous Relief and replacing it with:

“the Filer and the Filer’s Representative currently meet, and will continue to meet, the requirements to be able to rely on OSC Rule 32-505 in respect of providing services to clients who are resident in the U.S.”;

- (9) replacing “the Exemption Sought shall terminate on December 31, 2015” with “the Exemption Sought shall terminate on December 31, 2016”; and

- (10) replacing “Filer’s Adviser”, wherever such term occurs in the Previous Relief, with “Filer’s Representative”.

“Mary Condon”  
Commissioner  
Ontario Securities Commission

“Janet Leiper”  
Commissioner  
Ontario Securities Commission

**2.2.5 Clifford Todd Monaghan**

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

**AND**

**IN THE MATTER OF  
A HEARING AND REVIEW OF THE DECISION OF  
THE INVESTMENT INDUSTRY REGULATORY  
ORGANIZATION OF CANADA  
REGARDING PORTFOLIO STRATEGIES  
SECURITIES INC.**

**AND**

**IN THE MATTER OF  
CLIFFORD TODD MONAGHAN**

**ORDER**

**WHEREAS:**

1. on August 10, 2015, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing, pursuant to sections 8 and 21.7 of the Securities Act, R.S.O. 1990, c.S.5, as amended (the “Act”), in relation to an application made by Clifford Todd Monaghan (the “Applicant”) for a Hearing and Review of a Decision of the Investment Industry Regulatory Organization Of Canada (“IIROC”), which approved an *Application for Investors Holding 10% or More of an IIROC Member Firm* that was filed by Portfolio Strategies Securities Inc. (“PSSI”);
2. on August 18, 2015, the Applicant, IIROC Staff, Staff of the Commission and counsel for PSSI appeared at a confidential pre-hearing conference and made submissions;
3. on August 18, 2015, the Commission ordered that the Applicant shall serve and file an amended application, if any, by August 28, 2015, and the motion hearing shall take place on September 16, 2015;
4. on September 9, 2015, the parties requested that a pre-hearing conference be held on September 16, 2015 at 10:30 a.m., via conference call, to provide the Commission with a status update;
5. on September 10, 2015, the Commission ordered that a confidential pre-hearing conference be held on September 16, 2015 at 10:30 a.m. via conference call;



6. on September 16, 2015, the Commission ordered that the motion hearing shall take place on January 25, 2016, and the motion hearing date of September 16, 2015 and application hearing date of October 16, 2015 be vacated;
7. on January 7, 2015, a confidential pre-hearing conference was held at the Moving Parties' request; at which the Applicant, IIROC Staff, Staff of the Commission and counsel for PSSI appeared and made submissions; and
8. the Commission is of the opinion that it is in the public interest to make this order.

**IT IS ORDERED** that:

1. the January 25, 2016 hearing date scheduled for the motion is vacated;
2. the Moving Parties shall serve and file a motion record by March 1, 2016;
3. the Applicant shall serve and file a responding motion record by March 8, 2016;
4. cross-examinations on affidavits, if any, will be completed by March 18, 2016;
5. the Moving Parties shall file a memorandum of fact and law by March 21, 2016;
6. the Applicant shall file a memorandum of fact and law by April 1, 2016;
7. the Moving Parties shall file a reply memorandum of fact and law, if any, by April 8, 2016; and
8. the motion hearing shall take place on April 15, 2016 at 10:00 a.m.

**DATED** at Toronto, this 7th day of January, 2016.

"Alan J. Lenczner"  
Q.C.

**2.2.6 Toronto Dominion Bank – s. 104(2)(c)**

**Headnote**

Subsection 104(2)(c) of the Act – Issuer bid – relief from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act – Issuer proposes to purchase, at a discounted purchase price, up to 3,000,000 of its common shares from one of its shareholders – due to the discounted purchase price, proposed purchases cannot be made through the TSX trading system – but for the fact that the proposed purchases cannot be made through the TSX trading system, the Issuer could otherwise acquire the subject shares in reliance upon the issuer bid exemption available under section 101.2 of the Act and in accordance with the TSX rules governing normal course issuer bid purchases – the selling shareholder did not purchase the subject shares in anticipation or contemplation of resale to the Issuer and has not, for a minimum of 30 days prior to the date of the application seeking the requested relief, purchased common shares of the Issuer in anticipation or contemplation of a sale of common shares to the Issuer – no adverse economic impact on, or prejudice to, the Issuer or public shareholders – proposed purchases exempt from the issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act, subject to conditions, including that the Issuer not purchase, in the aggregate, more than one-third of the maximum number of shares to be purchased under its normal course issuer bid by way of off-exchange block purchases, and that the Issuer not make any proposed purchase unless it has first obtained written confirmation from the selling shareholder that between the date of the order and the date on which the proposed purchase is completed, the selling shareholder has not purchased, had purchased on its behalf, or otherwise accumulated, any common shares of the Issuer to re-establish its holdings of common shares which will have been reduced as a result of the sale of the subject shares pursuant to the proposed purchases.

**Statutes Cited**

Securities Act, R.S.O. 1990, c. S.5, as amended., ss. 94 to 94.8, 97 to 98.7 and 104(2)(c).

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

**AND**

**IN THE MATTER OF  
THE TORONTO-DOMINION BANK**

**ORDER  
(Clause 104(2)(c))**

**UPON** the application (the "**Application**") of The Toronto-Dominion Bank (the "**Issuer**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to clause 104(2)(c) of the *Securities Act* (Ontario) (the "**Act**") exempting the Issuer from the requirements of sections 94 to 94.8, inclusive, and sections 97 to 98.7, inclusive, of the

Act (the “**Issuer Bid Requirements**”) in respect of the proposed purchases by the Issuer of up to 3,000,000 (the “**Subject Shares**”) of the Issuer’s common shares (the “**Common Shares**”) in one or more trades with The Bank of Nova Scotia (the “**Selling Shareholder**”);

**AND UPON** considering the Application and the recommendation of staff of the Commission;

**AND UPON** the Issuer (and the Selling Shareholder in respect of paragraphs 5, 6, 7, 8, 9, 10, 13, 24, and 26, as they relate to the Selling Shareholder) having represented to the Commission that:

1. The Issuer is a Schedule 1 bank governed by the *Bank Act* (Canada).
2. The Issuer maintains its registered office at 55 King Street West, Toronto, Ontario, M5K 1A2.
3. The Issuer is a reporting issuer in each of the provinces and territories of Canada and the Common Shares are listed for trading on the Toronto Stock Exchange (the “**TSX**”) and the New York Stock Exchange under the symbol “TD”. The Issuer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.
4. The authorized share capital of the Issuer consists of an unlimited number of Common Shares, and an unlimited number of Class A First Preferred Shares which are issueable in one or more series. As at November 30, 2015: (a) 1,857,104,566 Common Shares; (b) 5,387,491 Series S Class A First Preferred Shares; (c) 4,612,509 Series T Class A First Preferred Shares; (d) 5,481,853 Series Y Class A First Preferred Shares; (e) 4,518,147 Series Z Class A First Preferred Shares; (f) 20,000,000 Series 1 Class A First Preferred Shares; (g) 20,000,000 Series 3 Class A First Preferred Shares; (h) 20,000,000 Series 5 Class A First Preferred Shares; (i) 14,000,000 Series 7 Class A First Preferred Shares; (j) 8,000,000 Class 9 Series A First Preferred Shares; and (k) 6,000,000 Series 11 Class A First Preferred Shares, were issued and outstanding.
5. The corporate headquarters of the Selling Shareholder are located in the Province of Ontario. Each Proposed Purchase (as defined below) under this Order will be executed and settled in the Province of Ontario.
6. The Selling Shareholder does not own, directly or indirectly, more than 5% of the issued and outstanding Common Shares.
7. The Selling Shareholder is the beneficial owner of at least 3,000,000 Common Shares. None of the Subject Shares were acquired by, or on behalf of, the Selling Shareholder in anticipation or contemplation of resale to the Issuer.
8. No Common Shares were purchased by, or on behalf of, the Selling Shareholder on or after November 18, 2015, being the date that was 30 days prior to the date of the Application, in anticipation or contemplation of a sale of Common Shares to the Issuer.
9. The Subject Shares are held by the Selling Shareholder in connection with arrangements to hedge client transactions in respect of the Common Shares. Between the date of this Order and the date on which a Proposed Purchase is to be completed, the Selling Shareholder will not purchase, have purchased on its behalf, or otherwise accumulate, any Common Shares to re-establish its holdings of Common Shares which will have been reduced as a result of the sale of Subject Shares pursuant to the Proposed Purchases.
10. The Selling Shareholder is at arm’s length to the Issuer and is not an “insider” of the Issuer or an “associate” of an “insider” of the Issuer, or an “associate” or “affiliate” of the Issuer, as such terms are defined in the Act. The Selling Shareholder is an “accredited investor” within the meaning of National Instrument 45-106 *Prospectus Exemptions*.
11. Pursuant to the terms of a “Notice of Intention to Make a Normal Course Issuer Bid” (the “**Notice**”) that was filed with, and accepted by, the TSX, the Issuer is permitted to conduct a normal course issuer bid (the “**Normal Course Issuer Bid**”) to purchase up to 9,500,000 Common Shares, representing approximately 0.5% of the Issuer’s issued and outstanding Common Shares as of the date specified in the Notice, during the 12-month period beginning on December 11, 2015 and ending on December 10, 2016. In accordance with the Notice, the Normal Course Issuer Bid is to be conducted through the facilities of the TSX or alternative Canadian trading platforms, or such other means as may be permitted by the TSX or a securities regulatory authority in accordance with sections 628 to 629.3 of Part VI of the TSX Company Manual (the “**TSX NCIB Rules**”), including private agreements under issuer bid exemption orders issued by securities regulatory authorities (each, an “**Off-Exchange Block Purchase**”). The Normal Course Issuer Bid has also been approved by the Office of the Superintendent of Financial Institutions Canada.
12. On December 11, 2015, the Issuer implemented an automatic repurchase plan (the “**ARP**”) pursuant to which its broker will make purchases in accordance with pre-determined parameters under the Normal Course Issuer Bid on the TSX and alternative Canadian trading platforms at any time, including when the Issuer would not otherwise be permitted to trade in its Common Shares and during regularly scheduled quarterly

- blackout periods (each such time, a “**Blackout Period**”). The ARP has been approved by the TSX and is in compliance with the TSX Company Manual, applicable securities laws, and this Order. The Issuer will instruct the broker not to conduct a Block Purchase (as defined below) in accordance with the TSX NCIB Rules during the calendar week in which the Issuer completes a Proposed Purchase.
13. The Issuer and the Selling Shareholder intend to enter into one or more agreements of purchase and sale (each, an “**Agreement**”) pursuant to which the Issuer will agree to acquire some or all of the Subject Shares from the Selling Shareholder in one or more purchases, each occurring before December 10, 2016 (each such purchase, a “**Proposed Purchase**”) for a purchase price (each such price, a “**Purchase Price**” in respect of such Proposed Purchase) that will be negotiated at arm’s length between the Issuer and the Selling Shareholder. The Purchase Price, in each case, will be at a discount to the prevailing market price of the Common Shares on the TSX and below the prevailing bid-ask price for the Common Shares on the TSX at the time of the relevant Proposed Purchase.
  14. The Subject Shares acquired under each Proposed Purchase will constitute a “block”, as that term is defined in section 628 of the TSX NCIB Rules.
  15. The purchase of any of the Subject Shares by the Issuer pursuant to an Agreement will constitute an “issuer bid” for the purposes of the Act, to which the Issuer Bid Requirements would apply.
  16. Because the Purchase Price, in each case, will be at a discount to the prevailing market price and below the prevailing bid-ask price for the Common Shares on the TSX at the time of the relevant Proposed Purchase, none of the Proposed Purchases can be made through the TSX trading system and, therefore, will not occur “through the facilities” of the TSX. As a result, the Issuer will be unable to acquire Subject Shares from the Selling Shareholder in reliance upon the exemption from the Issuer Bid Requirements that is available pursuant to subsection 101.2(1) of the Act.
  17. But for the fact that the Purchase Price will be at a discount to the prevailing market price and below the prevailing bid-ask price for the Common Shares on the TSX at the time of the relevant Proposed Purchase, the Issuer could otherwise acquire the applicable Subject Shares through the facilities of the TSX as a “block purchase” (a “**Block Purchase**”) in accordance with the block purchase exception in clause 629(l)7 of the TSX NCIB Rules and the exemption from the Issuer Bid Requirements that is available pursuant to subsection 101.2(1) of the Act.
  18. The sale of any of the Subject Shares to the Issuer will not be a “distribution” (as defined in the Act).
  19. For each Proposed Purchase, the Issuer will be able to acquire the applicable Subject Shares from the Selling Shareholder without the Issuer being subject to the dealer registration requirements of the Act.
  20. The Issuer is of the view that (a) it will be able to purchase the Subject Shares at a lower price than the price at which it would be able to purchase Common Shares under the Normal Course Issuer Bid in reliance on the exemption from the Issuer Bid Requirements available pursuant to subsection 101.2(1) of the Act, and (b) the Proposed Purchases are an appropriate use of the Issuer’s funds on hand.
  21. The purchase of the Subject Shares will not adversely affect the Issuer or the rights of any of the Issuer’s security holders and it will not materially affect the control of the Issuer. To the knowledge of the Issuer, the Proposed Purchases will not prejudice the ability of other security holders of the Issuer to otherwise sell Common Shares in the open market at the then prevailing market price. The Proposed Purchases will be carried out at minimal cost to the Issuer.
  22. To the best of the Issuer’s knowledge, as of November 30, 2015, the “public float” (calculated in accordance with the TSX NCIB Rules) for the Common Shares represented more than 99.0% of the issued and outstanding Common Shares.
  23. The Common Shares are “highly liquid securities” within the meaning of section 1.1 of OSC Rule 48-501 *Trading during Distributions, Formal Bids and Share Exchange Transactions* and section 1.1 of the Universal Market Integrity Rules.
  24. Other than the Purchase Price, no fee or other consideration will be paid in connection with the Proposed Purchases.
  25. The Issuer will not make any Proposed Purchase until it has first obtained confirmation in writing from the Selling Shareholder that between the date of this Order and the date on which a Proposed Purchase is to be completed, the Selling Shareholder has not purchased, had purchased on its behalf, or otherwise accumulated, any Common Shares to re-establish its holdings of Common Shares which will have been reduced as a result of the sale of Subject Shares pursuant to the Proposed Purchases.
  26. At the time that each Agreement is entered into by the Issuer and the Selling Shareholder and at the time of each Proposed Purchase, neither the Issuer, nor any member of the Global Equity

- Derivatives and Investor Solutions group of the Selling Shareholder, nor any personnel of the Selling Shareholder that negotiated the Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares, will be aware of any "material change" or any "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed.
27. No Agreement will be negotiated or entered into during a Blackout Period.
28. The Issuer will not purchase, pursuant to Off-Exchange Block Purchases, in the aggregate, more than one-third of the maximum number of Common Shares that the Issuer can purchase under its Normal Course Issuer Bid, such one-third being equal to 3,166,667 Common Shares as of the date of this Order.
29. As of December 17, 2015, an aggregate of 1,750,000 Common Shares have been acquired by the Issuer pursuant to the Normal Course Issuer Bid, none of which were purchased pursuant to Off-Exchange Block Purchases.
30. Assuming completion of the purchase of the maximum number of Subject Shares, being 3,000,000 Common Shares, the Issuer will have purchased under the Normal Course Issuer Bid an aggregate of 3,000,000 Common Shares pursuant to Off-Exchange Block Purchases, representing approximately 31.6% of the maximum 9,500,000 Common Shares authorized to be purchased under the Normal Course Issuer Bid.
- (c) the Purchase Price in respect of each Proposed Purchase will be at a discount to the last "independent trade" (as that term is used in paragraph 629(l)1 of the TSX NCIB Rules) of a board lot of Common Shares immediately prior to the execution of such Proposed Purchase;
- (d) the Issuer will otherwise acquire any additional Common Shares pursuant to the Normal Course Issuer Bid in accordance with the Notice and the TSX NCIB Rules and, subject to condition (i) below, by Off-Exchange Block Purchases;
- (e) immediately following each Proposed Purchase of Subject Shares from the Selling Shareholder, the Issuer will report the purchase of Subject Shares to the TSX;
- (f) at the time that each Agreement is entered into by the Issuer and the Selling Shareholder and at the time of each Proposed Purchase, neither the Issuer, nor any member of the Global Equity Derivatives and Investor Solutions group of the Selling Shareholder, nor any personnel of the Selling Shareholder that negotiated the Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares, will be aware of any "material change" or any "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed;

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

**IT IS ORDERED** pursuant to clause 104(2)(c) of the Act that the Issuer be exempt from the Issuer Bid Requirements in connection with the Proposed Purchases, provided that:

- (a) the Proposed Purchases will be taken into account by the Issuer when calculating the maximum annual aggregate limit that is imposed upon the Issuer's Normal Course Issuer Bid in accordance with the TSX NCIB Rules;
- (b) the Issuer will refrain from conducting either a Block Purchase in accordance with the TSX NCIB Rules or another Off-Exchange Block Purchase during the calendar week in which it completes a Proposed Purchase and will not make any further purchases under the Normal Course Issuer Bid for the remainder of the calendar day on which it completes a Proposed Purchase;
- (g) in advance of the first Proposed Purchase, the Issuer will issue a press release disclosing (i) its intention to make the Proposed Purchases, and (ii) that information regarding each Proposed Purchase, including the number of Subject Shares purchased and the aggregate Purchase Price, will be available on the System for Electronic Document Analysis and Retrieval ("**SEDAR**") following the completion of each Proposed Purchase;
- (h) the Issuer will report information regarding each Proposed Purchase, including the number of Subject Shares purchased and the aggregate Purchase Price, on SEDAR before 5:00 p.m. (Toronto time) on the business day following such purchase;
- (i) the Issuer does not purchase, pursuant to Off-Exchange Block Purchases, in the aggregate, more than one-third of the

maximum number of Common Shares the Issuer can purchase under the Normal Course Issuer Bid, such one-third being equal to, as of the date of this Order, 3,166,667 Common Shares; and

- (j) the Issuer will not make any Proposed Purchase unless it has first obtained confirmation in writing from the Selling Shareholder that between the date of this Order and the date on which a Proposed Purchase is to be completed, the Selling Shareholder has not purchased, had purchased on its behalf, or otherwise accumulated, any Common Shares to re-establish its holdings of Common Shares which will have been reduced as a result of the sale of Subject Shares pursuant to the Proposed Purchases.

**DATED** at Toronto this 5th day of January, 2016.

*“Sarah B. Kavanagh”*  
Commissioner  
Ontario Securities Commission

*“Tim Moseley”*  
Commissioner  
Ontario Securities Commission

**2.2.7 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 Chandran 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. on December 16, 2015, the Commission ordered that the hearing in this matter is adjourned to January 11, 2016, at 10:00 a.m.;
8. on January 8, 2016, Staff filed an affidavit of service of Lee Crann sworn January 8, 2016, indicating steps taken by Staff to serve the Respondents with the Commission's Order dated December 16, 2015, and email communications exchanged between Staff and Chandran;
9. on January 11, 2016, Staff appeared before the Commission and made submissions;
10. Chandran advised Staff on January 11, 2016, that he would not be attending the hearing to be held at 10:00 a.m. that day;
11. the Respondents did not appear or make submissions, although properly served; and
12. 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 January 21, 2016;
- (c) the Respondents' responding materials shall be served and filed no later than February 18, 2016; and
- (d) Staff's reply materials, if any, shall be served and filed no later than March 3, 2016.

**DATED** at Toronto this 11th day of January, 2016.

*"Janet Leiper"*

## 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

THERE ARE NO ITEMS TO REPORT THIS WEEK.

### Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Advanced New Frontier Oil & Gas Recovery Inc.	8 January 2016	
Extenway Solutions Inc.	8 January 2016	
Moshi Mountain Industries Ltd.	8 January 2016	
Roca Mines Inc.	11 January 2016	
Sceptre Ventures Inc.	7 January 2016	

### 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
Starrex International Ltd.	30 December 2015	11 January 2016	11 January 2016		
Tango Mining Limited	7 January 2016	20 January 2016			
West Red Lake Gold Mines Inc.	24 December 2015	6 January 2016	6 January 2016		

### 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	29 December 2015	
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		

**Cease Trading Orders**

Energdynamic Hybrid Technologies Corp.	15 October 2015	28 October 2015	28 October 2015		
Nobilis Health Corp.	23 November 2015	4 December 2015	4 December 2015		
Starrex International Ltd.	30 December 2015	11 January 2016	11 January 2016		
Tango Mining Limited	7 January 2016	20 January 2016			
West Red Lake Gold Mines Inc.	24 December 2015	6 January 2016	6 January 2016		



# Chapter 5

## Rules and Policies

---

---

### 5.1.1 Multilateral Instrument 45-108 Crowdfunding

#### MULTILATERAL INSTRUMENT 45-108 CROWDFUNDING

#### Table of Contents

##### Part 1 Definitions and interpretation

1. Definitions
2. Terms defined or interpreted in other instruments
3. Purchaser
4. Specifications – Québec

##### Part 2 Crowdfunding prospectus exemption

###### *Division 1: Distribution requirements*

5. Crowdfunding prospectus exemption
6. Conditions for closing of the distribution
7. Certificates
8. Right of withdrawal
9. Liability for misrepresentation – reporting issuers
10. Liability for untrue statement – non-reporting issuers
11. Advertising and general solicitation
12. Additional distribution materials
13. Commissions or fees
14. Restriction on lending
15. Filing or delivery of distribution materials

###### *Division 2: Ongoing disclosure requirements for non-reporting issuers*

16. Annual financial statements
17. Annual disclosure of use of proceeds
18. Notice of specified key events
19. Period of time for providing ongoing disclosure
20. Books and records

##### Part 3 Requirements for funding portals

###### *Division 1: Registration requirements, general*

21. Restricted dealer funding portal
22. Registered dealer funding portal

###### *Division 2: Registration requirements, funding portals*

23. Restricted dealing activities
24. Advertising and general solicitation
25. Access to funding portal
26. Issuer access agreement
27. Obligation to review materials of eligible crowdfunding issuer
28. Denial of issuer access and termination
29. Return of funds
30. Notifications
31. Removal of distribution materials
32. Monitoring purchaser communications
33. Online platform acknowledgement
34. Purchaser requirements prior to purchase
35. Required online platform disclosure
36. Delivery to the issuer
37. Release of funds
38. Reporting requirements

## Rules and Policies

---

### *Division 3: Additional requirements, restricted dealer funding portal*

- 39. Prohibition on providing recommendations or advice
- 40. Restriction on referral arrangements
- 41. Permitted dealing activities
- 42. Chief compliance officer
- 43. Proficiency

### **Part 4 Exemption**

- 44. Exemption

### **Part 5 Coming into force**

- 45. Effective date

## **Appendix A – Signing Requirements for Certificate of a Crowdfunding Offering Document (Section 7)**

**Form 45-108F1 *Crowdfunding Offering Document***

**Form 45-108F2 *Risk Acknowledgement***

**Form 45-108F3 *Confirmation of Investment Limits***

**Form 45-108F4 *Notice of Specified Key Events***

**Form 45-108F5 *Personal Information Form and Authorization to Collect, Use and Disclose Personal Information***

**MULTILATERAL INSTRUMENT 45-108  
CROWDFUNDING**

**PART 1  
DEFINITIONS AND INTERPRETATION**

**Definitions**

1. In this Instrument

“accredited investor” means

- (a) except in Ontario, an accredited investor as defined in National Instrument 45-106 *Prospectus Exemptions*, and
- (b) in Ontario, an accredited investor as defined in subsection 73.3(1) of the the *Securities Act*, R.S.O. 1990, c. S.5 and in National Instrument 45-106 *Prospectus Exemptions*;

“aggregate minimum proceeds” means the amount disclosed in item 5.2 of the crowdfunding offering document that is sufficient to accomplish the business objectives of the issuer;

“Canadian Financial Statement Review Standards” means standards for the review of financial statements by a public accountant determined with reference to the Handbook;

“confirmation of investment limits form” means a completed Form 45-108F3 *Confirmation of Investment Limits*;

“crowdfunding offering document” means a completed Form 45-108F1 *Crowdfunding Offering Document* together with any amendment to that document and any document incorporated by reference therein;

“crowdfunding prospectus exemption” means the exemption from the prospectus requirement in section 5 [*Crowdfunding prospectus exemption*];

“distribution period” means the period referred to in the crowdfunding offering document during which an eligible crowdfunding issuer offers its securities to purchasers in reliance on the crowdfunding prospectus exemption;

“eligible crowdfunding issuer” means an issuer if all of the following apply:

- (a) the issuer and, if applicable, its parent are incorporated or organized under the laws of Canada or any jurisdiction of Canada;
- (b) the head office of the issuer is located in Canada;
- (c) a majority of the directors of the issuer are resident in Canada;
- (d) the principal operating subsidiary of the issuer, if any, is incorporated or organized under
  - (i) the laws of Canada or any jurisdiction of Canada, or
  - (ii) the laws of the United States of America or any state or territory of the United States of America or the District of Columbia;
- (e) the issuer is not an investment fund;

“eligible securities” means securities of an eligible crowdfunding issuer having the same price, terms and conditions that are distributed under the crowdfunding prospectus exemption during the distribution period and are any one or more of the following:

- (a) a common share;
- (b) a non-convertible preference share;
- (c) a security convertible into securities referred to in paragraph (a) or (b);
- (d) a non-convertible debt security linked to a fixed or floating interest rate;

- (e) a unit of a limited partnership;
- (f) a flow-through share under the ITA;

“executive officer” means an individual who is

- (a) a chair, vice-chair or president,
- (b) a chief executive officer or chief financial officer,
- (c) a vice-president in charge of a principal business unit, division or function including sales, finance or production, or
- (d) performing a policy-making function in respect of the issuer;

“funding portal” means

- (a) a registered dealer funding portal, or
- (b) a restricted dealer funding portal;

“issuer access agreement” means a written agreement entered into between an eligible crowdfunding issuer and a funding portal in compliance with section 26 [*Issuer access agreement*];

“issuer group” means

- (a) an eligible crowdfunding issuer,
- (b) an affiliate of the eligible crowdfunding issuer, and
- (c) any other issuer
  - (i) that is engaged in a common enterprise with the eligible crowdfunding issuer or with an affiliate of the eligible crowdfunding issuer, or
  - (ii) that is controlled, directly or indirectly, by the same person or company or persons or companies that control, directly or indirectly, the eligible crowdfunding issuer;

“permitted client” means a permitted client as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

“personal information form” means a completed Form 45-108F5 *Personal Information Form and Authorization to Collect, Use and Disclose Personal Information*;

“registered dealer funding portal” means a person or company that

- (a) is registered in the category of investment dealer or exempt market dealer under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, and
- (b) acts or proposes to act as an intermediary in a distribution of eligible securities through an online platform in reliance on the crowdfunding prospectus exemption;

“restricted dealer funding portal” means a person or company that

- (a) is registered in the category of restricted dealer under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*,
- (b) is authorized under the terms and conditions of its restricted dealer registration to distribute securities under this Instrument,
- (c) acts or proposes to act as an intermediary in a distribution of eligible securities through an online platform in reliance on the crowdfunding prospectus exemption,

- (d) is not registered in any other registration category, and
- (e) in Ontario, is not an affiliate of another registered dealer, registered adviser, or registered investment fund manager;

“right of withdrawal” means the right referred to in section 8 [*Right of withdrawal*] or a comparable right described in securities legislation of the jurisdiction in which the purchaser resides;

“risk acknowledgement form” means a completed Form 45-108F2 *Risk Acknowledgement*;

“SEC issuer” means an SEC issuer as defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;

“U.S. AICPA Financial Statement Review Standards” means the standards of the American Institute of Certified Public Accountants for a review of financial statements by a public accountant, as amended from time to time.

#### **Terms defined or interpreted in other instruments**

- 2. (1) Unless otherwise defined herein, in Part 2 [*Crowdfunding prospectus exemption*], each term has the meaning ascribed, or interpretation given, to it in National Instrument 45-106 *Prospectus Exemptions*.
- (2) Unless otherwise defined herein, in Part 3 [*Requirements for funding portals*], each term has the meaning ascribed, or interpretation given, to it in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

#### **Purchaser**

- 3. References to a “client” in a provision of any instrument with which a funding portal is required to comply under Part 3 [*Requirements for funding portals*], must be read as if the references are to a “purchaser”.

#### **Specifications – Québec**

- 4. (1) In Québec, “trade” in this Instrument refers to any of the following activities:
  - (a) the activities described in the definition of “dealer” in section 5 of the Securities Act (chapter V-1.1), including the following activities:
    - (i) the sale or disposition of a security by onerous title, whether the terms of payment be on margin, installment or otherwise, but does not include a transfer or the giving in guarantee of securities in connection with a debt or the purchase of a security, except as provided in paragraph (b);
    - (ii) participation as a trader in any transaction in a security through the facilities of an exchange or a quotation and trade reporting system;
    - (iii) the receipt by a registrant of an order to buy or sell a security;
  - (b) a transfer or the giving in guarantee of securities of an issuer from the holdings of a control person in connection with a debt.
- (2) In Québec, the crowdfunding offering document and materials that are made available to purchasers by a reporting issuer in accordance with this Instrument are documents authorized by the Autorité des marchés financiers for use in lieu of a prospectus.
- (3) In Québec, the crowdfunding offering document and materials that are made available to purchasers in accordance with this Instrument must be drawn up in French only or in French and English.

**PART 2**  
**CROWDFUNDING PROSPECTUS EXEMPTION**

**Division 1: Distribution requirements**

**Crowdfunding prospectus exemption**

5. (1) The prospectus requirement does not apply to a distribution by an eligible crowdfunding issuer of an eligible security of its own issue to a person or company that purchases the security as principal if all of the following apply:
- (a) the issuer offers the securities during the distribution period and the distribution period ends no later than 90 days after the date the issuer first offers its securities to purchasers;
  - (b) the total proceeds raised by the issuer group in reliance on the crowdfunding prospectus exemption does not exceed \$1,500,000 within the 12-month period ending on the last day of the distribution period;
  - (c) in Ontario, the acquisition cost of the securities acquired by the purchaser
    - (i) in the case of a purchaser that is not an accredited investor, does not exceed
      - (A) \$2,500 for the distribution, and
      - (B) \$10,000 for all distributions in reliance on the crowdfunding prospectus exemption in the same calendar year,
    - (ii) in the case of a purchaser that is an accredited investor that is not a permitted client, does not exceed
      - (A) \$25,000 for the distribution, and
      - (B) \$50,000 for all distributions in reliance on the crowdfunding prospectus exemption in the same calendar year, and
    - (iii) in the case of a purchaser that is a permitted client, is not limited;
  - (d) except in Ontario, the acquisition cost of the securities acquired by the purchaser
    - (i) in the case of a purchaser that is not an accredited investor, does not exceed \$2,500 for the distribution, and
    - (ii) in the case of a purchaser that is an accredited investor, does not exceed \$25,000 for the distribution;
  - (e) the issuer distributes the securities through a single funding portal;
  - (f) before the purchaser enters into an agreement to purchase the securities, the issuer makes available to the purchaser, through the funding portal, a crowdfunding offering document that is in compliance with
    - (i) section 7 [*Certificates*] and section 8 [*Right of withdrawal*], and
    - (ii) section 9 [*Liability for misrepresentation – reporting issuers*] or section 10 [*Liability for untrue statement – non-reporting issuers*], as applicable.
- (2) The crowdfunding prospectus exemption is not available if any of the following apply:
- (a) the proceeds of the distribution are used by the issuer to invest in, merge with or acquire an unspecified business;
  - (b) the issuer is not a reporting issuer, and the issuer previously distributed securities in reliance on the crowdfunding prospectus exemption and is not in compliance with any of the following:
    - (i) section 15 [*Filing or delivery of distribution materials*];

- (ii) section 16 [*Annual financial statements*];
  - (iii) section 17 [*Annual disclosure of use of proceeds*];
  - (iv) section 19 [*Period of time for providing ongoing disclosure*];
  - (v) section 20 [*Books and records*];
  - (vi) in New Brunswick, Nova Scotia and Ontario, section 18 [*Notice of specified key events*];
- (c) the issuer is a reporting issuer and is not in compliance with its reporting obligations under securities legislation, including under this Instrument;
  - (d) the issuer has previously commenced a distribution under this section and that distribution has not closed, been withdrawn or otherwise terminated.

#### Conditions for closing of the distribution

6. A distribution in reliance on the crowdfunding prospectus exemption must not close unless
- (a) the right of withdrawal has expired,
  - (b) the aggregate minimum proceeds have been raised through one or both of the following:
    - (i) the distribution;
    - (ii) any concurrent distributions by any member of the issuer group, provided that the proceeds from those distributions are unconditionally available to the eligible crowdfunding issuer at the time of closing of the distribution,
  - (c) the issuer has provided to the funding portal written confirmation of the proceeds of the concurrent distributions referred to in subparagraph (b)(ii), if any,
  - (d) the issuer has received
    - (i) the purchase agreement entered into between the issuer and the purchaser,
    - (ii) a risk acknowledgement form for the purchaser where the purchaser positively confirms having read and understood the risk warnings and the information in the crowdfunding offering document,
    - (iii) except in Ontario, confirmation and validation that the purchaser is an accredited investor if the acquisition cost is greater than \$2,500, and
    - (iv) in Ontario, a confirmation of investment limits form for the purchaser, and
  - (e) the closing occurs within 30 days of the end of the distribution period.

#### Certificates

7. (1) A crowdfunding offering document made available under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*] must contain a certificate executed by the issuer in accordance with the applicable provisions of Appendix A, which
- (a) if the issuer is a reporting issuer, states that “*This crowdfunding offering document does not contain a misrepresentation. Purchasers of securities have a right of action in the case of a misrepresentation.*”, or
  - (b) if the issuer is not a reporting issuer, states that “*This crowdfunding offering document does not contain an untrue statement of a material fact. Purchasers of securities have a right of action in the case of an untrue statement of a material fact.*”
- (2) A certificate under subsection (1) must be true as at the date the certificate is signed, the date the crowdfunding offering document is made available to purchasers and the time of the closing of the distribution.

- (3) If a certificate under subsection (1) ceases to be true after a crowdfunding offering document is made available to a purchaser, the issuer must
- (a) amend the crowdfunding offering document and provide a newly dated certificate executed by the issuer in accordance with the applicable provisions of Appendix A, and
  - (b) provide the amended crowdfunding offering document to the funding portal for the purpose of making it available to purchasers.

#### Right of withdrawal

8. If the securities legislation of the jurisdiction in which a purchaser resides does not provide a comparable right, the crowdfunding offering document made available to the purchaser under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*] must provide the purchaser with a contractual right to withdraw from any agreement to purchase the security by delivering a notice to the funding portal within 48 hours after the date of the agreement to purchase and any subsequent amendment to the crowdfunding offering document.

#### Liability for misrepresentation – reporting issuers

9. If the securities legislation of the jurisdiction in which a purchaser resides does not provide a comparable right, the crowdfunding offering document of a reporting issuer, made available to the purchaser under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*], must provide a contractual right of action against the issuer for rescission and damages that

- (a) is available to the purchaser if the crowdfunding offering document or other materials made available to the purchaser contain a misrepresentation, without regard to whether the purchaser relied on the misrepresentation,
- (b) is enforceable by the purchaser delivering a notice to the issuer
  - (i) in the case of an action for rescission, within 180 days after the date of purchase by the purchaser, or
  - (ii) in the case of an action for damages, before the earlier of
    - (A) 180 days after the purchaser first has knowledge of the facts giving rise to the cause of action, or
    - (B) 3 years after the date of purchase,
- (c) is subject to the defence that the purchaser had knowledge of the misrepresentation,
- (d) in the case of an action for damages, provides that the amount recoverable
  - (i) does not exceed the price at which the security was distributed, and
  - (ii) does not include all or any part of the damages that the issuer proves do not represent the depreciation in value of the security resulting from the misrepresentation, and
- (e) is in addition to, and does not detract from, any other right of the purchaser.

#### Liability for untrue statement – non-reporting issuers

10. The crowdfunding offering document of an issuer that is not a reporting issuer, made available to a purchaser under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*], must provide a contractual right of action against the issuer for rescission and damages that

- (a) is available to the purchaser if the crowdfunding offering document or other materials made available to the purchaser contain an untrue statement of a material fact, without regard to whether the purchaser relied on the statement,
- (b) is enforceable by the purchaser delivering a notice to the issuer
  - (i) in the case of an action for rescission, within 180 days after the date of purchase by the purchaser, or



- (ii) in the case of an action for damages, before the earlier of
  - (A) 180 days after the purchaser first has knowledge of the facts giving rise to the cause of action, or
  - (B) 3 years after the date of purchase,
- (c) is subject to the defence that the purchaser had knowledge of the untrue statement of a material fact,
- (d) in the case of an action for damages, provides that the amount recoverable
  - (i) does not exceed the price at which the security was distributed, and
  - (ii) does not include all or any part of the damages that the issuer proves do not represent the depreciation in value of the security resulting from the untrue statement of a material fact, and
- (e) is in addition to, and does not detract from, any other right of the purchaser.

#### **Advertising and general solicitation**

11. (1) An issuer must not, directly or indirectly, advertise a distribution, or solicit purchasers, under the crowdfunding prospectus exemption.
- (2) Despite subsection (1), the issuer may inform purchasers that it proposes to distribute securities under the crowdfunding prospectus exemption and may refer purchasers to the funding portal facilitating the distribution.

#### **Additional distribution materials**

12. (1) In addition to the crowdfunding offering document required to be made available to a purchaser under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*], an issuer may make available to a purchaser only through the funding portal the following materials:
- (a) a term sheet;
  - (b) a video;
  - (c) other materials summarizing the information in the crowdfunding offering document.
- (2) The materials referred to in subsection (1) must be consistent with the information in the crowdfunding offering document.
- (3) If an amended crowdfunding offering document is made available to purchasers, all materials made available to purchasers under this section must be amended, if necessary, and made available to purchasers through the funding portal.

#### **Commissions or fees**

13. No person or company in the issuer group or director or executive officer of an issuer in the issuer group may, directly or indirectly, pay a commission, finder's fee, referral fee or similar payment to any person or company in connection with a distribution in reliance on the crowdfunding prospectus exemption, other than to a funding portal.

#### **Restriction on lending**

14. No person or company in the issuer group or director or executive officer of an issuer in the issuer group may, directly or indirectly, lend or finance, or arrange lending or financing, for a purchaser to purchase securities of the issuer under the crowdfunding prospectus exemption.

#### **Filing or delivery of distribution materials**

15. (1) An issuer must, no later than 10 days after the closing of the distribution, file with the securities regulatory authority or regulator Form 45-106F1 *Report of Exempt Distribution*.

- (2) At the same time that the issuer files the form referred to in subsection (1), the issuer must file a copy of the crowdfunding offering document and the materials referred to in paragraphs 12(1)(a) and (c) [*Additional distribution materials*].
- (3) Upon request, the issuer must deliver to the securities regulatory authority or regulator any video referred to in paragraph 12(1)(b) [*Additional distribution materials*].

**Division 2: Ongoing disclosure requirements for non-reporting issuers**

**Annual financial statements**

16. (1) An issuer that is not a reporting issuer that has distributed securities under the crowdfunding prospectus exemption must deliver to the securities regulatory authority or regulator and make reasonably available to each purchaser, within 120 days after the end of its most recently completed financial year, the financial statements listed in paragraphs 4.1(1)(a), (b), (c) and (e) [*Comparative annual financial statements and audit*] of National Instrument 51-102 *Continuous Disclosure Obligations*.
- (2) The financial statements referred to in subsection (1) must
    - (a) be approved by management of the issuer and be accompanied by
      - (i) a review report or auditor's report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until the end of its most recently completed financial year, is \$250,000 or more but is less than \$750,000, or
      - (ii) an auditor's report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until the end of its most recently completed financial year, is \$750,000 or more,
    - (b) comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*], subparagraph 3.2(1)(b)(i) [*Acceptable accounting principles – general requirements*], and subsection 3.2(5) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
    - (c) comply with section 3.5 [*Presentation and functional currencies*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
  - (3) If the financial statements referred to in subsection (1) are accompanied by a review report, the financial statements must be reviewed in accordance with Canadian Financial Statement Review Standards and the review report must
    - (a) not include a reservation or modification,
    - (b) identify the financial periods that were subject to review,
    - (c) be in the form specified by Canadian Financial Statement Review Standards, and
    - (d) refer to IFRS as the applicable financial reporting framework.
  - (4) If the financial statements referred to in subsection (1) are accompanied by an auditor's report, the auditor's report must be
    - (a) prepared in accordance with section 3.3 [*Acceptable auditing standards – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
    - (b) signed by an auditor that complies with section 3.4 [*Acceptable auditors*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
  - (5) If the financial statements referred to in subsection (1) are those of an SEC issuer,
    - (a) the financial statements may be prepared in accordance with section 3.7 [*Acceptable accounting principles for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*,

- (b) the financial statements may be reviewed in accordance with U.S. AICPA Financial Statement Review Standards and accompanied by a review report prepared in accordance with U.S. AICPA Financial Statement Review Standards that
    - (i) does not include a modification or exception,
    - (ii) identifies the financial periods that were subject to review,
    - (iii) identifies the review standards used to conduct the review and the accounting principles used to prepare the financial statements, and
    - (iv) refers to IFRS as the applicable financial reporting framework if the financial statements comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
  - (c) the financial statements may be audited in accordance with section 3.8 [*Acceptable auditing standards for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (6) If the financial statements referred to in subsection (5) are accompanied by a review report and the statements have been reviewed in accordance with Canadian Financial Statement Review Standards, the review report must be in compliance with paragraphs (3)(a) to (c) and must
- (a) refer to IFRS as the applicable financial reporting framework if the financial statements comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, or
  - (b) refer to U.S. GAAP as the applicable financial reporting framework if the financial statements comply with section 3.7 [*Acceptable accounting principles for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (7) For the purpose of subsection (3) and paragraph (5)(b), the review report must be prepared and signed by a person or company authorized to sign a review report under the laws of a jurisdiction of Canada or a foreign jurisdiction, and that meets the professional standards of that jurisdiction.
- (8) If any of the financial statements referred to in subsection (1) are not accompanied by an auditor's report or a review report prepared by a public accountant, the statements must include the following statement; "These financial statements were not audited or subject to a review by a public accountant, as permitted by securities legislation where an issuer has not raised more than a pre-defined amount under prospectus exemptions."

#### Annual disclosure of use of proceeds

17. (1) The financial statements of an issuer referred to in section 16 [*Annual financial statements*] and the financial statements required under section 4.1 [*Comparative annual financial statements and audit*] of National Instrument 51-102 *Continuous Disclosure Obligations* must be accompanied by a notice that details, as at the date of the issuer's most recently completed financial year, the use of the gross proceeds received by the issuer from a distribution made under the crowdfunding prospectus exemption.
- (2) An issuer is not required to provide the notice referred to in subsection (1) if
- (a) the issuer has disclosed in one or more prior notices the use of the entire gross proceeds from the distribution, or
  - (b) the issuer is no longer required to deliver, and make available to purchasers, annual financial statements.

#### Notice of specified key events

18. In New Brunswick, Nova Scotia and Ontario, an issuer that is not a reporting issuer that distributes securities in reliance on the crowdfunding prospectus exemption must make reasonably available to each holder of a security acquired under the crowdfunding prospectus exemption, a notice in Form 45-108F4 *Notice of Specified Key Events* of each of the following events within 10 days of their occurrence:
- (a) a discontinuation of the issuer's business;
  - (b) a change in the issuer's industry;
  - (c) a change of control of the issuer.

### Period of time for providing ongoing disclosure

19. The obligations of an issuer that is not a reporting issuer under section 16 [*Annual financial statements*] and, in New Brunswick, Nova Scotia and Ontario, under section 18 [*Notice of specified key events*] apply until the earliest of the following events:

- (a) the issuer becomes a reporting issuer;
- (b) the issuer has completed a winding up or dissolution;
- (c) the securities of the issuer are beneficially owned, directly or indirectly, by fewer than 51 security holders worldwide.

### Books and records

20. An issuer that is not a reporting issuer that distributes securities under the crowdfunding prospectus exemption must maintain the following books and records relating to the distribution for 8 years following the closing of the distribution:

- (a) the crowdfunding offering document and the materials referred to in subsection 12(1) [*Additional distribution materials*];
- (b) the risk acknowledgement forms;
- (c) except in Ontario, confirmation and validation that the purchaser is an accredited investor if the acquisition cost is greater than \$2,500;
- (d) in Ontario, the confirmation of investment limits forms;
- (e) the ongoing disclosure documents described in Division 2 [*Ongoing disclosure requirements for non-reporting issuers*];
- (f) the aggregate number of securities issued under the crowdfunding prospectus exemption, and the date of issuance and the price for each security;
- (g) the names of all security holders of the issuer and the number and the type of securities held by each security holder;
- (h) such other books and records as are necessary to record the business activities of the issuer and to comply with this Instrument.

## PART 3 REQUIREMENTS FOR FUNDING PORTALS

### *Division 1: Registration requirements, general*

#### Restricted dealer funding portal

21. A restricted dealer funding portal and a registered individual of the restricted dealer funding portal that distributes securities in reliance on the crowdfunding prospectus exemption must comply with all of the following:

- (a) the requirements in this section and in Division 2 [*Registration requirements, funding portals*] and Division 3 [*Additional requirements, restricted dealer funding portal*] of this Part;
- (b) the terms, conditions, restrictions and requirements applicable to a registered dealer and to a registered individual, respectively, including
  - (i) National Instrument 31-102 *National Registration Database*,
  - (ii) National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, except for the following:

- (A) Division 2 of Part 3 [*Education and experience requirements*], except for subsection 3.4(2) [*Proficiency – initial and ongoing*] and section 3.9 [*Exempt market dealer - dealing representative*];
  - (B) section 6.2 [*If IIROC approval is revoked or suspended*];
  - (C) section 6.3 [*If MFDA approval is revoked or suspended*];
  - (D) Part 8 [*Exemptions from the requirement to register*];
  - (E) Part 9 [*Membership in a self-regulatory organization*];
  - (F) paragraphs 11.5(2)(i), and (j) [*General requirements for records*];
  - (G) paragraphs 13.2(2)(c) and (d) and subsection 13.2(6) [*Know your client*];
  - (H) section 13.3 [*Suitability*];
  - (I) Division 3 of Part 13 [*Referral arrangements*], if the restricted dealer funding portal does not enter into a referral arrangement permitted under subsection 40(2) [*Restriction on referral arrangements*] of this Instrument;
  - (J) section 13.13 [*Disclosure when recommending the use of borrowed money*];
  - (K) section 13.16 [*Dispute resolution service*];
  - (L) paragraphs 14.2(2)(i), (j), (k), (m), and (n) [*Relationship disclosure information*];
  - (M) Division 5 of Part 14 [*Reporting to clients*], except for section 14.12 [*Content and delivery of trade confirmation*],
- (iii) National Instrument 33-105 *Underwriting Conflicts*,
  - (iv) National Instrument 33-109 *Registration Information*, and
  - (v) the requirement to pay fees under securities legislation;
- (c) the requirement to deal fairly, honestly and in good faith with purchasers;
  - (d) any other terms, conditions, restrictions or requirements imposed by a securities regulatory authority or regulator on the restricted dealer funding portal or on a registered individual of the restricted dealer funding portal.

Note: In Ontario, a number of requirements in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* do not apply because similar requirements are contained in provisions of the *Securities Act* (Ontario). To the extent that (a) one or more requirements of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* made applicable under section 21 [*Restricted dealer funding portal*] do not apply in Ontario, and (b) there is a similar requirement in the *Securities Act* (Ontario) that is referenced in a note in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, a restricted dealer funding portal or a registered individual of the restricted dealer funding portal operating in Ontario is subject to the similar requirement referenced in the *Securities Act* (Ontario).

### Registered dealer funding portal

**22.** A registered dealer funding portal and a registered individual of the registered dealer funding portal that distributes securities in reliance on the crowdfunding prospectus exemption must comply with all of the following:

- (a) the requirements in this section and Division 2 [*Registration requirements, funding portals*] of this Part;
- (b) the terms, conditions, restrictions or requirements applicable to its registration category and to a registered individual, respectively, under securities legislation.

Note: In Ontario, a number of requirements in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* do not apply because similar requirements are contained in provisions of the *Securities Act* (Ontario). To the extent that (a) one or more requirements of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* made applicable under section 22 [*Registered dealer funding portal*] do not apply in Ontario, and (b) there is a similar requirement in the *Securities Act* (Ontario) that is referenced in a note in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, a registered dealer funding portal or a registered individual of the registered dealer funding portal operating in Ontario is subject to the similar requirement referenced in the *Securities Act* (Ontario).

**Division 2: Registration requirements, funding portals**

**Restricted dealing activities**

23. (1) A funding portal and a registered individual of the funding portal must not act as intermediaries in connection with a distribution of or trade in securities of an eligible crowdfunding issuer that is a related issuer of the funding portal.
- (2) For the purposes of subsection (1), an issuer is not a related issuer where a funding portal, an affiliate of the funding portal, or any officer, director, significant shareholder, promoter or control person of the funding portal or of any affiliate of the funding portal, has beneficial ownership of, or control or direction over, issued and outstanding voting securities of the issuer, or securities convertible into voting securities of the issuer that alone or together constitute 10 percent or less of the outstanding voting securities of the issuer.

**Advertising and general solicitation**

24. (1) A funding portal must not, directly or indirectly, advertise a distribution or solicit purchasers under the crowdfunding prospectus exemption.
- (2) A funding portal may only make available to purchasers the crowdfunding offering document and the materials under section 12 [*Additional distribution materials*].
- (3) A funding portal must ensure that the information about an eligible crowdfunding issuer and a distribution of eligible securities of the issuer is presented or displayed on its online platform in a fair, balanced and reasonable manner.

**Access to funding portal**

25. (1) Prior to allowing an eligible crowdfunding issuer to access the funding portal for the purposes of posting a distribution, a funding portal must
- (a) enter into an issuer access agreement with the issuer,
  - (b) obtain a personal information form from each director, executive officer and promoter of the issuer, and
  - (c) conduct or arrange for the following:
    - (i) backgrounds checks on the issuer;
    - (ii) criminal record and background checks on each individual referred to in paragraph (b).
- (2) In respect of each individual who becomes a director, executive officer or promoter of the issuer during the distribution period, the funding portal must
- (a) obtain a personal information form, and
  - (b) conduct or arrange for criminal record and background checks to be conducted.

**Issuer access agreement**

26. The issuer access agreement referred to in paragraph 25(1)(a) [*Access to funding portal*] must include all of the following:
- (a) confirmation that the issuer will comply with the funding portal's policies and procedures concerning information posted by issuers on the funding portal's online platform;

- (b) confirmation that the information that the issuer provides to the funding portal or posts on the funding portal's online platform will only contain permitted materials that are reasonably supported, and will not contain a promotional statement, a misrepresentation or an untrue statement of a material fact or otherwise be misleading;
- (c) confirmation from each of the issuer and the funding portal that each is responsible for compliance with applicable securities legislation, including compliance with this Instrument;
- (d) a requirement that the funding portal must terminate any distribution and report immediately to the securities regulatory authority or regulator if, at any time during the distribution period, it appears to the funding portal that the business of the issuer is not being, or may not be, conducted with integrity;
- (e) in Ontario, confirmation that the funding portal is the agent of the issuer for the purposes of a distribution under the crowdfunding prospectus exemption.

#### **Obligation to review materials of eligible crowdfunding issuer**

27. (1) A funding portal is required to review the crowdfunding offering document, the materials referred to in subsection 12(1) [*Additional distribution materials*], the personal information forms, the results of the criminal record and background checks, and any other information about an issuer or a distribution made available to the funding portal or of which the funding portal is aware.
- (2) If it appears to the funding portal that, based upon its review of the information and materials in subsection (1), the disclosure in the crowdfunding offering document and other materials referred to in subsection 12(1) [*Additional distribution materials*] is incorrect, incomplete or misleading, the funding portal must require that the issuer correct, complete or clarify the incorrect, incomplete or misleading disclosure prior to its posting on the funding portal's online platform.

#### **Denial of issuer access and termination**

28. (1) The funding portal must not allow an issuer access to its online platform for the purposes of a distribution under the crowdfunding prospectus exemption if
- (a) after reviewing the information about the issuer or the distribution made available to the funding portal or of which the funding portal is aware, the funding portal makes a good faith determination that
    - (i) the business of the issuer may not be conducted with integrity because of the past conduct of
      - (A) the issuer, or
      - (B) any of the issuer's directors, executive officers, or promoters,
    - (ii) the issuer is not complying with one or more of its obligations under this Instrument, or
    - (iii) the crowdfunding offering document or the materials referred to in subsection 12(1) [*Additional distribution materials*] contain a statement or information that constitutes a misrepresentation or an untrue statement of a material fact and the issuer has not corrected the statement or information as requested by the funding portal under section 27 [*Obligation to review materials of eligible crowdfunding issuer*], or
  - (b) the issuer or any of its directors, executive officers or promoters has pled guilty to or has been found guilty of an offence related to or has entered into a settlement agreement in a matter that involved fraud, or securities violations.
- (2) A funding portal must terminate a distribution if, at any time during the distribution period, it appears to the funding portal that the business of the issuer is not being, or may not be, conducted with integrity.

#### **Return of funds**

29. A funding portal must promptly return to the purchaser all funds or assets received from a purchaser in connection with a distribution under the crowdfunding prospectus exemption if any of the following apply:
- (a) the purchaser exercises its right of withdrawal;

- (b) the requirements set out in section 6 [*Conditions for closing of the distribution*] are not met;
- (c) the issuer withdraws the distribution;
- (d) the distribution is otherwise terminated.

### Notifications

30. If an amended crowdfunding offering document has been made available to purchasers under paragraph 7(3)(b) [*Certificates*], the funding portal must notify each purchaser that entered into an agreement to purchase securities prior to the amended crowdfunding offering document being made available that an amended crowdfunding offering document and, if applicable, other materials referred to in subsection 12(1) [*Additional distribution materials*] have been made available on the funding portal's online platform.

### Removal of distribution materials

31. A funding portal must remove a crowdfunding offering document and the materials referred to in subsection 12(1) [*Additional distribution materials*] on the earliest of the following:

- (a) the end of the distribution period;
- (b) the withdrawal of the distribution;
- (c) the date on which the funding portal becomes aware that the crowdfunding offering document or the materials may contain a statement or information that is false, deceptive, misleading or that may constitute a misrepresentation or untrue statement of a material fact.

### Monitoring purchaser communications

32. If a funding portal establishes an online communication channel through which purchasers may communicate with one another and with the eligible crowdfunding issuer about a distribution, the funding portal must monitor postings and remove any statement by, or information from, the issuer that is inconsistent with the crowdfunding offering document or is not in compliance with this Instrument.

### Online platform acknowledgement

33. Prior to allowing a person or company entry to its online platform, a funding portal must require the person or company to acknowledge all of the following:

- (a) that a distribution posted on the funding portal's online platform
  - (i) has not been reviewed or approved in any way by a securities regulatory authority or regulator, and
  - (ii) is risky and may result in the loss of all or most of an investment;
- (b) that the person or company may receive limited ongoing information about an issuer or an investment made through the funding portal;
- (c) that the person or company is entering an online platform operated by a funding portal that
  - (i) is registered in the category of restricted dealer subject to the terms and conditions of this Instrument, and will not provide advice about the suitability of the purchase of the security, or
  - (ii) is registered in the category of investment dealer or exempt market dealer, and is required to provide advice about the suitability of the purchase of the security.

### Purchaser requirements prior to purchase

34. Prior to a purchaser entering into an agreement to purchase securities under the crowdfunding prospectus exemption, a funding portal must

- (a) obtain from the purchaser a risk acknowledgement form where the purchaser positively confirms having read and understood the risk warnings and the information in the crowdfunding offering document,



- (b) except in Ontario, confirm and validate that the purchaser is an accredited investor if the acquisition cost is greater than \$2,500, and
- (c) in Ontario, obtain from the purchaser, and validate, a confirmation of investment limits form.

**Required online platform disclosure**

35. A funding portal must include on its online platform prominent disclosure of all compensation, including fees, costs and other expenses that the funding portal may charge to, or impose on, an eligible crowdfunding issuer or a purchaser, and any such other disclosure that may be required under securities legislation.

**Delivery to the issuer**

36. On or before the closing of a distribution, the funding portal must deliver to the issuer the following:
- (a) the purchase agreement entered into between the issuer and the purchaser;
  - (b) a risk acknowledgement form from the purchaser where the purchaser positively confirms having read and understood the risk warnings and the information in the crowdfunding offering document;
  - (c) except in Ontario, confirmation and validation that the purchaser is an accredited investor, if the acquisition cost is greater than \$2,500;
  - (d) in Ontario, a confirmation of investment limits form for the purchaser.

**Release of funds**

37. A funding portal must not release the funds raised under the distribution to the eligible crowdfunding issuer unless the requirements set out in section 6 [*Conditions for closing of the distribution*] have been met.

**Reporting requirements**

38. (1) A funding portal must immediately notify the securities regulatory authority or regulator in writing if, at any time during the distribution period, the funding portal terminates a distribution pursuant to subsection 28(2) [*Denial of issuer access and termination*].
- (2) A funding portal must deliver to the securities regulatory authority or regulator, in a format acceptable to the securities regulatory authority or regulator, within 30 days of the end of the second and fourth quarters of its financial year, a report containing the following information for the immediately preceding two quarters:
- (a) each distribution through the funding portal, including the name of the issuer, the type of security, the amount of the distribution, the industry of the issuer and the number of purchasers participating in the distribution;
  - (b) the name and industry of each issuer denied access to the funding portal and the reason for the denial;
  - (c) the name and industry of each issuer
    - (i) that was granted access to the funding portal but the distribution did not close and the reason the distribution did not close, or
    - (ii) that was granted access to the funding portal but was subsequently removed from the funding portal and the reason for removal;
  - (d) such other information as a securities regulatory authority or regulator may reasonably request.

**Division 3: Additional requirements, restricted dealer funding portal**

**Prohibition on providing recommendations or advice**

39. A restricted dealer funding portal and a registered individual of the restricted dealer funding portal must not, directly or indirectly, provide a recommendation or advice to a purchaser

- (a) to purchase securities under the crowdfunding prospectus exemption or in connection with any other trade in a security, or
- (b) to use borrowed money to finance any part of a purchase of securities under the crowdfunding prospectus exemption or in connection with any other trade in a security.

**Restriction on referral arrangements**

- 40. (1)** A restricted dealer funding portal must not participate in a referral arrangement.
- (2)** Despite subsection (1), a funding portal may compensate a third party for referring an issuer to the funding portal.

**Permitted dealing activities**

- 41.** A restricted dealer funding portal and a registered individual of the restricted dealer funding portal may only act as intermediaries in connection with
- (a) a distribution of securities made in reliance on the crowdfunding prospectus exemption, and
  - (b) except in Ontario, a distribution of securities made in reliance on a start-up crowdfunding registration and prospectus exemptive relief order granted by a securities regulatory authority or regulator, provided that the restricted dealer funding portal and a registered individual of the restricted dealer funding portal are in compliance with the terms, conditions, restrictions and requirements in this Instrument.

**Chief compliance officer**

- 42.** A restricted dealer funding portal must not designate an individual as its chief compliance officer under section 11.3 [*Designating a chief compliance officer*] of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* unless the individual has
- (a) passed the Exempt Market Products Exam or the Canadian Securities Course Exam,
  - (b) passed the PDO Exam or the Chief Compliance Officers Qualifying Exam, and
  - (c) gained 12 months of experience and training that a reasonable person would consider necessary to perform the functions of a chief compliance officer for a restricted dealer funding portal.

**Proficiency**

- 43. (1)** A restricted dealer funding portal must not permit an individual to perform an activity in connection with a distribution under the crowdfunding prospectus exemption unless the individual has the education, training and experience, which may include appropriate registration, that a reasonable person would consider necessary to perform the activity competently, including understanding the structure, features and risks of the distribution.
- (2)** For the purposes of subsection (1), the obligation to understand the structure, features and risks of the distribution does not include any obligation to assess
- (a) the merits or expected returns of the investment to purchasers, or
  - (b) the commercial viability of the proposed business or distribution.

**PART 4  
EXEMPTION**

**Exemption**

- 44. (1)** Subject to subsection (2), the securities regulatory authority or regulator may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2)** Despite subsection (1), in Ontario, only the regulator may grant an exemption.
- (3)** Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction.

**PART 5  
COMING INTO FORCE**

**Effective date**

45. This Instrument comes into force on January 25, 2016.

## Appendix A

### Signing Requirements for Certificate of a Crowdfunding Offering Document (Section 7)

1. If the eligible crowdfunding issuer is a company, a certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section if it is signed
  - (a) by the issuer's chief executive officer and chief financial officer or, if the issuer does not have a chief executive officer or chief financial officer, an individual acting in that capacity,
  - (b) on behalf of the directors of the issuer, by
    - (i) any 2 directors who are authorized to sign, other than the persons referred to in paragraph (a), or
    - (ii) all the directors of the issuer, and
  - (c) by each promoter of the issuer.
2. If the eligible crowdfunding issuer is a trust, a certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section if it is signed by
  - (a) the individuals who perform functions for the issuer similar to those performed by the chief executive officer and the chief financial officer of a company, and
  - (b) each trustee and the manager of the issuer.
3. A certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section
  - (a) if a trustee or manager signing the certificate is an individual, the individual signs the certificate,
  - (b) if a trustee or manager signing the certificate is a company, the certificate is signed
    - (i) by the chief executive officer and the chief financial officer of the trustee or the manager, and
    - (ii) on behalf of the board of directors of the trustee or the manager, by
      - (A) any two directors of the trustee or the manager, other than the persons referred to in subparagraph (i), or
      - (B) all of the directors of the trustee or the manager,
  - (c) if a trustee or manager signing the certificate is a limited partnership, the certificate is signed by each general partner of the limited partnership as described in section 5 in relation to an eligible crowdfunding issuer that is a limited partnership, or
  - (d) in any other case, the certificate is signed by any person with authority to act on behalf of the trustee or the manager.
4. Despite sections 2 and 3, if the trustees of an eligible crowdfunding issuer, do not perform functions for the issuer similar to those performed by the directors of a company, the trustees are not required to sign the certificate of the issuer if at least two individuals who perform functions for the issuer similar to those performed by the directors of a company sign the certificate.
5. If the eligible crowdfunding issuer is a limited partnership, a certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section if it is signed by
  - (a) each individual who performs a function for the issuer similar to any of those performed by the chief executive officer or the chief financial officer of a company, and
  - (b) each general partner of the issuer.

6. A certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section
- (a) if a general partner of the eligible crowdfunding issuer is an individual, the individual signs the certificate,
  - (b) if a general partner of the eligible crowdfunding issuer is a company, the certificate is signed
    - (i) by the chief executive officer and the chief financial officer of the general partner, and
    - (ii) on behalf of the board of directors of the general partner, by
      - (A) any two directors of the general partner, other than the persons referred to in subparagraph (i), or
      - (B) all of the directors of the general partner,
  - (c) if a general partner of the eligible crowdfunding issuer is a limited partnership, the certificate is signed by each general partner of the limited partnership and, for greater certainty, this section applies to each general partner required to sign,
  - (d) if a general partner of the eligible crowdfunding issuer is a trust, the certificate is signed by the trustees of the general partner as described in section 2 in relation to an issuer that is a trust, or
  - (e) in any other case where there is a general partner of the eligible crowdfunding issuer, the certificate is signed by any person with authority to act on behalf of the general partner.
7. If an eligible crowdfunding issuer is not a company, trust or limited partnership, a certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section if it is signed by the persons that, in relation to the issuer, are in a similar position or perform a similar function to any of the persons referred to in section 1, 2, 3, 4, 5 or 6.

### 5.1.2 Form 45-108F1 – Crowdfunding Offering Document

#### FORM 45-108F1 CROWDFUNDING OFFERING DOCUMENT

##### Instructions

This Form contains the disclosure items that an eligible crowdfunding issuer offering securities under the crowdfunding prospectus exemption (the **issuer**) must include in a crowdfunding offering document. If any disclosure item is not applicable, include the relevant heading and state “Not applicable” under it.

Use plain language and focus on relevant information that would assist purchasers in making an investment decision. Use tables, charts and other graphic methods of presenting information if this will make the information easier to understand. The information should be balanced and not promotional in nature. A longer document is not necessarily a better document.

Do not disclose forward-looking information unless there is a reasonable basis for the forward-looking information. If material forward-looking information is disclosed, it must be accompanied by disclosure that identifies the forward-looking information as such, and cautions that actual results may vary from the forward-looking information. An example of forward-looking information would be an estimate of the timeline to complete a project.

If this crowdfunding offering document is amended and restated, the document that is made available to purchasers must be labelled as an amended and restated crowdfunding offering document.

**This crowdfunding offering document is divided into the following 11 items:**

**ITEM 1** – Warning to purchasers

**ITEM 2** – Brief overview of the issuer

**ITEM 3** – Brief overview of the issuer’s business

**ITEM 4** – What you need to know about the issuer’s management

**ITEM 5** – What you need to know about the distribution

**ITEM 6** – What you need to know about the issuer

**ITEM 7** – What you need to know about the funding portal

**ITEM 8** – What you need to know about your rights

**ITEM 9** – Other relevant information

**ITEM 10** – Documents incorporated by reference in this crowdfunding offering document

**ITEM 11** – Certificate

**ITEM 1 – WARNING TO PURCHASERS**

Include the following statement, in bold type:

**“No securities regulatory authority or regulator has assessed, reviewed or approved the merits of these securities or reviewed this crowdfunding offering document. Any representation to the contrary is an offence. This is a risky investment.”**

**ITEM 2 – BRIEF OVERVIEW OF THE ISSUER**

**2.1 – Issuer information**

Provide the following information in the table below:

Full legal name of issuer	
Legal status (form of entity and date and jurisdiction of organization)	
Articles of incorporation, limited partnership agreement or similar document, and shareholder agreement, available at:	
Head office address of issuer	
Telephone	
Fax	
Website URL	
Link(s) to access video(s) relating to this offering (see instruction 1 below)	
Jurisdictions of Canada where the issuer is a reporting issuer (see instruction 2 below)	

*Instructions:*

1. *A video may only be made available on the funding portal's online platform.*
2. *Disclose each jurisdiction of Canada where the issuer is a reporting issuer. If the issuer is not a reporting issuer, disclose that fact.*

**2.2 – Issuer contact person**

Provide the following information for a contact person at the issuer who is able to answer questions from a purchaser or a securities regulatory authority or regulator:

Full legal name of the contact person	
Position held at the issuer	
Business address	
Business telephone number	
Business email address	

**ITEM 3 – BRIEF OVERVIEW OF THE ISSUER'S BUSINESS**

Briefly explain, in a few lines, the issuer's business and why the issuer is raising funds.

Include the following statement, in bold type:

**“A more detailed description of the issuer’s business is provided below.”**

**ITEM 4 – WHAT YOU NEED TO KNOW ABOUT THE ISSUER’S MANAGEMENT**

Provide the required information in the following table for each executive officer, director, promoter and control person of the issuer.

*Instruction: An executive officer is an individual who is: (a) a chair, vice-chair or president; (b) a chief executive officer or chief financial officer; (c) a vice-president in charge of a principal business unit, division or function including sales, finance or production; or (d) performing a policy-making function in respect of the issuer.*

Full legal name  City, prov/state and country of residence  Position at issuer	Principal occupation for the last five years	Expertise, education, and experience that is relevant to the issuer's business	Percentage of time the person spends/will spend on the issuer's business (if less than full time)	Number and type of securities of the issuer owned, directly or indirectly  Date securities were acquired and price paid for securities  % of the issuer's issued and outstanding securities as of the date of this crowdfunding offering document

State whether each person listed in item 4 or the issuer, as the case may be

- (a) has ever pled guilty to or been found guilty of:
  - (i) a summary conviction or indictable offence under the *Criminal Code* (R.S.C. 1985, c. C-46) of Canada;
  - (ii) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction;
  - (iii) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein;
  - (iv) an offence under the criminal legislation of any other foreign jurisdiction,
- (b) is or has been the subject of an order (cease trade or otherwise), judgment, decree, sanction, or administrative penalty imposed by a government agency, administrative agency, self-regulatory organization, civil court, or administrative court of Canada or a foreign jurisdiction in the last ten years related to his or her involvement in any type of business, securities, insurance or banking activity,
- (c) is or has been the subject of a bankruptcy or insolvency proceeding in the last ten years, and/or
- (d) is an executive officer, director, promoter or control person of an issuer that is or has been subject to a proceeding described in paragraphs (a), (b) or (c) above.



**ITEM 5 – WHAT YOU NEED TO KNOW ABOUT THE DISTRIBUTION**

**5.1 – Distribution information**

Provide the following information in the table below:

Type of securities being distributed	
Price per security	\$
Description of any additional rewards or benefits that are not securities (see instruction 1 below)	
Start of distribution period	
End of distribution period	
Date and description of amendment(s) made to this crowdfunding offering document, if any	
Jurisdiction(s) where securities are being distributed	
Expected proceeds of this distribution (see instruction 2 below)	\$
Minimum subscription per purchaser, if applicable	\$

*Instructions:*

1. Include the following statement, in bold type as a footnote to the table if the issuer is offering any rewards or benefits:

**“The disclosure of additional rewards and benefits that are not securities is for information purposes only. A purchaser is cautioned that any rights applicable to a purchaser as result of an offering of rewards or benefits that are not securities are outside the jurisdiction of securities legislation.”**

2. The amount disclosed must be the same as the amount in Row A in the table under Proceeds to be raised in item 5.2.

**5.2 – Aggregate proceeds**

Insert the relevant dollar amount and include the following statement, in bold type:

**“The issuer requires aggregate minimum proceeds of \$\_\_\_\_\_ to accomplish the business objectives described below.”**

Provide the following information in the tables below:

Proceeds to be raised

A.	Expected proceeds of this distribution	\$
B.	Proceeds expected to be received from concurrent distributions, if any, that will be unconditionally available to the issuer at the time of closing of the distribution (see instruction 1 below)	\$
C.	<b>Aggregate minimum proceeds C = (A+B)</b> (see instruction 2 below)	\$
D.	Maximum amount the issuer wants to raise	\$

## Rules and Policies

---

### Instructions:

1. The amount disclosed in Row B should reconcile to the information provided in item 5.3.
2. The amount disclosed in Row C must be the same as the amount disclosed in the statement at the beginning of this item.

### Use of proceeds

	Description of expenses	Assuming aggregate minimum proceeds	Assuming maximum amount raised, if applicable
A.	Fees to be paid to funding portal (see instructions 1 and 2 below)	\$	\$
B.	Other expenses of this distribution (see instruction 3 below)	\$	\$
C.	Funds to accomplish business objectives (see instruction 4)	\$	\$
D.	<b>Total</b> (see instruction 5)	\$	\$

### Instructions:

1. Describe the fees (e.g., commission, arranging fee or other fee) that the funding portal is charging for its services. Describe each type of fee and the estimated amount to be paid for each type. If a commission is being paid, indicate the percentage that the commission will represent of the gross proceeds of the distribution.
2. Disclose the estimated number and value of the issuer's securities to be issued, if any, in consideration for all or a portion of the portal's fees.
3. State the nature of each expense (e.g. legal, accounting, audit) and the estimated amount of the expense.
4. State the business objectives the issuer expects to accomplish using the proceeds to be raised, assuming: (i) the aggregate minimum proceeds are raised; and (ii) if applicable, the maximum amount is raised. Describe each business objective and state the estimated time period for the objective to be accomplished and the costs related to accomplishing it. Each business objective must be included in a separate row in the table.
5. The total dollar amount of the proceeds to be raised must be accounted for in the table. The amount disclosed in Row D under the column Assuming aggregate minimum proceeds must be the same as the amount in Row C in the table under Proceeds to be raised in this item. The amount disclosed in Row D under the column Assuming maximum amount raised, if applicable must be the same as the amount in Row D in the table under Proceeds to be raised in this item.

### Business Acquisition

If any of the proceeds will be used by the issuer to acquire, invest in, or merge with a business, disclose, for that business, the information required by items 3 and 6.3, together with other relevant information.

### 5.3 – Concurrent distributions

If the proceeds of a concurrent distribution will be unconditionally available to the issuer at the time of closing of the distribution, provide the following information for each distribution by any member of the issuer group that is intended to be conducted, at least in part, during the distribution period:

- (a) type of securities being distributed in concurrent distribution;
- (b) proposed size of concurrent distribution;
- (c) proposed closing date of concurrent distribution;
- (d) price and terms of securities to be distributed in concurrent distribution.

*Instruction: If during the course of this distribution: (i) there is any change in the size, type of security, price per security, or other terms and conditions in a concurrent distribution being made by the issuer; (ii) there is any change in the amount of proceeds proposed to be received by the issuer from a concurrent distribution being made by a member of the issuer group, other than the issuer; or (iii) a new distribution is commenced by any member of the issuer group where the proceeds of the distribution will be unconditionally available to the issuer, this crowdfunding offering document must be amended to reflect this development.*

**5.4 – Description of securities distributed and relevant rights**

This security gives you the following rights (choose all that apply):

- Voting rights;
- Interest or dividends;
- Redemption rights;
- Rights on dissolution;
- Conversion rights: Each security is convertible into \_\_\_\_\_;
- Other (describe) \_\_\_\_\_.

Provide a description of any right to receive interest or dividends.

Other rights or obligations

State whether purchasers will have protections such as tag-along or pre-emptive rights. If no such rights will be provided or are minimal in nature, explain:

- (a) the risks associated with being a minority security holder;
- (b) that the absence of such rights affects the value of the securities.

Any other restrictions or conditions

Provide a brief summary of any other restrictions or conditions that attach to the securities being distributed.

Dilution

Include the following statement:

“Your percentage of ownership in this issuer may be reduced significantly due to a number of factors beyond your control, such as the rights and characteristics of other securities already issued by the issuer, future issuances of securities by the issuer, and potential changes to the capital structure and/or control of the issuer.”

**5.5 – Other crowdfunding distributions**

For any crowdfunding distribution in which the issuer or an executive officer, director, promoter or control person of the issuer has been involved in the past five years, provide the information below:

For crowdfunding distributions that were started but the issuer did not receive any funds:

- (a) the full legal name of the issuer that made the distribution;
- (b) the date the distribution was discontinued.

For closed crowdfunding distributions:

- (a) the full legal name of the issuer that made the distribution;
- (b) the date that the distribution commenced and the date it closed;

**Rules and Policies**

---

- (c) the name and website address of the funding portal through which the distribution was made;
- (d) the amount raised;
- (e) the intended use of proceeds stated in the relevant crowdfunding offering document and the actual use of proceeds.

This information must be provided for each person that has been involved in a crowdfunding distribution in the past five years, whether with the issuer, or with another issuer.

**ITEM 6 – WHAT YOU NEED TO KNOW ABOUT THE ISSUER**

**6.1 – Issuer’s business**

Indicate which statement(s) best describe the issuer’s operations (select all that apply):

- has never conducted operations;
- is in the development stage;
- is currently conducting operations;
- has shown profit in the last financial year.

Briefly describe:

- (a) the nature of the issuer’s product(s) or service(s);
- (b) the industry in which the issuer operates;
- (c) the issuer’s long term business objectives;
- (d) the issuer’s assets and whether those assets are owned or leased.

**6.2 – Related party relationships and transactions**

For purposes of this item, a control person is a person or company that controls, directly or indirectly, more than 20% of the issuer’s voting securities prior to the closing of this distribution.

Family relationships

Are there any family relationships between any executive officers, directors, promoters or control persons? Y    N  
  

If yes, describe the nature of each relationship.

Proceeds to be raised

Will the issuer use any of the proceeds to be raised to:

- acquire assets or services from an executive officer, director, promoter or control person, or an associate of any of them? Y    N
- loan money to any executive officer, director, promoter or control person, or an associate of any of them? Y    N
- reimburse any executive officer, director, promoter or control person, or an associate of any of them, for assets previously acquired, services previously rendered, monies previously loaned or advanced, or for any other reason? Y    N

If the answer to any of the above is “yes”, disclose the relationship between each person and the issuer and the principal terms of each transaction. If assets were acquired from a person, disclose the cost of the asset to the issuer and the method used to determine this cost. Disclose for each person who has been involved in more than one related party transaction, their relationship with the issuer and which of the transactions they have been involved with.

### 6.3 – Principal risks facing the business

Disclose the risks facing the issuer's business that could result in a purchaser losing the value of the purchaser's investment. Only those risks that are highly significant to the business should be disclosed. The risks should be disclosed in order of most to least significant.

In addition to disclosing the principal risks in this crowdfunding offering document, reporting issuers may incorporate by reference the risk disclosure in their continuous disclosure documents (for example, their annual information form or management discussion & analysis).

*Instruction: Explain the risks of investing in the issuer for the purchaser in a meaningful way, avoiding overly general or "boilerplate" disclosure. Disclose both the risk and the factual basis for it. Risks can relate to the issuer's business, its industry, its clients, etc.*

#### Litigation

Disclose any litigation or administrative action that has had or is likely to have a material effect on the issuer's business. Include information not only about present pending litigation or administrative actions, but also past concluded litigation or administrative actions, and potential future claims of which the issuer is aware. Disclose the name of the court, agency or tribunal where the proceeding is pending, a description of the facts underlying the claim and the relief sought, or any information known to the issuer about pending litigation or administrative actions.

### 6.4 – Financial information

If the issuer is a non-reporting issuer, include the following statement, in bold type:

**"The issuer's financial statements have not been provided to or reviewed by a securities regulatory authority or regulator."**

#### Fiscal year end

Month and Day: \_\_\_\_\_

See Schedule A *Crowdfunding Offering Document – Financial Statement Requirements* to determine which financial statements must be attached to this crowdfunding offering document.

### 6.5 – Ongoing disclosure

Briefly describe how the issuer intends to communicate with purchasers.

#### Reporting issuer

If the issuer is a reporting issuer, state that the issuer is subject to reporting obligations under securities legislation and explain how a purchaser can access the issuer's continuous disclosure documents.

#### Non-reporting issuer

If the issuer is a non-reporting issuer:

- (a) state that the issuer has limited disclosure obligations under securities legislation and that the issuer is required to provide only annual financial statements and annual disclosure regarding use of proceeds;
- (b) state the nature and frequency of any other disclosure the issuer intends to provide to purchasers;
- (c) explain how purchasers can access the disclosure documents referred to in paragraphs (a) and (b).

In New Brunswick, Nova Scotia and Ontario, a non-reporting issuer must make available to each holder of a security acquired under the crowdfunding prospectus exemption, within 10 days of their occurrence, a notice of each of the following events:

- (a) a discontinuation of the issuer's business;
- (b) a change in the issuer's industry;
- (c) a change of control of the issuer.

**6.6 – Capital structure**

Disclose the following information:

- (a) the issuer’s capital structure, including the terms and conditions of any other securities that are issued and outstanding as at the date of this crowdfunding offering document and the amount(s) that were paid for the securities;
- (b) using the calculation outlined below, the percentage of the issuer’s outstanding securities that the securities being distributed will represent on the closing of the distribution:

$$\frac{A}{A + B} = \%$$

A – Number of securities being distributed under this distribution

B – Number of issued and outstanding securities as of the date of this crowdfunding offering document

*Instruction: If the issuer has more than one class of outstanding securities, the calculation should be based only on the class of securities that is being distributed. If the securities being distributed are non-convertible debt securities, the calculation should be based on the face value of the debt securities;*

- (c) the total number of securities reserved or subject to issuance under outstanding options, warrants or rights, the amount(s) that were paid for the securities, and the terms and conditions of those instruments.

**6.7 – Connected issuers**

If the issuer is a connected issuer to a funding portal, include the disclosure required by Appendix C to National Instrument 33-105 *Underwriting Conflicts* (NI 33-105).

*Instruction: The definition of “connected issuer” is provided in NI 33-105.*

**6.8 – Management compensation**

Reporting issuer

If the issuer is a reporting issuer, incorporate by reference the disclosure provided for purposes of item 3 of Form 51-102F6 *Statement of Executive Compensation* (**Form 51-102F6**) and other information disclosed in the issuer’s Form 51-102F6 as needed.

Non-reporting issuer

If the issuer is a non-reporting issuer, provide the following information in the format set out below for each director and the three most highly compensated executive officers (or all executive officers if there are fewer than three):

Name of person and position at issuer	Total compensation paid to that person during the 12 month period preceding commencement of this distribution		Total compensation expected to be paid to that person during the 12 month period following closing of this distribution	
	Cash (\$)	Other Compensation	Cash (\$)	Other Compensation

*Instruction: Describe any non-cash compensation and how it was valued.*

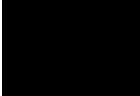
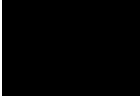
### 6.9 – Mining issuer disclosure

If the issuer is a mining issuer, state that the issuer is subject to the requirements of National Instrument 43-101 *Standards of Disclosure for Mineral Projects (NI 43-101)*.

*Instruction: Note that NI 43-101 applies to all issuers, including non-reporting issuers.*

### ITEM 7 – WHAT YOU NEED TO KNOW ABOUT THE FUNDING PORTAL

State that the issuer is using the services of a funding portal to offer its securities and provide the contact information of the funding portal below:

Full legal name of the funding portal	
Full website address of the funding portal	
Business email address of the funding portal	
Full legal name of the Chief Compliance Officer	
Full legal name of the contact person	
 Business address	
 Business telephone number	

Include the following statement:

“A purchaser can check if the funding portal is operated by a registered dealer at the following website: [www.aretheyregistered.ca](http://www.aretheyregistered.ca)”

### ITEM 8 – WHAT YOU NEED TO KNOW ABOUT YOUR RIGHTS

#### Reporting issuer

If the issuer is a reporting issuer, state that a purchaser has the following contractual rights in connection with the purchase of securities:

- (a) if the securities legislation of the jurisdiction in which the purchaser resides does not provide a comparable right, a right of action for damages or rescission if this crowdfunding offering document, or any document or video made available to a purchaser in addition to this crowdfunding offering document, contains a misrepresentation, and
- (b) if the securities legislation of the jurisdiction in which the purchaser resides does not provide a comparable right, a right to withdraw from an agreement to purchase securities distributed under this crowdfunding offering document by delivering a notice to the funding portal within 48 hours after the date of subscription.

#### Non-reporting issuer

If the issuer is a non-reporting issuer, state that a purchaser has the following contractual rights in connection with the purchase of securities:

- (a) a right of action for damages or rescission if this crowdfunding offering document, or any document or video made available to a purchaser in addition to this crowdfunding offering document, contains an untrue statement of a material fact, and
- (b) if the securities legislation of the jurisdiction in which the purchaser resides does not provide a comparable right, a right to withdraw from an agreement to purchase securities distributed under this crowdfunding offering document by delivering a notice to the funding portal within 48 hours after the date of subscription.

Disclose how a purchaser can find more information about these rights and how to exercise them. The disclosure should include who a purchaser needs to contact, how a purchaser can contact that person and the deadline for a purchaser to do so in order to exercise their rights. The issuer may choose to include a link to the relevant portion of the funding portal's website.

**ITEM 9 – OTHER RELEVANT INFORMATION**

State any other facts that would likely be important to a purchaser purchasing securities under this crowdfunding offering document.

**ITEM 10 – DOCUMENTS INCORPORATED BY REFERENCE IN THIS CROWDFUNDING OFFERING DOCUMENT**

If the issuer is a reporting issuer, include the following disclosure and provide the required information in the table below:

“Information has been incorporated by reference into this crowdfunding offering document from documents listed in the table below, which have been filed with the securities regulatory authorities or regulators in Canada. The documents incorporated by reference are available for viewing on the SEDAR website at [www.sedar.com](http://www.sedar.com).

Documents listed in the table and information provided in those documents are not incorporated by reference to the extent that their contents are modified or superseded by a statement in this crowdfunding offering document or in any other subsequently filed document that is also incorporated by reference in this crowdfunding offering document.”

Description of document (in the case of material change reports, provide a brief description of the nature of the material change)	Date of document

**ITEM 11 – CERTIFICATE**

**11.1** – Insert the date of this crowdfunding offering document and the date it was made available to purchasers through the funding portal and include the following statement, in bold type:

For reporting issuers:

**“This crowdfunding offering document does not contain a misrepresentation. Purchasers of securities have a right of action in the case of a misrepresentation.”**

For non-reporting issuers:

**“This crowdfunding offering document does not contain an untrue statement of a material fact. Purchasers of securities have a right of action in the case of an untrue statement of a material fact.”**

**11.2** – For both reporting and non-reporting issuers, provide the signature, date of the signature, name and position of each individual certifying this crowdfunding offering document.

**11.3** – If this crowdfunding offering document is signed electronically, include the following statement for each individual certifying the document, in bold type:

**“I acknowledge that I am signing this crowdfunding offering document electronically and agree that this is the legal equivalent of my handwritten signature. I will not at any time in the future claim that my electronic signature is not legally binding.”**

*Instruction: See Appendix A of Multilateral Instrument 45-108 Crowdfunding to determine who is required to certify this crowdfunding offering document.*



**Securities regulatory authorities and regulators of the participating jurisdictions:**

Manitoba	The Manitoba Securities Commission 500 – 400 St Mary Avenue Winnipeg, Manitoba R3C 4K5 Telephone: 204-945-2548 Toll free in Manitoba: 1-800-655-2548 Fax: 204-945-0330 E-mail: <a href="mailto:exemptions.msc@gov.mb.ca">exemptions.msc@gov.mb.ca</a> <a href="http://www.msc.gov.mb.ca">www.msc.gov.mb.ca</a>
New Brunswick	Financial and Consumer Services Commission 85 Charlotte Street, Suite 300 Saint John, New Brunswick E2L 2J2 Toll free: 1-866-933-2222 Fax: 506-658-3059 E-mail: <a href="mailto:info@fcnb.ca">info@fcnb.ca</a> <a href="http://www.fcnb.ca">www.fcnb.ca</a>
Nova Scotia	Nova Scotia Securities Commission Suite 400, 5251 Duke Street Halifax, Nova Scotia B3J 1P3 Telephone: 902-424-7768 Toll free in Nova Scotia: 1-855-424-2499 Fax: 902-424-4625 E-mail: <a href="mailto:nssc.crowdfunding@novascotia.ca">nssc.crowdfunding@novascotia.ca</a> <a href="http://www.nssc.gov.ns.ca">www.nssc.gov.ns.ca</a>
Ontario	Ontario Securities Commission 20 Queen Street West, 22 <sup>nd</sup> Floor Toronto, Ontario M5H 3S8 Telephone: 416-593-8314 Toll-free (North America): 1-877-785-1555 Fax: 416-593-8122 E-mail: <a href="mailto:inquiries@osc.gov.on.ca">inquiries@osc.gov.on.ca</a> <a href="http://www.osc.gov.on.ca">www.osc.gov.on.ca</a>
Québec	Autorité des marchés financiers Direction du financement des sociétés 800, rue du Square-Victoria, 22 <sup>nd</sup> floor P.O. Box 246, tour de la Bourse Montréal, Québec H4Z 1G3 Telephone: 514-395-0337 Toll free in Québec: 1-877-525-0337 Fax: 514-873-3090 E-mail: <a href="mailto:financement-participatif@lautorite.qc.ca">financement-participatif@lautorite.qc.ca</a> <a href="http://www.lautorite.qc.ca">www.lautorite.qc.ca</a>

Schedule A

**Crowdfunding Offering Document  
Financial Statement Requirements**

1. In this schedule

“Canadian Financial Statement Review Standards” means standards for the review of financial statements by a public accountant determined with reference to the Handbook;

“SEC issuer” means an SEC issuer as defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;

“U.S. AICPA Financial Statement Review Standards” means the standards of the American Institute of Certified Public Accountants for a review of financial statements by a public accountant, as amended from time to time.

Reporting issuer

2. If the issuer is a reporting issuer, attach as an appendix to this crowdfunding offering document

- (a) the most recent annual financial statements the issuer has filed with the securities regulatory authority or regulator, and
- (b) the most recent interim financial report the issuer has filed with the securities regulatory authority or regulator for an interim period that is subsequent to the financial year covered by the annual financial statements referred to in paragraph (a).

Non-reporting issuer

3. If the issuer is not a reporting issuer

- (a) Attach as an appendix to this crowdfunding offering document the financial statements listed in paragraphs 4.1(1)(a), (b), (c) and (e) [*Comparative annual financial statements and audit*] of National Instrument 51-102 *Continuous Disclosure Obligations*.
- (b) Despite paragraph (a), if the issuer has not completed a financial year, attach as an appendix to this crowdfunding offering document financial statements that include
  - (i) a statement of comprehensive income, a statement of changes in equity, and a statement of cash flows for the period from the date of the formation of the issuer to a date not more than 90 days before the date of this crowdfunding offering document,
  - (ii) a statement of financial position as at the end of the period referred to in subparagraph (i), and
  - (iii) notes to the financial statements.
- (c) The financial statements referred to in paragraphs (a) and (b), and any other financial statements that are attached as an appendix to this crowdfunding offering document, must
  - (i) be approved by management and be accompanied by
    - (A) a review report or auditor’s report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until 90 days before the date of this crowdfunding offering document, is \$250,000 or more but is less than \$750,000, or
    - (B) an auditor’s report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until 90 days before the date of this crowdfunding offering document, is \$750,000 or more,
  - (ii) comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*], subparagraph 3.2(1)(b)(i) [*Acceptable accounting principles – general requirements*], and subsection

- 3.2(5) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
- (iii) comply with section 3.5 [*Presentation and functional currencies*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (d) If the financial statements referred to paragraphs (a) and (b), or any other financial statements that are attached as an appendix to this crowdfunding offering document, are accompanied by a review report, the financial statements must be reviewed in accordance with Canadian Financial Statement Review Standards and the review report must
- (i) not include a reservation or modification,
  - (ii) identify the financial periods that were subject to review,
  - (iii) be in the form specified by Canadian Financial Statement Review Standards, and
  - (iv) refer to IFRS as the applicable financial reporting framework.
- (e) If the financial statements referred to in paragraphs (a) and (b), or any other financial statements that are attached as an appendix to this crowdfunding offering document, are accompanied by an auditor's report, the auditor's report must be
- (i) prepared in accordance with section 3.3 [*Acceptable auditing standards – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
  - (ii) signed by an auditor that complies with section 3.4 [*Acceptable auditors*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (f) If the financial statements referred to in paragraphs (a) and (b), or any other financial statements that are attached as an appendix to this crowdfunding offering document, are those of an SEC issuer,
- (i) the statements may be prepared in accordance with section 3.7 [*Acceptable accounting principles for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*,
  - (ii) the financial statements may be reviewed in accordance with U.S. AICPA Financial Statement Review Standards and accompanied by a review report prepared in accordance with U.S. AICPA Financial Statement Review Standards that
    - (A) does not include a modification or exception,
    - (B) identifies the financial periods that were subject to review,
    - (C) identifies the review standards used to conduct the review and the accounting principles used to prepare the financial statements, and
    - (D) refers to IFRS as the applicable financial reporting framework if the financial statements comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
  - (iii) the financial statements may be audited in accordance with section 3.8 [*Acceptable auditing standards for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (g) If the financial statements referred to in paragraph (f) are accompanied by a review report and the statements have been reviewed in accordance with Canadian Financial Statement Review Standards, the review report must be in compliance with subparagraphs 3(d)(i) to (iii) and must
- (i) refer to IFRS as the applicable financial reporting framework if the financial statements comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, or

- (ii) refer to U.S. GAAP as the applicable financial reporting framework if the financial statements comply with section 3.7 [*Acceptable accounting principles for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (h) For the purpose of paragraph (d) and subparagraph (f)(ii), the review report must be prepared and signed by a person or company authorized to sign a review report under the laws of a jurisdiction of Canada or a foreign jurisdiction, and that meets the professional standards of that jurisdiction.
- (i) If any of the financial statements referred to in paragraphs (a) and (b), or any other financial statements that are attached as an appendix to this crowdfunding offering document, are not accompanied by an auditor's report or a review report prepared by a public accountant, the statements must include the following statement: "*These financial statements were not audited or subject to a review by a public accountant as permitted by securities legislation where an issuer has not raised more than a pre-defined amount under prospectus exemptions.*"

**Instructions related to financial statement requirements and the disclosure of other financial information**

**What constitutes an issuer's first financial year** – The first financial year of an issuer commences on the date of its incorporation or organization and ends at the close of that financial year.

**What would be presented in an issuer's financial statements if the issuer has not completed a financial year** – The financial statements would include the financial statements listed in paragraphs 4.1(1)(a), (b), (c) and (e) [*Comparative annual financial statements and audit*] of National Instrument 51-102 *Continuous Disclosure Obligations* for the period from the date of the formation of the issuer to a date not more than 90 days before the date of this crowdfunding offering document. The financial statements would not include a comparative period.

**What financial years need to be audited or reviewed** – If an issuer is required to have an auditor's report or review report accompany its financial statements in accordance with subparagraph 3(c)(i) of this schedule, the financial statements for the most recent period and the comparative period, if any, are both required to be audited or are both required to be reviewed.

**Statement required in annual financial statements that have not been audited or reviewed** – Paragraph 3(i) of this schedule requires that if an issuer's annual financial statements are not accompanied by an auditor's report or a review report prepared by a public accountant, the financial statements must include a statement that discloses that fact. Consistent with the requirements set out in subparagraph 3(c)(i) of this schedule, an issuer's annual financial statements are not required to be audited or reviewed by a public accountant if the issuer has raised less than \$250,000 under one or more prospectus exemptions from the date of the formation of the issuer until 90 days before the date of this crowdfunding offering document.

**What financial reporting framework is identified in the financial statements, and any accompanying auditor's report or review report** – If an issuer's financial statements are prepared in accordance with Canadian GAAP for publicly accountable enterprises and include an unreserved statement of compliance with IFRS, the auditor's report or review report must refer to IFRS as the applicable financial reporting framework.

There are two options for referring to the financial reporting framework in the applicable financial statements and accompanying auditor's report or review report:

- (a) refer only to IFRS in the notes to the financial statements and in the auditor's report or review report, or
- (b) refer to both IFRS and Canadian GAAP in the notes to the financial statements and in the auditor's report or review report.

**Non-GAAP financial measures** – An issuer that intends to disclose non-GAAP financial measures in its crowdfunding offering document should refer to CSA guidance for a discussion of staff expectations concerning the use of these measures.

5.1.3 Form 45-108F2 – Risk Acknowledgement

**FORM 45-108F2  
RISK ACKNOWLEDGEMENT**

**Instructions:** This form must be completed by the purchaser before the purchaser enters into an agreement to purchase securities under the exemption in Multilateral Instrument 45-108 Crowdfunding.

Issuer name: i.e., ABC Company  
Type of security offered: i.e., common share

WARNING!

BUYER BEWARE: This investment is risky.  
Don't invest unless you can afford to lose all the money you pay for this investment.

	Yes	No
<b>1. Risk acknowledgement</b>		
<b>Risk of loss</b> – Do you understand that this is a risky investment and that you may lose all the money you pay for this investment?	<input type="checkbox"/>	<input type="checkbox"/>
<b>Liquidity risk</b> – Do you understand that you may never be able to sell this investment?	<input type="checkbox"/>	<input type="checkbox"/>
<b>Lack of information</b> – Do you understand that you may receive little ongoing information about the issuer and/or this investment?	<input type="checkbox"/>	<input type="checkbox"/>
<b>No income</b> – Do you understand that you may not earn any income, such as dividends or interest, on this investment?	<input type="checkbox"/>	<input type="checkbox"/>
<b>2. No approval and no advice</b>		
<b>No approval</b> – Do you understand that this investment has not been reviewed or approved in any way by a securities regulatory authority?	<input type="checkbox"/>	<input type="checkbox"/>
<b>No advice</b> – Do you understand that you will not receive advice about whether this investment is suitable for you to purchase? <i>[Instructions: Delete if the funding portal is operated by a registered investment dealer or exempt market dealer.]</i>	<input type="checkbox"/>	<input type="checkbox"/>
<b>3. Limited legal rights</b>		
<b>Limited legal rights</b> – Do you understand that you will not have the same rights as if you purchased under a prospectus or through a stock exchange?  If you want to know more, you may need to seek professional legal advice.	<input type="checkbox"/>	<input type="checkbox"/>

		Yes	No
<b>4. Purchaser's understanding of this investment</b>			
<b>Investment risks</b> – Have you read this form and do you understand the risks of making this investment?		<input type="checkbox"/>	<input type="checkbox"/>
<b>Offering document</b> – Before you invest, you should read the offering document carefully. The offering document contains important information about this investment. If you have not read the offering document or if you do not understand the information in it, you should not invest.  Have you read and do you understand the information in the offering document?		<input type="checkbox"/>	<input type="checkbox"/>
<b>5. Purchaser's acknowledgement</b>			
First and last name:		Date:	
<b>Electronic signature:</b> By clicking the 'I confirm' button, I acknowledge that I am signing this form electronically and agree that this is the legal equivalent of my handwritten signature. I will not at any time in the future claim that my electronic signature is not legally binding. The date of my electronic signature is the same as my acknowledgement.			
<b>6. Additional information</b>			
<ul style="list-style-type: none"> <li><b>You have 48 hours to cancel your purchase from the date of the agreement to purchase the security and any amendment to the crowdfunding offering document of the issuer, by sending a notice to the funding portal at:</b> <i>[Instructions: Provide an email address or a fax number where purchasers can send their notice. Describe any other way purchasers can cancel their purchase.]</i></li> <li><b>To check if the funding portal is operated by a registered dealer, go to <a href="http://www.aretheyregistered.ca">www.aretheyregistered.ca</a></b></li> <li><b>If you want more information about your local securities regulatory authority, go to <a href="http://www.securities-administrators.ca">www.securities-administrators.ca</a></b></li> </ul>			

5.1.4 Form 45-108F3 – Confirmation of Investment Limits

**FORM 45-108F3  
CONFIRMATION OF INVESTMENT LIMITS**

**Instructions:** This form must be completed by the purchaser before the purchaser enters into an agreement to purchase securities under the exemption in Multilateral Instrument 45-108 Crowdfunding (the crowdfunding exemption) in Ontario.

**How you qualify to buy securities under the crowdfunding exemption:** Checkmark the statement under A, B or C that applies to you. You may checkmark more than one statement. If you qualify under B or C, complete the confirmation of investment limits in the relevant section.

**A. Permitted Client**

You are a permitted client because:

- You are an individual who beneficially owns financial assets, as defined in section 1.1 of National Instrument 45-106 *Prospectus Exemptions*, having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds \$5 million.
- Other – you are a person or company that otherwise falls within the definition of a permitted client in section 1.1 of Part 1 in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. Please specify the relevant category: \_\_\_\_\_.

**B. Accredited Investor**

You are an accredited investor because (check all that apply):

- Your net income before taxes was more than \$200,000 in each of the 2 most recent calendar years and you expect it to be more than \$200,000 in this calendar year. (You can find your net income before taxes on your personal income tax return.)
- Your net income before taxes combined with your spouse’s was more than \$300,000 in each of the 2 most recent calendar years and you expect your combined net income before taxes to be more than \$300,000 in the current calendar year.
- Either alone or with your spouse, you own more than \$1 million in cash and securities, after subtracting any debt related to the cash and securities.
- Either alone or with your spouse, you have net assets worth more than \$5 million. (Your net assets are your total assets (including real estate) minus your total debt.)
- Other - you are a person or company that otherwise falls within the definition of an accredited investor as defined in section 1.1 of National Instrument 45-106 *Prospectus Exemptions* and in subsection 73.3(1) of the *Securities Act*, R.S.O. 1990 c. S.5. Please specify the relevant category: \_\_\_\_\_.

**Confirmation** (if you are an accredited investor but not a permitted client)

- I confirm that, after taking into account my investment of \$\_\_\_\_\_ today in this issuer:
  - \_\_\_ I have not invested more than \$25,000 in a single crowdfunding investment, and
  - \_\_\_ I have not invested more than \$50,000 in all of the crowdfunding investments I have made in this calendar year.

**C. Retail Investor**

You are a retail investor if none of the statements in the previous two sections apply to you.

**Confirmation** (if you are a retail investor)

- I confirm that, after taking into account my investment of \$\_\_\_\_\_ today in this issuer:
  - \_\_\_ I have not invested more than \$2,500 in a single crowdfunding investment, and
  - \_\_\_ I have not invested more than \$10,000 in all of the crowdfunding investments I have made in this calendar year.

**Purchaser acknowledgement**

First and last name:

Date:

**Electronic signature:** By clicking the 'I confirm' button, I acknowledge that I am signing this form electronically and agree that this is the legal equivalent of my handwritten signature. I will not at any time in the future claim that my electronic signature is not legally binding. The date of my electronic signature is the same as my acknowledgement.

**Funding portal information**

This section must only be completed if an investor has received advice about this investment from a funding portal registered in the category of an investment dealer or an exempt market dealer.

First and last name of registered individual:

Telephone:

Email:

Name of firm:

Registration Category:



5.1.5 Form 45-108F4 – Notice of Specified Key Events

**FORM 45-108F4  
NOTICE OF SPECIFIED KEY EVENTS**

**Instructions:** This is the form of notice required under section 18 of Multilateral Instrument 45-108 Crowdfunding in New Brunswick, Nova Scotia and Ontario to be made available to holders of securities acquired under the crowdfunding prospectus exemption.

1. Issuer Name and Address	
Full legal name:	
Street address:	Province/State:
Municipality:	Postal code/Zip code:
Website:	Country:
2. Specified Key Event	
<p>The event, as described in section 3, is (checkmark all that apply):</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> a discontinuation of the issuer's business</li> <li><input type="checkbox"/> a change in the issuer's industry</li> <li><input type="checkbox"/> a change of control of the issuer</li> </ul> <p>Date on which the event occurred (yyyy/mm/dd):</p>	
3. Event Description	
<p>Provide a brief description of the event identified in section 2.</p>	
4. Contact Person	
<p>Provide the following information for a person at the issuer who can be contacted regarding the event described in section 3.</p>	
Name:	Title:
Email address:	Telephone number:
Date of notice (yyyy/mm/dd):	

**5.1.6 Form 45-108F5 – Personal Information Form and Authorization to Collect, Use and Disclose Personal Information**

**FORM 45-108F5  
PERSONAL INFORMATION FORM AND  
AUTHORIZATION TO COLLECT, USE AND DISCLOSE PERSONAL INFORMATION**

**Instructions:** This Personal Information Form and Authorization to Collect, Use and Disclose Personal Information (the “Form”) is to be completed by every director, executive officer, and promoter of an eligible crowdfunding issuer relying on the crowdfunding prospectus exemption as set out in Multilateral Instrument 45-108 Crowdfunding.

**All Questions** All questions must have a response. The response of “N/A” or “Not Applicable” will not be accepted for any questions, except Questions 1(B), 2(iii) and (v) and 5.

**Questions 6 to 10** Please place a checkmark (✓) in the appropriate space provided. If your answer to any of questions 6 to 10 is “YES”, you must, in an attachment, provide complete details, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. **Any attachment must be initialled by the person completing this Form.** Responses must consider all time periods.

If you have received a pardon under the *Criminal Records Act* (Canada) for an Offence that relates to fraud (including any type of fraudulent activity), misappropriation of money or other property, theft, forgery, falsification of books or documents or similar Offences, you must disclose the pardoned Offence in this Form. In such circumstances:

- (a) the appropriate written response would be “Yes, pardon granted on (date)”; and
- (b) you must provide complete details in an attachment to this Form.

**DEFINITIONS**

**“Offence”** An offence includes:

- (a) a summary conviction or indictable offence under the *Criminal Code* (Canada);
- (b) a quasi-criminal offence (for example under the *Income Tax Act* (Canada), the *Immigration and Refugee Protection Act* (Canada) or the tax, immigration, drugs, firearms, money laundering or securities legislation of any Canadian or foreign jurisdiction);
- (c) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein; or
- (d) an offence under the criminal legislation of any other foreign jurisdiction;

**“Proceedings”** means:

- (a) a civil or criminal proceeding or inquiry which is currently before a court;
- (b) a proceeding before an arbitrator or umpire or a person or group of persons authorized by law to make an inquiry and take evidence under oath in the matter;
- (c) a proceeding before a tribunal in the exercise of a statutory power of decision making where the tribunal is required by law to hold or afford the parties to the proceeding an opportunity for a hearing before making a decision; or
- (d) a proceeding before a self-regulatory entity authorized by law to regulate the operations and the standards of practice and business conduct of its members (including where applicable, issuers listed on a stock exchange) and individuals associated with those members and issuers, in which the self-regulatory entity is required under its by-laws, rules or policies to hold or afford the parties the opportunity to be heard before making a decision, but does not apply to a proceeding in which one or more persons are required to make an investigation and to make a report, with or without recommendations, if the report is for the information or advice of the person to whom it is made and does not in any way bind or limit that person in any decision the person may have the power to make;

**“securities regulatory authority” or “SRA”** means a body created by statute in any Canadian or foreign jurisdiction to administer securities law, regulation and policy (e.g. securities commission), but does not include an exchange or other self-regulatory entity;

“self-regulatory entity” or “SRE” means:

- (a) a stock, derivatives, commodities, futures or options exchange;
- (b) an association of investment, securities, mutual fund, commodities, or future dealers;
- (c) an association of investment counsel or portfolio managers;
- (d) an association of other professionals (e.g. legal, accounting, engineering); and
- (e) any other group, institution or self-regulatory organization, recognized by a securities regulatory authority, that is responsible for the enforcement of rules, policies, disciplines or codes under any applicable legislation, or considered an SRE in another country.

1. Identification of individual completing form								
A.	Last name(s):		First name(s):			Full middle name(s) (No initials. If none, please state):		
	Name(s) most commonly known by:							
	Name of issuer:							
	Present or proposed position(s) with the issuer (check (✓) all positions below that are applicable)		(✓)	If director / executive officer disclose the date elected / appointed			If executive officer – provide title If other – provide details	
				MM	DD	YY		
	Director							
	Executive Officer							
Promoter								
B.	Other than the name given in Question 1A above, provide any legal names, assumed names or nicknames under which you have carried on business or have otherwise been known, including information regarding any name change(s) resulting from marriage, divorce, court order or any other process. Use an attachment if necessary.				From		To	
					MM	YY	MM	YY
C.	Gender		Date of birth			Place of birth		
	Male	<input type="checkbox"/>	MM	DD	YYYY	City	Province/State	Country
	Female	<input type="checkbox"/>						

**Rules and Policies**

D.	Marital Status:	Full name of spouse (include common law):	Occupation of spouse:
E.	Telephone and Facsimile Numbers and Email Address		
	Residential/ Cellular: (        )	Facsimile: (        )	
	Business: (        )	E-mail*:	

\*Provide an email address that the funding portal may use to contact you regarding this form. Where the securities regulatory authority or regulator (as defined in section 1.1 of National Instrument 14-101 *Definitions*) has requested the funding portal to provide it with this form, the securities regulator authority or regulator may also use the email address to contact you. This email address may be used to exchange personal information relating to you.

F.	Residential history				
	Provide all residential addresses for the past 10 YEARS starting with your current principal residential address. If you are unable to recall the complete residential address for a period, which is beyond 5 years from the date of completion of this Form, the municipality and province or state and country must be identified. The funding portal reserves the right to require the full address.				
	Street address, city, province/state, country & postal/zip code	From		To	
		MM	YY	MM	YY

	<b>Yes</b>	<b>No</b>
--	------------	-----------

<b>2. Citizenship</b>				
	(i)	Are you a Canadian citizen?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii)	Are you a person lawfully in Canada as an immigrant but are not yet a Canadian citizen?	<input type="checkbox"/>	<input type="checkbox"/>
	(iii)	If "Yes" to Question 2(ii), the number of years of continuous residence in Canada:		
	(iv)	Do you hold citizenship in any country other than Canada?	<input type="checkbox"/>	<input type="checkbox"/>
	(v)	If "Yes" to Question 2(iv), the name of the country(ies):		

**3. Employment history**

Provide your complete employment history for the **5 YEARS** immediately prior to the date of this Form starting with your current employment. Use an attachment if necessary. If you were unemployed during this period of time, state this and identify the period of unemployment.

Employer name	Employer address	Position held	From		To	
			MM	YY	MM	YY

<b>Yes</b>	<b>No</b>
------------	-----------

**4. Involvement with issuers**

A.	Are you or have you during the last 10 years ever been a director, officer, promoter, insider or control person for any issuer?	<input type="checkbox"/>	<input type="checkbox"/>
B.	If "YES" to 4A above, provide the names of each issuer. State the position(s) held and the period(s) during which you held the position(s). Use an attachment if necessary.		
	Name of issuer	Position(s) held	Market traded on
C.	While you were a director, officer or insider of an issuer, did any exchange or other self-regulatory entity ever refuse approval for listing or quotation of the issuer, including (i) a listing resulting from a business combination, reverse takeover or similar transaction involving the issuer that is regulated by an SRE or SRA, (ii) a backdoor listing or qualifying acquisition involving the issuer (as those terms are defined in the TSX Company Manual as amended from time to time) or (iii) a qualifying transaction, reverse takeover or change of business involving the issuer (as those terms are defined in the TSX Venture Corporate Finance Manual as amended from time to time)? If yes, attach full particulars.	<b>Yes</b>	<b>No</b>
		<input type="checkbox"/>	<input type="checkbox"/>

**5. Educational history**

A.	Professional designation(s)					
	Identify any professional designation held and professional associations to which you belong, for example, Barrister & Solicitor, C.P.A., C.A., C.M.A., C.G.A., P.Eng., P.Geol., CFA, etc. and indicate which organization and the date the designations were granted.					
	Professional Designation and Membership Number		Grantor of designation and Canadian or Foreign Jurisdiction		Date granted	
					MM      YY	
Describe the current status of any designation and/or association (e.g. active, retired, non-practicing, suspended).						
B.	Provide your post-secondary educational history starting with the most recent.					
	School		Location	Degree or diploma	Date obtained	
					MM      DD      YY	

	Yes	No
--	-----	----

**6. Offences**

If you answer "YES" to any item in Question 6, you **must** provide complete details in an attachment. **If you have received a pardon under the Criminal Records Act (Canada) for an Offence that relates to fraud (including any type of fraudulent activity), misappropriation of money or other property, theft, forgery, falsification of books or documents or similar Offences, you must disclose the pardoned Offence in this Form.**

A.	Have you ever, in any Canadian or foreign jurisdiction, pled guilty to or been found guilty of an Offence?	<input type="checkbox"/>	<input type="checkbox"/>
B.	Are you the subject of any current charge, indictment or proceeding for an Offence, in any Canadian or foreign jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>
C.	To the best of your knowledge, are you currently or have you <b>ever</b> been a director, officer, promoter, insider, or control person of an issuer, in any Canadian or foreign jurisdiction, at the time of events that resulted in the issuer:		
	(i) pleading guilty to or being found guilty of an Offence?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) now being the subject of any charge, indictment or proceeding for an alleged Offence?	<input type="checkbox"/>	<input type="checkbox"/>

		Yes	No
<b>7. Bankruptcy</b>			
If you answer "YES" to any item in Question 7, you <u>must</u> provide complete details in an attachment and attach a copy of any discharge, release or other applicable document. You must answer "YES" or "NO" for EACH of (A), (B) and (C) below.			
A.	Have you, in any Canadian or foreign jurisdiction, within the past <b>10 years</b> had a petition in bankruptcy issued against you, made a voluntary assignment in bankruptcy, made a proposal under any bankruptcy or insolvency legislation, been subject to any proceeding, arrangement or compromise with creditors, or had a receiver, receiver-manager or trustee appointed to manage your assets?	<input type="checkbox"/>	<input type="checkbox"/>
B.	Are you now an undischarged bankrupt?	<input type="checkbox"/>	<input type="checkbox"/>
C.	To the best of your knowledge, are you currently or have you <b>ever</b> been a director, officer, promoter, insider, or control person of an issuer, in any Canadian or foreign jurisdiction, at the time of events, or for a period of 12 months preceding the time of events, where the issuer:		
	(i) has made a petition in bankruptcy, a voluntary assignment in bankruptcy, a proposal under any bankruptcy or insolvency legislation, been subject to any proceeding, arrangement or compromise with creditors or had a receiver, receiver-manager or trustee appointed to manage the issuer's assets?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) is now an undischarged bankrupt?	<input type="checkbox"/>	<input type="checkbox"/>

		Yes	No
<b>8. Proceedings</b>			
If you answer "YES" to any item in Question 8, you must provide complete details in an attachment.			
A.	Current proceedings by securities regulatory authority or self regulatory entity. Are you now, in any Canadian or foreign jurisdiction, the subject of:		
	(i) a notice of hearing or similar notice issued by an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) a proceeding of or, to your knowledge, an investigation by, an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>
	(iii) settlement discussions or negotiations for settlement of any nature or kind whatsoever with an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>
B.	Prior proceedings by securities regulatory authority or self regulatory entity. Have you <u>ever</u> :		
	(i) been reprimanded, suspended, fined, been the subject of an administrative penalty, or been the subject of any proceedings of any kind whatsoever, in any Canadian or foreign jurisdiction, by an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) had a registration or licence for the trading of securities, exchange or commodity futures contracts, real estate, insurance or mutual fund products cancelled, refused, restricted or suspended by an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>

	(iii) been prohibited or disqualified by an SRA or SRE under securities, corporate or any other legislation from acting as a director or officer of a reporting issuer or been prohibited or restricted by an SRA or SRE from acting as a director, officer or employee of, or an agent or consultant to, a reporting issuer?	<input type="checkbox"/>	<input type="checkbox"/>
	(iv) had a cease trading or similar order issued against you or an order issued against you by an SRA or SRE that denied you the right to use any statutory prospectus or registration exemption?	<input type="checkbox"/>	<input type="checkbox"/>
	(v) had any other proceeding of any kind taken against you by an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>
C.	Settlement agreement(s)		
	Have you ever entered into a settlement agreement with an SRA, SRE, attorney general or comparable official or body, in any Canadian or foreign jurisdiction, in a matter that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading in securities or exchange or commodity futures contracts, illegal distributions, failure to disclose material facts or changes or similar conduct, or any other settlement agreement with respect to any other violation of securities legislation in a Canadian or foreign jurisdiction or the rules, by-laws or policies of any SRE?	<input type="checkbox"/>	<input type="checkbox"/>
D.	To the best of your knowledge, are you now or have you ever been a director, officer, promoter, insider, or control person of an issuer at the time of such event, in any Canadian or foreign jurisdiction, for which a securities regulatory authority or self-regulatory entity has:		
	(i) refused, restricted, suspended or cancelled the registration or licensing of an issuer to trade securities, exchange or commodity futures contracts, or to sell or trade real estate, insurance or mutual fund products?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) issued a cease trade or similar order or imposed an administrative penalty of any nature or kind whatsoever against the issuer, other than an order for failure to file financial statements that was revoked within 30 days of its issuance?	<input type="checkbox"/>	<input type="checkbox"/>
	(iii) refused a receipt for a prospectus or other offering document, denied any application for listing or quotation or any other similar application, or issued an order that denied the issuer the right to use any statutory prospectus or registration exemptions?	<input type="checkbox"/>	<input type="checkbox"/>
	(iv) issued a notice of hearing, notice as to a proceeding or similar notice against the issuer?	<input type="checkbox"/>	<input type="checkbox"/>
	(v) commenced any other proceeding of any kind against the issuer, including a trading halt, suspension or delisting of the issuer, in connection with an alleged or actual contravention of an SRA's or SRE's rules, regulations, policies or other requirements, but excluding halts imposed (i) in the normal course for proper dissemination of information, or (ii) pursuant to a business combination, reverse takeover or similar transaction involving the issuer that is regulated by an SRE or SRA, including a qualifying transaction, reverse takeover or change of business involving the issuer (as those terms are defined in the TSX Venture Corporate Finance Manual as amended from time to time)?	<input type="checkbox"/>	<input type="checkbox"/>
	(vi) entered into a settlement agreement with the issuer in a matter that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading in securities or exchange or commodity futures contracts, illegal distributions, failure to disclose material facts or changes or similar conduct by the issuer, or any other violation of securities legislation or the rules, by-laws or policies of an SRE?	<input type="checkbox"/>	<input type="checkbox"/>



		Yes	No
<b>9. Civil proceedings</b>			
If you answer "YES" to any item in Question 9, you <u>must</u> provide complete details in an attachment.			
A.	Judgment, garnishment and injunctions Has a court in any Canadian or foreign jurisdiction:		
	(i) rendered a judgment, ordered garnishment or issued an injunction or similar ban (whether by consent or otherwise) against <u>you</u> in a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) rendered a judgment, ordered garnishment or issued an injunction or similar ban (whether by consent or otherwise) against <u>an issuer</u> , of which you are currently or have ever been a director, officer, promoter, insider or control person in a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
B.	Current claims		
	(i) Are <u>you</u> now subject, in any Canadian or foreign jurisdiction, to a claim that is based in whole or in part on actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider or control person of <u>an issuer</u> that is now subject, in any Canadian or foreign jurisdiction, to a claim that is based in whole or in part on actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
C.	Settlement agreement		
	(i) Have <u>you</u> ever entered into a settlement agreement, in any Canadian or foreign jurisdiction, in a civil action that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider or control person of <u>an issuer</u> that has entered into a settlement agreement, in any Canadian or foreign jurisdiction, in a civil action that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>

		Yes	No
<b>10. Involvement with other entities</b>			
A.	Has your employment in a sales, investment or advisory capacity with any employer engaged in the sale of real estate, insurance or mutual funds ever been suspended or terminated for cause? If yes, attach full particulars.	<input type="checkbox"/>	<input type="checkbox"/>
B.	Has your employment with a firm or company registered under the securities laws of any Canadian or foreign jurisdiction as a securities dealer, broker, investment advisor or underwriter, ever been suspended or terminated for cause? If yes, attach full particulars.	<input type="checkbox"/>	<input type="checkbox"/>
C.	Has your employment as an officer of an issuer ever been suspended or terminated for cause? If yes, attach full particulars.	<input type="checkbox"/>	<input type="checkbox"/>

**CERTIFICATE AND CONSENT**

I, \_\_\_\_\_ hereby certify that:

(Please Print – Name of Individual)

- (a) I have read and understand the questions, cautions, acknowledgement and consent in the personal information form to which this certificate and consent is attached or of which this certificate and consent forms a part (the “**Form**”), and the answers I have given to the questions in the Form and in any attachments to it are correct, except where stated to be answered to the best of my knowledge, in which case I believe the answers to be correct;
- (b) I have been provided with and have read and understand the Personal Information Collection Policy (the “**Personal Information Collection Policy**”) attached hereto as Schedule 1;
- (c) I consent to the collection, use and disclosure by the funding portal of the information in the Form and to the collection, use and disclosure by the funding portal of further personal information in accordance with the Personal Information Collection Policy;
- (d) I understand that the funding portal may use a third party to conduct the criminal record and background checks and I consent to the use and disclosure by the funding portal to the third party of the information in the Form and to the collection, use and disclosure by the third party of the information in the Form and of further personal information in order to provide these services to the funding portal;
- (e) I am aware that I am providing the Form to a funding portal, who upon request, will provide the Form and all further personal information in accordance with the Personal Information Collection Policy to the securities regulatory authorities or regulators (as defined in section 1.1 of National Instrument 14-101 *Definitions*) and consent to such disclosure to, and the collection, use and disclosure by, the securities regulatory authorities or regulators and I understand that I am under the jurisdiction of the securities regulatory authorities and the regulators to which this Form may be provided, and that it is a breach of securities legislation to provide false or misleading information to the securities regulatory authorities and the regulators.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Person Completing this Form

**SCHEDULE 1  
PERSONAL INFORMATION COLLECTION POLICY**

The funding portal collects, uses and discloses personal information from every director, executive officer, and promoter of an issuer relying on the crowdfunding prospectus exemption for the purpose of complying with its obligations under Multilateral Instrument 45-108 *Crowdfunding* (“**MI 45-108**”), including conducting criminal record and background checks; verifying the information provided in the Personal Information Form and Authorization to Collect, Use and Disclose Personal Information (the “**Personal Information Form**”); reviewing the crowdfunding offering document and other materials for incorrect, incomplete and misleading information; identifying whether the issuer or any of its directors, executive officers, or promoters has been convicted of an offence related to or has entered into a settlement agreement in a matter that involved fraud or securities law violations; and making a good faith determination as to whether (i) the business of the issuer may not be conducted with integrity; (ii) the issuer is not complying with one or more of its obligations under MI 45-108; and (iii) the crowdfunding offering document and other materials contain a statement or information that constitutes a misrepresentation or an untrue statement of a material fact.

You understand that by signing the certificate and consent in the Personal Information Form, you are consenting to the funding portal collecting and using your personal information in the Personal Information Form, as well as any other information that may be necessary for the purposes described above (the “Information”).

You also understand and agree that the Information the funding portal collects about you may also be disclosed, as permitted by law, where its use and disclosure is for the purposes described above. The funding portal may use a third party to conduct the criminal record and background checks and to process the Information, but when this happens, the third party will be carefully selected and obligated to comply with the limited use restrictions described above and with applicable privacy legislation. You understand that by signing the certificate and consent in the Personal Information Form, you are consenting to the funding portal disclosing your Information to, and to the collection, use and disclosure of your Information by, the third party service provider for the purposes of providing these services to the funding portal.

You understand that the funding portal, upon request of the securities regulatory authorities or regulators (as defined in section 1.1 of National Instrument 14-101 *Definitions*), is required to deliver the Information to the securities regulatory authorities or regulators because the issuer has relied upon the crowdfunding prospectus exemption. The securities regulatory authorities and the regulators collect, use and disclose the Information under the authority granted to them under provincial securities legislation for the purpose of enabling the securities regulatory authorities and regulators to administer and enforce provincial securities legislation. You understand that by signing the certificate and consent in the Personal Information Form, you are consenting to disclosure of your Information by the funding portal to the securities regulatory authorities and regulators upon their request.

You also understand that you have a right to be informed of the existence of personal information about you that is kept by funding portals, securities regulatory authorities and regulators, that you have the right to request access to that information, and that you have the right to request that such information be corrected, subject to the provisions of the applicable privacy legislation.

**Warning:** It is an offence to submit information that, in a material respect and at the time and in the light of the circumstances in which it is submitted, is misleading or untrue.

**Questions**

If you have any questions about the collection, use, and disclosure of the information you provide, you may contact the funding portal at: *[Instructions: Provide an address and telephone number where an individual who has provided personal information can contact the funding portal.]*

5.1.7 Companion Policy 45-108CP Crowdfunding

COMPANION POLICY 45-108CP  
CROWDFUNDING

Table of Contents

**Preamble to companion policy**

**Part 1 Definitions and interpretation**

- 2. Terms defined or interpreted in other instruments

**Part 2 Crowdfunding prospectus exemption**

*Division 1: Distribution Requirements*

- 5. Crowdfunding prospectus exemption
- 6. Conditions for closing of the distribution
- 9. Liability for misrepresentation – reporting issuers
- 10. Liability for untrue statement – non-reporting issuers
- 11. Advertising and general solicitation
- 13. Commissions or fees

*Division 2: Ongoing disclosure requirements for non-reporting issuers*

- 16. Annual financial statements
- 17. Annual disclosure of use of proceeds
- 18. Notice of specified key events

**Part 3 Requirements for funding portals**

*Division 1: Registration requirements, general*

- 21. Restricted dealer funding portal
- 22. Registered dealer funding portal

*Division 2: Registration requirements, funding portals*

- 23. Restricted dealing activities
- 24. Advertising and general solicitation
- 25. Access to funding portal
- 26. Issuer access agreement
- 27. Obligation to review materials of eligible crowdfunding issuer
- 28. Denial of issuer access and termination
- 32. Monitoring purchaser communications
- 33. Online platform acknowledgement
- 34. Purchaser requirements prior to purchase

*Division 3: Additional requirements, restricted dealer funding portal*

- 39. Prohibition on providing recommendations or advice
- 41. Permitted dealing activities
- 42. Chief Compliance Officer
- 43. Proficiency

**Miscellaneous**

Resale of securities distributed under the crowdfunding prospectus exemption

## PREAMBLE TO COMPANION POLICY

### Purpose of this Companion Policy

This Companion Policy sets out how the participating members of the Canadian Securities Administrators (**CSA**) (the “**participating CSA members**” or “**we**”) interpret or apply the provisions of Multilateral Instrument 45-108 *Crowdfunding* (the “**Instrument**”), including the required forms, and related securities legislation.

The Instrument provides

- (a) in Part 2, a prospectus exemption for eligible crowdfunding issuers that wish to make a crowdfunding distribution,
- (b) in Part 3, the registration requirements for funding portals, and
- (c) in Part 4, who can grant exemptions from the Instrument.

### References to the Instrument

Except for Part 1, all references in this Companion Policy to parts, divisions and sections are to the Instrument, unless otherwise noted. Any general guidance for a part or a division appears immediately after the reference to that part or division name. Any specific guidance on sections in the Instrument follows any general guidance. If there is no guidance for a part, division or section, the numbering in this Companion Policy will skip to the next provision that does have guidance.

### Models of crowdfunding

Crowdfunding is a method of funding a project or venture through amounts of money raised from members of the public over the internet via an online portal. There are at least four examples of crowdfunding models:

- (a) the donation model, which is the practice of the crowd donating to a project or venture in exchange for nothing of tangible value;
- (b) the reward model, which is the practice of the crowd donating to a project or venture in exchange for some tangible reward, perk or benefit;
- (c) the pre-purchase model, which is the practice of the crowd donating to a project or venture in exchange for a future tangible reward, such as a consumer product; and
- (d) the securities-based model, which is the practice of the crowd investing in an issuer and its business in exchange for the issuer’s securities, which are often equity securities but may include other types of securities, including debt securities.

### Applicability of securities legislation

In this Companion Policy, when we refer to a “crowdfunding offering”, we are referring to a distribution of securities made in reliance on the crowdfunding prospectus exemption through a funding portal as described in the Instrument.

Crowdfunding activities that are limited to the donation model, reward model and/or pre-purchase model generally will not constitute or involve a distribution of securities. However, crowdfunding offerings using the securities-based model will involve an offering of securities. Issuers that wish to make a crowdfunding offering using the securities-based model will always be subject to securities legislation.

### Securities-based and non-securities-based crowdfunding

An issuer may wish to include both securities and non-securities rewards or benefits in a crowdfunding offering. Permitting an issuer to do so may enable an issuer to derive the benefits of both securities-based and non-securities based crowdfunding. An issuer must disclose in item 5.1 of the crowdfunding offering document a description of any additional rewards or benefits being offered that are not securities.

### All distributions and other trades are subject to securities legislation

The securities legislation of a local jurisdiction applies to any distribution of a security in that jurisdiction, whether or not the issuer of the security is an issuer in that jurisdiction. A person or company who engages in a distribution must comply with the

securities legislation of each jurisdiction in which the distribution occurs. That may include the requirement that such person or company be registered under securities legislation.

A funding portal that carries on business in a jurisdiction (either by facilitating offerings of issuers in that jurisdiction and/or by facilitating offerings to investors in that jurisdiction) must be registered in that jurisdiction.

### Multi-jurisdictional distributions

A distribution can occur in more than one jurisdiction. If it does, the person or company conducting the distribution must comply with the securities legislation of each jurisdiction in which the distribution occurs. For example, a distribution from a person or company in Québec to a purchaser in Ontario may be considered a distribution in both jurisdictions.

## PART 1 DEFINITIONS AND INTERPRETATION

Defined terms used in this Companion Policy have the meaning ascribed to them in the Instrument unless otherwise noted.

### Terms defined or interpreted in other instruments

- (1) Director – The term “director” referred to in Part 3 is defined in the provincial securities legislation of each of the participating CSA members.
  - (2) Officer – The term “officer” referred to in Part 3 is defined in the provincial securities legislation of each of the participating CSA members.
  - (3) Principal Regulator – A registered dealer funding portal’s principal regulator generally will be determined in accordance with section 4A.1 of Multilateral Instrument 11-102 *Passport System*. This means that the principal regulator will usually be the securities regulatory authority or regulator in the jurisdiction where the funding portal’s head office is located.
  - (4) Funding portal – There are two types of funding portals that can facilitate distributions of securities in reliance on the crowdfunding prospectus exemption:
    - (a) a funding portal registered in the category of restricted dealer and defined in the Instrument as a restricted dealer funding portal; or
    - (b) a funding portal registered in the category of investment dealer or exempt market dealer and defined in the Instrument as a registered dealer funding portal.
- (a) *Restricted dealer funding portal*

The restricted dealer category is described in paragraph 7.1(2)(e) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* and permits specialized dealers or other intermediaries with an unconventional business model to carry on a limited trading business, subject to terms and conditions restricting their activities. The restricted dealer funding portal is intended to be a specialized type of restricted dealer with limited permitted dealing activities as described in section 41 [*Permitted dealing activities*]. Accordingly, the regulatory framework for a restricted dealer funding portal described in Part 3, including the exemptions from certain usual registrant requirements described in subparagraph 21(b)(ii) [*Restricted dealer funding portal*], is not available to other types of registrants that facilitate the sale of securities through an online portal. A restricted dealer funding portal will not be permitted to obtain dual registration in another registration category.

Except in Ontario, a restricted dealer funding portal may be affiliated with another registered dealer, registered adviser or registered investment fund manager. A restricted dealer funding portal that is affiliated with another registered firm must establish internal controls and appropriate policies and procedures to manage the risks associated with operating an affiliated restricted dealer funding portal. A restricted dealer funding portal should refer to section 13.4 of Companion Policy 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (31-103CP)* to consider ways to identify and respond to conflicts of interest, including avoiding the conflict if it is significant and cannot be managed appropriately. In addition, a restricted dealer funding portal should be aware of other CSA guidance on registrant obligations to identify and respond to conflicts of interest.

- (b) *Registered dealer funding portal*

We recognize that other categories of registered dealers, such as investment dealers and exempt market dealers, may operate online portals that facilitate distributions of securities in reliance on other prospectus exemptions, such as the

accredited investor exemption in section 2.3 of National Instrument 45-106 *Prospectus Exemptions* (NI 45-106) or the offering memorandum exemption in section 2.9 of NI 45-106. An investment dealer or exempt market dealer may facilitate distributions of securities in reliance on the crowdfunding prospectus exemption; however, they are required to comply with all of their registrant obligations under securities legislation and Divisions 1 and 2 of Part 3.

- (5) Registered individual – The term “registered individual” is defined in NI 31-103 and ordinarily refers to an individual who is registered as the ultimate designated person (UDP), chief compliance officer (CCO) or a dealing or advising representative of a registered firm. A restricted dealer funding portal is not permitted to provide recommendations or advice to purchasers. Therefore, we do not expect a restricted dealer funding portal will require an individual registered as a dealing or advising representative.

## PART 2 CROWDFUNDING PROSPECTUS EXEMPTION

### **Division 1: Distribution requirements**

Reporting and non-reporting issuers – The definition of “eligible crowdfunding issuer” in section 1 [*Definitions*] outlines certain requirements for the issuer to be eligible to rely on the crowdfunding prospectus exemption. Subject to satisfying these requirements, the crowdfunding prospectus exemption is available to both reporting issuers and non-reporting issuers.

### **Crowdfunding prospectus exemption**

- 5.(1) Distribution period – The Instrument contemplates a distribution period that, in accordance with paragraph 5(1)(a) [*Crowdfunding prospectus exemption*], must end no later than 90 days after the date the issuer first offers its securities to purchasers under the crowdfunding prospectus exemption. If an issuer cannot complete an offering within the distribution period, the distribution period will expire. An issuer may commence a new crowdfunding offering so long as the issuer is in compliance with subsection 5(2) [*Crowdfunding prospectus exemption*].

Issuer group limit – Paragraph 5(1)(b) [*Crowdfunding prospectus exemption*] imposes a \$1,500,000 limit on the aggregate proceeds that can be raised by an issuer group under the crowdfunding prospectus exemption within the 12-month period ending on the last day of the distribution period. For example, suppose an issuer group consists of Issuer A, Issuer B and Issuer C. Issuer A proposes to distribute securities under the crowdfunding prospectus exemption and the last day of the distribution period will be March 15, 2015. In this case, the 12-month period to which the \$1,500,000 limit applies will commence on March 16, 2014 and end on March 15, 2015. If Issuer B has raised \$600,000 under the crowdfunding prospectus exemption during that same 12 month period (i.e., March 16, 2014 to March 15, 2015), the maximum amount Issuer A could raise under the crowdfunding prospectus exemption will be \$900,000 (\$1,500,000 minus \$600,000).

If, in addition, Issuer C proposes to raise a maximum of \$300,000 in a concurrent distribution under the crowdfunding prospectus exemption that will end on or prior to March 15, 2015, since this is within the same 12 month period, the maximum amount Issuer A could now raise under the crowdfunding prospectus exemption will be \$600,000 (\$1,500,000 minus (\$600,000 + \$300,000)) in order to ensure compliance with the \$1,500,000 offering limit for the issuer group.

Investment Limits – Paragraphs 5(1)(c) and (d) [*Crowdfunding prospectus exemption*] impose investment limits on purchasers of securities distributed under the crowdfunding prospectus exemption. In all the jurisdictions, a purchaser that is not an accredited investor is subject to an investment limit of \$2,500 per distribution and in Ontario, such purchaser is also subject to an annual investment limit of \$10,000 for all distributions made in reliance on the crowdfunding prospectus exemption in the same calendar year. In all jurisdictions, an accredited investor is subject to an investment limit of \$25,000 per distribution and in Ontario, an accredited investor is also subject to an annual investment limit of \$50,000 for all distributions made in reliance on the crowdfunding prospectus exemption in the same calendar year. In Ontario, an investor that is a permitted client is not subject to an investment limit.

- 5.(2) The crowdfunding prospectus exemption is not available to an issuer if any of the conditions in subsection 5(2) [*Crowdfunding prospectus exemption*] apply. For example, an issuer that uses the proceeds to invest in, merge with or acquire an unspecified business, commonly referred to as a blind pool, is excluded from using the crowdfunding prospectus exemption.

### **Conditions for closing of the distribution**

6. Concurrent distributions – Eligible securities are defined in section 1 [*Definitions*]. An eligible crowdfunding issuer can distribute securities under other prospectus exemptions, such as the accredited investor exemption in section 2.3 of NI 45-106 or the offering memorandum exemption in section 2.9 of NI 45-106, during the distribution period. Securities

distributed under other prospectus exemptions do not need to have the same price, terms and conditions as those distributed under the crowdfunding prospectus exemption. However, the issuer must ensure compliance with the conditions of the prospectus exemption being relied upon for the distribution. Information about any concurrent distribution, including a concurrent distribution by a member of the issuer group, must be disclosed in the crowdfunding offering document.

Risk acknowledgement form – The issuer must ensure upon closing of the distribution that they receive from the funding portal a Form 45-108F2 *Risk Acknowledgement (Form 45-108F2)* from each purchaser in which the purchaser has positively responded to each question in Form 45-108F2.

Confirmation of investment limits – In each jurisdiction other than Ontario, the issuer must ensure upon closing of the distribution that they receive from the funding portal confirmation that the purchaser is an accredited investor if the acquisition cost is greater than \$2,500. In Ontario, the issuer must receive a Form 45-108F3 *Confirmation of investment limits (Form 45-108F3)* for each purchaser regardless of the acquisition cost to the purchaser.

Closing of the distribution – If the closing of the distribution does not take place within 30 days of the end of the distribution period, the funding portal is required to promptly return to the purchaser all funds and assets received from a purchaser in connection with the distribution under the crowdfunding prospectus exemption.

#### **Liability for misrepresentation – reporting issuers**

9. In Ontario, the crowdfunding offering document required to be filed by an issuer under the Instrument is considered to be an offering memorandum and the rights available under section 130.1 of the *Securities Act* (Ontario) apply. Refer to Ontario Securities Commission (OSC) Rule 45-501 *Ontario Prospectus and Registration Exemptions* and the related Companion Policy for more information. Under section 9 [*Liability for misrepresentation – reporting issuers*], an issuer must provide a purchaser with a contractual right equivalent to the right in section 130.1 of the *Securities Act* (Ontario) for any materials made available to a purchaser in addition to the crowdfunding offering document, if the securities legislation of the jurisdiction in which a purchaser resides does not provide a comparable right.

In Québec, the crowdfunding offering document and any other materials that are made available to purchasers by a reporting issuer are documents authorized by the Autorité des marchés financiers for use in lieu of a prospectus in regards to which rights of action established in section 217 to 221 of *Securities Act* (Québec) may be exercised.

In Nova Scotia, the crowdfunding offering document required to be filed by an issuer under the Instrument is considered to be an offering memorandum and the rights available under section 138 of the *Securities Act* (Nova Scotia) apply. Refer to Nova Scotia Securities Commission Rule 45-501 *Statutory Liability for Misrepresentations in an Offering Memorandum Under Certain Exemptions from the Prospectus Requirement* and the related Companion Policy for more information. Under section 9 [*Liability for misrepresentation – reporting issuers*], an issuer must provide a purchaser with a contractual right equivalent to the right in section 138 of the *Securities Act* (Nova Scotia) for any materials made available to a purchaser in addition to the crowdfunding offering document.

#### **Liability for untrue statement – non-reporting issuers**

10. The crowdfunding offering document required to be filed by an issuer that is not a reporting issuer must contain a contractual right of action against the issuer for rescission and damages that is available to the purchaser if the crowdfunding offering document or other permitted materials made available to the purchaser contains an untrue statement of a material fact.

#### **Advertising and general solicitation**

11. An eligible crowdfunding issuer cannot advertise the distribution or solicit purchasers, except as permitted in subsection 11(2) [*Advertising and general solicitation*]. An issuer may inform purchasers, including the issuer's customers and clients, that the issuer is proposing to offer its securities under the crowdfunding prospectus exemption and refer the customers and clients to the funding portal facilitating the distribution. This direction can be provided through the use of social media or in paper format. However, in all cases, the direction must be limited to directing the purchasers, including the issuer's customers and clients, to the funding portal's online platform to obtain relevant information about the distribution.

We anticipate that issuers will want to use social media to harness the “wisdom of the crowd” in a crowdfunding offering. Although an issuer cannot advertise the distribution or solicit purchasers, an issuer may participate in communication channels or discussion boards to encourage purchasers to discuss the crowdfunding distribution, if the funding portal establishes one. An issuer is reminded that it cannot post any statement or information on the funding portal's online platform that is inconsistent with the crowdfunding offering document or the Instrument.



## Commissions or fees

13. Section 13 [*Commissions or fees*] prohibits payment of a commission, finder's fee, referral fee or similar payment by any person or company in the issuer group to any person or company in connection with a crowdfunding distribution, other than to a funding portal. This is meant to mitigate against potential conflicts of interest. However, this restriction is not intended to prohibit payments to persons or companies as compensation for their services to an issuer in preparing materials in connection with a crowdfunding offering, such as accounting or legal fees.

## **Division 2: Ongoing disclosure requirements for non-reporting issuers**

Division 2 [*Ongoing disclosure requirements for non-reporting issuers*] prescribes ongoing disclosure obligations for non-reporting issuers that distribute securities under the crowdfunding prospectus exemption.

Non-reporting issuers are required to make available to the purchaser certain ongoing disclosure documents. These include annual financial statements, notices disclosing the use of proceeds, and in New Brunswick, Nova Scotia and Ontario, notices of specified key events. We anticipate issuers generally will choose to make these documents available to purchasers electronically. However, an issuer may also make these documents available in paper format. We expect an issuer to take reasonable steps to ensure that all purchasers receive or have access to the documents promptly.

We consider ongoing disclosure documents to have been made reasonably available to each holder of a security acquired under the crowdfunding prospectus exemption if the documents are made available through the funding portal or are mailed to security holders, or if security holders receive an electronic notice that the annual financial statements, the notices disclosing the use of proceeds, and in New Brunswick, Nova Scotia and Ontario, the notices of specified key events can be viewed on a public website of the issuer or a website accessible by all holders of securities of the issuer that were acquired under the crowdfunding prospectus exemption (such as a password protected website).

For reporting issuers that distribute securities under the crowdfunding prospectus exemption, all applicable continuous disclosure obligations under securities legislation continue to apply.

## Annual financial statements

16. What constitutes an issuer's first financial year? – The first financial year of an issuer commences on the date of its incorporation or organization and ends at the close of that financial year.

What financial years need to be audited or reviewed? – If an issuer is required to have an auditor's report or review report accompany its financial statements in accordance with paragraph 16(2)(a) [*Annual financial statements*], the financial statements for the most recent period and the comparative period, if any, are both required to be audited or are both required to be reviewed.

Statement required in annual financial statements that have not been audited or reviewed – Subsection 16(8) [*Annual financial statements*] requires that if an issuer's annual financial statements are not accompanied by an auditor's report or a review report prepared by a public accountant, the financial statements must include a statement which discloses that fact. As set out in subsection 16(2) [*Annual financial statements*], an issuer's annual financial statements are not required to be audited or reviewed by a public accountant if the issuer has raised less than \$250,000 under one or more prospectus exemptions from the date of its formation until the end of its most recently completed financial year.

What financial reporting framework is identified in the financial statements and in any accompanying auditor's report or review report? – If an issuer's financial statements are prepared in accordance with Canadian GAAP for publicly accountable enterprises and include an unreserved statement of compliance with IFRS, the auditor's report or review report must refer to IFRS as the applicable financial reporting framework.

There are two options for referring to the financial reporting framework in the applicable financial statements and accompanying auditor's report or review report:

- (a) refer only to IFRS in the notes to the financial statements and in the auditor's report or review report; or
- (b) refer to both IFRS and Canadian GAAP in the notes to the financial statements and in the auditor's report or review report.

Non-GAAP financial measures – An issuer that intends to disclose non-GAAP financial measures, including in its crowdfunding offering document, should refer to CSA guidance for a discussion on staff's expectations concerning the use of these measures.

### Annual disclosure of use of proceeds

- 17.(1) Section 17 [*Annual disclosure of use of proceeds*] requires that an issuer's annual financial statements be accompanied by a notice that discloses in detail, how the gross proceeds raised by the issuer in a distribution under the crowdfunding prospectus exemption have been spent. The information in the notice is to be provided as at the date of the issuer's most recently completed financial year.

While specific disclosure is not prescribed for the notice, issuers should carefully consider whether the disclosure being provided contains sufficient detail for a security holder to understand how the proceeds have been used. For example, the level of detail expected in the notice of proceeds could include a breakdown of the amount of proceeds that were allocated to fees (including management or service provider fees), salaries or other compensation paid, asset purchases made or development costs.

If, at the date of the notice, there are funds raised by the issuer in a distribution under the crowdfunding prospectus exemption that have not been used, the notice should disclose that fact as well as the amount of the unused proceeds. The amount of the proceeds used together with the amount of unused proceeds, if any, should equal the gross proceeds raised by the issuer in the distribution under the crowdfunding prospectus exemption.

We expect the actual use of the proceeds as disclosed in the notice to be consistent with the issuer's intended use of proceeds as disclosed in the crowdfunding offering document.

If the proceeds of a crowdfunding distribution have been distributed to an entity that is related to the issuer (for example, an issuer in the same corporate structure), then the issuer should provide disclosure as to how the proceeds were used by that entity.

### Notice of specified key events

18. In addition to annual financial statements and the notice of how the proceeds raised under the crowdfunding prospectus exemption have been used, non-reporting issuers that issue securities in reliance on the crowdfunding prospectus exemption in New Brunswick, Nova Scotia and Ontario must also make available a notice of specified key events to each holder of a security acquired under the crowdfunding prospectus exemption, within 10 days of the occurrence of the event. These events are considered to be significant changes in the business of the issuer that purchasers should be notified of. This requirement is in addition to any similar requirement under corporate law and also applies to non-reporting issuers with non-corporate structures, such as trusts and partnerships.

In making a determination as to whether an issuer's industry has changed, issuers may consider whether they would identify a different industry category on Form 45-106F1 *Report of Exempt Distribution* than the category previously identified.

A non-reporting issuer must continue to provide notice of the specified key events, if applicable, until the earliest of the following events: (i) the issuer becomes a reporting issuer; (ii) the issuer has completed a winding up or dissolution; (iii) the securities of the issuer are beneficially owned, directly or indirectly, by fewer than 51 security holders worldwide.

## PART 3 REQUIREMENTS FOR FUNDING PORTALS

### *Division 1: Registration requirements, general*

Division 1 [*Registration requirements, general*] sets out the registration requirements for both a restricted dealer funding portal and a registered dealer funding portal.

### Restricted dealer funding portal

21. A restricted dealer funding portal and a registered individual of a restricted dealer funding portal must comply with the requirements set out in Part 3.

Although a restricted dealer funding portal is not required to comply with section 13.3 of NI 31-103 or collect client specific know your client information as contemplated by paragraph 13.2(2)(c) of NI 31-103, a restricted dealer funding portal is still required to establish the identity of, and to conduct due diligence on its clients under the general know-your-client obligation set out in section 13.2 of NI 31-103.

## Registered dealer funding portal

22. A crowdfunding distribution must be made through a single funding portal. A registered dealer who currently distributes securities online under other prospectus exemptions, such as the accredited investor exemption in section 2.3 of NI 45-106 or the offering memorandum exemption in section 2.9 of NI 45-106, will already have in place the infrastructure required to facilitate distributions of securities under the crowdfunding prospectus exemption through an online platform. However, these registered dealers will be required to ensure they have the necessary policies and procedures in place to comply with Part 3, as applicable. For those registered dealers who do not currently distribute securities online and intend to use the crowdfunding prospectus exemption, they must establish an online funding portal to distribute the securities under the crowdfunding prospectus exemption in accordance with the Instrument.

A registered dealer that proposes to distribute securities under the Instrument must file a Form 33-109F5 *Change of Registration Information* that describes the change in its business operations.

## Division 2: Registration requirements, funding portals

### General

Although a funding portal enters into a contractual relationship with an eligible crowdfunding issuer, the funding portal also has a relationship with a purchaser investing through the funding portal. These purchasers are clients of the funding portal. A funding portal and its registered individuals must deal fairly, honestly and in good faith with a purchaser. This is consistent with the obligation imposed on all registered dealers and advisers under securities legislation. As a registrant, we expect a funding portal to follow the letter of the law and also the spirit of the law. For example, a funding portal that requires a purchaser to sign an agreement that contains an inappropriate waiver of liability or that attempts to transfer its responsibilities to the purchaser, is engaging in conduct that is not consistent with the principle of dealing fairly, honestly and in good faith with a purchaser.

A funding portal must be aware of and act in compliance with the terms of the exemption being relied upon for the trade or distribution of the security. For example, the funding portal must confirm and validate that the purchaser is investing within the investment limits set out in the Instrument.

### Restricted dealing activities

- 23.(1) Section 23 [*Restricted dealing activities*] provides that a funding portal and a registered individual of a funding portal must not allow an issuer access to the funding portal if the issuer is a “related issuer” of the funding portal. The definition of a “related issuer” is described in National Instrument 33-105 *Underwriting Conflicts (NI 33-105)* and generally refers to a situation where there is cross-ownership between an issuer and a registrant. Subsection 1.2(2) of NI 33-105 provides that an entity is a related issuer to another entity if one of them is an “influential security holder” of the other or if each of them is a related issuer of the same third party.

If a funding portal proposes to allow an issuer that is a connected issuer access to the funding portal, the funding portal should ensure that the issuer’s offering documents include the disclosure required by Appendix C to NI 33-105. The definition of a “connected issuer” is described in NI 33-105 and generally refers to a situation where an issuer may not be a related issuer of the registrant, but has some other relationship with the registrant that would cause a reasonable investor to question whether the registrant and the issuer are independent of each other for purposes of the distribution. Refer to NI 33-105 and the related guidance in Companion Policy 33-105CP for more information.

- 23.(2) A funding portal may accept securities of an issuer as payment of portal access fees or other similar fees, provided that the payment by the issuer does not result in the funding portal holding securities of the issuer that exceed the limit set out in subsection 23(2) [*Restricted dealing activities*]. However, an investment by a funding portal in an issuer that intends to distribute securities through the funding portal, including an investment in the form of securities accepted as payment for fees, may give rise to a conflict of interest. Accordingly, we expect the funding portal to comply with the conflicts of interest provisions in Division 2 of Part 13 of NI 31-103 and related provisions in 31-103CP.

### Advertising and general solicitation

24. A funding portal cannot advertise the distribution or solicit purchasers, except as permitted in subsection 24(2) [*Advertising and general solicitation*]. Any solicitation or marketing activities, either in print or electronic form that targets specific individuals in connection with a distribution under the crowdfunding prospectus exemption would be a contravention of section 24 [*Advertising and general solicitation*].

A funding portal is not permitted to recommend or endorse a particular issuer or distribution, which includes accepting payment or other benefits from an issuer to highlight or showcase the issuer or its distribution. Such conduct would be considered to be inconsistent with the restriction in section 24 [*Advertising and general solicitation*]. However, a funding

portal may advertise its business operations. For example, a funding portal may advertise that it is in the business of distributing securities under the crowdfunding prospectus exemption.

### Access to funding portal

25. Section 25 [*Access to funding portal*] requires a funding portal to obtain a Form 45-108F5 *Personal Information Form and Authorization to Collect, Use and Disclose Personal Information (Form 45-108F5)* from each director, executive officer and promoter of an issuer prior to allowing the issuer access to the funding portal for the purposes of posting a distribution.

Funding portals should ensure all questions in Form 45-108F5 have been answered and additional details provided, where necessary.

At a minimum, we expect the following checks to be conducted by a funding portal:

- (a) regarding issuers:
  - (i) the existence of the issuer and its business registration, including a review of the issuer's constating documents;
  - (ii) securities and disciplinary enforcement history checks;
  - (iii) bankruptcy check; and
  - (iv) court record check, where available; and
- (b) regarding directors, executive officers and promoters of the issuer:
  - (i) criminal record and securities and disciplinary enforcement history checks;
  - (ii) bankruptcy check; and
  - (iii) court record check, where available.

While we have outlined the minimum steps we expect a funding portal to take in conducting background checks on the issuer and criminal records and background checks on each director, executive officer and promoter of the issuer, a registered dealer funding portal must also take steps to ensure compliance with its regulatory obligations under securities legislation. For example, we would not consider the minimum checks and requirements outlined in this section by a registered dealer funding portal to be adequate compliance with its know-your-product obligation.

A funding portal may retain a third party to perform these checks. However, the funding portal is responsible and accountable for all functions that it outsources to a third party. A funding portal should have a written agreement that sets out the responsibilities of the parties to the arrangement. A funding portal should consider the guidance provided in Part 11 of 31-103CP on outsourcing.

### Issuer access agreement

26. We expect the funding portal and the issuer to enter into a written agreement that sets out all material terms and conditions of the arrangement under which a funding portal will grant the issuer access to its online platform. Although section 26 [*Issuer access agreement*] prescribes certain minimum requirements that must be included in an issuer access agreement, we encourage the funding portal and the issuer to also set out other key terms and conditions that will govern the arrangement.

### Obligation to review materials of eligible crowdfunding issuer

- 27.(2) If, after reviewing the crowdfunding offering document, the materials referred to in subsection 12(1) [*Additional distribution materials*], the personal information forms, the results of the criminal record and background checks, and any other information about the issuer or the distribution made available to the funding portal or of which the funding portal is aware, the funding portal determines the disclosure in the crowdfunding offering document and other materials referred to in subsection 12(1) [*Additional distribution materials*] is incorrect, incomplete or misleading, it must require the issuer to correct, complete or clarify the disclosure in the crowdfunding offering document and other permitted materials prior to posting on the funding portal's online platform. For example:

- (a) if an issuer's constating documents indicate that the "common shares" contain restrictions on voting or contain redemption rights that allow the issuer to redeem the shares in certain circumstances, or that insiders or promoters of the issuer hold another class of securities that have multiple votes, and the crowdfunding offering document does not contain this disclosure, the funding portal must not grant the issuer access to the funding portal for the purposes of distributing its securities until it is satisfied that the crowdfunding offering document accurately describes the securities being distributed, the capital structure of the issuer, including the percentage ownership of the outstanding securities of the issuer held by the insiders and promoters, and any rights not otherwise available to purchasers;
- (b) if an issuer is part of an issuer group, and the issuer's interest in the business or the assets of the business are owned through one or more subsidiaries, the funding portal should understand the features and risks of the capital structure of the issuer group and assess whether the issuer's disclosures adequately disclose these risks.

Nothing in the Instrument prevents a funding portal from establishing additional criteria that an issuer must satisfy or meet in order to distribute its securities through the funding portal. A funding portal should establish additional criteria or due diligence checks to grant or deny access by an issuer to its online platform for any reason, including any concern of the funding portal that:

- (a) the issuer may not be financially responsible in the conduct of its business; or
- (b) the issuer has not complied with, or is not complying with, securities legislation or the undertakings, terms and conditions agreed to by the issuer in connection with a distribution under the crowdfunding prospectus exemption or otherwise.

#### Denial of issuer access and termination

28.(1) Funding portals are expected to play a gatekeeper role in attempting to ensure that issuers comply with the requirements of the crowdfunding prospectus exemption and to maintain the integrity of the capital markets. We expect funding portals to have policies and procedures in place to carry out their gatekeeper function, including measures to reduce the risk of fraud in securities-based crowdfunding. These policies and procedures should include the steps a funding portal follows to review and assess the issuer, the distribution, the crowdfunding offering document and the materials described in subsection 12(1) [*Additional distribution materials*]. At a minimum, we expect a funding portal to:

- establish the identity of an issuer, such as obtaining and reviewing the issuer's articles of incorporation or other constating documents;
- determine the nature of the issuer's business; and
- review the responses provided in Form 45-108F5 and the results of the criminal record and background checks.

If, after reviewing the information provided to the funding portal under the Instrument and any other information about the issuer or the distribution made available to the funding portal or of which the funding portal is aware, the funding portal identifies any discrepancies or causes for concern about an issuer, its directors, executive officers or promoters, the distribution, the crowdfunding offering document or the materials described in subsection 12(1) [*Additional distribution materials*], the funding portal must make all reasonable inquiries to resolve the discrepancies or concerns. This may include asking additional questions of the issuer and its management and ensuring the answers provided resolve the concern to the satisfaction of the funding portal or obtaining and reviewing additional documentation. We expect the funding portal to consider the discrepancy or concern in its determination as to whether or not to grant an issuer access to its online platform.

We expect a funding portal to deny access to an issuer if based on the information the funding portal has, it appears to the funding portal that the issuer has not satisfied the conditions in subsection 28(1) [*Denial of issuer access and termination*]. For example, if it appears to the funding portal that upon a good faith determination the business of the issuer may not be conducted with integrity, including where the funding portal believes the issuer or the distribution is part of a scheme to defraud investors, the funding portal must deny the issuer access. If certain executive officers of the issuer reside in a jurisdiction where background checks and securities and disciplinary enforcement history checks are not readily available to the funding portal, it may determine that it is unable to assess whether the business of the issuer will be conducted with integrity, and thus must deny the issuer access to its platform.

### Monitoring purchaser communications

32. A funding portal that establishes an online communication channel, such as a blog or chat room, should have detailed written policies and procedures that outline the steps the funding portal will take to ensure compliance with section 32 [*Monitoring purchaser communications*]. For example, a funding portal may require issuers and purchasers to register to use the online communication channel and each will be assigned a user code or client identifier that enables the funding portal to track the communications of each participant.

If, for example, a purchaser makes an incorrect statement on the blog that the price per share is too high at \$50, when the crowdfunding offering document states the price per share is \$10, the funding portal would not be required to remove the statement. However, the issuer would be permitted to correct the price through a statement on the blog that the price per share is \$10. If, in another example, an issuer makes a statement on the blog that describes how its product works and that information was not disclosed in the crowdfunding offering document, then the funding portal must remove the statement as it is inconsistent with the crowdfunding offering document. However, in this example, an issuer could make a clarifying statement as to how its product works, if necessary, to address a misconception or misunderstanding expressed by a purchaser on the blog.

### Online platform acknowledgement

33. Prior to a person or company entering a funding portal's online platform, the funding portal must take reasonable steps to confirm that the person or company understands the risks of investing in securities posted on the funding portal and is advised whether they will or will not receive suitability advice depending on the type of dealer operating the funding portal. We expect that these acknowledgements will be completed electronically through the funding portal and that the funding portal's books and records will include evidence that the funding portal has satisfied this obligation.

### Purchaser requirements prior to purchase

34. Prior to a purchaser entering into an agreement to purchase securities under the crowdfunding prospectus exemption, a funding portal must obtain from a purchaser:
- (a) a risk acknowledgment form in which the purchaser has positively answered all questions;
  - (b) except in Ontario, confirmation and validation that the purchaser is an accredited investor if the acquisition cost is greater than \$2,500; and
  - (c) in Ontario, a confirmation of investment limits form and validation of the information contained in the form regardless of the acquisition cost to the purchaser.

A funding portal must not permit a purchaser to acquire securities of the issuer if the purchaser has responded negatively to any of the questions in the risk acknowledgment form.

We anticipate that (a) the risk acknowledgment form, (b) the confirmation and validation of the purchaser's investor status, and (c) where applicable, the confirmation of investment limits form will be completed online through the funding portal facilitating the distribution.

A funding portal should take reasonable steps to confirm that each purchaser proposing to participate in a crowdfunding distribution through its online platform understands and complies with the applicable investment limits. A funding portal must have appropriate policies and procedures in place to confirm and verify the purchaser's investor status, the applicable investment limits and whether the purchaser is in compliance with the applicable investment limits. In Ontario, these procedures must include obtaining a Form 45-108F3 from the purchaser prior to accepting any funds from the purchaser. The funding portal should review the risk acknowledgment form and in Ontario, also review the confirmation of investment limits form to ensure they have been properly completed and executed. If a purchaser specifies that it is an accredited investor or a permitted client, the funding portal will have to obtain further information from the purchaser in order to determine whether the purchaser has the requisite income or assets to meet the terms of the accredited investor or permitted client definition.

### ***Division 3: Additional requirements, restricted dealer funding portal***

#### **Prohibition on providing recommendations or advice**

39. Section 39 [*Prohibition on providing recommendations or advice*] provides that a restricted dealer funding portal and a registered individual of the restricted dealer funding portal must not provide a recommendation or advice to a purchaser in connection with a distribution under the crowdfunding prospectus exemption or other trades in a security. This

means a restricted dealer funding portal cannot tell a purchaser that the securities are a good investment, that the securities meet the purchaser's investment needs or objectives, or that the purchaser should, for whatever reason, buy the securities.

Some activities may be considered bona fide activities of a restricted dealer funding portal provided that a reasonable person would not construe those activities to be the restricted dealer funding portal providing a recommendation or advice to a purchaser. These activities could include:

- (a) using objective criteria to limit the crowdfunding distributions on the funding portal if the objective criteria are disclosed on the funding portal and applied consistently to all distributions on the funding portal;
- (b) providing general information and educational materials to purchasers about crowdfunding distributions if the information is presented in a fair, balanced and reasonable manner;
- (c) providing search functions or other tools for purchasers to search, sort or categorize crowdfunding distributions available on the funding portal if the search functions are based on objective criteria;
- (d) distributing information on the funding portal about a particular issuer or offering to a purchaser based on selection criteria identified by a purchaser; and
- (e) providing communication channels or discussion boards to enable purchasers in a crowdfunding distribution to communicate with one another and with representatives of the issuer about a crowdfunding distribution displayed on the funding portal if a communication by a person can be traced back to its author and the funding portal complies with its obligations in section 32 [*Monitoring purchaser communication*].

Restriction on Lending – A restricted dealer funding portal must comply with section 13.12 of NI 31-103 which provides that a registrant must not lend money, extend credit or provide margin to a client. Further, paragraph 39(b) [*Prohibition on providing recommendations or advice*] provides that a restricted dealer funding portal must not recommend that a purchaser use borrowed money to finance any part of the purchase of securities of the issuer under the crowdfunding prospectus exemption. This activity creates a conflict of interest which cannot be properly managed.

To the extent that products sold to a purchaser are structured in a way that results in the restricted dealer funding portal becoming a lender to the purchaser, we will consider the restricted dealer funding portal not to be in compliance with the prohibition in section 13.12 of NI 31-103.

#### Permitted dealing activities

41. Section 41 [*Permitted dealing activities*] provides that a restricted dealer funding portal and a registered individual of the restricted dealer funding portal may only act as an intermediary in connection with a distribution of securities made in reliance on the crowdfunding prospectus exemption and, except in Ontario, a distribution of securities made in reliance on a start-up crowdfunding registration and prospectus exemptive relief order granted by a securities regulatory authority or regulator. This means that a restricted dealer funding portal is not permitted to engage in a broader range of dealing or advising activities, such as
- (a) facilitating distributions of securities in reliance on other prospectus exemptions,
  - (b) facilitating resales of securities acquired by a purchaser to accredited investors or to other purchasers who are eligible to purchase securities on a prospectus-exempt basis, or
  - (c) providing underwriting or underwriting-related services to issuers except as otherwise permitted by the Instrument.

The limitation on dealing activities applies only to activities in connection with a distribution of securities under the crowdfunding prospectus exemption and, except in Ontario, a distribution of securities under a start-up crowdfunding exemptive relief order granted by a securities regulatory authority or regulator. A funding portal may engage in other types of crowdfunding activities that do not involve a distribution of securities, including facilitating crowdfunding activities based on a donation model, a reward model or a pre-purchase model. To the extent that a funding portal does engage in crowdfunding activities that do not involve a distribution of securities, it should have separate books and records for its non-securities related crowdfunding activities.

### Chief Compliance Officer

42. A restricted dealer funding portal is required to have a UDP and a CCO. The UDP and the CCO can be the same person if they meet the requirements for both registration categories. We prefer funding portals to separate these functions, but we recognize that for a restricted dealer funding portal, it might not be practical.

Section 42 [*Chief compliance officer*] sets out the proficiency requirements for a CCO of a restricted dealer funding portal. The regulator is required to determine an individual's fitness for registration and may exercise discretion in so doing.

The regulator may grant an exemption from any of the education requirements in paragraphs 42(a) and (b) [*Chief compliance officer*] for the CCO of a restricted dealer funding portal if it is satisfied that the individual has qualifications or relevant experience that are equivalent to, or more relevant in the circumstances than, the prescribed requirements.

The experience requirement in paragraph 42(c) [*Chief compliance officer*] may include experience acquired:

- during employment as or with a registered dealer, a registered adviser or an investment fund manager;
- in related investment fields, such as investment banking, advisory services, venture capital or private equity;
- in legal, accounting or consulting practices; or
- in other professional fields that relate to capital raising business activities.

### Proficiency

43. Section 43 [*Proficiency*] requires an individual of a restricted dealer funding portal to have the education, training and experience, among other things, to understand the structure, features and risks of the distribution. At a minimum, to comply with the proficiency requirements set out in section 43 [*Proficiency*], we expect a restricted dealer funding portal to review and assess the crowdfunding offering document, the materials referred to in subsection 12(1) [*Additional distribution materials*], the issuer's articles of incorporation and other constating documents. The restricted dealer funding portal must be able to evidence their review of the information provided by the issuer. If the information provided by the issuer is not sufficient to enable the restricted dealer funding portal to understand the structure, features and risks of the distribution, the funding portal must make further inquiries with the issuer to satisfy the proficiency requirement.

Examples of the structure, features and risks of the distribution include:

- return on the investment;
- fee structure;
- time horizon;
- liquidity risk;
- conflict of interest risk; and
- issuer's financial position.

### MISCELLANEOUS

#### Resale of securities distributed under the crowdfunding prospectus exemption

Securities acquired under the crowdfunding prospectus exemption are subject to resale restrictions. Securities of a reporting issuer acquired under the crowdfunding prospectus exemption are subject to a four-month hold period. Securities of a non-reporting issuer cannot be resold in a jurisdiction:

- (a) until the issuer becomes a reporting issuer and certain other conditions are met; or
- (b) unless the sale is made under another available prospectus exemption.



The crowdfunding prospectus exemption is not available for distributions by selling security holders.

Refer to National Instrument 45-102 *Resale of Securities*.

5.1.8 Amendments to NI 45-102 Resale of Securities

**AMENDMENTS TO  
NATIONAL INSTRUMENT 45-102 RESALE OF SECURITIES**

1. ***National Instrument 45-102 Resale of Securities is amended by this Instrument.***
2. ***Appendix D is amended***
  - (a) ***by adding “1.” before “Except in Manitoba”, and***
  - (b) ***by adding before “Transitional and Other Provisions” the following:***
    2. In Ontario, Québec, New Brunswick and Nova Scotia, the exemption from the prospectus requirement in section 5 [*Crowdfunding prospectus exemption*] of Multilateral Instrument 45-108 *Crowdfunding* .
3. This Instrument comes into force on January 25, 2016.

5.1.9 Amendments to OSC Rule 11-501 Electronic Delivery of Documents to the Ontario Securities Commission

**AMENDMENTS TO ONTARIO SECURITIES COMMISSION RULE 11-501  
ELECTRONIC DELIVERY OF DOCUMENTS TO THE ONTARIO SECURITIES COMMISSION**

1. ***Ontario Securities Commission Rule 11-501 Electronic Delivery of Documents to the Ontario Securities Commission is amended by this Instrument.***
2. ***Appendix A is amended by adding the following rows to the table immediately following the row “45-106 s. 4.1(4)”:***

45-108 s. 12(1)(a)	A term sheet made available to a purchaser pursuant to clause 12(1)(a) of Multilateral Instrument 45-108 <i>Crowdfunding</i>
45-108 s. 12(1)(c)	Materials summarizing the information in a crowdfunding offering document made available to a purchaser pursuant to clause 12(1)(c) of Multilateral Instrument 45-108 <i>Crowdfunding</i>
45-108F1	Form 45-108F1 <i>Crowdfunding Offering Document</i>

3. This Instrument comes into force on January 25, 2016.

**5.1.10 Amendments to OSC Rule 45-501 Ontario Prospectus and Registration Exemptions**

**AMENDMENTS TO ONTARIO SECURITIES COMMISSION RULE 45-501  
ONTARIO PROSPECTUS AND REGISTRATION EXEMPTIONS**

1. ***Ontario Securities Commission Rule 45-501 Ontario Prospectus and Registration Exemptions is amended by this Instrument.***
2. ***Section 5.1 is amended by deleting “and” at the end of paragraph (f), and by adding the following paragraph:***
  - (f.1) section 5 of Multilateral Instrument 45-108 *Crowdfunding* [*Crowdfunding prospectus exemption*], if the eligible crowdfunding issuer is a reporting issuer, and .
3. This Instrument comes into force on January 25, 2016.

### 5.1.11 Changes to Companion Policy 45-501CP Ontario Prospectus and Registration Exemptions

#### CHANGES TO COMPANION POLICY 45-501CP ONTARIO PROSPECTUS AND REGISTRATION EXEMPTIONS

This document represents changes to Companion Policy 45-501CP – to Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions*.

**5.3 Right of action for damages and right of rescission** – (1) Part 5 of the Rule provides for the application of the rights referred to in section 130.1 of the Act if an offering memorandum is delivered to a prospective purchaser in connection with a distribution made in reliance on a prospectus exemption in:

- (a) section 73.3 of the Act or a predecessor exemption to section 73.3 of the Act (subject to the provisions of subsection 6.2(2) of the Rule) [*Accredited investor*],
- (b) section 73.4 of the Act or a predecessor exemption to section 73.4 of the Act [*Private issuer*],
- (b.1) section 2.5 of NI 45-106 [*Family, friends and business associates*],
- (c) [Repealed.]
- (d) section 2.8 of NI 45-106 [*Affiliates*],
- (e) section 2.10 of NI 45-106 [*Minimum amount investment*],
- (f) section 2.19 of NI 45-106 [*Additional investment in investment funds*], ~~or~~
- (f.1) section 5 of Multilateral Instrument 45-108 *Crowdfunding* [*Crowdfunding prospectus exemption*], or (g) section 73.5 of the Act or a predecessor exemption to section 73.5 of the Act [*Government incentive security*].

The rights apply when the offering memorandum is delivered mandatorily in connection with a distribution made in reliance on the exemption in section 73.5 of the Act or a predecessor exemption to section 73.5 of the Act, in accordance with the requirements of section 5 of Multilateral Instrument 45-108 *Crowdfunding* [*Crowdfunding prospectus exemption*], or voluntarily in connection with a distribution made in reliance on a prospectus exemption in section 73.3 of the Act or a predecessor exemption to section 73.3 of the Act, section 73.4 of the Act or a predecessor exemption to section 73.4 of the Act, 2.5, 2.7, 2.8, 2.10, 2.19 of NI 45-106.

(2) A document delivered in connection with a distribution in a security made otherwise than in reliance on the prospectus exemptions referred to in subsection (1) does not give rise to the rights referred to in section 130.1 of the Act or subject the selling security holder to the requirements of Part 5 of the Rule.

**5.4 Content of offering memorandum** – (1) Other than in the case of an offering memorandum delivered in connection with a distribution made in reliance on the exemption in section 73.5 of the Act or a predecessor exemption to section 73.5 of the Act, section 5 of 45-108 Multilateral Instrument 45-108 *Crowdfunding* [*Crowdfunding prospectus exemption*], and subject to subsection (2), Ontario securities legislation generally does not prescribe the content of an offering memorandum. The decision relating to the appropriate disclosure in an offering memorandum generally rests with the issuer, the selling security holder and their advisors.

**5.5 Review of offering memorandum**~~Failure to disclose material information in offering memorandum~~ – (1) Staff may review the form and content of an offering memorandum filed in connection with a distribution made in reliance on the exemption in section 5 of Multilateral Instrument 45-108 *Crowdfunding* [*Crowdfunding prospectus exemption*] or delivered in connection with a distribution made in reliance on another exemption referred to in Part 5 of the Rule, for the purpose of determining whether the issuer has complied with the requirements, conditions and restrictions of the exemption relied on for the distribution.

(2) If Commission staff becomes aware that an offering memorandum contains a misrepresentation, fails to disclose material information relating to a security that is the subject of a distribution, or the distribution otherwise fails to comply with Ontario securities law, staff may recommend remedial action or, in appropriate circumstances, enforcement action.

**5.6 Preliminary offering material** – (1) The Commission cautions against the practice of providing preliminary offering material to a prospective purchaser before furnishing a “final” offering memorandum unless the offering material contains a description of the rights referred to in section 130.1 of the Act in situations where the rights apply.

(2) The only material delivered to a prospective purchaser in connection with a distribution made in reliance on a prospectus exemption referred to in section 5.1 of the Rule should be:

- (a) a “term sheet” (representing a skeletal outline of the features of a distribution without dealing extensively with the business or affairs of the issuer of the securities being distributed), or in the case of a distribution made in reliance on the exemption in section 2.9 of NI 45-106 [*Offering memorandum*] and “OM standard term sheet”, as that term is defined in NI 45-106, ~~and~~
- (b) an offering memorandum describing the rights referred to in section 130.1 of the Act available to purchasers and complying in all other respects with Ontario securities legislation, and
- (c) a video, in the case of a distribution made in reliance on the exemption in section 5 of Multilateral Instrument 45-108 *Crowdfunding [Crowdfunding prospectus exemption]*.

**5.7 Availability of offering memorandum** – Subject to *Freedom of Information and Protection of Privacy Act* requests, it is the Commission’s policy that an offering memorandum delivered to the Commission under section 5.4 of the Rule will not be made available to the public.

## 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](http://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](http://www.sedi.ca)).





## Chapter 11

# IPOs, New Issues and Secondary Financings

---

**Issuer Name:**

Kinross Gold Corporation  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Shelf Prospectus dated January 7, 2016  
NP 11-202 Receipt dated January 8, 2016

**Offering Price and Description:**

\$1,000,000,000.00

Debt Securities  
Common Shares  
Warrants

Subscription Receipts  
Units

Share Purchase Contracts

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #2434789**

---

**Issuer Name:**

Therapure Biopharma Inc.  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary Prospectus dated  
January 6, 2016  
NP 11-202 Receipt dated January 6, 2016

**Offering Price and Description:**

\$130,000,000.00 - \* Common Shares

Price: \$ \* per Common Share

**Underwriter(s) or Distributor(s):**

GMP Securities L.P.  
CIBC World Markets Inc.  
National Bank Financial Inc.  
Bloom Burton & Co. Limited  
Canaccord Genuity Corp.  
Scotia Capital Inc.  
Mackie Research Capital Corporation

**Promoter(s):**

-

**Project #2421194**

---

**Issuer Name:**

B2Gold Corp.  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Base Shelf Prospectus dated January 11,  
2016

NP 11-202 Receipt dated January 11, 2016

**Offering Price and Description:**

US\$300,000,000.00 Debt Securities Warrants Subscription  
Receipts Units  
Common Shares

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #2428812**

---

**Issuer Name:**

Canadian National Railway Company  
Principal Regulator - Quebec

**Type and Date:**

Final Shelf Prospectus dated January 5, 2016  
NP 11-202 Receipt dated January 6, 2016

**Offering Price and Description:**

CAD\$6,000,000,000.00 - Debt Securities

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #2429097**

---

**Issuer Name:**

Counsel Canadian Core Fixed Income  
Counsel Defensive Global Equity  
Counsel Global Low Volatility Equity  
Counsel Retirement Accumulation Portfolio  
Counsel Retirement Foundation Portfolio  
Counsel Retirement Income Portfolio  
Counsel Retirement Preservation Portfolio  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus dated January 7, 2016  
NP 11-202 Receipt dated January 8, 2016

**Offering Price and Description:**

Series A, D, I and O securities

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Counsel Portfolio Services Inc.

**Project #2424552**

---

**Issuer Name:**

NEI Conservative Yield Portfolio  
NEI Environmental Leaders Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus dated January 7, 2016  
NP 11-202 Receipt dated January 11, 2016

**Offering Price and Description:**

Series A, F, I, P and PF units @ Net Asset Value

**Underwriter(s) or Distributor(s):**

Credential Asset Management Inc.  
Credential Asset Management Inc.

**Promoter(s):**

Northwest & Ethical Investments L.P.

**Project #2420816**

---

**Issuer Name:**

Purpose Premium Yield Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus dated January 6, 2016  
NP 11-202 Receipt dated January 8, 2016

**Offering Price and Description:**

ETF shares, Series A shares and Series F shares @ Net  
Asset Value

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Purpose Investments Inc.

**Project #2428377**

---

**Issuer Name:**

RBC 1-5 Year Laddered Canadian Bond ETF  
Principal Regulator - Ontario

**Type and Date:**

Final Long Form Prospectus dated January 8, 2016  
NP 11-202 Receipt dated January 11, 2016

**Offering Price and Description:**

Units @ Net Asset Value

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

RBC Global Asset Management Inc.

**Project #2418800**

---

**Issuer Name:**

RBC Strategic Global Dividend Leaders ETF  
RBC Strategic Global Equity Leaders ETF  
Principal Regulator - Ontario

**Type and Date:**

Final Long Form Prospectus dated January 8, 2016  
NP 11-202 Receipt dated January 11, 2016

**Offering Price and Description:**

Exchange traded securities at net asset value

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

RBC Global Asset Management Inc.

**Project #2418851**

---

**Issuer Name:**

Redwood Global Macro Class  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 dated December 3, 2015 to Final Simplified  
Prospectus and Annual Information Form dated August  
18, 2015

NP 11-202 Receipt dated January 11, 2016

**Offering Price and Description:**

Series A, F and I shares

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

REDWOOD ASSET MANAGEMENT INC.

**Project #2368041**

## Chapter 12

# Registrations

### 12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change in Registration Category	Giverny Capital Inc.	From: Portfolio Manager To: Portfolio Manager and Investment Fund Manager	January 5, 2016
Voluntary Surrender	F.W. Thompson Co. Limited	Portfolio Manager	January 6, 2016
Amalgamation	Pope & Company Limited and Euro Pacific Canada Inc. To form: Euro Pacific Canada Inc.	Investment Dealer	November 2, 2015
Name Change	From: Leede Financial Markets Inc. To: Leede Jones Gable Inc.	Investment Dealer	January 1, 2016
Voluntary Surrender	New World Capital Ltd.	Exempt Market Dealer	January 5, 2016
New Registration	Kai Asset Management Inc.	Investment Fund Manager, Exempt Market Dealer and Portfolio Manager	January 7, 2016
Change in Registration Category	IPSol Capital Inc.	From: Commodity Trading Manager, Portfolio Manager, Investment Fund Manager and Exempt Market Dealer To: Commodity Trading Manager, Portfolio Manager and Investment Fund Manager	January 11, 2016

This page intentionally left blank

# Index

---

---

<b>Advanced New Frontier Oil &amp; Gas Recovery Inc.</b> Cease Trading Order .....	275	<b>CSA Staff Notice 52-306 (Revised) – Non-GAAP Financial Measures</b> Notice .....	229
<b>Amica Mature Lifestyles Inc. – s. 1(10)(a)(ii)</b> Decision .....	257	<b>Darrigo, Paul Christopher – ss. 8, 21.7</b> Notices of Hearing .....	232
<b>BitRush Corp.</b> Cease Trading Order .....	275	Notice from the Office of the Secretary.....	236
<b>Blackburn, Derek</b> Notice from the Office of the Secretary .....	234	<b>Enerdynamic Hybrid Technologies Corp.</b> Cease Trading Order.....	275
Order.....	264	<b>Enerdynamic Hybrid Technologies Corp.</b> Cease Trading Order.....	275
<b>Blue Gold Holdings Ltd.</b> Notice from the Office of the Secretary .....	234	<b>Enerdynamic Hybrid Technologies Corp.</b> Cease Trading Order.....	275
Order.....	264	<b>Energy TV Inc. – ss. 127(1), 127(10)</b> Notice from the Office of the Secretary.....	237
<b>Borden Ladner Gervais LLP – s. 1(10)(a)(ii)</b> Decision .....	258	Order .....	273
<b>Boyuan Construction Group, Inc.</b> Cease Trading Order .....	275	<b>Euro Pacific Canada Inc.</b> Amalgamation.....	715
<b>Brown, Jessica M.</b> Decision .....	249	<b>Extenway Solutions Inc.</b> Cease Trading Order.....	275
<b>Canadian Imperial Bank of Commerce – 104(2)(c)</b> Order.....	259	<b>F.W. Thompson Co. Limited</b> Voluntary Surrender .....	715
<b>Chan, Allen</b> Notice from the Office of the Secretary .....	233	<b>Form 45-108F1 – Crowdfunding Offering Document</b> Rules and Policies .....	298
Order.....	263	<b>Form 45-108F2 – Risk Acknowledgement</b> Rules and Policies .....	313
<b>Chandran Holding Media, Inc. – ss. 127(1), 127(10)</b> Notice from the Office of the Secretary .....	237	<b>Form 45-108F3 – Confirmation of Investment Limits</b> Rules and Policies .....	315
Order.....	273	<b>Form 45-108F4 – Notice of Specified Key Events</b> Rules and Policies .....	317
<b>Chandran Holdings &amp; Media Inc. – ss. 127(1), 127(10)</b> Notice from the Office of the Secretary .....	237	<b>Form 45-108F5 – Personal Information Form and Authorization to Collect, Use and Disclose Personal Information</b> Rules and Policies .....	318
Order.....	273	<b>Giverny Capital Inc.</b> Change in Registration Category.....	715
<b>Chandran Media – ss. 127(1), 127(10)</b> Notice from the Office of the Secretary .....	237	<b>Global Autotrading Inc. – s. 25(3)</b> Order .....	266
Order.....	273	<b>Greening, Nigel</b> Notice from the Office of the Secretary.....	234
<b>Chandran, Neil Suresh – ss. 127(1), 127(10)</b> Notice from the Office of the Secretary .....	237	Order .....	264
Order.....	273		
<b>Companion Policy 45-108CP Crowdfunding</b> Rules and Policies .....	328		
<b>Companion Policy 45-501CP Ontario Prospectus and Registration Exemptions</b> Rules and Policies .....	345		

---

---

<b>Guardian Capital LP</b>		<b>Norrep Capital Management Ltd.</b>	
Decision .....	239	Decision.....	245
Decision .....	242	Decision.....	250
<b>Guardian Fundamental Global Equity Fund</b>		<b>Notice of Ministerial Approval of Multilateral Instrument 45-108 Crowdfunding and Consequential Amendments</b>	
Decision .....	239	Notice of Ministerial Approval .....	228
Decision .....	242	<b>OSC Rule 11-501 Electronic Delivery of Documents to the Ontario Securities Commission</b>	
<b>Guardian Short Duration Bond Fund</b>		Rules and Policies .....	343
Decision .....	239	<b>OSC Rule 45-501 Ontario Prospectus and Registration Exemptions</b>	
Decision .....	242	Rules and Policies .....	344
<b>Ho, George</b>		<b>OSC Staff Notice 11-739 (Revised) – Policy Reformulation – Table of Concordance and List of New Instruments</b>	
Notice from the Office of the Secretary .....	233	Notice .....	225
Order.....	263	<b>Pope &amp; Company Limited and Euro Pacific Canada Inc.</b>	
<b>Horsley, David</b>		Amalgamation.....	715
Notice from the Office of the Secretary .....	233	<b>Roca Mines Inc.</b>	
Order.....	263	Cease Trading Order.....	275
<b>Hung, Alfred C.T.</b>		<b>Sceptre Ventures Inc.</b>	
Notice from the Office of the Secretary .....	233	Cease Trading Order.....	275
Order.....	263	<b>Sino-Forest Corporation</b>	
<b>Ip, Albert</b>		Notice from the Office of the Secretary.....	233
Notice from the Office of the Secretary .....	233	Order .....	263
Order.....	263	<b>Sprott Asset Management LP</b>	
<b>IPSol Capital Inc.</b>		Decision.....	254
Change in Registration Category .....	715	<b>Starrex International Ltd.</b>	
<b>Kai Asset Management Inc.</b>		Cease Trading Order.....	275
New Registration.....	715	<b>Starrex International Ltd.</b>	
<b>Kurichh, Raj</b>		Cease Trading Order.....	275
Notice from the Office of the Secretary .....	234	<b>Talbot, Jimmy – s. 25(3)</b>	
Order.....	264	Order .....	266
<b>Leede Financial Markets Inc.</b>		<b>Tango Mining Limited</b>	
Name Change.....	715	Cease Trading Order.....	275
<b>Leede Jones Gable Inc.</b>		<b>Tango Mining Limited</b>	
Name Change.....	715	Cease Trading Order.....	275
<b>Monaghan, Clifford Todd</b>		<b>Toronto Dominion Bank – s. 104(2)(c)</b>	
Notice from the Office of the Secretary .....	235	Order .....	269
Order.....	268	<b>West Red Lake Gold Mines Inc.</b>	
<b>Moshi Mountain Industries Ltd.</b>		Cease Trading Order.....	275
Cease Trading Order .....	275	<b>West Red Lake Gold Mines Inc.</b>	
<b>Multilateral Instrument 45-108 Crowdfunding</b>		Cease Trading Order.....	275
Rules and Policies .....	277	<b>New World Capital Ltd.</b>	
<b>New World Capital Ltd.</b>		Voluntary Surrender.....	715
NI 45-102 Resale of Securities		<b>NI 45-102 Resale of Securities</b>	
Rules and Policies .....	342	Rules and Policies .....	342
<b>Nobilis Health Corp.</b>		<b>Nobilis Health Corp.</b>	
Cease Trading Order .....	275	Cease Trading Order .....	275

**Yeung, Simon**

Notice from the Office of the Secretary .....233  
Order.....263

This page intentionally left blank