The Ontario Securities Commission

OSC Bulletin

August 4, 2016

Volume 39, Issue 31

(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:

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

Fax: 416-593-2318

Published under the authority of the Commission by:
Thomson Reuters
One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

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

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

Subscriptions to the print Bulletin are available from Thomson Reuters Canada at the price of $868 per year. The eTable of Contents is available from $148 to $155. The CD-ROM is available from $1392 to $1489 and $314 to $336 for additional disks.

Subscription prices include first class postage to Canadian addresses. Outside Canada, the following shipping costs apply on a current subscription:

440 grams	US – $5.41	Foreign – $18.50
860 grams	US – $6.61	Foreign – $10.60
1140 grams	US – $7.64	Foreign – $14.70

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

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

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

or call Thomson Reuters Canada 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 Thomson Reuters Canada 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.

ISSN 0226-9325

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
Email www.carswell.com/email

Table of Contents

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 MM Café Franchise Inc.

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

AND

IN THE MATTER OF
MM CAFÉ FRANCHISE INC.,
DCL HEALTHCARE PROPERTIES INC.,
CULTURALITE MEDIA INC.,
CAFÉ ENTERPRISE TORONTO INC.,
TECHOCAN INTERNATIONAL CO. LTD.,
1727350 ONTARIO LIMITED,
MARIANNE GODWIN,
DAVE GARNET CRAIG,
FRANK DELUCA,
ELAINE CONCEPCION and
HAIYAN (HELEN) GAO JORDAN

NOTICE OF WITHDRAWAL

WHEREAS on March 23, 2016, Staff of the Ontario Securities Commission ("Staff") filed a Statement of Allegations pursuant to sections 127 and 127.1 of the Securities Act, R.S.O. 1990, c.S.5, as amended, against MM Café Franchise Inc. ("MMCF"), DCL Healthcare Properties Inc. ("DCL"), Culturalite Media Inc. ("Culturalite"), Café Enterprise Toronto Inc. ("CET"), Techocan International Co. Ltd. ("Techocan"), 1727350 Ontario Limited ("1727350"), Marianne Godwin ("Godwin"), Dave Garnet Craig ("Craig"), Frank DeLuca ("DeLuca"), Elaine Concepcion ("Concepcion") and Haiyan (Helen) Gao Jordan ("Jordan");

AND WHEREAS on April 29, 2016, Staff amended the Statement of Allegations;

TAKE NOTICE that Staff withdraw the allegations against DCL, Culturalite, CET, DeLuca and Concepcion as of July 26, 2016.

DATED at Toronto this 26th day of July, 2016.

1.2 Notices of Hearing

1.2.1 Waverley Corporate Financial Services Ltd. and Donald McDonald – s. 8(4)

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

AND

IN THE MATTER OF
WAVERLEY CORPORATE FINANCIAL SERVICES LTD.
AND DONALD MCDONALD

NOTICE OF HEARING
(Subsection 8(4))

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing at the offices of the Commission located at 20 Queen Street West, 17th Floor, on August 4, 2016, commencing at 9:15 a.m. or as soon thereafter as the hearing can be held;

AND TAKE NOTICE that the purpose of the hearing is for the Commission to consider, pursuant to subsection 8(4) of the *Securities Act*, RSO 1990, c S.5, as amended (the "Act"), an application for a stay of a decision of a Director of the Compliance and Registrant Regulation Branch dated July 15, 2016 (the "Director's Decision"), pending the hearing and review of the Director's Decision;

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

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

DATED at Toronto this 26th day of July, 2016

"Robert Blair"
Acting Secretary to the Commission

1.5 Notices from the Office of the Secretary

1.5.1 Waverley Corporate Financial Services Ltd. and Donald McDonald

FOR IMMEDIATE RELEASE
July 27, 2016

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

AND

IN THE MATTER OF
WAVERLEY CORPORATE FINANCIAL SERVICES LTD.
AND
DONALD MCDONALD

TORONTO – The Ontario Securities Commission will hold a hearing to consider, pursuant to subsection 8(4) of the *Securities Act*, RSO 1990, c S.5, as amended (the "Act"), an application for a stay of a decision of a Director of the Compliance and Registrant Regulation Branch dated July 15, 2016 (the "Director's Decision"), pending the hearing and review of the Director's Decision.

The hearing will be held on August 4, 2016 at 9:15 a.m. on the 17th floor of the Commission's offices located at 20 Queen Street West, Toronto.

A copy of the Application and the Notice of Hearing dated July 26, 2016 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
ROBERT BLAIR
ACTING SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.5.2 Hong Liang Zhong

FOR IMMEDIATE RELEASE
July 27, 2016

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

AND

IN THE MATTER OF
HONG LIANG ZHONG

TORONTO – The Commission issued its Reasons and Decision and an Order pursuant to Subsections 127(1) and 127(10) of the *Securities Act* in the above noted matter.

A copy of the Reasons and Decision and the Order dated July 26, 2016 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
ROBERT BLAIR
ACTING SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.5.3 Blue Gold Holding Ltd. et al.

FOR IMMEDIATE RELEASE
July 27, 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 – Following the hearing on the merits in the above noted matter, the Commission issued its Reasons and Decision.

A copy of the Reasons and Decision dated July 26, 2016 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
ROBERT BLAIR
ACTING SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.5.4 Scotia Capital Inc. et al.

FOR IMMEDIATE RELEASE
July 29, 2016

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

AND

IN THE MATTER OF
SCOTIA CAPITAL INC.,
SCOTIA SECURITIES INC. AND
HOLLISWEALTH ADVISORY SERVICES INC.

TORONTO – Following a hearing held today, the Commission issued an Order in the above named matter approving the Settlement Agreement reached between Staff of the Commission and Scotia Capital Inc., Scotia Securities Inc. and Holliswealth Advisory Services Inc.

A copy of the Order dated July 29, 2016 and Settlement Agreement dated July 25, 2016 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
ROBERT BLAIR
ACTING SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.5.5 Daniel William Yanaky

FOR IMMEDIATE RELEASE
July 29, 2016

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

AND

IN THE MATTER OF
DANIEL WILLIAM YANAKY

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

A copy of the Reasons and Decision dated July 28, 2016 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
ROBERT BLAIR
ACTING SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.5.6 MM Café Franchise Inc. et al.

FOR IMMEDIATE RELEASE
August 2, 2016

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

AND

IN THE MATTER OF
MM CAFÉ FRANCHISE INC.,
DCL HEALTHCARE PROPERTIES INC.,
CULTURALITE MEDIA INC.,
CAFÉ ENTERPRISE TORONTO INC.,
TECHOCAN INTERNATIONAL CO. LTD.,
1727350 ONTARIO LIMITED,
MARIANNE GODWIN,
DAVE GARNET CRAIG,
FRANK DELUCA,
ELAINE CONCEPCION and
HAIYAN (HELEN) GAO JORDAN

TORONTO – Staff of the Ontario Securities Commission filed a Notice of Withdrawal against DCL Healthcare Properties Inc., Culturalite Media Inc., Café Enterprise Toronto Inc., Frank DeLuca and Elaine Concepcion as of July 26, 2016, in the above noted matter.

A copy of the Notice of Withdrawal dated July 26, 2016 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
ROBERT BLAIR
ACTING SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.6 Notices from the Office of the Secretary with Related Statements of Allegations

1.6.1 MM Café Franchise Inc. et al.

FOR IMMEDIATE RELEASE
August 2, 2016

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

AND

IN THE MATTER OF
MM CAFÉ FRANCHISE INC.,
TECHOCAN INTERNATIONAL CO. LTD.,
1727350 ONTARIO LIMITED,
MARIANNE GODWIN,
DAVE GARNET CRAIG and
HAIYAN (HELEN) GAO JORDAN

TORONTO – Staff of the Ontario Securities Commission filed an Amended Amended Statement of Allegations dated July 26, 2016 with the Office of the Secretary in the above noted matter.

A copy of the Amended Amended Statement of Allegations dated July 26, 2016 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
ROBERT BLAIR
ACTING SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

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

AND

IN THE MATTER OF
MM CAFÉ FRANCHISE INC., TECHOCAN INTERNATIONAL CO. LTD.,
1727350 ONTARIO LIMITED, MARIANNE GODWIN, DAVE GARNET CRAIG and
HAIYAN (HELEN) GAO JORDAN

AMENDED AMENDED STATEMENT OF ALLEGATIONS OF
STAFF OF THE ONTARIO SECURITIES COMMISSION

Staff of the Ontario Securities Commission ("Staff") make the following allegations:

Overview

1. This is a case of unregistered trading, illegal distributions and fraud.

The Corporate Respondents

2. MM Café Franchise Inc. ("MMCF") was incorporated on September 6, 2011 as a Canadian corporation. It has a registered corporate address in Ontario. MMCF has never been registered with the Commission in any capacity.

3. Techocan International Co. Ltd. ("Techocan") was incorporated in Ontario on August 31, 1998. Techocan has never been registered with the Commission in any capacity.

4. 1727350 Ontario Limited ("1727350") was incorporated in Ontario on February 26, 2007. 1727350 has never been registered with the Commission in any capacity.

The Individual Respondents

5. Marianne Godwin ("Godwin") was an Ontario resident and the Chief Executive Officer ("CEO") and a director of MMCF. Godwin has never been registered with the Commission in any capacity.

6. Dave Garnet Craig ("Craig") was an Ontario resident and the Chief Development Officer ("CDO") and a director of MMCF. Craig has never been registered with the Commission in any capacity.

7. Haiyan (Helen) Gao Jordan ("Jordan") was an Ontario resident and: (i) the President and directing mind of Techocan; and (ii) a director of 1727350. Jordan was registered with the Commission as a dealing representative for a scholarship plan dealer from March 7, 2011 to September 16, 2011.

Scope of Activity

8. Between July 2011 and December 2014 (the "Material Time"), Jordan solicited and sold shares of several Ontario corporations, including MMCF, DCL Healthcare Properties Inc. ("DCL"), Culturalite Media Inc. ("Culturalite") and Café Enterprise Toronto ("CET") (collectively the "Companies"), to investors in China and Ontario, raising a total of approximately $12 million in investor funds. Jordan solicited investors by using the lure of an Ontario immigration program, representing to investors that they could qualify to obtain permanent resident status in Canada through the Opportunities Ontario Provincial Nominee Program (the "OPNP") if they invested in any of MMCF, DCL, Culturalite or CET.

MMCF

Unregistered Trading And Illegal Distribution By Jordan

9. In 2011, Godwin and Craig incorporated MMCF for the purpose of franchising coffee shops that used the Marilyn Monroe name.

10. During the Material Time, MMCF offered shares to investors. The shares offered by MMCF are securities as defined in subsection 1(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act").

11. Commencing in or about July 2011, Jordan, directly, and indirectly through the use of agents, solicited investors in China and Ontario to invest in MMCF. She met with and provided potential investors with promotional materials about MMCF, made representations about MMCF and offered investors the opportunity to purchase MMCF shares. Information about investing in MMCF was also posted on the webpage of Jordan's company, Techocan.

12. Jordan enticed investors to purchase MMCF shares by making representations that their investment in MMCF could be used to qualify for permanent resident status in Canada under the OPNP. During the Material Time, applications were submitted by at least seven investors to the OPNP. All of the MMCF investors' applications were rejected under the OPNP.

13. Jordan provided investors with subscription agreements for MMCF shares and then submitted the executed subscription agreements to MMCF on behalf of the investors.

14. Jordan accepted funds from investors for the purchase of MMCF shares in her personal bank account, which she then transferred to MMCF. Investor funds were also deposited directly into Techocan's bank account and then transferred to MMCF. Jordan also accepted cheques from investors on behalf of MMCF.

15. As a result of this activity, Jordan and MMCF raised approximately $5.1 million from 21 investors who purchased MMCF shares during the Material Time.

16. Jordan, Techocan and 1727350 received consulting fees and shares of MMCF from MMCF for soliciting investors.

17. The trades in MMCF's securities were "distributions" as defined in subsection 1(1) of the Act as the securities had not been previously issued.

18. By engaging in the conduct described above, Jordan engaged in the business of trading securities of MMCF without being registered, contrary to subsection 25(1) of the Act and traded in securities for which a preliminary prospectus or prospectus was not filed with the Commission and for which exemptions were not properly relied upon, contrary to subsection 53(1) of the Act.

Unregistered Trading and Illegal Distribution By Godwin, Craig and MMCF

19. Godwin, Craig and MMCF engaged in the business of trading securities of MMCF by:

    a. meeting with and making presentations to potential investors;

    b. creating promotional materials about MMCF that were provided to potential investors;

    c. accepting and signing the subscription agreements submitted by investors as principals of MMCF;

    d. controlling and being the signatories on MMCF's bank accounts which received investor funds for the purchase of MMCF shares; and

    e. engaging and compensating Jordan, Techocan and 1727350 to solicit investors and sell shares of MMCF.

20. By engaging in the conduct described above, Godwin, Craig and MMCF engaged in the business of trading securities of MMCF without being registered, contrary to subsection 25(1) of the Act and traded in securities without filing a preliminary prospectus or prospectus and obtaining a receipt from the Director, and for which exemptions were not properly relied upon, contrary to subsection 53(1) of the Act.

Fraudulent Conduct By Godwin, Craig and MMCF

21. Godwin, Craig and MMCF engaged in a course of conduct related to securities, commencing with the solicitation of investors, that they knew, or reasonably ought to have known, perpetrated a fraud on investors.

22. In October 2011, Godwin and Craig executed a license agreement on behalf of MMCF with Authentic Brands Group ("ABG"), in which MMCF was required to pay ABG USD 1 million per year to use the Marilyn Monroe name. The term of the license agreement was 20 years.

23. The promotional materials that were provided to investors omitted the fact that MMCF was required to pay USD 1 million per year to ABG pursuant to the license agreement. Instead, materials provided to investors only referred to one USD 1 million payment to ABG and investors were advised that this amount was settled in full on October 20, 2011.

The fact that MMCF had to pay ABG USD 1 million a year was an important fact that investors should have known. By concealing this fact, Godwin and Craig dishonestly placed investors' pecuniary interests at risk.

24. Godwin and Craig represented to investors that their funds would be used to develop a franchise system and a model café. Contrary to this representation, a significant amount of investor funds were used for the personal benefit of Godwin and Craig, including:

    a. payment of $70,000 to Godwin for a share buy-back of MMCF shares;

    b. payment of $70,000 to Craig for a share buy-back of MMCF shares;

    c. cash advances;

    d. a one-time payment of $45,000 to each of Godwin and Craig;

    e. life insurance for Godwin, which named Godwin's children as the beneficiaries, rather than the corporation;

    f food and beverages;

    g. taxis; and

    h. personal travel.

25. No investor funds have been returned by MMCF and there is no money remaining in the MMCF bank accounts.

Other Unregistered Trading By Jordan

26. During the Material Time, Jordan, directly, and indirectly through the use of agents, solicited investors in China and Ontario to purchase shares in a number of other Ontario companies, including, DCL, Culturalite and CET. Similar to MMCF, Jordan met with and provided potential investors with promotional materials, made representations about and offered investors the opportunity to purchase shares of DCL, Culturalite and CET. Jordan also provided investors with subscription agreements and then submitted executed subscription agreements to the principals DCL, Culturalite and CET on behalf of investors.

27. Information about some of these investments was also posted on Techocan's website.

28. Jordan enticed investors to purchase shares in DCL, Culturalite and CET by making representations that their investment could be used to qualify for permanent resident status in Canada under the OPNP. During the Material Time, applications were made by more than 12 investors to the OPNP. All of these applications were rejected under the OPNP, except for one of which the status is unknown.

29. As a result of this activity, Jordan raised at total of $6.9 million for DCL, Culturalite and CET during the Material Time.

30. Jordan and Techocan received consulting fees and/or other payments for soliciting investors to purchase shares in DCL, Culturalite and CET.

31. By engaging in the conduct described above, Jordan engaged in the business of trading securities of DCL, Culturalite and CET without being registered, contrary to subsection 25(1) of the Act.

Breaches of Ontario Securities Law and Conduct Contrary to the Public Interest

32. The Respondents breached Ontario securities law in the following ways:

    a. During the Material Time, MMCF, Godwin, Craig, and Jordan traded and engaged in or held themselves out as engaging in the business of trading in securities without being registered, contrary to subsection 25(1) of the Act;

    b. During the Material Time, the trading of MMCF constituted a distribution of MMCF securities by MMCF, Godwin, Craig and Jordan in circumstances where no preliminary prospectus and prospectus were filed and receipts had not been issued for them by the Director and for which exemptions were not properly relied upon, contrary to subsection 53(1) of the Act;

c. During the Material Time, Godwin, Craig and MMCF engaged in or participated in acts, practices or courses of conduct relating to securities of MMCF that they knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to subsection 126.1(1)(b) of the Act; and

d. During the Material Time, Godwin and Craig, as directors and officers of MMCF authorized, permitted, or acquiesced in MMCF's non-compliance with Ontario securities law and as a result are deemed to also have not complied with Ontario securities law pursuant to section 129.2 of the Act.

33. The conduct described above was also contrary to the public interest as the Respondents' conduct was contrary to the fundamental purposes and principles of the Act as set out in subsections 1.1 and 2.1 of the Act, namely by engaging in unfair, improper and fraudulent practices which harmed investors in MMCF and by impugning the integrity of the capital markets.

34. MMCF, Godwin, Craig and Jordan harmed investors and negatively affected the reputation and integrity of Ontario's capital markets by engaging in the business of trading in securities without being registered to do so.

35. MMCF, Godwin, Craig and Jordan harmed investors and negatively affected the reputation and integrity of Ontario's capital markets by failing to file a preliminary prospectus or prospectus for the distribution of MMCF shares and by failing to properly rely on any exemptions.

36. Godwin, Craig and Jordan failed to understand that the investments made in MMCF did not meet the minimum threshold to qualify for nomination under the OPNP and were "immigration-linked investment schemes" prohibited by the applicable Immigration and Refugee Protection Regulations.

37. Godwin, Craig and MMCF harmed investors and impugned the integrity of the Ontario capital markets by omitting to tell investors important facts about their investment and using investor funds for their personal benefit.

38. Jordan, Techocan and 1727350 harmed investors and impugned the integrity of the Ontario capital markets by receiving compensation from MMCF, DCL, Culturalite and CET for soliciting investors and raising funds in breach of the Act.

39. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

Dated at Toronto this 26th day of July, 2016.

This page intentionally left blank

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Colabor Group Inc.

Headnote

Dual application for Exemptive Relief Applications – Application for relief from the requirement that the subscription price for a security to be issued upon the exercise of a right is lower than the market price of the security on the date of the final prospectus – Offering price would be set at discount to market price at time of announcement of transactions comprising possible recapitalization – Application for relief from the requirements relating to granting additional subscription privilege to holders of rights – Restriction on additional subscription privilege required in order to not trigger poison pill – Terms of rights offering will be approved at shareholders meeting – Relief granted, subject to conditions.

Applicable Legislative Provisions

National Instrument 41-101 *General Prospectus Requirements,* ss. 8A.2, 8A.3.

TRANSLATION

July 13, 2016

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

AND

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

AND

IN THE MATTER OF
COLABOR GROUP INC.
(the "Filer")

DECISION

Background

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

(i) relief from the requirement that the subscription price for a security to be issued upon the exercise of a right under a proposed rights offering be lower than the market price of such security on the date of the final prospectus in connection with such rights offering, as required under subparagraph 8A.2(1)(d)(i) of National Instrument 41-101 – *General Prospectus Requirements* ("**NI 41-101**") (the "**Pricing Relief**"); and

(ii) relief from the criteria to determine the additional subscription privilege under a rights offering under section 8A.3 of NI 41-101 to provide for the introduction of a restriction on the maximum number of common shares of the Filer (the "**Common Shares**") that can be issued pursuant to such additional subscription privilege in order to avoid for any subscriber to receive Common Shares granting it beneficial ownership of 20% or more of the then outstanding Common Shares (the "**Additional Subscription Relief**" and collectively with the Pricing Relief, the "**Exemptions Sought**").

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

(a) the *Autorité des marchés financiers* is the principal regulator for this Application;

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

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

Interpretation

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

Representations

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

2. The Filer is incorporated under the *Canada Business Corporations Act*.

3. The Filer's head office is located in Boucherville, Province of Québec.

4. The Filer is a reporting issuer in the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland.

5. The Filer is not in default of any of its obligations as a reporting issuer under the Legislation of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland, including its obligation to remit all filing fees in such jurisdictions.

6. The Filer is eligible to use the "short form" prospectus regime set forth in National Instrument 44-101 – *Short Form Prospectus Distributions*.

7. The Common Shares and the Convertible Debentures (as defined below) are currently traded on the Toronto Stock Exchange ("**TSX**") under the ticker "GCL" and "GCL.DB.A", respectively.

8. The Filer has entered in a non-binding term sheet dated June 22, 2016 (the "**Term Sheet**") with the Standby Providers (as defined below) in connection with a possible recapitalization pursuant to which the Filer would:

   (a) complete by way of a prospectus an offering of rights to subscribe for Common Shares for proceeds of $50 million (the "**Rights Offering**"), at a price equal to 80% of the volume weighted average trading price of the Common Shares on the TSX for the five trading day period prior to the date of execution of definitive agreements and announcement of the Possible Recapitalization (the "**Offering Price**");

   (b) use a portion of the proceeds derived from the Rights Offering ($17.5 million) to repay a portion of its subordinated debt under a loan agreement (the "**Subordinated Loan Agreement**") and provide for certain amendments to the Subordinated Loan Agreement (including an extension of its term);

   (c) provide for certain amendments to the terms of the Filer's convertible unsecured subordinated debentures that have been issued to the public by way of a prospectus (the "**Convertible Debentures**") (including an extension of their term by 5 years from the closing of the Possible Recapitalization, an increased interest rate to 6% and a reduced conversion price at $2.50 (the "**Conversion Price**")); and

   (d) use a portion of the proceeds derived from the Rights Offering (approximately $30 million) to reduce the outstanding balance of the Filer's credit facilities and provide for a renewal of the credit facilities, with the balance of the proceeds derived from the Rights Offering (approximately $2.5 million) to be used to pay transaction costs and other general corporate purposes;

   (collectively, the "**Possible Recapitalization**").

9. The Possible Recapitalization would proceed only if determined to be in the best interests of the Filer as an alternative to rebalance the capital structure of the Filer, which has a substantial amount of debt to be refinanced due within the next twelve months, and definitive agreements are finalized and entered into. As part of this process, the board of directors of the Filer (the "**Board**") would evaluate whether the Possible Recapitalization is in the best interests of the Filer (taking into account the interests of its shareholders (the "**Shareholders**") and other stakeholders) versus any other available alternatives having been considered as part of a strategic review process by the Filer under the supervision of a committee comprised of independent members (the "**Ad Hoc Committee**"). The Filer is being assisted by outside legal and financial advisors in its assessment of available alternatives from a legal and financial standpoint.

10. In light of the high level of dilution, the Board and Ad Hoc Committee wish to allow the opportunity to Shareholders as of the record date for the Rights Offering to participate in the Rights Offering and maintain their *pro rata* equity interests in the Filer at the Offering Price being negotiated with four arm's length Standby Providers.

11. The amendments to the terms of the Convertible Debentures must be approved, in accordance with the indenture governing the Convertible Debentures, by holders of not less than 66 2/3% of the principal amount of the Convertible Debentures, present in person or represented by proxy at a Debentureholders meeting (the "**Debentureholders Meeting**") and entitled to vote. It is contemplated that the Debentureholders Meeting would be held on the same day as the meeting of Shareholders (the "**Shareholders Meeting**")

required to approve the Rights Offering (including the Offering Price), within approximately 45 days after the announcement of the Possible Recapitalization.

12. In order to ensure that the short-form prospectus to be filed in connection with the Rights Offering (the "**Prospectus**") contains full, true and plain disclosure of all relevant facts with no possible amendments relating to components of the Possible Recapitalization, it is contemplated that the Filer would hold the Debentureholders Meeting and Shareholders Meeting first and subsequently proceed with the filing of the preliminary Prospectus as soon as possible after securing the vote of Debentureholders and Shareholders. The effectiveness of the amendments to the Convertible Debentures and all other transactions forming part of the Possible Recapitalization would be conditional on the completion of each other (including completion of the Rights Offering).

13. The Filer has a shareholders rights plan ("**Poison Pill**") approved by Shareholders which provides for certain highly potential dilutive flip-in-events in the event a person becomes the beneficial owner of 20% or more of the outstanding Common Shares (calculation of beneficial ownership includes any Common Shares as to which such person has the right to become the owner within 60 days upon the exercise of any conversion right, warrant or option (including underlying the Convertible Debentures)).

14. Five persons (the "**Standby Providers**"), each for up to $10 million, have agreed in principle pursuant to the Term Sheet to subscribe for all Common Shares offered under the Rights Offering that are not otherwise purchased, subject to entering into a definitive agreement containing terms and conditions to the satisfaction of all parties including the Board; provided that none of the Standby Providers shall purchase a number of Common Shares that, when aggregated with the Common Shares over which the Standby Provider exercises, directly or indirectly, control or direction after giving effect to the Rights Offering, is equal to or exceeds 20% of the number of Common Shares outstanding at that time (the "**Maximum Holding**"). The subscription by the Standby Providers shall be made on a *pro rata* basis (or in such proportion to be agreed to by the parties in the definitive documentation) up to a maximum of $10 million by each Standby Provider (the "**Maximum Participation**"). In the event that a particular Standby Provider (the "**Standby Provider having reached the Maximum Holding**") reaches the Maximum Holding, the other Standby Providers shall collectively (on a *pro rata* basis between them or in such proportion to be agreed to by the parties to the definitive documentation) subscribe for the number of Common Shares not purchased by the Standby Provider having reached the Maximum Holding, up to the Maximum Participation.

15. One of the Standby Providers currently holds approximately 11.8% of the outstanding Common Shares and approximately 3% of the outstanding Convertible Debentures and is therefore an insider of the Filer under the Legislation and a "related party" of the Filer within the meaning of Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* ("**MI 61-101**"). All other Standby Providers and participants in the Possible Recapitalization are at arm's length with the Filer and none of them is an insider within the meaning of the Legislation or a "related party" of the Filer within the meaning of MI 61-101.

16. Following closing of the Possible Recapitalization, there will be no agreement, commitment or understanding between the Standby Providers pursuant to which a Standby Provider may be deemed to be acting jointly or in concert with any of the other Standby Providers within the meaning and for the purposes of the Legislation.

17. The grant by the Filer to the related party of the Filer of a right to propose one nominee for election to the Board on closing of the Possible Recapitalization and annually thereafter subject to holding at least 7.5% of outstanding Common Shares may constitute a "collateral benefit" under MI 61-101. The Rights Offering will therefore be submitted for approval by more than 50% of the votes cast by the Shareholders (excluding the related party of the Filer) who attend the Shareholders Meeting in person or by proxy and are entitled to vote in accordance with MI 61-101. The Filer will rely on a statutory exemption from the formal valuation requirement provided in MI 61-101.

18. The Rights Offering documentation would include a requirement providing for a Maximum Holding preventing any increase in beneficial ownership of Common Shares at or above 20% in light of the terms of the Poison Pill approved by all Shareholders.

A. PRICING RELIEF

19. The Filer is requesting the Pricing Relief in order to provide potential dilution expectations to the holders of Convertible Debentures in connection with the proposed amendments to the Conversion Price of the Convertible Debentures, it is essential to crystallize the Offering Price under the Rights Offering on the date of the announcement of the Possible Recapitalization (without any subsequent potential further downward adjustments).

20. In order to provide for a Maximum Holding to restrict the number of Common Shares that any

person may be entitled to receive as a result of the Rights Offering to a maximum of 19.99% of beneficial ownership of the then issued and outstanding Common Shares under the Poison Pill, it is essential to crystallize the Offering Price under the Rights Offering on the date of the announcement of the Possible Recapitalization.

21. All transactions under the Possible Recapitalization are conditional upon each other.

22. On the date of announcement of the Possible Recapitalization, the Offering Price of the Rights Offering would be set based on the market price (as calculated under TSX rules) of the Common Shares less a 20% discount.

23. The Possible Recapitalization is being negotiated at arm's length with Standby Providers, except for the participation of the related party of the Filer as Standby Provider.

24. The Rights Offering, including the Offering Price, will be submitted for approval by more than 50% of the votes cast by the Shareholders (excluding the related party of the Filer) who attend the Shareholders Meeting in person or by proxy and are entitled to vote in accordance with MI 61-101.

25. Setting the Offering Price on the announcement date of the Possible Recapitalization will also allow the marketplace and Shareholders to trade on the basis of all relevant material facts once all proposed transactions comprising the Possible Recapitalization are announced and crystallized.

B. ADDITIONAL SUBSCRIPTION RELIEF

26. Section 8A.4 of NI 41-101 provides that if an issuer enters into a standby commitment for a distribution of rights, it must among other things grant an additional subscription privilege to all holders of rights.

27. Section 8A.3 of NI 41-101 contemplates that in order to provide an additional subscription privilege to a holder of a right, each holder of a right must be entitled to receive a specific amount of securities determined according to a mathematic formula.

28. In light of the standby commitments by the Standby Providers, the Filer will allow for an additional subscription privilege under the Rights Offering as set out in section 8A.3 of NI 41-101 but would provide for a Maximum Holding to restrict the number of Common Shares that any person may be entitled to receive as a result of the Rights Offering to a maximum of 19.99% of beneficial ownership of the then issued and outstanding Common Shares as per the terms and conditions of the Poison Pill approved by Shareholders.

29. Such restriction is necessary to proceed with the Possible Recapitalization without triggering the application of the Poison Pill, and will equally apply to the Standby Providers.

Decision

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

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

1. the Filer discloses the terms of the Exemptions Sought in the information circulars to be prepared and filed in connection with the Debentureholders Meeting and Shareholders Meeting, as well as in the Prospectus in connection with the Rights Offering;

2. the Rights Offering, including the Offering Price, is approved by more than 50% of the votes cast by the Shareholders (excluding the related party of the Filer) who attend the Shareholders Meeting in person or by proxy and are entitled to vote in accordance with MI 61-101; and

3. the information circular to be prepared and filed in connection with the Shareholders Meeting discloses the anticipated effect of the Possible Recapitalization on the Shareholders.

"Lucie J. Roy"
Senior Director, Corporate Finance

2.1.2 Bloomberg Tradebook Canada Company – s. 15.1 of NI 21-101 Marketplace Operation

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from section 3.2 of National Instrument 21-101 Marketplace Operation to permit Bloomberg Tradebook Canada Company to implement a significant change to the information in its Form 21-101F2 less than 45 days after filing with the Commission.

Instrument Cited

National Instrument 21-101 Marketplace Operation, s. 3.2.

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
BLOOMBERG TRADEBOOK CANADA COMPANY
(the "Filer")

DECISION
(s. 15.1 of National Instrument 21-101)

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the "**Legislation**") for relief, pursuant to section 15.1 of National Instrument 21-101 *Marketplace Operations* ("**NI 21-101**"), from the 45-day prior written notice requirements of section 3.2(1) of NI 21-101 (the "**Requested Relief**") to permit the Filer to implement a significant change to a matter set out in the Filer's Form 21-101F2 (F2) less than 45 days after filing an amendment to the information provided in the F2 describing the significant change. The Requested Relief is being sought in connection with the Filer's plan to eliminate the equity securities marketplace functionality (the "**Change**") from the Filer's alternative trading system (the "**ATS**").

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

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

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in Alberta, British Columbia, Manitoba, Nova Scotia and Québec.

Interpretation

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

Representations

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

1. The Applicant is a Nova Scotia unlimited liability company and is 100% owned by Bloomberg Canada LLC, a Delaware limited liability company. Bloomberg Canada LLC is 100% owned by Bloomberg L.P., a Delaware U.S. limited partnership.

2. The Applicant is currently registered as an investment dealer in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario and Québec and is a member of the Investment Industry Regulatory Organization of Canada.

3. The Applicant currently operates, among other business activities, an equities and fixed income marketplace in Canada. The Applicant plans to effect the Change (eliminating the equity securities marketplace functionality) less than 45 days following the filing of an amendment to its F2 describing the Change.

4. The Filer does not expect the Change to have any impact on market structure, investors or Canadian capital markets. The Filer believes that the Change will result in an improved service offering to customers.

5. Officers and directors (as applicable) of the Filer and Bloomberg Tradebook LLC (the operator of the ATS) have reviewed and approved the Change. Also, the Filer has previously consulted with the Ontario Securities Commission and the Investment Industry Regulatory Organization of Canada on the Change.

6. The effective date of the Change was recently chosen, and the Filer advised the Ontario Securities Commission and filed an amendment to its F2 describing the Change as soon as reasonably practicable following the choice being made.

7. The Applicant is not in default of securities legislation in any of the Jurisdictions.

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 sought is granted.

DATED this 29th day of July, 2016.

"Susan Greenglass"
Director, Market Regulation
Ontario Securities Commission

2.1.3 Gryphon Investment Counsel Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from the investment fund conflict of interest investment restrictions in securities legislation to permit pooled funds to invest in underlying pooled funds, subject to conditions.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., ss. 111(2)(b), 111(4), 113.

July 26, 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
GRYPHON INVESTMENT COUNSEL INC.
(the Filer)

AND

IN THE MATTER OF
THE TOP FUNDS
(as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of each of Gryphon Balanced Fund and Gryphon Total Equity Fund (the **Existing Top Funds**) and any other investment fund which is not a reporting issuer under the securities legislation of the Jurisdiction (the **Legislation**) and that is managed by the Filer (the **Future Top Funds**, and together with the Existing Top Funds, the **Top Funds**) which invests its assets in securities of Gryphon EuroPac Fund (the **Existing Underlying Fund**) and any other investment fund which is not a reporting issuer under the Legislation and that is managed by the Filer or its associate (**Future Underlying Funds** and together with the Existing Underlying Fund, the **Underlying Funds**), for a decision under the Legislation:

1. to revoke and replace the Prior Relief (as defined below); and

2. to exempt the Filer and the Top Funds from:

    (a) the restriction in the Legislation that prohibits an investment fund from knowingly making an investment in a person or company in which the investment fund, alone or together with one or more related investment funds, is a substantial security holder; and

    (b) the restriction in the Legislation that prohibits an investment fund, its management company or its distribution company from knowingly holding an investment described in paragraph (a) above;

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

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

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

Interpretation

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

Representations

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

The Filer

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

2. The Filer is registered as an investment fund manager in Ontario and Quebec and as a portfolio manager in all provinces of Canada.

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

4. The Filer provides discretionary portfolio management services to clients pursuant to managed account agreements (the **MAA**) with clients.

5. Pursuant to the MAA, the Filer has full discretion and authority to provide portfolio management services to clients, including investing clients in mutual or pooled funds for which the Filer or its associate is the investment fund manager and portfolio manager and for changing those funds as the Filer determines in accordance with the mandate of the client.

6. Either the MAA includes a provision that refers to the possibility of a Top Fund investing in an Underlying Fund or the client has been notified to that effect.

7. Pursuant to the MAA, clients pay management fees directly to the Filer in relation to the carrying out of the client investment mandate, whether by direct investment in securities or indirectly through investment in one or more Top Funds. These fees are independently negotiated between the client and the Filer.

8. The Filer is the investment fund manager and portfolio manager of the Existing Top Funds.

9. The Filer will be the investment fund manager and portfolio manager of Future Top Funds established under the laws of Ontario.

10. Investment in the Top Funds is limited to fully discretionary clients. The Existing Top Funds do not have an offering memorandum nor does the Existing Underlying Funds.

Top Funds

11. Each of the Existing Top Funds is an open-ended mutual fund established as trusts under the laws of Ontario.

12. The Future Top Funds will be open-ended mutual funds under the laws of Ontario.

13. None of the Top Funds is or will be a reporting issuer in any jurisdiction of Canada.

14. Each of the Top Funds is or will be a “mutual fund” for the purposes of the Legislation.

15. The units of a Top Fund are purchased by the Filer for its managed accounts pursuant to an available exemption from the prospectus requirements under National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**) or the Legislation.

16. The assets of the Existing Top Funds are held by CIBC Mellon Trust Company. The assets of the Future Top Funds will be held in the custody of a trust company incorporated, and licensed or registered, under the laws of Canada or a jurisdiction, or a bank listed in Schedule I, II or III of the *Bank Act* (Canada) or a qualified affiliate of such bank or trust.

17. The Filer has and will have complete discretion to invest and reinvest all or part of a Top Fund's assets, and is or will be responsible for executing or arranging for the execution of all portfolio transactions in respect of a Top Fund.

18. No additional management fees are payable by the Top Fund or in respect of the investment in the Top Funds by clients of the Filer.

19. None of the Existing Top Funds are in default of securities legislation.

20. Existing Top Funds invest in an Existing Underlying Fund and an Existing Top Fund or a Future Top Fund may invest its assets in one or more Underlying Funds.

Underlying Funds

21. The Existing Underlying Fund is a mutual fund which is established as a trust under the laws of Ontario.

22. The Future Underlying Funds will be mutual funds which will be established under the laws of Ontario.

23. The Existing Underlying Fund is not a reporting issuer in any jurisdiction of Canada and no Future Underlying Fund will be a reporting issuer in any jurisdiction of Canada.

24. The Existing Underlying Fund is not in default of securities legislation.

25. Units of each Underlying Fund will be sold to investors in Canada solely pursuant to available exemptions from the prospectus requirements under NI 45-106 or the Legislation.

26. Each of the Underlying Funds has and will have separate investment objectives, strategies and/or restrictions.

27. Either the Filer or its associate is or will be the investment fund manager and portfolio manager of an Underlying Fund.

28. Each of the Underlying Funds calculates and will calculate its net asset value (**NAV**) and offer redemptions at least at the same frequency as the applicable Top Fund.

29. An investment by a Top Fund in an Underlying Fund will be effected based on an objective NAV of the Underlying Fund.

30. To the extent illiquid assets (as defined in National Instrument 81-102 *Investment Funds* (**NI 81-102**)) are held by an Underlying Fund, such illiquid assets will comprise less than 10% of the NAV of such Underlying Fund.

Fund-on-Fund Structure.

31. Each Existing Top Fund currently invests only a portion of its assets in an Existing Underlying Fund and may invest a portion of its assets in a Future Underlying Fund. In the future, a Top Fund may invest portions of its assets in more than one Underlying Fund either managed by the Filer or by its associate, depending upon the Filer's view of the best method by which to obtain the desired investment exposure for the asset class, as identified by the Filer from time to time.

32. No management fees are or will be payable, and no incentive fees which may be charged in the future will be payable, by the Top Fund in respect of its investment in an Underlying Fund.

33. No sales fees or redemption fees will be payable in connection with the purchases or redemptions by a Top Fund of units of an Underlying Fund.

34. The Top Funds allow investors to obtain exposure to the investment portfolios of the Underlying Funds and their respective investment strategies through direct investments by the Top Funds in securities of the Underlying Funds (the **Fund-on-Fund Structure**).

35. The purpose of a Fund-on-Fund Structure is to provide an efficient and cost-effective manner of pursuing portfolio diversification on behalf of the Top Funds rather than through the direct purchase of securities. Managing a single pool of assets provides economies of scale and allows the Filer to meet the investment objective of each Top Fund in the most efficient manner.

36. An investment by a Top Fund in an Underlying Fund provides greater diversification for a Top Fund in particular asset classes on a more cost efficient basis than a Top Fund would be able to achieve on its own.

37. An investment by a Top Fund in an Underlying Fund is, or will be, compatible with the investment objectives of the Top Fund. Any investment made by a Top Fund in an Underlying Fund will be aligned with the investment objectives, investment strategy, risk profile and other principal terms of the Top Fund.

38. Where a Top Fund invests in an Underlying Fund managed by the Filer or its associate, the Filer will not cause the Top Fund to vote the units of such Underlying Fund at any meeting of the unitholders of the Underlying Fund. Instead, the Filer may arrange for the securities of such Underlying Fund to be voted by the beneficial holders of securities of the Top Fund.

Generally

39. On or prior to the time of investing a client in a Top Fund, the client will be provided with disclosure about any relationships and potential conflicts of interest between a Top Fund and the Underlying Fund or Funds.

40. An offering memorandum, if any, of a Top Fund will describe the Top Fund's intent, or ability, to invest some of its assets in securities of the Underlying Funds and that the Underlying Funds are also managed and advised by an associate of the Filer.

41. Each of the Top Funds and any Underlying Fund that is subject to National Instrument 81-106 *Investment Funds Continuous Disclosure* (**NI 81-106**) will prepare annual audited financial statements and interim unaudited financial statements in accordance with NI 81-106 and will otherwise comply with the requirements of NI 81-106, as applicable. The financial statements of each Top Fund will disclose its holdings of securities of the applicable Underlying Fund(s).

42. Each Underlying Fund will have other investors in addition to the Top Fund. The Underlying Funds are available for investment by investors that do not have an investment management relationship with the Filer but have an investment management relationship with the associate of the Filer.

43. The amounts invested from time to time in an Underlying Fund by one or more Top Funds may exceed 20% of the outstanding voting securities of the Underlying Fund.

44. As a result, each Top Fund could, either alone or together with other Top Funds, become a substantial securityholder of an Underlying Fund. The Top Funds are, or will be, related mutual funds by virtue of the common management by the Filer.

45. In the absence of the Requested Relief, each Top Fund would be precluded from purchasing and holding securities of an Underlying Fund due to the investment restrictions contained in the Legislation.

46. The Fund-on-Fund Structure represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of each Top Fund.

Prior Relief

47. Under a decision dated October 29, 2010 (the **Prior Relief**), the Filer and Gryphon Balanced Fund (the **Prior Relief Top Fund**) were granted relief to permit the Prior Relief Top Fund to invest in Gryphon EuroPac Fund that was established, managed and advised by a related company of the Filer after the date thereof (the **Prior Relief Underlying Fund**).

48. The Filer now seeks relief to include a recently established fund, Gryphon Total Equity Fund, Future Top Funds, and Future Underlying Funds to engage in fund-on-fund investing. Therefore, the Filer is seeking to revoke and replace the Prior Relief with 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:

1. The Prior Relief is revoked;

2. the Requested Relief is granted provided that:

   (a) the investment by a Top Fund in an Underlying Fund is compatible with the investment objectives of the Top Fund;

(b) at the time of the purchase of securities of an Underlying Fund by a Top Fund, the Underlying Fund holds no more than 10% of its NAV in securities of other investment funds, unless:

(i) the Underlying Fund is a "clone fund" (as defined by NI 81-102) or the Top Fund is a "clone fund" of that Underlying Fund,

(ii) the Underlying Fund purchases or holds securities of a "money market fund" (as defined by NI 81-102), or

(iii) the Underlying Fund purchases or holds securities that are "index participation units" (as defined by NI 81-102) issued by an investment fund;

(c) securities of the Top Funds are distributed in Canada solely pursuant to exemptions from the prospectus requirements in NI 45-106 or the Legislation;

(d) no management fees are or will be payable, and no incentive fees will be payable, by a Top Fund that, to a reasonable person, would duplicate a fee payable by an Underlying Fund;

(e) no sales or redemption fees are payable by a Top Fund in relation to its purchases or redemptions of securities of an Underlying Fund;

(f) the Filer will not cause the securities of an Underlying Fund managed by the Filer or its associate and held by a Top Fund to be voted at any meeting of the unitholders of the Underlying Fund, except that the Filer may arrange for the securities of such Underlying Fund to be voted by the beneficial holders of securities of the Top Fund;

(g) the offering memorandum, or other disclosure document of a Top Fund if any, will be provided to new investors in a Top Fund prior to the time of investment, or to existing investors of a Top Fund promptly following the grant of the Requested Relief, and will disclose:

(i) that a Top Fund may purchase securities of an Underlying Fund;

(ii) that the Filer is the investment fund manager and portfolio manager of the Top Funds and the Filer or its associate is also the investment fund manager and portfolio manager of the Underlying Funds and there are potential conflicts of interests relating to such relationship;

(iii) the approximate or maximum percentage of net assets of each Top Fund that such Top Fund intends to invest in securities of the Underlying Funds;

(iv) the process or criteria used to select the Underlying Funds;

(v) the expenses payable by the Underlying Funds that the Top Fund may invest in; and

(vi) that investors in each Top Fund are entitled to receive, on written request and free of charge, a copy of the offering memorandum or other similar disclosure document of the Underlying Funds, if any, and the annual and semi-annual financial statements of the Underlying Funds in which the Top Fund invests its assets; and

(h) no Underlying Fund will be invested in a Top Fund that is already invested in securities of such Underlying Fund.

"Janet Leiper"
Commissioner
Ontario Securities Commission

"William Furlong"
Commissioner
Ontario Securities Commission

2.2 Orders

2.2.1 Long Run Exploration Ltd.

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).

Citation: Re Long Run Exploration Ltd., 2016 ABASC 213

July 26, 2016

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

AND

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

AND

IN THE MATTER OF
LONG RUN EXPLORATION LTD.
(the Filer)

ORDER

Background

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

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

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

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

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

Interpretation

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

Representations

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

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

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

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

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

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

Order

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

The decision of the Decision Makers under the Legislation is that the Order Sought is granted.

"Tom Graham"
Director, Corporate Finance
Alberta Securities Commission

2.2.2 Hong Liang Zhong – 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
HONG LIANG ZHONG

ORDER
(Subsections 127(1) and 127(10) of the Securities Act)

WHEREAS:

1. on January 25, 2016, Staff of the Ontario Securities Commission filed a Statement of Allegations, in which Staff sought an order against Hong Liang Zhong ("Zhong") pursuant to subsection 127(1) of the *Securities Act*;

2. on January 25, 2016, the Commission issued a Notice of Hearing in respect of that Statement of Allegations, setting February 25, 2016 as the date of the hearing;

3. at the hearing on February 25, 2016, Zhong did not appear, although properly served, and the Commission ordered that the proceeding continue by way of a written hearing;

4. Zhong is subject to an order made by a securities regulatory authority in another jurisdiction imposing certain sanctions; and

5. the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED that:

1. pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act, trading in any securities or derivatives, or acquisition of any securities by Zhong shall cease permanently;

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

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

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

5. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Zhong be prohibited permanently from becoming or acting as a registrant or promoter.

DATED at Toronto this 26th day of July, 2016

"Timothy Moseley"

2.2.3 Canadian National Railway Company – s. 6.1 of NI 62-104 Take-Over Bids and Issuer Bids

Headnote

Section 6.1 of NI 62-104 – Issuer bid – relief from the requirements applicable to issuer bids in Part 2 of NI 62-104 – issuer proposes to purchase, pursuant to a repurchase program and at a discounted purchase price, up to 849,000 of its common shares under its normal course issuer bid from a third party – the third party will abide by the requirements governing normal course issuer bids as though it was the issuer, subject to certain modifications, including that the third party will not make any purchases under the program pursuant to a pre-arranged trade – common shares delivered to the issuer for cancellation will be common shares from the third party's existing inventory – due to the discounted purchase price, the common shares cannot be acquired through the TSX trading system – but for the fact that the common shares cannot be acquired through the TSX trading system, the Issuer could otherwise acquire such shares in accordance with TSX rules and in reliance upon the issuer bid exemption available under section 4.8 of NI 62-104 – the third party will purchase common shares under the program on the same basis as if the Issuer had conducted the bid in reliance on the normal course issuer bid exemptions set out in securities legislation – no adverse economic impact on, or prejudice to the Issuer or its security holders – acquisition of securities exempt from the requirements applicable to issuer bids in Part 2 of NI 62-104, subject to conditions, including that the agreement governing the program will prohibit the third party from selling common shares from its existing inventory to the issuer under the program unless it has purchased, or had purchased on its behalf, an equivalent number of common shares on the market, which number of common shares must be equal to the number of common shares sold to the issuer.

Statutes Cited

National Instrument 62-104 Take-Over Bids and Issuer Bids, Part 2 and s. 6.1.

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

AND

IN THE MATTER OF
CANADIAN NATIONAL RAILWAY COMPANY

ORDER
(Section 6.1 of National Instrument 62-104)

UPON the application (the "**Application**") of Canadian National Railway Company (the "**Issuer**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to section 6.1 of National Instrument 62-104 *Take-Over Bids and Issuer Bids* ("**NI 62-104**") exempting the Issuer from the requirements applicable to issuer bids in Part 2 of NI 62-104 (the "**Issuer Bid Requirements**") in respect of the proposed purchases by the Issuer of up to 849,000 (the "**Program Maximum**") of its common shares (the "**Common Shares**") from Bank of Montreal ("BMO") pursuant to a repurchase program (the "**Program**");

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

AND UPON the Issuer (and the BMO Entities (as defined below) in respect of paragraphs 5, 6, 7, 8, 23, 24, 25, 27 to 36, inclusive, 43 and 44 as they relate to the BMO Entities) having represented to the Commission that:

1. The Issuer is a corporation governed by the *Canada Business Corporations Act*.

2. The registered and head office of the Issuer is located at 935 de La Gauchetière Street West, Montréal, Quebec, H3B 2M9.

3. The Issuer is a reporting issuer in each of the provinces and territories of Canada (the "**Jurisdictions**") and the Common Shares are listed for trading on the Toronto Stock Exchange (the "**TSX**") and the New York Stock Exchange (the "**NYSE**") under the symbols "CNR" and "CNI", respectively. The Issuer is not in default of any requirement of the securities legislation of the Jurisdictions.

4. The authorized common share capital of the Issuer consists of an unlimited number of Common Shares, of which 775,350,780 were issued and outstanding as of June 22, 2016.

5. BMO is a full service Schedule 1 Bank under the *Bank Act* (Canada). The corporate headquarters of BMO are located in the Province of Ontario.

6. BMO does not directly or indirectly own more than 5% of the issued and outstanding Common Shares.

7. BMO is the beneficial owner of at least 849,000 Common Shares, none of which were acquired by, or on behalf of, BMO in anticipation or contemplation of resale to the Issuer (such Common Shares over which BMO has beneficial ownership, the "**Inventory Shares**"). All of the Inventory Shares are held by BMO in the Province of Ontario. No Common Shares were purchased by, or on behalf of, BMO on or after May 27, 2016, being the date that was 30 days prior to the date of the Application, in anticipation or contemplation of a sale of Common Shares by BMO to the Issuer.

8. BMO is at arm's length to the Issuer and is not an "insider" of the Issuer or "associate" of an "insider" of the Issuer, or an "associate" or "affiliate" of the Issuer, as such terms are defined in the *Securities Act* (Ontario) (the "Act"). BMO is an "accredited

investor" within the meaning of National Instrument 45-106 *Prospectus Exemptions*.

9. Pursuant to a Notice of Intention to Make a Normal Course Issuer Bid (the "**Original Notice**") which was accepted by the TSX effective October 30, 2015, the Issuer was permitted to make a normal course issuer bid (the "**Normal Course Issuer Bid**") to purchase up to 33,000,000 Common Shares, representing approximately 4.9% of the Issuer's public float of Common Shares as of the date specified in the Original Notice. The Original Notice described the terms of the Initial Scotia Program (as defined below). On November 27, 2015, the TSX accepted an amendment to the Original Notice (the "**Amendment**" and together with the Original Notice, the "**Notice**") to reflect an increase to the maximum number of Common Shares that may be purchased under the Initial Scotia Program and to specifically contemplate purchases by the Issuer pursuant to one or more additional share purchase program agreements conducted pursuant to issuer bid exemption orders issued by securities regulatory authorities. The Notice also specifies that purchases under the Normal Course Issuer Bid will be conducted through the facilities of the TSX and the NYSE or alternative trading systems, if eligible, or by 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 Rules**"), including under automatic trading plans and by private agreements or share repurchase programs under issuer bid exemption orders issued by securities regulatory authorities.

10. The Normal Course Issuer Bid is being conducted in reliance upon the exemption from the Issuer Bid Requirements set out in subsection 4.8(2) of NI 62-104 (the "**Designated Exchange Exemtion**").

11. The Normal Course Issuer Bid is also being conducted in the normal course on the NYSE and other permitted published markets (collectively with the NYSE, the "Other Published Markets") in reliance upon the exemption from the Issuer Bid Requirements set out in subsection 4.8(3) of NI 62-104 (the "**Other Published Markets Exemption**", and together with the Designated Exchange Exemption, the "**Exemptions**").

12. Pursuant to the TSX Rules, the Issuer has appointed Scotia Capital Inc. as its designated broker in Canada, and Merrill Lynch, Pierce, Fenner & Smith as its designated broker in the United States, in each case, in respect of the Normal Course Issuer Bid (the "**Responsible Brokers**").

13. The Issuer may, from time to time, appoint a non-independent purchasing agent (a "**Plan Trustee**") to fulfill requirements for the delivery of Common Shares under the Issuer's security-based compensation plans (the "**Plan Trustee Purchases**"). A Plan Trustee has not been appointed by the Issuer and no Plan Trustee Purchases will be required during the Program Term (as defined below).

14. Effective October 30, 2015, the Issuer implemented an automatic repurchase plan (the "**ARP**") to permit the Issuer to make purchases under the Normal Course Issuer Bid at such times when the Issuer would not be permitted to trade in its securities, including regularly scheduled quarterly blackout periods and other internal blackout periods (each such time, a "**Blackout Period**"). The ARP was approved by the TSX and is in compliance with the TSX Rules and applicable securities law. The ARP is not currently in effect and will not be in effect during the Program Term.

15. The maximum number of Common Shares that the Issuer is permitted to repurchase under the Normal Course Issuer Bid, being 33,000,000 Common Shares, will be reduced by the number of Plan Trustee Purchases and purchases under the ARP.

16. To the best of the Issuer's knowledge, the "public float" (calculated in accordance with the TSX Rules) for the Common Shares as at June 22, 2016 consisted of 656,181,548 Common Shares. The Common Shares are "highly liquid securities", as that term is defined in section 1.1 of OSC Rule 48-501 *Trading during Distributions, Formal Bids and Share Exchange Transactions* ("**OSC Rule 48-501**") and section 1.1 of the Universal Market Integrity Rules ("**UMIR**").

17. The Commission granted the Issuer an order on October 27, 2015 (the "**October Order**") pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements applicable to issuer bids then in effect in connection with the proposed purchases by the Issuer of up to 4,000,000 Common Shares from The Bank of Nova Scotia ("Scotia") pursuant to a share repurchase program (the "**Initial Scotia Program**"). On November 27, 2015, the Commission granted the Issuer an order pursuant to section 144 of the Act varying the October Order so as to increase the maximum number of Common Shares that may be purchased under the Initial Scotia Program from 4,000,000 to 5,175,000 Common Shares (such varied Initial Scotia Program, the "**Scotia Program**"). The Issuer purchased 5,175,000 Common Shares under the Scotia Program, which was completed on December 22, 2015.

18. The Commission granted an order on December 18, 2015 pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements applicable to issuer bids then in effect in

connection with the proposed purchases by the Issuer of up to 4,356,000 Common Shares from Royal Bank of Canada ("**RBC**") pursuant to a share repurchase program (the "**First RBC Program**"). The Issuer purchased 4,356,000 Common Shares under the First RBC Program, which was completed on February 11, 2016.

19. The Autorité des Marchés Financiers granted an order on February 4, 2016 pursuant to section 263 of the *Securities Act* (Québec) from the Issuer Bid Requirements in connection with the proposed purchases by the Issuer of up to 1,500,000 Common Shares from National Bank of Canada (the "**NBC Program**"). The Issuer purchased 1,500,000 Common Shares under the NBC Program, which was completed on March 2, 2016.

20. The Commission granted an order on February 16, 2016 pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements applicable to issuer bids then in effect in connection with the proposed purchases by the Issuer of up to 1,726,000 Common Shares from RBC pursuant to a share repurchase program (the "**Second RBC Program**"). The Issuer purchased 1,726,000 Common Shares under the Second RBC Program, which was completed on March 24, 2016.

21. The Commission granted an order on March 15, 2016 pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements applicable to issuer bids then in effect in connection with the proposed purchases by the Issuer of up to 11,220,000 Common Shares from Canadian Imperial Bank of Commerce ("**CIBC**") pursuant to a share repurchase program (the "**CIBC Program**"). As at June 22, 2016, the Issuer has purchased 6,928,690 Common Shares under the CIBC Program. The CIBC Program will terminate on the earlier of September 9, 2016 and the date on which the Issuer will have purchased 11,220,000 Common Shares from CIBC under the CIBC Program. The Issuer expects the CIBC Program to be completed on or about August 11, 2016.

22. Concurrently with this Application, the Issuer has filed two other applications with the Commission for exemptive relief from the Issuer Bid Requirements in connection with the proposed purchases by the Issuer of:

    (i) up to 1,000,000 Common Shares from BMO Nesbitt Burns Inc. ("**BMO Nesbitt**", and together with BMO, the "**BMO Entities**") pursuant to a share repurchase program (the "**BMO Nesbitt Program**"). The BMO Nesbitt Program will begin on the Trading Day (as defined below) following the completion or termination of the CIBC Program, and will terminate on the earlier of October 29, 2016 and the date on which the Issuer will have purchased 1,000,000 Common Shares from BMO Nesbitt under the BMO Nesbitt Program; and

    (ii) up to 5,600,000 Common Shares from The Toronto-Dominion Bank ("**TD**") pursuant to a share repurchase program (the "**TD Program**"). The TD Program will begin on the Trading Day following the completion or termination of the Program, and will terminate on the earlier of October 29, 2016 and the date on which the Issuer will have purchased 5,600,000 Common Shares from TD under the TD Program.

23. The Issuer proposes to participate in the Program during, and as a part of, the Normal Course Issuer Bid. The Program will be governed by, and conducted in accordance with, the terms and conditions of a Repurchase Program Agreement (the "**Program Agreement**") that will be entered into among the Issuer and each of the BMO Entities prior to the commencement of the Program and a copy of which will be delivered by the Issuer to the Commission promptly thereafter.

24. The Program will begin on the Trading Day following the completion or termination of the BMO Nesbitt Program, and will terminate on the earlier of October 29, 2016 and the date on which the Issuer will have purchased the Program Maximum from BMO (the "**Program Term**"). Neither the Issuer nor any of the BMO Entities may unilaterally terminate the Program Agreement during the Program Term, except in the case of an event of default by a party thereunder.

25. At least two clear trading days prior to the commencement of the Program, the Issuer will issue a press release that has been pre-cleared by the TSX that describes the material features of the Program and discloses the Issuer's intention to participate in the Program during the Normal Course Issuer Bid (the "**Press Release**").

26. The Program Maximum is less than the number of Common Shares remaining that the Issuer is entitled to acquire under the Normal Course Issuer Bid, calculated as at the date of the Program Agreement.

27. Pursuant to the terms of the Program Agreement, BMO has retained BMO Nesbitt to acquire Common Shares through the facilities of the TSX and on Other Published Markets in Canada (each, a "**Canadian Other Published Market**" and collectively with the TSX, the "**Canadian Markets**") under the Program. No Common Shares will be acquired under the Program on any

Other Published Markets other than Canadian Other Published Markets.

28. BMO Nesbitt is registered as an investment dealer under the securities legislation of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, Newfoundland and Labrador, Prince Edward Island, the Yukon, the Northwest Territories, and Nunavut. It is also registered as a futures commission merchant under the *Commodity Futures Act* (Ontario) and as dealer (futures commission merchant) under *The Commodity Futures Act* (Manitoba). BMO Nesbitt is a member of the Investment Industry Regulatory Organization of Canada ("**IIROC**") and the Canadian Investor Protection Fund, a participating organization or member of the TSX, TSX Venture Exchange and Canadian Securities Exchange, and an approved participant of the Bourse de Montréal. The head office of BMO Nesbitt is located in Toronto, Ontario.

29. The Program Term may include Blackout Periods. The Program Agreement provides that, during such times, BMO will conduct the Program in its sole discretion, in accordance with the irrevocable instructions established at a time when the Issuer was not in a Blackout Period, in compliance with exchange and securities regulatory requirements applicable to automatic repurchase plans. The Program and its terms have been approved by the TSX and would, during a Blackout Period, be an "automatic securities purchase plan" as defined in National Instrument 55-104 *Insider Reporting Requirements and Exemptions*.

30. At such times during the Program Term when the Issuer is not in a Blackout Period, BMO Nesbitt will purchase Common Shares on the applicable Trading Day (as defined below) in accordance with instructions received by BMO Nesbitt from the Issuer prior to the opening of trading on such day, which instructions will be the same instructions that the Issuer would give to Scotia Capital Inc., as its designated Canadian broker in respect of the Normal Course Issuer Bid, if it was conducting the Normal Course Issuer Bid in reliance on the Exemptions.

31. The Program Agreement will provide that all Common Shares acquired for the purposes of the Program by BMO Nesbitt on a day during the Program Term on which Canadian Markets are open for trading (each, a "**Trading Day**") must be acquired on Canadian Markets in accordance with the TSX Rules and any by-laws, rules, regulations or policies of any Canadian Markets upon which purchases are carried out (collectively, the "**NCIB Rules**") that would be applicable to the Issuer in connection with the Normal Course Issuer Bid, provided that:

(i) the aggregate number of Common Shares to be acquired on Canadian Markets by BMO Nesbitt on each Trading Day shall not exceed the maximum daily limit that is imposed upon the Normal Course Issuer Bid pursuant to the TSX Rules, determined with reference to an average daily trading volume that is based on the trading volume of the Common Shares on all Canadian Markets rather than being limited to the trading volume on the TSX only (the "**Modified Maximum Daily Limit**"), it being understood that the aggregate number of Common Shares to be acquired on the TSX by BMO Nesbitt on each Trading Day will not exceed the maximum daily limit that is imposed on the Normal Course Issuer Bid pursuant to the TSX Rules;

(ii) the aggregate number of Common Shares acquired by BMO Nesbitt in connection with the Program shall not exceed the Program Maximum;

(iii) the aggregate number of Common Shares acquired by BMO Nesbitt in connection with the Program on Canadian Other Published Markets shall not exceed that number of Common Shares remaining eligible for purchase pursuant to the Other Published Markets Exemption, calculated as at the date of the Program Agreement;

(iv) in respect of each Trading Day, upon the occurrence of a cessation of trading on the TSX or other event that would impair BMO Nesbitt's ability to acquire Common Shares on Canadian Markets on such Trading Day (a "**Market Disruption Event**"), BMO Nesbitt will cease acquiring Common Shares on such Trading Day and the number of Common Shares acquired by BMO Nesbitt to such time on such Trading Day will be the "**Acquired Shares**" in respect of that Trading Day for the purposes of the Program; and

(v) notwithstanding the block purchase exception provided for in the TSX Rules, no purchases will be made by BMO Nesbitt on any Canadian Markets pursuant to a pre-arranged trade.

32. Pursuant to the Program Agreement, on every Trading Day, BMO Nesbitt will purchase the Number of Common Shares. The "**Number of Common Shares**" will be no greater than the least of: (a) the quotient of an agreed upon daily Canadian dollar amount divided by the Discounted

Price; (b) the Program Maximum less the aggregate number of Common Shares previously purchased by BMO Nesbitt under the Program; (c) on a Trading Day on which a Market Disruption Event occurred, the Acquired Shares; and (d) the Modified Maximum Daily Limit. The "**Discounted Price**" per Common Share will be equal to (i) the volume weighted average price of the Common Shares on the Trading Day on which purchases were made less an agreed upon discount, or (ii) upon the occurrence of a Market Disruption Event, the volume weighted average price of the Common Shares at the time of the Market Disruption Event less an agreed upon discount.

33. Under the Program Agreement, BMO will deliver to the Issuer that number of Inventory Shares equal to the number of Common Shares purchased by BMO Nesbitt on a Trading Day under the Program on the second Trading Day thereafter, and the Issuer will pay BMO a purchase price equal to the Discounted Price for each such Inventory Share. Each Inventory Share purchased by the Issuer under the Program will be cancelled upon delivery to the Issuer.

34. The Program Agreement will prohibit BMO from selling any Inventory Shares to the Issuer under the Program unless BMO Nesbitt has purchased the equivalent number of Common Shares on the Canadian Markets. The number of Common Shares that are purchased by BMO Nesbitt on the Canadian Markets on a Trading Day will be equal to the Number of Common Shares for such Trading Day.

35. The Program Agreement will (a) prohibit the Issuer from purchasing any Common Shares (other than Inventory Shares purchased under the Program), (b) require the Issuer to prohibit the Responsible Brokers from acquiring any Common Shares on behalf of the Issuer, (c) require the Issuer to prohibit the Plan Trustee from undertaking any Plan Trustee Purchases, and (d) require the Issuer to prohibit the designated broker under the ARP from acquiring any Common Shares on behalf of the Issuer, in each case, during the conduct of the Program by the BMO Entities.

36. The Program Agreement will provide that all purchases of Common Shares under the Program will be made by BMO Nesbitt and that neither of the BMO Entities will engage in any hedging activity in connection with the conduct of the Program.

37. The Issuer will report its purchases of Common Shares under the Program to the TSX in accordance with the TSX Rules. In addition, immediately following the completion of the Program, the Issuer will: (a) report the total number of Common Shares acquired under the Program to the TSX and the Commission; and (b) file a notice on the System for Electronic Document Analysis and Retrieval (SEDAR) disclosing the number of Common Shares acquired under the Program and the aggregate dollar amount paid for such Common Shares.

38. The Issuer is of the view that (a) it will be able to purchase Common Shares from BMO at a lower price than the price at which it would be able to purchase an equivalent quantity of Common Shares under the Normal Course Issuer Bid in reliance on the Exemptions, and (b) the purchase of Common Shares pursuant to the Program is in the best interests of the Issuer and constitutes a desirable use of the Issuer's funds.

39. But for the fact that the Discount 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 that the Issuer purchases Common Shares from BMO, the Issuer could otherwise acquire such Common Shares through the facilities of the TSX as a "block purchase" in accordance with the block purchase exception in paragraph 629(1)7 of the TSX Rules and the Designated Exchange Exemption.

40. The entering into of the Program Agreement, the purchase of Common Shares by BMO Nesbitt in connection with the Program, and the sale of Inventory Shares by BMO to the Issuer will not adversely affect the Issuer or the rights of any of the Issuer's security holders and it will not materially affect control of the Issuer.

41. The sale of Inventory Shares to the Issuer by BMO will not be a "distribution" (as defined in the Act).

42. The Issuer will be able to acquire the Inventory Shares from BMO without the Issuer being subject to the dealer registration requirements of the Act.

43. At the time that the Issuer and the BMO Entities enter into the Program Agreement, neither the Issuer, nor any member of the Trading Products Group of BMO, nor any personnel of either of the BMO Entities that negotiated the Program Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Program Agreement and sell the Common Shares, will be aware of any "material change" or "material fact" (each as defined in the Act) with respect to the Issuer or the Common Shares that has not been generally disclosed (the "**Undisclosed Information**").

44. Each of the BMO Entities has policies and procedures that are designed to ensure conduct of the Program in accordance with, among other things, the Program Agreement and to preclude those persons responsible for administering the

Program from acquiring any Undisclosed Information during the conduct of the Program.

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

IT IS ORDERED pursuant to section 6.1 of NI 62-104 that the Issuer be exempt from the Issuer Bid Requirements in respect of the purchase of Inventory Shares from BMO pursuant to the Program, provided that:

(a) at least two clear trading days prior to the commencement of the Program, the Issuer will issue the Press Release;

(b) the Program Agreement will require that purchases of Common Shares under the Program will be made only on Canadian Markets, and only by BMO Nesbitt;

(c) the Program Agreement will require that BMO Nesbitt abide by the NCIB Rules applicable to the Normal Course Issuer Bid, subject to clauses 31 (i) and (v) hereof;

(d) the Program Agreement will require that the BMO Entities maintain records of all purchases of Common Shares that are made by BMO Nesbitt pursuant to the Program, which will be available to the Commission and IIROC upon request;

(e) the Program Agreement will prohibit BMO from selling Inventory Shares to the Issuer under the Program unless BMO Nesbitt has purchased an equivalent number of Common Shares on the Canadian Markets, and the Program Agreement will provide that the number of Common Shares that are purchased by BMO Nesbitt on the Canadian Markets on a Trading Day will be equal to the Number of Common Shares for that Trading Day;

(f) the Common Shares acquired by BMO Nesbitt under the Program will be taken into account by the Issuer when calculating the maximum annual aggregate limits that are imposed upon the Normal Course Issuer Bid in accordance with the TSX Rules and those Common Shares that were purchased by BMO Nesbitt on Canadian Other Published Markets will be taken into account by the Issuer when calculating the maximum aggregate limits that are imposed upon the Issuer in accordance with the Other Published Markets Exemption;

(g) the Program Agreement will (i) prohibit the Issuer from purchasing any Common Shares (other than Inventory Shares purchased under the Program), (ii) require the Issuer to prohibit the Responsible Brokers from acquiring any Common Shares on behalf of the Issuer, (iii) require the Issuer to prohibit the Plan Trustee from undertaking any Plan Trustee Purchases, and (iv) require the Issuer to prohibit the designated broker under the ARP from acquiring any Common Shares on behalf of the Issuer, in each case, during the conduct of the Program by the BMO Entities;

(h) each purchase made by BMO Nesbitt through the facilities of the Canadian Markets pursuant to the Program shall be marked with such designation as would be required by the applicable market-place and UMIR for trades made by an agent of the Issuer;

(i) at the time that the Program Agreement is entered into by the Issuer and the BMO Entities, the Common Shares must be “highly liquid securities”, as that term is defined in section 1.1 of OSC Rule 48-501 and section 1.1 of UMIR;

(j) at the time that the Issuer and the BMO Entities enter into the Program Agreement, neither the Issuer, nor any member of the Trading Products Group of BMO, nor any personnel of either of the BMO Entities that negotiated the Program Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Program Agreement and sell the Common Shares, will be aware of any Undisclosed Information; and

(k) in addition to reporting its purchases of Common Shares under the Program to the TSX in accordance with the TSX Rules, immediately following the completion of the Program, the Issuer will: (i) report the total number of Common Shares acquired under the Program to the TSX and the Commission; and (ii) file a notice on SEDAR disclosing the number of Common Shares acquired under the Program and the aggregate dollar amount paid for such Common Shares.

DATED at Toronto, Ontario, this 22nd day of July, 2016.

“Naizam Kanji”
Director, Office of Mergers & Acquisitions
Ontario Securities Commission

2.2.4 Canadian National Railway Company – s. 6.1 of NI 62-104 Take-Over Bids and Issuer Bids

Headnote

Section 6.1 of NI 62-104 – Issuer bid – relief from the requirements applicable to issuer bids in Part 2 of NI 62-104 – issuer proposes to purchase, pursuant to a repurchase program and at a discounted purchase price, up to 1,000,000 of its common shares under its normal course issuer bid from a third party – the third party will abide by the requirements governing normal course issuer bids as though it was the issuer, subject to certain modifications, including that the third party will not make any purchases under the program pursuant to a pre-arranged trade – common shares delivered to the issuer for cancellation will be common shares from the third party's existing inventory – due to the discounted purchase price, the common shares cannot be acquired through the TSX trading system – but for the fact that the common shares cannot be acquired through the TSX trading system, the Issuer could otherwise acquire such shares in accordance with TSX rules and in reliance upon the issuer bid exemption available under section 4.8 of NI 62-104 – the third party will purchase common shares under the program on the same basis as if the Issuer had conducted the bid in reliance on the normal course issuer bid exemptions set out in securities legislation – no adverse economic impact on, or prejudice to the Issuer or its security holders – acquisition of securities exempt from the requirements applicable to issuer bids in Part 2 of NI 62-104, subject to conditions, including that the agreement governing the program will prohibit the third party from selling common shares from its existing inventory to the issuer under the program unless it has purchased, or had purchased on its behalf, an equivalent number of common shares on the market, which number of common shares must be equal to the number of common shares sold to the issuer.

Statutes Cited

National Instrument 62-104 Take-Over Bids and Issuer Bids, Part 2 and s. 6.1.

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

AND

IN THE MATTER OF
CANADIAN NATIONAL RAILWAY COMPANY

ORDER
(Section 6.1 of National Instrument 62-104)

UPON the application (the "**Application**") of Canadian National Railway Company (the "**Issuer**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to section 6.1 of National Instrument 62-104 *Take-Over Bids and Issuer Bids* ("**NI 62-104**") exempting the Issuer from the requirements applicable to issuer bids in Part 2 of NI 62-104 (the "**Issuer Bid Requirements**") in respect of the proposed purchases by the Issuer of up to 1,000,000 (the "Program Maximum") of its common shares (the "**Common Shares**") from BMO Nesbitt Burns Inc. ("**BMO Nesbitt**") pursuant to a repurchase program (the "**Program**");

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

AND UPON the Issuer (and the BMO Entities (as defined below) in respect of paragraphs 5, 6, 7, 8, 23, 24, 27 to 35, inclusive, 42 and 43 as they relate to the BMO Entities) having represented to the Commission that:

1. The Issuer is a corporation governed by the *Canada Business Corporations Act.*

2. The registered and head office of the Issuer is located at 935 de La Gauchetière Street West, Montréal, Quebec, H3B 2M9.

3. The Issuer is a reporting issuer in each of the provinces and territories of Canada (the "**Jurisdictions**") and the Common Shares are listed for trading on the Toronto Stock Exchange (the "**TSX**") and the New York Stock Exchange (the "**NYSE**") under the symbols "CNR" and "CNI", respectively. The Issuer is not in default of any requirement of the securities legislation of the Jurisdictions.

4. The authorized common share capital of the Issuer consists of an unlimited number of Common Shares, of which 775,350,780 were issued and outstanding as of June 22, 2016.

5. BMO Nesbitt is registered as an investment dealer under the securities legislation of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, Newfoundland and Labrador, Prince Edward Island, Yukon, the Northwest Territories and Nunavut. It is also registered as a futures commission merchant under the *Commodity Futures Act* (Ontario) and as dealer (futures commission merchant) under *The Commodity Futures Act* (Manitoba). BMO Nesbitt is a member of the Investment Industry Regulatory Organization of Canada ("**IIROC**") and the Canadian Investor Protection Fund, a participating organization or member of the TSX, TSX Venture Exchange and Canadian Securities Exchange, and an approved participant of the Bourse de Montréal. The head office of BMO Nesbitt is located in Toronto, Ontario.

6. BMO Nesbitt does not directly or indirectly own more than 5% of the issued and outstanding Common Shares.

7. BMO Nesbitt is the beneficial owner of at least 1,000,000 Common Shares, none of which were acquired by, or on behalf of, BMO Nesbitt in

anticipation or contemplation of resale to the Issuer (such Common Shares over which BMO Nesbitt has beneficial ownership, the "**Inventory Shares**"). All of the Inventory Shares are held by BMO Nesbitt in the Province of Ontario. No Common Shares were purchased by, or on behalf of, BMO Nesbitt on or after May 27, 2016, being the date that was 30 days prior to the date of the Application, in anticipation or contemplation of a sale of Common Shares by BMO Nesbitt to the Issuer.

8. BMO Nesbitt is at arm's length to the Issuer and is not an "insider" of the Issuer or "associate" of an "insider" of the Issuer, or an "associate" or "affiliate" of the Issuer, as such terms are defined in the *Securities Act* (Ontario) (the "**Act**"). BMO Nesbitt is an "accredited investor" within the meaning of National Instrument 45-106 *Prospectus Exemptions*.

9. Pursuant to a Notice of Intention to Make a Normal Course Issuer Bid (the "**Original Notice**") which was accepted by the TSX effective October 30, 2015, the Issuer was permitted to make a normal course issuer bid (the "**Normal Course Issuer Bid**") to purchase up to 33,000,000 Common Shares, representing approximately 4.9% of the Issuer's public float of Common Shares as of the date specified in the Original Notice. The Original Notice described the terms of the Initial Scotia Program (as defined below). On November 27, 2015, the TSX accepted an amendment to the Original Notice (the "**Amendment**" and together with the Original Notice, the "**Notice**") to reflect an increase to the maximum number of Common Shares that may be purchased under the Initial Scotia Program and to specifically contemplate purchases by the Issuer pursuant to one or more additional share purchase program agreements conducted pursuant to issuer bid exemption orders issued by securities regulatory authorities. The Notice also specifies that purchases under the Normal Course Issuer Bid will be conducted through the facilities of the TSX and the NYSE or alternative trading systems, if eligible, or by 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 Rules**"), including under automatic trading plans and by private agreements or share repurchase programs under issuer bid exemption orders issued by securities regulatory authorities.

10. The Normal Course Issuer Bid is being conducted in reliance upon the exemption from the Issuer Bid Requirements set out in subsection 4.8(2) of NI 62-104 (the "**Designated Exchange Exemption**").

11. The Normal Course Issuer Bid is also being conducted in the normal course on the NYSE and other permitted published markets (collectively with the NYSE, the "Other Published Markets") in reliance upon the exemption from the Issuer Bid Requirements set out in subsection 4.8(3) of NI 62-104 (the "**Other Published Markets Exemption**", and together with the Designated Exchange Exemption, the "**Exemptions**").

12. Pursuant to the TSX Rules, the Issuer has appointed Scotia Capital Inc. as its designated broker in Canada, and Merrill Lynch, Pierce, Fenner & Smith as its designated broker in the United States, in each case, in respect of the Normal Course Issuer Bid (the "**Responsible Brokers**").

13. The Issuer may, from time to time, appoint a non-independent purchasing agent (a "**Plan Trustee**") to fulfill requirements for the delivery of Common Shares under the Issuer's security-based compensation plans (the "**Plan Trustee Purchases**"). A Plan Trustee has not been appointed by the Issuer and no Plan Trustee Purchases will be required during the Program Term (as defined below).

14. Effective October 30, 2015, the Issuer implemented an automatic repurchase plan (the "**ARP**") to permit the Issuer to make purchases under the Normal Course Issuer Bid at such times when the Issuer would not be permitted to trade in its securities, including regularly scheduled quarterly blackout periods and other internal blackout periods (each such time, a "**Blackout Period**"). The ARP was approved by the TSX and is in compliance with the TSX Rules and applicable securities law. The ARP is not currently in effect and will not be in effect during the Program Term.

15. The maximum number of Common Shares that the Issuer is permitted to repurchase under the Normal Course Issuer Bid, being 33,000,000 Common Shares, will be reduced by the number of Plan Trustee Purchases and purchases under the ARP.

16. To the best of the Issuer's knowledge, the "public float" (calculated in accordance with the TSX Rules) for the Common Shares as at June 22, 2016 consisted of 656,181,548 Common Shares. The Common Shares are "highly liquid securities", as that term is defined in section 1.1 of OSC Rule 48-501 *Trading during Distributions, Formal Bids and Share Exchange Transactions* ("**OSC Rule 48-501**") and section 1.1 of the Universal Market Integrity Rules ("**UMIR**").

17. The Commission granted the Issuer an order on October 27, 2015 (the "**October Order**") pursuant to clause 104(2)(c) of the Act exempting the Issuer

from the requirements applicable to issuer bids then in effect in connection with the proposed purchases by the Issuer of up to 4,000,000 Common Shares from The Bank of Nova Scotia ("**Scotia**") pursuant to a share repurchase program (the "**Initial Scotia Program**"). On November 27, 2015, the Commission granted the Issuer an order pursuant to section 144 of the Act varying the October Order so as to increase the maximum number of Common Shares that may be purchased under the Initial Scotia Program from 4,000,000 to 5,175,000 Common Shares (such varied Initial Scotia Program, the "**Scotia Program**"). The Issuer purchased 5,175,000 Common Shares under the Scotia Program, which was completed on December 22, 2015.

18. The Commission granted an order on December 18, 2015 pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements applicable to issuer bids then in effect in connection with the proposed purchases by the Issuer of up to 4,356,000 Common Shares from Royal Bank of Canada ("**RBC**") pursuant to a share repurchase program (the "**First RBC Program**"). The Issuer purchased 4,356,000 Common Shares under the First RBC Program, which was completed on February 11, 2016.

19. The Autorité des Marchés Financiers granted an order on February 4, 2016 pursuant to section 263 of the *Securities Act* (Québec) from the Issuer Bid Requirements in connection with the proposed purchases by the Issuer of up to 1,500,000 Common Shares from National Bank of Canada (the "**NBC Program**"). The Issuer purchased 1,500,000 Common Shares under the NBC Program, which was completed on March 2, 2016.

20. The Commission granted an order on February 16, 2016 pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements applicable to issuer bids then in effect in connection with the proposed purchases by the Issuer of up to 1,726,000 Common Shares from RBC pursuant to a share repurchase program (the "**Second RBC Program**"). The Issuer purchased 1,726,000 Common Shares under the Second RBC Program, which was completed on March 24, 2016.

21. The Commission granted an order on March 15, 2016 pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements applicable to issuer bids then in effect in connection with the proposed purchases by the Issuer of up to 11,220,000 Common Shares from Canadian Imperial Bank of Commerce ("**CIBC**") pursuant to a share repurchase program (the "**CIBC Program**"). As at June 22, 2016, the Issuer has purchased 6,928,690 Common Shares under the CIBC Program. The CIBC Program will terminate on the earlier of September 9, 2016 and the date on which the Issuer will have purchased 11,220,000 Common Shares from CIBC under the CIBC Program. The Issuer expects the CIBC Program to be completed on or about August 11, 2016.

22. Concurrently with this Application, the Issuer has filed two other applications with the Commission for exemptive relief from the Issuer Bid Requirements in connection with the proposed purchases by the Issuer of:

    (i) up to 849,000 Common Shares from Bank of Montreal ("**BMO**", and together with BMO Nesbitt, the "**BMO Entities**") pursuant to a share repurchase program (the "**BMO Program**"). The BMO Program will begin on the Trading Day (as defined below) following the completion or termination of the Program, and will terminate on the earlier of October 29, 2016 and the date on which the Issuer will have purchased 849,000 Common Shares from BMO under the BMO Program; and

    (ii) up to 5,600,000 Common Shares from The Toronto-Dominion Bank ("**TD**") pursuant to a share repurchase program (the "**TD Program**"). The TD Program will begin on the Trading Day following the completion or termination of the BMO Program, and will terminate on the earlier of October 29, 2016 and the date on which the Issuer will have purchased 5,600,000 Common Shares from TD under the TD Program.

23. The Issuer proposes to participate in the Program during, and as a part of, the Normal Course Issuer Bid. The Program will be governed by, and conducted in accordance with, the terms and conditions of a Repurchase Program Agreement (the "**Program Agreement**") that will be entered into among the Issuer and each of the BMO Entities prior to the commencement of the Program and a copy of which will be delivered by the Issuer to the Commission promptly thereafter.

24. The Program will begin on the Trading Day following the completion or termination of the CIBC Program, and will terminate on the earlier of October 29, 2016 and the date on which the Issuer will have purchased the Program Maximum from BMO Nesbitt (the "**Program Term**"). Neither the Issuer nor any of the BMO Entities may unilaterally terminate the Program Agreement during the Program Term, except in the case of an event of default by a party thereunder.

25. At least two clear trading days prior to the commencement of the Program, the Issuer will issue a press release that has been pre-cleared

by the TSX that describes the material features of the Program and discloses the Issuer's intention to participate in the Program during the Normal Course Issuer Bid (the "**Press Release**").

26. The Program Maximum is less than the number of Common Shares remaining that the Issuer is entitled to acquire under the Normal Course Issuer Bid, calculated as at the date of the Program Agreement.

27. Pursuant to the terms of the Program Agreement, BMO Nesbitt has been retained by BMO to acquire Common Shares through the facilities of the TSX and on Other Published Markets in Canada (each, a "**Canadian Other Published Market**" and collectively with the TSX, the "**Canadian Markets**") under the Program. No Common Shares will be acquired under the Program on any Other Published Markets other than Canadian Other Published Markets.

28. No Blackout Periods are scheduled or expected to occur during the Program Term. In the event that a Blackout Period should arise during the Program Term, purchasing under the Program would immediately cease and would not be recommenced until following the expiration of the Blackout Period.

29. The Program Agreement provides that BMO Nesbitt will purchase Common Shares on the applicable Trading Day (as defined below) in accordance with instructions received by BMO from the Issuer prior to the opening of trading on such day, which instructions will be the same instructions that the Issuer would give to Scotia Capital Inc., as its designated Canadian broker in respect of the Normal Course Issuer Bid, if it was conducting the Normal Course Issuer Bid in reliance on the Exemptions.

30. The Program Agreement will provide that all Common Shares acquired for the purposes of the Program by BMO Nesbitt on a day during the Program Term on which Canadian Markets are open for trading (each, a "**Trading Day**") must be acquired on Canadian Markets in accordance with the TSX Rules and any by-laws, rules, regulations or policies of any Canadian Markets upon which purchases are carried out (collectively, the "**NCIB Rules**") that would be applicable to the Issuer in connection with the Normal Course Issuer Bid, provided that:

    (i) the aggregate number of Common Shares to be acquired on Canadian Markets by BMO Nesbitt on each Trading Day shall not exceed the maximum daily limit that is imposed upon the Normal Course Issuer Bid pursuant to the TSX Rules, determined with reference to an average daily trading volume that is based on the trading volume of the Common Shares on all Canadian Markets rather than being limited to the trading volume on the TSX only (the "**Modified Maximum Daily Limit**"), it being understood that the aggregate number of Common Shares to be acquired on the TSX by BMO Nesbitt on each Trading Day will not exceed the maximum daily limit that is imposed on the Normal Course Issuer Bid pursuant to the TSX Rules;

    (ii) the aggregate number of Common Shares acquired by BMO Nesbitt in connection with the Program shall not exceed the Program Maximum;

    (iii) the aggregate number of Common Shares acquired by BMO Nesbitt in connection with the Program on Canadian Other Published Markets shall not exceed that number of Common Shares remaining eligible for purchase pursuant to the Other Published Markets Exemption, calculated as at the date of the Program Agreement;

    (iv) in respect of each Trading Day, upon the occurrence of a cessation of trading on the TSX or other event that would impair BMO Nesbitt's ability to acquire Common Shares on Canadian Markets on such Trading Day (a "**Market Disruption Event**"), BMO Nesbitt will cease acquiring Common Shares on such Trading Day and the number of Common Shares acquired by BMO Nesbitt to such time on such Trading Day will be the "**Acquired Shares**" in respect of that Trading Day for the purposes of the Program; and

    (v) notwithstanding the block purchase exception provided for in the TSX Rules, no purchases will be made by BMO Nesbitt on any Canadian Markets pursuant to a pre-arranged trade.

31. Pursuant to the Program Agreement, on every Trading Day, BMO Nesbitt will purchase the Number of Common Shares. The "**Number of Common Shares**" will be no greater than the least of: (a) the quotient of an agreed upon daily Canadian dollar amount divided by the Discounted Price; (b) the Program Maximum less the aggregate number of Common Shares previously purchased by BMO Nesbitt under the Program; (c) on a Trading Day on which a Market Disruption Event occurred, the Acquired Shares; and (d) the Modified Maximum Daily Limit. The "**Discounted Price**" per Common Share will be equal to (i) the volume weighted average price of the Common

Shares on the Trading Day on which purchases were made less an agreed upon discount, or (ii) upon the occurrence of a Market Disruption Event, the volume weighted average price of the Common Shares at the time of the Market Disruption Event less an agreed upon discount.

32. Under the Program Agreement, BMO Nesbitt will deliver to the Issuer that number of Inventory Shares equal to the number of Common Shares purchased by BMO Nesbitt on a Trading Day under the Program on the second Trading Day thereafter, and the Issuer will pay BMO Nesbitt a purchase price equal to the Discounted Price for each such Inventory Share. Each Inventory Share purchased by the Issuer under the Program will be cancelled upon delivery to the Issuer.

33. The Program Agreement will prohibit BMO Nesbitt from selling any Inventory Shares to the Issuer under the Program unless BMO Nesbitt has purchased the equivalent number of Common Shares on the Canadian Markets. The number of Common Shares that are purchased by BMO Nesbitt on the Canadian Markets on a Trading Day will be equal to the Number of Common Shares for such Trading Day.

34. The Program Agreement will (a) prohibit the Issuer from purchasing any Common Shares (other than Inventory Shares purchased under the Program), (b) require the Issuer to prohibit the Responsible Brokers from acquiring any Common Shares on behalf of the Issuer, (c) require the Issuer to prohibit the Plan Trustee from undertaking any Plan Trustee Purchases, and (d) require the Issuer to prohibit the designated broker under the ARP from acquiring any Common Shares on behalf of the Issuer, in each case, during the conduct of the Program by the BMO Entities.

35. The Program Agreement will provide that all purchases of Common Shares under the Program will be made by BMO Nesbitt and that neither of the BMO Entities will engage in any hedging activity in connection with the conduct of the Program.

36. The Issuer will report its purchases of Common Shares under the Program to the TSX in accordance with the TSX Rules. In addition, immediately following the completion of the Program, the Issuer will: (a) report the total number of Common Shares acquired under the Program to the TSX and the Commission; and (b) file a notice on the System for Electronic Document Analysis and Retrieval (SEDAR) disclosing the number of Common Shares acquired under the Program and the aggregate dollar amount paid for such Common Shares.

37. The Issuer is of the view that (a) it will be able to purchase Common Shares from BMO Nesbitt at a lower price than the price at which it would be able to purchase an equivalent quantity of Common Shares under the Normal Course Issuer Bid in reliance on the Exemptions, and (b) the purchase of Common Shares pursuant to the Program is in the best interests of the Issuer and constitutes a desirable use of the Issuer's funds.

38. But for the fact that the Discount 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 that the Issuer purchases Common Shares from BMO Nesbitt, the Issuer could otherwise acquire such Common Shares through the facilities of the TSX as a “block purchase” in accordance with the block purchase exception in paragraph 629(1)7 of the TSX Rules and the Designated Exchange Exemption.

39. The entering into of the Program Agreement, the purchase of Common Shares by BMO Nesbitt in connection with the Program, and the sale of Inventory Shares by BMO Nesbitt to the Issuer will not adversely affect the Issuer or the rights of any of the Issuer's security holders and it will not materially affect control of the Issuer.

40. The sale of Inventory Shares to the Issuer by BMO Nesbitt will not be a “distribution” (as defined in the Act).

41. The Issuer will be able to acquire the Inventory Shares from BMO Nesbitt without the Issuer being subject to the dealer registration requirements of the Act.

42. At the time that the Issuer and the BMO Entities enter into the Program Agreement, neither the Issuer, nor any member of the Trading Products Group of BMO Nesbitt, nor any personnel of either of the BMO Entities that negotiated the Program Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Program Agreement and sell the Common Shares, will be aware of any “material change” or “material fact” (each as defined in the Act) with respect to the Issuer or the Common Shares that has not been generally disclosed (the “**Undisclosed Information**”).

43. Each of the BMO Entities has policies and procedures that are designed to ensure conduct of the Program in accordance with, among other things, the Program Agreement and to preclude those persons responsible for administering the Program from acquiring any Undisclosed Information during the conduct of the Program.

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

IT IS ORDERED pursuant to section 6.1 of NI 62-104 that the Issuer be exempt from the Issuer Bid Requirements in respect of the purchase of Inventory Shares from BMO Nesbitt pursuant to the Program, provided that:

(a) at least two clear trading days prior to the commencement of the Program, the Issuer will issue the Press Release;

(b) the Program Agreement will require that purchases of Common Shares under the Program will be made only on Canadian Markets, and only by BMO Nesbitt;

(c) the Program Agreement will require that BMO Nesbitt abide by the NCIB Rules applicable to the Normal Course Issuer Bid, subject to clauses 30 (i) and (v) hereof;

(d) the Program Agreement will require that the BMO Entities maintain records of all purchases of Common Shares that are made by BMO Nesbitt pursuant to the Program, which will be available to the Commission and IIROC upon request;

(e) the Program Agreement will prohibit BMO Nesbitt from selling Inventory Shares to the Issuer under the Program unless BMO Nesbitt has purchased an equivalent number of Common Shares on the Canadian Markets, and the Program Agreement will provide that the number of Common Shares that are purchased by BMO Nesbitt on the Canadian Markets on a Trading Day will be equal to the Number of Common Shares for that Trading Day;

(f) the Common Shares acquired by BMO Nesbitt under the Program will be taken into account by the Issuer when calculating the maximum annual aggregate limits that are imposed upon the Normal Course Issuer Bid in accordance with the TSX Rules and those Common Shares that were purchased by BMO Nesbitt on Canadian Other Published Markets will be taken into account by the Issuer when calculating the maximum aggregate limits that are imposed upon the Issuer in accordance with the Other Published Markets Exemption;

(g) the Program Agreement will (i) prohibit the Issuer from purchasing any Common Shares (other than Inventory Shares purchased under the Program), (ii) require the Issuer to prohibit the Responsible Brokers from acquiring any Common Shares on behalf of the Issuer, (iii) require the Issuer to prohibit the Plan Trustee from undertaking any Plan Trustee Purchases, and (iv) require the Issuer to prohibit the designated broker under the ARP from acquiring any Common Shares on behalf of the Issuer, in each case, during the conduct of the Program by the BMO Entities;

(h) each purchase made by BMO Nesbitt through the facilities of the Canadian Markets pursuant to the Program shall be marked with such designation as would be required by the applicable marketplace and UMIR for trades made by an agent of the Issuer;

(i) at the time that the Program Agreement is entered into by the Issuer and the BMO Entities, the Common Shares must be "highly liquid securities", as that term is defined in section 1.1 of OSC Rule 48-501 and section 1.1 of UMIR;

(j) at the time that the Issuer and the BMO Entities enter into the Program Agreement, neither the Issuer, nor any member of the Trading Products Group of BMO Nesbitt, nor any personnel of either of the BMO Entities that negotiated the Program Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Program Agreement and sell the Common Shares, will be aware of any Undisclosed Information; and

(k) in addition to reporting its purchases of Common Shares under the Program to the TSX in accordance with the TSX Rules, immediately following the completion of the Program, the Issuer will: (i) report the total number of Common Shares acquired under the Program to the TSX and the Commission; and (ii) file a notice on SEDAR disclosing the number of Common Shares acquired under the Program and the aggregate dollar amount paid for such Common Shares.

DATED at Toronto, Ontario, this 22nd day of July, 2016.

"Naizam Kanji"
Director, Office of Mergers & Acquisitions
Ontario Securities Commission

2.2.5 Canadian National Railway Company – s. 6.1 of NI 62-104 Take-Over Bids and Issuer Bids

Headnote

Section 6.1 of NI 62-104 – Issuer bid – relief from the requirements applicable to issuer bids in Part 2 of NI 62-104 – issuer proposes to purchase, pursuant to a repurchase program and at a discounted purchase price, up to 5,600,000 of its common shares under its normal course issuer bid from a third party – the third party will abide by the requirements governing normal course issuer bids as though it was the issuer, subject to certain modifications, including that the third party will not make any purchases under the program pursuant to a pre-arranged trade – common shares delivered to the issuer for cancellation will be common shares from the third party's existing inventory – due to the discounted purchase price, the common shares cannot be acquired through the TSX trading system – but for the fact that the common shares cannot be acquired through the TSX trading system, the Issuer could otherwise acquire such shares in accordance with TSX rules and in reliance upon the issuer bid exemption available under section 4.8 of NI 62-104 – the third party will purchase common shares under the program on the same basis as if the Issuer had conducted the bid in reliance on the normal course issuer bid exemptions set out in securities legislation – no adverse economic impact on, or prejudice to the Issuer or its security holders – acquisition of securities exempt from the requirements applicable to issuer bids in Part 2 of NI 62-104, subject to conditions, including that the agreement governing the program will prohibit the third party from selling common shares from its existing inventory to the issuer under the program unless it has purchased, or had purchased on its behalf, an equivalent number of common shares on the market, which number of common shares must be equal to the number of common shares sold to the issuer.

Statutes Cited

National Instrument 62-104 Take-Over Bids and Issuer Bids, Part 2 and s. 6.1.

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

AND

IN THE MATTER OF
CANADIAN NATIONAL RAILWAY COMPANY

ORDER
(Section 6.1 of National Instrument 62-104)

UPON the application (the "**Application**") of Canadian National Railway Company (the "**Issuer**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to section 6.1 of National Instrument 62-104 *Take-Over Bids and Issuer Bids* ("NI 62-104") exempting the Issuer from the requirements applicable to issuer bids in Part 2 of NI 62-104 (the "**Issuer Bid Requirements**") in respect of the proposed purchases by the Issuer of up to 5,600,000 (the "**Program Maximum**") of its common shares (the "**Common Shares**") from The Toronto-Dominion Bank ("**TD**") pursuant to a repurchase program (the "**Program**");

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

AND UPON the Issuer (and the TD Entities (as defined below) in respect of paragraphs paragraphs 5, 6, 7, 8, 23, 24, 27 to 36, inclusive, 43 and 44 as they relate to the TD Entities) having represented to the Commission that:

1. The Issuer is a corporation governed by the *Canada Business Corporations Act.*

2. The registered and head office of the Issuer is located at 935 de La Gauchetière Street West, Montréal, Quebec, H3B 2M9.

3. The Issuer is a reporting issuer in each of the provinces and territories of Canada (the "**Jurisdictions**") and the Common Shares are listed for trading on the Toronto Stock Exchange (the "**TSX**") and the New York Stock Exchange (the "**NYSE**") under the symbols "CNR" and "CNI", respectively. The Issuer is not in default of any requirement of the securities legislation of the Jurisdictions.

4. The authorized common share capital of the Issuer consists of an unlimited number of Common Shares, of which 775,350,780 were issued and outstanding as of June 22, 2016.

5. TD is a full service Schedule 1 Bank under the *Bank Act* (Canada). The corporate headquarters of TD are located in the Province of Ontario.

6. TD does not directly or indirectly own more than 5% of the issued and outstanding Common Shares.

7. TD is the beneficial owner of at least 5,600,000 Common Shares, none of which were acquired by, or on behalf of, TD in anticipation or contemplation of resale to the Issuer (such Common Shares over which TD has beneficial ownership, the "**Inventory Shares**"). No Common Shares were purchased by, or on behalf of, TD on or after May 27, 2016, being the date that was 30 days prior to the date of the Application, in anticipation or contemplation of a sale of Common Shares by TD to the Issuer.

8. TD is at arm's length to the Issuer and is not an "insider" of the Issuer or "associate" of an "insider" of the Issuer, or an "associate" or "affiliate" of the Issuer, as such terms are defined in the *Securities Act* (Ontario) (the "**Act**"). TD is an "accredited

investor" within the meaning of National Instrument 45-106 *Prospectus Exemptions*.

9. Pursuant to a Notice of Intention to Make a Normal Course Issuer Bid (the "**Original Notice**") which was accepted by the TSX effective October 30, 2015, the Issuer was permitted to make a normal course issuer bid (the "**Normal Course Issuer Bid**") to purchase up to 33,000,000 Common Shares, representing approximately 4.9% of the Issuer's public float of Common Shares as of the date specified in the Original Notice. The Original Notice described the terms of the Initial Scotia Program (as defined below). On November 27, 2015, the TSX accepted an amendment to the Original Notice (the "**Amendment**" and together with the Original Notice, the "**Notice**") to reflect an increase to the maximum number of Common Shares that may be purchased under the Initial Scotia Program and to specifically contemplate purchases by the Issuer pursuant to one or more additional share purchase program agreements conducted pursuant to issuer bid exemption orders issued by securities regulatory authorities. The Notice also specifies that purchases under the Normal Course Issuer Bid will be conducted through the facilities of the TSX and the NYSE or alternative trading systems, if eligible, or by 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 Rules**"), including under automatic trading plans and by private agreements or share repurchase programs under issuer bid exemption orders issued by securities regulatory authorities.

10. The Normal Course Issuer Bid is being conducted in reliance upon the exemption from the Issuer Bid Requirements set out in subsection 4.8(2) of NI 62-104 (the "**Designated Exchange Exemption**").

11. The Normal Course Issuer Bid is also being conducted in the normal course on the NYSE and other permitted published markets (collectively with the NYSE, the "**Other Published Markets**") in reliance upon the exemption from the Issuer Bid Requirements set out in subsection 4.8(3) of NI 62-104 (the "**Other Published Markets Exemption**", and together with the Designated Exchange Exemption, the "**Exemptions**").

12. Pursuant to the TSX Rules, the Issuer has appointed Scotia Capital Inc. as its designated broker in Canada, and Merrill Lynch, Pierce, Fenner & Smith as its designated broker in the United States, in each case, in respect of the Normal Course Issuer Bid (the "**Responsible Brokers**").

13. The Issuer may, from time to time, appoint a non-independent purchasing agent (a "**Plan Trustee**") to fulfill requirements for the delivery of Common Shares under the Issuer's security-based compensation plans (the "**Plan Trustee Purchases**"). A Plan Trustee has not been appointed by the Issuer and no Plan Trustee Purchases will be required during the Program Term (as defined below).

14. Effective October 30, 2015, the Issuer implemented an automatic repurchase plan (the "**ARP**") to permit the Issuer to make purchases under the Normal Course Issuer Bid at such times when the Issuer would not be permitted to trade in its securities, including regularly scheduled quarterly blackout periods and other internal blackout periods (each such time, a "**Blackout Period**"). The ARP was approved by the TSX and is in compliance with the TSX Rules and applicable securities law. The ARP is not currently in effect and will not be in effect during the Program Term.

15. The maximum number of Common Shares that the Issuer is permitted to repurchase under the Normal Course Issuer Bid, being 33,000,000 Common Shares, will be reduced by the number of Plan Trustee Purchases and purchases under the ARP.

16. To the best of the Issuer's knowledge, the "public float" (calculated in accordance with the TSX Rules) for the Common Shares as at June 22, 2016 consisted of 656,181,548 Common Shares. The Common Shares are "highly liquid securities", as that term is defined in section 1.1 of OSC Rule 48-501 *Trading during Distributions, Formal Bids and Share Exchange Transactions* ("**OSC Rule 48-501**") and section 1.1 of the Universal Market Integrity Rules ("**UMIR**").

17. The Commission granted the Issuer an order on October 27, 2015 (the "**October Order**") pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements applicable to issuer bids then in effect in connection with the proposed purchases by the Issuer of up to 4,000,000 Common Shares from The Bank of Nova Scotia ("**Scotia**") pursuant to a share repurchase program (the "**Initial Scotia Program**"). On November 27, 2015, the Commission granted the Issuer an order pursuant to section 144 of the Act varying the October Order so as to increase the maximum number of Common Shares that may be purchased under the Initial Scotia Program from 4,000,000 to 5,175,000 Common Shares (such varied Initial Scotia Program, the "**Scotia Program**"). The Issuer purchased 5,175,000 Common Shares under the Scotia Program, which was completed on December 22, 2015.

18. The Commission granted an order on December 18, 2015 pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements applicable to issuer bids then in effect in connection with the proposed purchases by the Issuer of up to 4,356,000 Common Shares from Royal Bank of Canada ("**RBC**") pursuant to a share repurchase program (the "**First RBC Program**"). The Issuer purchased 4,356,000 Common Shares under the First RBC Program, which was completed on February 11, 2016.

19. The Autorité des Marchés Financiers granted an order on February 4, 2016 pursuant to section 263 of the *Securities Act* (Québec) from the Issuer Bid Requirements in connection with the proposed purchases by the Issuer of up to 1,500,000 Common Shares from National Bank of Canada (the "**NBC Program**"). The Issuer purchased 1,500,000 Common Shares under the NBC Program, which was completed on March 2, 2016.

20. The Commission granted an order on February 16, 2016 pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements applicable to issuer bids then in effect in connection with the proposed purchases by the Issuer of up to 1,726,000 Common Shares from RBC pursuant to a share repurchase program (the "**Second RBC Program**"). The Issuer purchased 1,726,000 Common Shares under the Second RBC Program, which was completed on March 24, 2016.

21. The Commission granted an order on March 15, 2016 pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements applicable to issuer bids then in effect in connection with the proposed purchases by the Issuer of up to 11,220,000 Common Shares from Canadian Imperial Bank of Commerce ("**CIBC**") pursuant to a share repurchase program (the "**CIBC Program**"). As at June 22, 2016, the Issuer has purchased 6,928,690 Common Shares under the CIBC Program. The CIBC Program will terminate on the earlier of September 9, 2016 and the date on which the Issuer will have purchased 11,220,000 Common Shares from CIBC under the CIBC Program. The Issuer expects the CIBC Program to be completed on or about August 11, 2016.

22. Concurrently with this Application, the Issuer has filed two other applications with the Commission for exemptive relief from the Issuer Bid Requirements in connection with the proposed purchases by the Issuer of:

    (i) up to 1,000,000 Common Shares from BMO Nesbitt Burns Inc. ("**BMO Nesbitt**") pursuant to a share repurchase program (the "**BMO Nesbitt Program**"). The BMO Nesbitt Program will begin on the Trading Day (as defined below) following the completion or termination of the CIBC Program, and will terminate on the earlier of October 29, 2016 and the date on which the Issuer will have purchased 1,000,000 Common Shares from BMO Nesbitt under the BMO Nesbitt Program; and

    (ii) up to 849,000 Common Shares from Bank of Montreal ("**BMO**") pursuant to a share repurchase program (the "**BMO Program**"). The BMO Program will begin on the Trading Day following the completion or termination of the BMO Nesbitt Program, and will terminate on the earlier of October 29, 2016 and the date on which the Issuer will have purchased 849,000 Common Shares from BMO under the BMO Program.

23. The Issuer proposes to participate in the Program during, and as a part of, the Normal Course Issuer Bid. The Program will be governed by, and conducted in accordance with, the terms and conditions of a Repurchase Program Agreement (the "**Program Agreement**") that will be entered into among the Issuer, TD and TD Securities Inc. ("**TDSI**", and together with TD, the "**TD Entities**") prior to the commencement of the Program and a copy of which will be delivered by the Issuer to the Commission promptly thereafter.

24. The Program will begin on the Trading Day following the completion or termination of the BMO Program, and will terminate on the earlier of October 29, 2016 and the date on which the Issuer will have purchased the Program Maximum from TD (the "**Program Term**"). Neither the Issuer nor any of the TD Entities may unilaterally terminate the Program Agreement during the Program Term, except in the case of an event of default by a party thereunder.

25. At least two clear trading days prior to the commencement of the Program, the Issuer will issue a press release that has been pre-cleared by the TSX that describes the material features of the Program and discloses the Issuer's intention to participate in the Program during the Normal Course Issuer Bid (the "**Press Release**").

26. The Program Maximum is less than the number of Common Shares remaining that the Issuer is entitled to acquire under the Normal Course Issuer Bid, calculated as at the date of the Program Agreement.

27. Pursuant to the terms of the Program Agreement, TD has retained TDSI to acquire Common Shares through the facilities of the TSX and on Other Published Markets in Canada (each, a "**Canadian Other Published Market**" and collectively with the

TSX, the "**Canadian Markets**") under the Program. No Common Shares will be acquired under the Program on any Other Published Markets other than Canadian Other Published Markets.

28. TDSI is registered as an investment dealer under the securities legislation of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, Newfoundland and Labrador, New Brunswick, Prince Edward Island, Yukon, the Northwest Territories and Nunavut. It is also registered as a futures commission merchant under the *Commodity Futures Act* (Ontario), as a derivatives dealer under the *Derivatives Act* (Québec), and as dealer (futures commission merchant) under *The Commodity Futures Act* (Manitoba). TDSI is a member of the Investment Industry Regulatory Organization of Canada ("**IIROC**") and the Canadian Investor Protection Fund, a participating organization or member of the TSX, TSX Venture Exchange and Canadian Securities Exchange, and an approved participant of the Bourse de Montréal. The head office of TDSI is located in Toronto, Ontario.

29. The Program Term will include Blackout Periods. The Program Agreement provides that, during such times, TD will conduct the Program in its sole discretion, in accordance with the irrevocable instructions established at a time when the Issuer was not in a Blackout Period, in compliance with exchange and securities regulatory requirements applicable to automatic repurchase plans. The Program and its terms have been approved by the TSX and would, during a Blackout Period, be an "automatic securities purchase plan" as defined in National Instrument 55-104 *Insider Reporting Requirements and Exemptions*.

30. At such times during the Program Term when the Issuer is not in a Blackout Period, TDSI will purchase Common Shares on the applicable Trading Day (as defined below) in accordance with instructions received by TDSI from the Issuer prior to the opening of trading on such day, which instructions will be the same instructions that the Issuer would give to Scotia Capital Inc., as its designated Canadian broker in respect of the Normal Course Issuer Bid, if it was conducting the Normal Course Issuer Bid in reliance on the Exemptions.

31. The Program Agreement will provide that all Common Shares acquired for the purposes of the Program by TDSI on a day during the Program Term on which Canadian Markets are open for trading (each, a "**Trading Day**") must be acquired on Canadian Markets in accordance with the TSX Rules and any by-laws, rules, regulations or policies of any Canadian Markets upon which purchases are carried out (collectively, the "**NCIB Rules**") that would be applicable to the Issuer in connection with the Normal Course Issuer Bid, provided that:

(i) the aggregate number of Common Shares to be acquired on Canadian Markets by TDSI on each Trading Day shall not exceed the maximum daily limit that is imposed upon the Normal Course Issuer Bid pursuant to the TSX Rules, determined with reference to an average daily trading volume that is based on the trading volume of the Common Shares on all Canadian Markets rather than being limited to the trading volume on the TSX only (the "**Modified Maximum Daily Limit**"), it being understood that the aggregate number of Common Shares to be acquired on the TSX by TDSI on each Trading Day will not exceed the maximum daily limit that is imposed on the Normal Course Issuer Bid pursuant to the TSX Rules;

(ii) the aggregate number of Common Shares acquired by TDSI in connection with the Program shall not exceed the Program Maximum;

(iii) the aggregate number of Common Shares acquired by TDSI in connection with the Program on Canadian Other Published Markets shall not exceed that number of Common Shares remaining eligible for purchase pursuant to the Other Published Markets Exemption, calculated as at the date of the Program Agreement;

(iv) in respect of each Trading Day, upon the occurrence of a cessation of trading on the TSX or other event that would impair TDSI's ability to acquire Common Shares on Canadian Markets on such Trading Day (a "**Market Disruption Event**"), TDSI will cease acquiring Common Shares on such Trading Day and the number of Common Shares acquired by TDSI to such time on such Trading Day will be the "**Acquired Shares**" in respect of that Trading Day for the purposes of the Program; and

(v) notwithstanding the block purchase exception provided for in the TSX Rules, no purchases will be made by TDSI on any Canadian Markets pursuant to a pre-arranged trade.

32. Pursuant to the Program Agreement, on every Trading Day, TDSI will purchase the Number of Common Shares. The "**Number of Common Shares**" will be no greater than the least of: (a) the quotient of an agreed upon daily Canadian

dollar amount divided by the Discounted Price; (b) the Program Maximum less the aggregate number of Common Shares previously purchased by TDSI under the Program; (c) on a Trading Day on which a Market Disruption Event occurred, the Acquired Shares; and (d) the Modified Maximum Daily Limit. The "**Discounted Price**" per Common Share will be equal to (i) the volume weighted average price of the Common Shares on the Trading Day on which purchases were made less an agreed upon discount, or (ii) upon the occurrence of a Market Disruption Event, the volume weighted average price of the Common Shares at the time of the Market Disruption Event less an agreed upon discount.

33. Under the Program Agreement, TD will deliver to the Issuer that number of Inventory Shares equal to the number of Common Shares purchased by TDSI on a Trading Day under the Program on the second Trading Day thereafter, and the Issuer will pay TD a purchase price equal to the Discounted Price for each such Inventory Share. Each Inventory Share purchased by the Issuer under the Program will be cancelled upon delivery to the Issuer.

34. The Program Agreement will prohibit TD from selling any Inventory Shares to the Issuer under the Program unless TDSI has purchased the equivalent number of Common Shares on the Canadian Markets. The number of Common Shares that are purchased by TDSI on the Canadian Markets on a Trading Day will be equal to the Number of Common Shares for such Trading Day.

35. The Program Agreement will (a) prohibit the Issuer from purchasing any Common Shares (other than Inventory Shares purchased under the Program), (b) require the Issuer to prohibit the Responsible Brokers from acquiring any Common Shares on behalf of the Issuer, (c) require the Issuer to prohibit the Plan Trustee from undertaking any Plan Trustee Purchases, and (d) require the Issuer to prohibit the designated broker under the ARP from acquiring any Common Shares on behalf of the Issuer, in each case, during the conduct of the Program by the TD Entities.

36. The Program Agreement will provide that all purchases of Common Shares under the Program will be made by TDSI and that neither of the TD Entities will engage in any hedging activity in connection with the conduct of the Program.

37. The Issuer will report its purchases of Common Shares under the Program to the TSX in accordance with the TSX Rules. In addition, immediately following the completion of the Program, the Issuer will: (a) report the total number of Common Shares acquired under the Program to the TSX and the Commission; and (b) file a notice on the System for Electronic Document Analysis and Retrieval (SEDAR) disclosing the number of Common Shares acquired under the Program and the aggregate dollar amount paid for such Common Shares.

38. The Issuer is of the view that (a) it will be able to purchase Common Shares from TD at a lower price than the price at which it would be able to purchase an equivalent quantity of Common Shares under the Normal Course Issuer Bid in reliance on the Exemptions, and (b) the purchase of Common Shares pursuant to the Program is in the best interests of the Issuer and constitutes a desirable use of the Issuer's funds.

39. But for the fact that the Discount 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 that the Issuer purchases Common Shares from TD, the Issuer could otherwise acquire such Common Shares through the facilities of the TSX as a "block purchase" in accordance with the block purchase exception in paragraph 629(1)7 of the TSX Rules and the Designated Exchange Exemption.

40. The entering into of the Program Agreement, the purchase of Common Shares by TDSI in connection with the Program, and the sale of Inventory Shares by TD to the Issuer will not adversely affect the Issuer or the rights of any of the Issuer's security holders and it will not materially affect control of the Issuer.

41. The sale of Inventory Shares to the Issuer by TD will not be a "distribution" (as defined in the Act).

42. The Issuer will be able to acquire the Inventory Shares from TD without the Issuer being subject to the dealer registration requirements of the Act.

43. At the time that the Issuer and the TD Entities enter into the Program Agreement, neither the Issuer, nor any member of the Equity Derivatives group of TD, nor any personnel of either of the TD Entities that negotiated the Program Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Program Agreement and sell the Common Shares, will be aware of any "material change" or "material fact" (each as defined in the Act) with respect to the Issuer or the Common Shares that has not been generally disclosed (the "**Undisclosed Information**").

44. Each of the TD Entities has policies and procedures that are designed to ensure conduct of the Program in accordance with, among other things, the Program Agreement and to preclude those persons responsible for administering the Program from acquiring any Undisclosed Information during the conduct of the Program.

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

IT IS ORDERED pursuant to section 6.1 of NI 62-104 that the Issuer be exempt from the Issuer Bid Requirements in respect of the purchase of Inventory Shares from TD pursuant to the Program, provided that:

(a) at least two clear trading days prior to the commencement of the Program, the Issuer will issue the Press Release;

(b) the Program Agreement will require that purchases of Common Shares under the Program will be made only on Canadian Markets, and only by TDSI;

(c) the Program Agreement will require that TDSI abide by the NCIB Rules applicable to the Normal Course Issuer Bid, subject to clauses 31 (i) and (v) hereof;

(d) the Program Agreement will require that the TD Entities maintain records of all purchases of Common Shares that are made by TDSI pursuant to the Program, which will be available to the Commission and IIROC upon request;

(e) the Program Agreement will prohibit TD from selling Inventory Shares to the Issuer under the Program unless TDSI has purchased an equivalent number of Common Shares on the Canadian Markets, and the Program Agreement will provide that the number of Common Shares that are purchased by TDSI on the Canadian Markets on a Trading Day will be equal to the Number of Common Shares for that Trading Day;

(f) the Common Shares acquired by TDSI under the Program will be taken into account by the Issuer when calculating the maximum annual aggregate limits that are imposed upon the Normal Course Issuer Bid in accordance with the TSX Rules and those Common Shares that were purchased by TDSI on Canadian Other Published Markets will be taken into account by the Issuer when calculating the maximum aggregate limits that are imposed upon the Issuer in accordance with the Other Published Markets Exemption;

(g) the Program Agreement will (i) prohibit the Issuer from purchasing any Common Shares (other than Inventory Shares purchased under the Program), (ii) require the Issuer to prohibit the Responsible Brokers from acquiring any Common Shares on behalf of the Issuer, (iii) require the Issuer to prohibit the Plan Trustee from undertaking any Plan Trustee Purchases, and (iv) require the Issuer to prohibit the designated broker under the ARP from acquiring any Common Shares on behalf of the Issuer, in each case, during the conduct of the Program by the TD Entities;

(h) each purchase made by TDSI through the facilities of the Canadian Markets pursuant to the Program shall be marked with such designation as would be required by the applicable marketplace and UMIR for trades made by an agent of the Issuer;

(i) at the time that the Program Agreement is entered into by the Issuer and the TD Entities, the Common Shares must be "highly liquid securities", as that term is defined in section 1.1 of OSC Rule 48-501 and section 1.1 of UMIR;

(j) at the time that the Issuer and the TD Entities enter into the Program Agreement, neither the Issuer, nor any member of the Equity Derivatives group of TD, nor any personnel of either of the TD Entities that negotiated the Program Agreement or made, participated in the making of, or provided advice in connection with, the decision to enter into the Program Agreement and sell the Common Shares, will be aware of any Undisclosed Information; and

(k) in addition to reporting its purchases of Common Shares under the Program to the TSX in accordance with the TSX Rules, immediately following the completion of the Program, the Issuer will: (i) report the total number of Common Shares acquired under the Program to the TSX and the Commission; and (ii) file a notice on SEDAR disclosing the number of Common Shares acquired under the Program and the aggregate dollar amount paid for such Common Shares.

DATED at Toronto, Ontario, this 22nd day of July, 2016.

"Naizam Kanji"
Director, Office of Mergers & Acquisitions
Ontario Securities Commission

2.3 Orders with Related Settlement Agreements

2.3.1 Scotia Capital Inc. et al. – ss. 127(1), (2)

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

AND

IN THE MATTER OF
SCOTIA CAPITAL INC., SCOTIA SECURITIES INC. AND
HOLLISWEALTH ADVISORY SERVICES INC.

ORDER
(Subsections 127(1) and 127(2))

WHEREAS:

1. on July 26, 2016, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing in relation to the Statement of Allegations filed by Staff of the Commission ("Commission Staff") on July 26, 2016 with respect to Scotia Capital Inc., Scotia Securities Inc. and HollisWealth Advisory Services Inc. (the "Scotia Dealers");

2. the Notice of Hearing gave notice that on July 29, 2016, the Commission would hold a hearing to consider whether it is in the public interest to approve a settlement agreement between Commission Staff and the Scotia Dealers dated July 25, 2016 (the "Settlement Agreement");

3. in the Statement of Allegations, Commission Staff alleged that there were inadequacies in the Scotia Dealers' systems of controls and supervision which formed part of their compliance systems (the "Control and Supervision Inadequacies") which resulted in clients of the Scotia Dealers paying excess fees that were not detected or corrected by the Scotia Dealers in a timely manner;

4. Commission Staff do not allege, and have found no evidence of dishonest conduct by the Scotia Dealers;

5. Commission Staff are satisfied that the Scotia Dealers discovered and self-reported the Control and Supervision Inadequacies to Commission Staff;

6. Commission Staff are satisfied that during their investigation of the Control and Supervision Inadequacies, the Scotia Dealers provided prompt, detailed and candid cooperation to Commission Staff;

7. Commission Staff are satisfied that the Scotia Dealers had formulated an intention to pay appropriate compensation to clients and former clients when they self-reported the Control and Supervision Inadequacies to Commission Staff;

8. as part of the Settlement Agreement, the Scotia Dealers undertake to:

   (a) pay appropriate compensation to eligible clients and former clients who were harmed by the Control and Supervision Inadequacies (the "Affected Clients") in accordance with a plan submitted by the Scotia Dealers to Commission Staff (the "Compensation Plan") and to report to a manager or deputy director in the Compliance and Registrant Regulation Branch of the Commission (the "OSC Manager") in accordance with the Compensation Plan;

   (b) make a voluntary payment of $50,000 to reimburse the Commission for costs incurred or to be incurred by it, in accordance with subsection 3.4(2)(a) of the *Securities Act* (the "Act"); and

   (c) make a further voluntary payment of $800,000, to be designated for allocation or use by the Commission in accordance with paragraphs (b)(i) or (ii) of subsection 3.4(2) of the Act

   (the "Undertaking");

9. the Commission has received the voluntary payments totalling $850,000 in escrow pending approval of the Settlement Agreement;

10. the Commission reviewed the Settlement Agreement, the Notice of Hearing and the Statement of Allegations and heard submissions from counsel for the Scotia Dealers and from Commission Staff; and

11. the Commission is of the opinion that it is in the public interest to make this order;

IT IS ORDERED THAT:

(a) pursuant to subsection 127(1) of the Act, the Settlement Agreement is approved;

(b) pursuant to subsection 127(2) of the Act, the approval of the Settlement Agreement is subject to the following terms and conditions:

(i) within 90 days of receiving comments from Commission Staff regarding the procedures, controls and supervisory and monitoring systems designed to prevent the re-occurrence of the Control and Supervision Inadequacies in the future (the "Enhanced Control and Supervision Procedures"), the Scotia Dealers shall provide to the OSC Manager revised written policies and procedures (the "Revised Policies and Procedures") that, to the satisfaction of the OSC Manager, are responsive to any remaining issues raised by Commission Staff with regard to the Scotia Dealers' policies and procedures to establish the Enhanced Control and Supervision Procedures (the "Remaining Issues");

(ii) thereafter, the Scotia Dealers shall make such further modifications to their Revised Policies and Procedures as are required to ensure that the Revised Policies and Procedures address any Remaining Issues to the satisfaction of the OSC Manager;

(iii) within 8 months of receiving confirmation from the OSC Manager that the Revised Policies and Procedures satisfy the Remaining Issues raised by Commission Staff (the "Confirmation Date"), the Scotia Dealers shall submit a letter (the "Attestation Letter"), signed by the Ultimate Designated Person and the Chief Compliance Officer for each of the Scotia Dealers, to the OSC Manager, expressing their opinion as to whether the Enhanced Control and Supervision Procedures were adequately followed, administered and enforced by the Scotia Dealer for the 6 month period commencing from the Confirmation Date;

(iv) the Attestation Letter shall be accompanied by a report which provides a description of the testing performed to support the conclusions contained in the Attestation Letter;

(v) the Scotia Dealers shall submit such additional reports as may be requested by the OSC Manager for the purpose of satisfying the OSC Manager that the opinion expressed in the Attestation Letter described in subparagraph (b)(iii) above is valid;

(vi) any of the Scotia Dealers or Commission Staff may apply to the Commission for directions in respect of any issues that may arise with regard to the implementation of subparagraphs (b)(i) to (v) above; and

(vii) the Scotia Dealers shall comply with the Undertaking; and

(c) the voluntary payment referred to in recital 8(c) above is designated for allocation or use by the Commission in accordance with paragraphs (b)(i) or (ii) of subsection 3.4(2) of the Act.

DATED at Toronto, Ontario this 29th day of July, 2016

"Timothy Moseley"

"William J. Furlong" "Monica Kowal"

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

AND

IN THE MATTER OF
SCOTIA CAPITAL INC., SCOTIA SECURITIES INC. AND
HOLLISWEALTH ADVISORY SERVICES INC.

SETTLEMENT AGREEMENT BETWEEN STAFF OF THE COMMISSION AND SCOTIA CAPITAL INC., SCOTIA SECURITIES INC. AND HOLLISWEALTH ADVISORY SERVICES INC.

PART I – INTRODUCTION

1. The Ontario Securities Commission (the "Commission") will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to subsections 127(1) and (2) of the *Securities Act*, R.S.O. 1990, c. S-5, as amended (the "Act"), it is in the public interest for the Commission to make certain orders in respect of Scotia Capital Inc. ("SCI"), Scotia Securities Inc. ("SSI") and HollisWealth Advisory Services Inc. ("HW") (together, the "Scotia Dealers").

2. SCI is a corporation amalgamated pursuant to the laws of Ontario. SCI is a member of the Investment Industry Regulatory Organization of Canada ("IIROC") and is registered with the Commission as an investment dealer. The matters described below with regard to SCI pertain only to the business units within SCI that provide advice to retail clients, namely ScotiaMcLeod, a division of SCI, and HollisWealth, a division of SCI.

3. Each of SSI and HW is a corporation incorporated pursuant to the laws of Ontario and each is a member of the Mutual Fund Dealers Association of Canada ("MFDA") and is registered with the Commission as a mutual fund dealer.

4. Commencing in February 2015, the Scotia Dealers self-reported to Staff of the Commission ("Commission Staff") the matters described in Part III below. During Commission Staff's investigation of these matters, the Scotia Dealers provided prompt, detailed and candid co-operation to Commission Staff.

5. As summarized at paragraph 12 below and more fully described in Part III below, it is Commission Staff's position that there were inadequacies in the Scotia Dealers' systems of controls and supervision which formed part of their compliance systems (the "Control and Supervision Inadequacies") which resulted in certain clients paying, directly or indirectly, excess fees that were not detected or corrected by the Scotia Dealers in a timely manner.

PART II – JOINT SETTLEMENT RECOMMENDATION

6. Commission Staff and the Scotia Dealers have agreed to a settlement of the proceeding initiated in respect of the Scotia Dealers by Notice of Hearing dated July 26, 2016 (the "Proceeding") based on the terms and conditions set out in this settlement agreement (the "Settlement Agreement"). Commission Staff have consulted with IIROC Staff and MFDA Staff in relation to the underlying facts which are the subject matter of this Settlement Agreement.

7. Pursuant to this Settlement Agreement, Commission Staff agree to recommend to the Commission that the Proceeding be resolved and disposed of in accordance with the terms and conditions contained herein.

8. It is Commission Staff's position that:

   (a) the statement of facts set out by Commission Staff in Part III below, which is based on an investigation carried out by Commission Staff following the self-reporting by the Scotia Dealers, is supported by the evidence reviewed by Commission Staff and the conclusions contained in Part III are reasonable; and

   (b) it is in the public interest for the Commission to approve this Settlement Agreement, having regard to the following considerations:

      (i) Commission Staff's allegations are that each of the Scotia Dealers failed to establish, maintain and apply procedures to establish controls and supervision:

A. sufficient to provide reasonable assurance that the Scotia Dealers, and each individual acting on behalf of the Scotia Dealers, complied with securities legislation, including the requirement to deal fairly with clients with regard to fees; and

B. that were reasonably likely to identify the non-compliance described in A. above at an early stage that would have allowed the Scotia Dealers to correct the non-compliant conduct in a timely manner;

(ii) Commission Staff do not allege, and have found no evidence of dishonest conduct by the Scotia Dealers;

(iii) the Scotia Dealers discovered and self-reported the Control and Supervision Inadequacies to Commission Staff;

(iv) during the investigation of the Control and Supervision Inadequacies following the self-reporting by the Scotia Dealers, the Scotia Dealers provided prompt, detailed and candid cooperation to Commission Staff;

(v) the Scotia Dealers had formulated an intention to pay appropriate compensation to clients and former clients when they self-reported the Control and Supervision Inadequacies to Commission Staff and, thereafter, the Scotia Dealers co-operated with Commission Staff with a view to providing appropriate compensation to clients and former clients who were harmed by any of the matters in Part III below, including the Control and Supervision Inadequacies (the "Affected Clients");

(vi) as part of this Settlement, the Scotia Dealers have agreed to pay appropriate compensation to the Affected Clients, in accordance with a plan submitted by the Scotia Dealers to Commission Staff and presented to the Commission (the "Compensation Plan"). As at the date of this Settlement Agreement, the Scotia Dealers anticipate paying compensation to Affected Clients of $19,997,821.01 in the aggregate in respect of the Control and Supervision Inadequacies;

(vii) the Compensation Plan prescribes, among other things:

A. the detailed methodology to be used for determining the compensation to be paid to the Affected Clients, including the time value of money in respect of any monies owed by the Scotia Dealers to the Affected Clients;

B. the approach to be taken with regard to contacting and making payments to the Affected Clients;

C. the timing to complete the various steps included in the Compensation Plan;

D. a $25 *de minimis* exception (the aggregate of such *de minimis* amounts as at the date of this settlement is approximately $89,835.64 as compared to $19,997,821.01 in compensation to be paid), which aggregate *de minimis* amount will be donated to Canadian Foundation for Economic Education;

E. the approach to be taken to any remaining funds that are not paid out to Affected Clients after the steps included in the Compensation Plan have been fully implemented. In that regard, the Compensation Plan provides that if the Scotia Dealers are not able to contact any former Affected Clients, notwithstanding the steps described in the Compensation Plan, each Scotia Dealer will use reasonable efforts to locate any Affected Clients who are entitled to payment of $200 or more including directory searches, internet searches, and the employment of third parties to assist in the search. If the Scotia Dealer determines that a client is deceased but does not know the identity of the personal representative of the client's estate, and the estate is entitled to more than $400, the Scotia Dealer shall make reasonable efforts to identify the personal representative of the deceased client. Subject to any applicable unclaimed property legislation, any amounts remaining undistributed to non-located clients by December 31, 2018 will be donated to Canadian Foundation for Economic Education;

F. the resolution of client inquiries through an escalation process; and

G. regular reporting to a manager or deputy director in the Compliance and Registrant Regulation Branch of the Commission ("OSC Manager") detailing the Scotia Dealers' progress with respect to the implementation of the Compensation Plan, including with regard to the resolution of client inquiries;

(viii) at the request of Commission Staff, each of the Scotia Dealers conducted an extensive review of its other businesses operating in Canada to identify whether there were any other instances of inadequacies in their systems of controls and supervision leading to clients directly paying excess fees, or indirectly paying excess fees on mutual funds managed by 1832 Asset Management L.P. ("1832 LP"), an affiliate of the Scotia Dealers. Based on this review, the Scotia Dealers have advised Commission Staff that there are no other instances other than those instances of Control and Supervision Inadequacies described herein;

(ix) the Scotia Dealers are taking corrective action including implementing additional controls and supervision to address the Control and Supervision Inadequacies, by establishing procedures and implementing controls, supervisory and monitoring systems designed to prevent the re-occurrence of the Control and Supervision Inadequacies in the future (the "Enhanced Control and Supervision Procedures") and, as part of this Settlement Agreement, the Scotia Dealers are required to report to the OSC Manager on the development and implementation of the Enhanced Control and Supervision Procedures;

(x) the Scotia Dealers have agreed to make a voluntary payment of $800,000 to be designated for allocation or use by the Commission in accordance with paragraphs (b)(i) or (ii) of subsection 3.4(2) of the Act;

(xi) the Scotia Dealers have agreed to make a further voluntary payment of $50,000 to reimburse the Commission for costs incurred or to be incurred;

(xii) the total agreed voluntary payment of $850,000 will be paid by wire transfer before the commencement of the hearing before the Commission to approve this Settlement Agreement, which payment is conditional upon approval of this Settlement Agreement by the Commission; and

(xiii) the terms of this Settlement Agreement are appropriate in all the circumstances, including mitigating factors and the principles of general and specific deterrence. Commission Staff are of the view that the voluntary payments referred to above in addition to the amounts to be paid as compensation to Affected Clients by the Scotia Dealers will emphasize to the marketplace that Commission Staff expect registrants to have compliance systems with appropriate controls and supervision in place which:

A. provide reasonable assurance that registrants, and each individual acting on behalf of registrants, are complying with securities legislation, including the requirement to deal fairly with clients with regard to fees; and

B. are reasonably likely to allow registrants to identify and correct non-compliance with securities legislation in a timely manner.

9. The Scotia Dealers neither admit nor deny the accuracy of the facts or the conclusions of Commission Staff as set out in Part III of this Settlement Agreement.

10. The Scotia Dealers agree to this Settlement Agreement and to the making of an order in the form attached as Schedule "A".

PART III – COMMISSION STAFF'S STATEMENT OF FACTS AND CONCLUSIONS

A. Overview

11. Commencing in February 2015, the Scotia Dealers self-reported the Control and Supervision Inadequacies to Commission Staff. Some SCI clients have fee-based accounts and are charged a fee for investment management services received in respect of assets held in the account (the "Fee-Based Accounts"). The investment management fee is based on the client's assets under management (the "Account Fee").

12. The Control and Supervision Inadequacies are summarized as follows:

(a) for some SCI clients with Fee-Based Accounts, certain non-exchange traded mutual funds with embedded trailer fees held in Fee-Based Accounts were incorrectly included in Account Fee calculations, resulting in some clients paying excess fees during the period January 1, 2009 to May 1, 2015;

(b) for some SCI clients with Fee-Based Accounts, assets held in their Fee-Based Accounts included exchange traded funds ("ETFs"), resulting in some clients paying excess fees because SCI received trailer fees during the period January 1, 2009 to December 31, 2015 in addition to the Account Fee;

(c) for some SCI clients with Fee-Based Accounts, assets held in their Fee-Based Accounts included structured notes and closed end funds ("Structured Products"), resulting in some clients paying excess fees because SCI received trailer fees during the period January 1, 2009 to December 31, 2015 in addition to the Account Fee; and

(d) beginning in November 2008, some clients of the Scotia Dealers were not advised that they qualified for a lower Management Expense Ratio ("MER") series of an MER Differential Fund (as defined below) and indirectly paid excess fees when they invested in the higher MER series of the same mutual fund (the "MER Differential Issue").

13. These Control and Supervision Inadequacies continued undetected for an extended period of time. The Scotia Dealers discovered the Control and Supervision Inadequacies following inquiries made and/or reviews conducted by the relevant Scotia Dealers.

14. As set out in greater detail below in the section entitled Mitigating Factors, the Scotia Dealers have taken and are taking several remedial steps in order to correct the Control and Supervision Inadequacies.

15. The Scotia Dealers have engaged an independent third party to assist them in identifying, calculating, and validating the amounts to be paid to Affected Clients.

B. The Control and Supervision Inadequacies

(a) Excess Account Fees Paid on Certain Mutual Funds

16. For some of SCI's clients who have Fee-Based Accounts, assets held in a Fee-Based Account included certain non-exchange traded mutual funds with trailer fees paid by the investment fund manager of such funds to SCI. As part of its review relating to this matter, SCI identified that 15 of these mutual funds had been incorrectly classified for fee-billing purposes during the period January 1, 2009 to December 31, 2014 and were therefore incorrectly included in the calculation of the Account Fee in some Fee-Based Accounts and, as a result, some SCI clients were charged excess Account Fees. Specifically,

(a) it was determined that SCI did not have adequate systems of internal controls and supervision in place to ensure that the incorrectly classified mutual funds were classified correctly and excluded consistently from the calculation of the Account Fee;

(b) it was determined that SCI's internal controls failed to detect this Control and Supervision Inadequacy in a timely manner; and

(c) SCI took immediate steps to ensure the incorrectly classified mutual funds were classified correctly and excluded consistently from the calculation of the Account Fee on a going forward basis.

17. Upon identification of the issue described above, SCI took steps to determine the extent of the problem and how to compensate Affected Clients who paid excess Account Fees. SCI engaged an independent third party to identify, calculate and validate the amounts to be paid to Affected Clients as compensation for the excess Account Fees paid by them. Having taken the steps described above, SCI self-reported this Control and Supervision Inadequacy to Commission Staff. By May 1, 2015, SCI had corrected the classification errors that had occurred so that there would be no recurrence of an excess Account Fee being charged in respect of these securities.

18. SCI has determined that, as a result of this Control and Supervision Inadequacy, approximately 111 client accounts were charged excess Account Fees during the period January 1, 2009 to May 1, 2015.

19. SCI has agreed to compensate the Affected Clients who held these securities in their Fee-Based Accounts during the relevant period in accordance with the Compensation Plan, which requires that SCI pay to the Affected Clients:

(a) the excess Account Fee;

(b) an amount representing the applicable sales tax charged on the excess Account Fee; and

(c) an amount representing the time value of money in respect of the excess Account Fee from the time the excess Account Fee was charged to July 31, 2016, based on a simple interest rate of 5% per annum calculated monthly (the "MF Opportunity Cost").

20. Where Account Fees were undercharged to the client, the benefit of those undercharges will not be set off against any compensation amounts paid to the client. The undercharges will also not otherwise be charged to Affected Clients or any other clients.

21. As at the date of this Settlement Agreement, SCI has determined that the total amount to be paid to these Affected Clients pursuant to the Compensation Plan, inclusive of the MF Opportunity Cost, is $152,709.07.

(b) Trailer Fees Received in Respect of Certain ETFs

22. For some SCI clients with Fee-Based Accounts, assets held in the Fee-Based Account included certain trail version ETFs that were subject to an Account Fee, thereby resulting in some clients indirectly paying excess fees when SCI received trailer fees in addition to the Account Fee.

23. As part of its review, SCI identified instances during the period from January 1, 2009 to December 31, 2015 in which its clients had purchased trail version ETFs in Fee-Based Accounts. All of the securities in question were issued by third party issuers unrelated to SCI. Specifically,

(a) it was determined that SCI did not have adequate systems of internal controls and supervision in place to ensure that clients were not subject, directly or indirectly, to trailer fees on ETFs in Fee-Based Accounts if the ETFs were subject to an Account Fee;

(b) it was determined that SCI's internal controls failed to identify this Control and Supervision Inadequacy in a timely manner; and

(c) commencing in January 2016 SCI began taking steps to ensure that when clients purchase ETFs in a Fee-Based Account that are subject to an Account Fee, they are not subject, directly or indirectly, to trailer fees on the ETFs.

24. Thereafter, SCI took steps to determine the extent of the problem and how to compensate Affected Clients. SCI self-reported this Control and Supervision Inadequacy to Commission Staff.

25. SCI has determined that, as a result of this Control and Supervision Inadequacy, approximately 2,623 client accounts were affected during the period January 1, 2009 to December 31, 2015.

26. SCI has agreed to compensate the Affected Clients who held these ETFs with trailer fees in their Fee-Based Accounts during the relevant period in accordance with the Compensation Plan, which requires that SCI pay to the Affected Clients:

(a) an amount equal to the trailer fee received on these ETFs; and

(b) an amount representing the time value of money in respect of this trailer fee from the time the trailer fee was received to July 31, 2016, based on a simple interest rate of 5% per annum calculated monthly (the "ETF Opportunity Cost").

27. As at the date of this Settlement Agreement, SCI has determined that the total amount to be paid to these Affected Clients pursuant to the Compensation Plan, inclusive of the ETF Opportunity Cost, is approximately $589,673.98.

(c) Trailer Fees Received in Respect of Certain Structured Products

28. As part of its review, SCI identified instances during the period from January 1, 2009 to December 31, 2015 in which its clients had purchased Structured Products in Fee-Based Accounts where SCI received trailer fees from the issuer in addition to the Account Fee. All of the securities in question were issued by third party issuers unrelated to SCI.

29. In these instances, some SCI clients were charged an Account Fee in addition to an indirect trailer fee resulting in some clients indirectly paying an excess fee. Specifically,

(a) the calculation of fees for these Structured Products did not exclude the trailer fee; and

(b) effective in 2016, SCI will implement the Enhanced Control and Supervision Procedures, including procedures to ensure that any trailer fees received for Structured Products held in Fee-Based Accounts on or after January 1, 2016 for which Account Fees are charged will be paid to the client.

30. SCI has determined that, as a result of this Control and Supervision Inadequacy, approximately 30,218 client accounts were affected during the period January 1, 2009 to December 31, 2015.

31. SCI has agreed to compensate Affected Clients who held these Structured Products in their Fee-Based Accounts during the relevant period in accordance with the Compensation Plan, which requires that SCI pay to the Affected Clients:

(a) an amount equal to the trailer fee received on these Structured Products; and

(b) an amount representing the time value of money in respect of this trailer fee from the time the fee was received to July 31, 2016, based on a simple interest rate of 5% per annum calculated monthly (the "Structured Product Opportunity Cost").

32. As at the date of this Settlement Agreement, SCI has determined that the total amount to be paid to these Affected Clients pursuant to the Compensation Plan, inclusive of the Structured Product Opportunity Cost, is $10,332,039.30.

(d) Excess Indirect Fees paid by some clients of the Scotia Dealers who invested in the MER Differential Funds

33. 1832 LP, an affiliate of the Scotia Dealers, manages a number of mutual funds that are available in different series. For certain of these mutual funds, there are two series of the same mutual fund which differ solely in that the MER of one series, which has a higher minimum investment threshold, is lower than the MER of the other series (the "MER Differential Funds").

34. The MER Differential Funds identified with instances of the Control and Supervision Inadequacies were:

(a) Dynamic Funds with a Series A and Series E where the MER differential varies from 8 to 56 basis points;

(b) Dynamic Funds with a Series F and Series FI where the MER differential varies from 4 to 36 basis points; and

(c) Scotia Money Market Fund with a Series A and Premium Series where the MER differential varies from 45 to 70 basis points.

35. In most cases the threshold for the lower MER series was an investment of $100,000 or greater, while in some cases it was $25,000 or greater.

36. These MER Differential Funds were launched between 2012 and 2014 except for the Scotia Money Market Fund, Premium Series which was launched in November 2008.

37. The Scotia Dealers conducted a review of the MER Differential Funds to cover the period from November 2008 to July 31, 2016 and determined that certain client accounts invested in an MER Differential Fund that appeared to qualify for the lower MER series of an MER Differential Fund were not invested in that series and therefore the holders of those client accounts did not benefit from its lower MER. Specifically,

(a) the Scotia Dealers determined that they did not have adequate systems of internal controls and supervision in place to ensure that when a purchase or transfer-in of an investment in an MER Differential Fund, alone or combined with existing holdings of the MER Differential Fund, exceeded the minimum investment threshold required to qualify for the lower MER series of the same mutual fund, the client was advised consistently that a lower MER series of the same mutual fund was available to the client;

(b) the Scotia Dealers determined that their internal controls failed to identify this Control and Supervision Inadequacy in a timely manner; and

(c) the Scotia Dealers began to implement enhancements to their processes to help identify clients that meet the minimum thresholds required to qualify for the lower MER series.

38. The Scotia Dealers have determined that there are approximately 12,751 client accounts that ought to have been invested in the lower MER series of an MER Differential Fund but were not from November 2008 to July 31, 2016.

39. In accordance with the Compensation Plan, in respect of those client accounts, the Scotia Dealers will pay Affected Clients:

    (a) an amount representing the difference in the return that the Affected Client would have received on any share or unit held by the client of an MER Differential Fund had the client been invested in the lower MER class or series of that mutual fund in a timely manner upon becoming eligible to invest in the lower MER class or series held in that mutual fund for the entire period in which the Affected Client qualified for the lower MER class or series (the "Difference in Return"); and

    (b) an amount representing the time value of money in respect of the Difference in Return from the date of sale, conversion, transfer or disposition of any higher MER class or series of the Affected Funds for any periods up to July 31, 2016, based on a simple interest rate of 5% per annum except in respect of the Scotia Money Market Fund where the rate is the average annual return on the Scotia Money Market Fund Premium Series units for the 7 year compensation period from January 1, 2009 (the "MER Opportunity Cost").

40. On this basis, the Scotia Dealers have determined that the total compensation to be paid to Affected Clients as a result of the MER Differential Issue is approximately $8,923,398.66, inclusive of the MER Opportunity Cost, where applicable. The Scotia Dealers have also taken steps to migrate Affected Clients who continue to hold eligible units of the higher MER series of an MER Differential Fund as of August 2, 2016 to units of the lower MER series of the same fund. These are one-time changes which the Scotia Dealers will describe in their communication to Affected Clients, and which are for the sole purpose of resolving the Control and Supervision Inadequacy related to the MER Differential Funds. Other than a difference in the fees, there are no material differences between the higher MER series units and lower MER series units of the same MER Differential Fund. Further, the migration process will result in Affected Clients receiving a trade confirmation and, where applicable, a Fund Facts document in respect of the lower MER series of the Fund.

C. Breaches of Ontario Securities Law

41. In respect of the Control and Supervision Inadequacies, the Scotia Dealers failed to establish, maintain and apply procedures to establish controls and supervision:

    (a) sufficient to provide reasonable assurance that the Scotia Dealers, and each individual acting on behalf of the Scotia Dealers, complied with securities legislation, including the requirement to deal fairly with clients with regard to fees; and

    (b) that were reasonably likely to identify the non-compliance described in (a) above at an early stage that would have allowed the Scotia Dealers to correct the non-compliant conduct in a timely manner.

42. As a result, these instances of Control and Supervision Inadequacies constituted a breach of section 11.1 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. In addition, the failures in the Scotia Dealers' systems of controls and supervision associated with the Control and Supervision Inadequacies were contrary to the public interest.

D. Mitigating Factors

43. Commission Staff do not allege, and have found no evidence of dishonest conduct by the Scotia Dealers.

44. The Scotia Dealers discovered and self-reported the Control and Supervision Inadequacies to Commission Staff.

45. During the investigation of the Control and Supervision Inadequacies by Commission Staff following the self-reporting by the Scotia Dealers, the Scotia Dealers provided prompt, detailed and candid cooperation to Commission Staff.

46. The Scotia Dealers had formulated an intention to pay appropriate compensation to Affected Clients in connection with their self-reporting of the Control and Supervision Inadequacies to Commission Staff and, thereafter, the Scotia Dealers co-operated with Commission Staff with a view to providing appropriate compensation to the Affected Clients who were harmed by any of the Control and Supervision Inadequacies.

47. As part of this Settlement Agreement, the Scotia Dealers have agreed to pay appropriate compensation to the Affected Clients, in accordance with the Compensation Plan. As at the date of this Settlement Agreement, the Scotia Dealers anticipate paying compensation to Affected Clients of approximately $19,997,821.01 in the aggregate in respect of the Control and Supervision Inadequacies.

48. The Compensation Plan prescribes, among other things:

    (a) the detailed methodology to be used for determining the compensation to be paid to the Affected Clients, including the time value of money owed by the Scotia Dealers to the Affected Clients;

    (b) the approach to be taken with regard to contacting and making payments to the Affected Clients;

    (c) the timing to complete the various steps included in the Compensation Plan;

    (d) a $25 *de minimis* exception (the aggregate of such *de minimis* amounts as at the date of this settlement is approximately $89,835.64 as compared to $19,997,821.01 in compensation to be paid), which aggregate *de minimis* amount will be donated to Canadian Foundation for Economic Education;

    (e) the approach to be taken to any remaining funds that are not paid out to Affected Clients after the steps included in the Compensation Plan have been fully implemented. In that regard, the Compensation Plan provides that if the Scotia Dealers are not able to contact any former Affected Clients, notwithstanding the steps described in the Compensation Plan, each Scotia Dealer will use reasonable efforts to locate any Affected Clients who are entitled to payment of $200 or more including directory searches, internet searches, and the employment of third parties to assist in the search. If the Scotia Dealer determines that a client is deceased but does not know the identity of the personal representative of the client's estate, and the estate is entitled to more than $400, the Scotia Dealer shall make reasonable efforts to identify the personal representative of the deceased client. Subject to any applicable unclaimed property legislation, any amounts remaining undistributed to non-located clients on December 31, 2018 will be donated to Canadian Foundation for Economic Education;

    (f) the resolution of client inquiries through an escalation process; and

    (g) regular reporting to the OSC Manager detailing the Scotia Dealers' progress with respect to the implementation of the Compensation Plan, including with regard to the resolution of client inquiries.

49. At the request of Commission Staff, each of the Scotia Dealers conducted an extensive review of its other businesses operating in Canada to identify whether there were any other instances of inadequacies in their systems of controls and supervision leading to clients directly paying excess fees, or indirectly paying excess fees on mutual funds managed by 1832 LP. Based on this review, the Scotia Dealers have advised Commission Staff that there are no instances of Control and Supervision Inadequacies other than those described herein.

50. The Scotia Dealers are taking corrective action including implementing the Enhanced Control and Supervision Procedures and, as part of this Settlement Agreement, the Scotia Dealers are required to report to the OSC Manager on the development and implementation of the Enhanced Control and Supervision Procedures.

51. The Scotia Dealers have agreed to make voluntary payments totalling $850,000, as described in paragraphs 8(b)(x) and 8(b)(xi) above.

52. The Scotia Dealers will pay the total agreed voluntary payment of $850,000 by wire transfer before the commencement of the hearing before the Commission to approve this Settlement Agreement, which payment is conditional upon approval of this Settlement Agreement by the Commission.

53. The terms of settlement are appropriate in all the circumstances, including mitigating factors and the principles of general and specific deterrence. Commission Staff are of the view that the voluntary payments referred to above in addition to the amounts to be paid as compensation to Affected Clients by the Scotia Dealers will emphasize to the marketplace that Commission Staff expect registrants to have compliance systems with appropriate controls and supervision in place which:

    (a) provide reasonable assurance that registrants, and each individual acting on behalf of registrants, are complying with securities legislation, including the requirement to deal fairly with clients with regard to fees; and

    (b) are reasonably likely to allow registrants to identify and correct non-compliance with securities legislation in a timely manner.

E. The Scotia Dealers' Undertaking

54. By signing this Settlement Agreement, the Scotia Dealers undertake to:

(a) pay compensation to the Affected Clients in accordance with the Compensation Plan and to report to the OSC Manager in accordance with the Compensation Plan; and

(b) make the voluntary payments referred to in paragraphs 8(b)(x) and 8(b)(xi) above

(the "Undertaking").

PART IV – TERMS OF SETTLEMENT

55. The Scotia Dealers agree to the terms of settlement listed below and consent to the Order in substantially the form attached hereto, that provides that:

(a) pursuant to subsection 127(1) of the Act, the Settlement Agreement is approved;

(b) pursuant to subsection 127(2) of the Act, the approval of the Settlement Agreement is subject to the following terms and conditions:

(i) within 90 days of receiving comments from Commission Staff regarding the Enhanced Control and Supervision Procedures, the Scotia Dealers shall provide to the OSC Manager, revised written policies and procedures (the "Revised Policies and Procedures") that, to the satisfaction of the OSC Manager, are responsive to any remaining issues raised by Commission Staff with regard to the Scotia Dealers' policies and procedures to establish the Enhanced Control and Supervision Procedures (the "Remaining Issues");

(ii) thereafter, the Scotia Dealers shall make such further modifications to their Revised Policies and Procedures as are required to ensure that the Revised Policies and Procedures address any Remaining Issues to the satisfaction of the OSC Manager;

(iii) within 8 months of receiving confirmation from the OSC Manager that the Revised Policies and Procedures satisfy the Remaining Issues raised by Commission Staff (the "Confirmation Date"), the Scotia Dealers shall submit a letter (the "Attestation Letter"), signed by the Ultimate Designated Person and the Chief Compliance Officer for each of the Scotia Dealers, to the OSC Manager, expressing their opinion on whether the Enhanced Control and Supervision Procedures were adequately followed, administered and enforced by the Scotia Dealer for the 6 month period commencing from the Confirmation Date;

(iv) the Attestation Letter shall be accompanied by a report which provides a description of the testing performed to support the conclusions contained in the Attestation Letter;

(v) the Scotia Dealers shall submit such additional reports as may be requested by the OSC Manager for the purpose of satisfying the OSC Manager that the opinion expressed in the Attestation Letter described in subparagraph (b)(iii) above is valid;

(vi) any of the Scotia Dealers or Commission Staff may apply to the Commission for directions in respect of any issues that may arise with regard to the implementation of subparagraphs (b)(i) to (v) above; and

(vii) the Scotia Dealers shall comply with the Undertaking.

56. The Scotia Dealers agree to make the voluntary payments described in subparagraph 54(b) by wire transfer before the commencement of the hearing before the Commission to approve this Settlement Agreement.

PART V – COMMISSION STAFF COMMITMENT

57. If the Commission approves this Settlement Agreement, Commission Staff will not commence any proceeding under Ontario securities law in relation to the Commission Staff's Statement of Facts and Conclusions set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 58 below and except with respect to paragraph 49 above, and nothing in this Settlement Agreement shall be interpreted as limiting Commission Staff's ability to

commence proceedings against the Scotia Dealers in relation to any control and supervision inadequacies leading to clients paying excess fees other than in respect of the matters described herein.

58. If the Commission approves this Settlement Agreement and any of the Scotia Dealers fails to comply with any of the terms of this Settlement Agreement, Commission Staff may bring proceedings under Ontario securities law against the Scotia Dealers. These proceedings may be based on, but are not limited to, the Commission Staff's Statement of Facts and Conclusions set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement.

PART VI – PROCEDURE FOR APPROVAL OF SETTLEMENT

59. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for July 29, 2016, or on another date agreed to by Commission Staff and the Scotia Dealers, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Procedure.

60. Commission Staff and the Scotia Dealers agree that this Settlement Agreement will form all of the evidence that will be submitted at the settlement hearing on the Scotia Dealers' conduct, unless the parties agree that additional evidence should be submitted at the settlement hearing.

61. If the Commission approves this Settlement Agreement, the Scotia Dealers agree to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

62. If the Commission approves this Settlement Agreement, the Scotia Dealers will not make any public statement that is inconsistent with this Settlement Agreement or with any additional evidence submitted at the settlement hearing. In addition, the Scotia Dealers agree that they will not make any public statement that there is no factual basis for this Settlement Agreement. Nothing in this paragraph affects the Scotia Dealers' testimonial obligations or the right to take legal or factual positions in other reviews or legal proceedings in which the Commission and/or Commission Staff is not a party or in which any provincial or territorial securities regulatory authority in Canada and/or its Commission Staff is not a party ("Other Proceedings") or to make public statements in connection with Other Proceedings.

63. The Scotia Dealers will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART VII – DISCLOSURE OF SETTLEMENT AGREEMENT

64. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:

    (a) this Settlement Agreement and all discussions and negotiations between Commission Staff and the Scotia Dealers before the settlement hearing takes place will be without prejudice to Commission Staff and the Scotia Dealers; and

    (b) Commission Staff and the Scotia Dealers will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

65. The parties will keep the terms of this Settlement Agreement confidential until the commencement of the public hearing to obtain approval of this Settlement Agreement by the Commission. Any obligations of confidentiality shall terminate upon the commencement of the public settlement hearing. If, for whatever reason, the Commission does not approve this Settlement Agreement, the terms of this Settlement Agreement remain confidential indefinitely, unless Commission Staff and the Scotia Dealers otherwise agree or if required by law.

PART VIII – EXECUTION OF SETTLEMENT AGREEMENT

66. This agreement may be signed in one or more counterparts which, together, constitute a binding agreement.

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

Dated this 25th day of July, 2016.

SCOTIA CAPITAL INC.

"Glen Gowland"
Co-CEO
SCOTIA SECURITIES INC.

"Rosemary Chan"
Witness Name: Rosemary Chan

"Jordy Chilcott"
Director & Chairman

"Rosemary Chan"
Witness Name: Rosemary Chan

HOLLISWEALTH ADVISORY SERVICES INC.

"Glen Gowland"
Senior Vice President
The Bank of Nova Scotia

"Rosemary Chan"
Witness Name: Rosemary Chan

Commission Staff: *"James Sinclair"*
Acting Director, Enforcement Branch

SCHEDULE "A"

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

AND

**IN THE MATTER OF
SCOTIA CAPITAL INC., SCOTIA SECURITIES INC. AND
HOLLISWEALTH ADVISORY SERVICES INC.**

**ORDER
(Subsections 127(1) and 127(2))**

WHEREAS:

1. on July 26, 2016, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing in relation to the Statement of Allegations filed by Staff of the Commission ("Commission Staff") on July 26, 2016 with respect to Scotia Capital Inc., Scotia Securities Inc. and HollisWealth Advisory Services Inc. (the "Scotia Dealers");

2. the Notice of Hearing gave notice that on July 29, 2016, the Commission would hold a hearing to consider whether it is in the public interest to approve a settlement agreement between Commission Staff and the Scotia Dealers dated July 25, 2016 (the "Settlement Agreement");

3. in the Statement of Allegations, Commission Staff alleged that there were inadequacies in the Scotia Dealers' systems of controls and supervision which formed part of their compliance systems (the "Control and Supervision Inadequacies") which resulted in clients of the Scotia Dealers paying excess fees that were not detected or corrected by the Scotia Dealers in a timely manner;

4. Commission Staff do not allege, and have found no evidence of dishonest conduct by the Scotia Dealers;

5. Commission Staff are satisfied that the Scotia Dealers discovered and self-reported the Control and Supervision Inadequacies to Commission Staff;

6. Commission Staff are satisfied that during their investigation of the Control and Supervision Inadequacies, the Scotia Dealers provided prompt, detailed and candid cooperation to Commission Staff;

7. Commission Staff are satisfied that the Scotia Dealers had formulated an intention to pay appropriate compensation to clients and former clients when they self-reported the Control and Supervision Inadequacies to Commission Staff;

8. as part of the Settlement Agreement, the Scotia Dealers undertake to:

   (a) pay appropriate compensation to eligible clients and former clients who were harmed by the Control and Supervision Inadequacies (the "Affected Clients") in accordance with a plan submitted by the Scotia Dealers to Commission Staff (the "Compensation Plan") and to report to a manager or deputy director in the Compliance and Registrant Regulation Branch of the Commission (the "OSC Manager") in accordance with the Compensation Plan;

   (b) make a voluntary payment of $50,000 to reimburse the Commission for costs incurred or to be incurred by it, in accordance with subsection 3.4(2)(a) of the *Securities Act* (the "Act"); and

   (c) make a further voluntary payment of $800,000, to be designated for allocation or use by the Commission in accordance with paragraphs (b)(i) or (ii) of subsection 3.4(2) of the Act

   (the "Undertaking");

9. the Commission has received the voluntary payments totalling $850,000 in escrow pending approval of the Settlement Agreement;

10. the Commission reviewed the Settlement Agreement, the Notice of Hearing and the Statement of Allegations and heard submissions from counsel for the Scotia Dealers and from Commission Staff; and

11. the Commission is of the opinion that it is in the public interest to make this order;

IT IS ORDERED THAT:

(a) pursuant to subsection 127(1) of the Act, the Settlement Agreement is approved;

(b) pursuant to subsection 127(2) of the Act, the approval of the Settlement Agreement is subject to the following terms and conditions:

(i) within 90 days of receiving comments from Commission Staff regarding the procedures, controls and supervisory and monitoring systems designed to prevent the re-occurrence of the Control and Supervision Inadequacies in the future (the "Enhanced Control and Supervision Procedures"), the Scotia Dealers shall provide to the OSC Manager revised written policies and procedures (the "Revised Policies and Procedures") that, to the satisfaction of the OSC Manager, are responsive to any remaining issues raised by Commission Staff with regard to the Scotia Dealers' policies and procedures to establish the Enhanced Control and Supervision Procedures (the "Remaining Issues");

(ii) thereafter, the Scotia Dealers shall make such further modifications to their Revised Policies and Procedures as are required to ensure that the Revised Policies and Procedures address any Remaining Issues to the satisfaction of the OSC Manager;

(iii) within 8 months of receiving confirmation from the OSC Manager that the Revised Policies and Procedures satisfy the Remaining Issues raised by Commission Staff (the "Confirmation Date"), the Scotia Dealers shall submit a letter (the "Attestation Letter"), signed by the Ultimate Designated Person and the Chief Compliance Officer for each of the Scotia Dealers, to the OSC Manager, expressing their opinion as to whether the Enhanced Control and Supervision Procedures were adequately followed, administered and enforced by the Scotia Dealer for the 6 month period commencing from the Confirmation Date;

(iv) the Attestation Letter shall be accompanied by a report which provides a description of the testing performed to support the conclusions contained in the Attestation Letter;

(v) the Scotia Dealers shall submit such additional reports as may be requested by the OSC Manager for the purpose of satisfying the OSC Manager that the opinion expressed in the Attestation Letter described in subparagraph (b)(iii) above is valid;

(vi) any of the Scotia Dealers or Commission Staff may apply to the Commission for directions in respect of any issues that may arise with regard to the implementation of subparagraphs (b)(i) to (v) above; and

(vii) the Scotia Dealers shall comply with the Undertaking; and

(c) the voluntary payment referred to in recital 8(c) above is designated for allocation or use by the Commission in accordance with paragraphs (b)(i) or (ii) of subsection 3.4(2) of the Act.

DATED at Toronto, Ontario this 29th day of July, 2016

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Hong Liang Zhong

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

AND

IN THE MATTER OF
HONG LIANG ZHONG

REASONS AND DECISION

Hearing:	In writing		
Decision:	July 26, 2016		
Panel:	Timothy Moseley	–	Commissioner
Submissions by:	Clare Devlin Christophe Shammas	–	For Staff of the Commission

TABLE OF CONTENTS

REASONS AND DECISION

I. OVERVIEW

[1] On May 5, 2015, the British Columbia Securities Commission (the "**BCSC**") issued a decision[1] in which it found that Hong Liang Zhong ("**Zhong**") traded in securities without being registered, made prohibited representations, and that he perpetrated a fraud on investors, all contrary to various provisions of British Columbia's *Securities Act*[2] (the "**BC Act**").

1 *Re Zhong*, 2015 BCSECCOM 165 ("**BCSC Merits Decision**").

2 RSBC 1996, c 418.

[2] On December 8, 2015, the BCSC issued a second decision[3] imposing various sanctions against Zhong. The sanctions, more particularly described below, essentially removed Zhong from British Columbia's capital markets permanently. The BCSC also ordered that Zhong pay an administrative penalty and disgorge funds that had been illegally obtained.

[3] Enforcement staff ("**Staff**") of the Ontario Securities Commission (the "**Commission**") seeks an order pursuant to subsection 127(1) of the Ontario *Securities Act* (the "**Act**")[4] that mirrors most of the terms of the BCSC Order. Staff relies upon subsection 127(10) of the Act, which provides in paragraph 4 that this Commission may make an order against a person under subsection 127(1) if that person is subject to an order, made by a securities regulatory authority in another jurisdiction, that imposes sanctions on the person.

[4] For the reasons that follow, I find that it is in the public interest to issue the order requested by Staff.

II. THE BCSC PROCEEDING

[5] The BCSC found, among other things, that Zhong:

a. solicited investors by posting ads on a Chinese-language classifieds website, hosting parties at home and through word-of-mouth;

b. represented to investors that he was a successful forex trader and never lost money trading forex;

c. recruited and was the designated referring broker for 11 forex investors who opened trading accounts in electronic trading platforms and was paid commission fees for these referrals;

d. guaranteed the return of principal to at least 10 investors and promised that there would be no risk to investors' principal;

e. lost the majority of investors' funds; and

f. earned US $108,405 in commissions based on the volume of trading some of his referred clients' accounts.[5]

[6] The BCSC noted that "… Zhong deliberately misled investors into thinking that forex trading through him was a safe way to conduct forex trading …"[6] and that "Zhong carried out a deliberate scheme to make money at his investors' expense. He showed callous disregard for the investors and the safeguards the forex firms put in place to protect investors".[7]

[7] The BCSC concluded that by his conduct, Zhong had perpetrated fraud on investors, traded in securities without being registered and made prohibited representations. As a result, the BCSC ordered that Zhong:

a. pay an administrative penalty of $250,000;

b. resign any position he held as a director or officer of any issuer or registrant;

c. be prohibited permanently from becoming or acting as a director or officer of any issuer or registrant;

d. be prohibited permanently from becoming or acting as a registrant or promoter;

e. be prohibited permanently from acting in a management or consultative capacity in connection with activities in the securities market;

f. be prohibited permanently from engaging in investor relations activities;

g. be prohibited permanently from trading in or purchasing any securities or exchange contracts;

h. be prohibited permanently from any exemptions set out in the BC Act, in the regulations or a decision as defined in the BC Act; and

i. disgorge to the BCSC the sum of $401,883.44.[8]

---

3 *Re Zhong*, 2015 BCSECCOM 383 ("**BCSC Sanctions Decision**").

4 RSO 1990, c S.5.

5 BCSC Merits Decision at paras 11, 12, 16, 39, 42 and 43.

6 BCSC Sanctions Decision at para 10.

7 BCSC Sanctions Decision at para. 22.

8 BCSC Sanctions Decision at para 59.

III. PRELIMINARY MATTERS

A. Notice to Zhong

[8] The Notice of Hearing commencing this proceeding specified that the hearing would take place on February 25, 2016.

[9] At the hearing before me on that date, Zhong did not appear. Staff tendered an affidavit of Lee Crann, sworn February 23, 2016,[9] that described steps taken to serve Zhong with the Notice of Hearing, the Statement of Allegations, and disclosure.

[10] Subsection 7(1) of the *Statutory Powers Procedure Act*[10] (the "**SPPA**") and Rule 7.1 of the Commission's *Rules of Procedure*[11] (the "**OSC Rules**") provide that where notice of the hearing has been given to a party, but the party fails to appear, the tribunal may proceed in the absence of the party and the party is not entitled to further notice in the proceeding.

[11] I find that Zhong was given proper notice of this proceeding and that I may proceed in his absence.

B. Written Hearing

[12] The Notice of Hearing indicated that Staff would apply to continue this proceeding by way of written hearing, as provided for in section 5.1 of the SPPA and Rule 11.5 of the OSC Rules.

[13] At the February 25 hearing, I granted Staff's application to proceed in writing. I ordered that Staff serve and file its materials by March 7, 2016, and that Zhong serve and file any responding materials by April 4, 2016.

[14] Staff served and filed a hearing brief containing the BCSC Decision along with written submissions and a brief of authorities. No materials were received from Zhong.

IV. ISSUES

[15] As noted above, subsection 127(10) of the Act provides that the Commission may make an order against a person or company under subsection 127(1) if that person or company is subject to an order, made by a securities regulatory authority in another jurisdiction, that imposes sanctions.

[16] Staff's application for an order pursuant to subsection 127(1), made in reliance upon subsection 127(10), therefore presents two principal issues:

1. Was Zhong subject to an order made by a securities regulatory authority in another jurisdiction?

2. If so, what sanctions, if any, should the Commission order against him?

V. ANALYSIS

A. Was Zhong subject to an order made by a securities regulatory authority in another jurisdiction?

[17] The BCSC Order is an order of a securities regulatory authority in another jurisdiction. The order imposes sanctions on Zhong.

[18] The BCSC Order therefore meets the test prescribed by subsection 127(10) of the Act, and the Commission may make an order under subsection 127(1) if it is in the public interest to do so.[12]

B. If so, what sanctions, if any, should the Commission order against Zhong?

1. Introduction

[19] Subsection 127(10) of the Act does not itself empower the Commission to make an order; rather, it provides a basis for an order under subsection 127(1). The Commission must still consider whether it is in the public interest, in the context of the Ontario capital markets, to make an order under subsection 127(1), and if so, what the order ought to be.[13]

---

9 Marked as Exhibit 1 in this proceeding.

10 RSO 1990, c S.22.

11 (2014), 37 OSCB 4168.

12 *Re Euston Capital Corp* (2009), 32 OSCB 6313 at para 46.

2. Inter-jurisdictional co-operation

[20] In determining whether it would be in the public interest to make an order pursuant to section 127 of the Act, I am guided by section 2.1 of the Act, which provides:

> In pursuing the purposes of this Act, the Commission shall have regard to the following fundamental principles:
>
> […]
>
> 3. Effective and responsive securities regulation requires timely, open and efficient administration and enforcement of [the] Act by the Commission.
>
> […]
>
> 5. The integration of capital markets is supported and promoted by the sound and responsible harmonization and co-ordination of securities regulation regimes.

[21] By explicitly referring to orders made by securities regulatory authorities in other jurisdictions, subsection 127(10) of the Act clearly promotes these legislative objectives. This is also well recognized in decisions of the Supreme Court of Canada[14] and of the Commission.[15]

[22] As the Commission has previously held, "[t]he decision of a foreign jurisdiction stands as a determination of fact for the purpose of the Commission's considerations under subsection 127(10) of the Act."[16]

[23] In this case, the findings of the BCSC with respect to Zhong's conduct are compelling reasons to conclude that it is in the public interest to restrict Zhong's participation in Ontario's capital markets. The misconduct for which Zhong was sanctioned would likely have constituted similar contraventions of Ontario securities law.

[24] There is no evidence to suggest that Zhong was soliciting investors in Ontario. However, as this Commission has previously found, a nexus to Ontario is not required when considering the imposition of an inter-jurisdictional order.[17] Staff submits that it is in the public interest to protect Ontario investors from Zhong by preventing or limiting his participation in Ontario's capital markets. I accept that submission.

[25] In addition, as the Supreme Court of Canada has held, it is appropriate to consider general deterrence in making an order under subsection 127(1).[18] An order in this proceeding would have a deterrent effect upon those who might engage in similar conduct in Ontario.

[26] For all of these reasons, I find that it is in the public interest to make an order against Zhong pursuant to section 127(1) of the Act.

3. Appropriate sanctions

[27] The purpose of section 127 of the Act, and the principles that "animate" its application, were reviewed by the Supreme Court of Canada in *Committee for Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*.[19] In that decision, the Court held[20] that "in considering an order in the public interest", the Commission shall have regard to both of the two purposes of the Act, as set out in section 1.1 of the Act:

a. to provide protection to investors from unfair, improper or fraudulent practices; and

b. to foster fair and efficient capital markets and confidence in capital markets.

---

13 *Re Elliott* (2009), 32 OSCB 6931 at para 27.

14 See, e.g., *McLean v British Columbia (Securities Commission)*, 2013 SCC 67 at para 51.

15 *Re JV Raleigh Superior Holdings Inc.* (2013), 36 OSCB 4639 ("***JV Raleigh***") at para 21; *New Futures Trading International Corp. (Re)* (2013), 36 OSCB 5713 at para 27.

16 *JV Raleigh* at para 16.

17 *Re Dhala* (2016), 39 OSCB 1289 at para. 20; *Re Zeiben* (2016), 39 OSCB 1299 at para. 24; *Re Sebastian* (2016), 39 OSCB 1305 at para. 19.

18 *Cartaway Resources Corp.*, 2004 SCC 26 at para 60.

19 2001 SCC 37 ("***Asbestos***").

20 *Asbestos* at para 41.

[28] The Court then described the purpose of the section 127 public interest jurisdiction as being "neither remedial nor punitive; it is protective and preventive, intended to be exercised to prevent likely future harm to Ontario's capital markets".[21] Further, the Court held that section 127 orders are not punitive. Rather, their purpose is to:

> … restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. The role of the OSC under s. 127 is to protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets.[22]

[29] In this case, Staff asks the Commission to order sanctions substantially similar to those imposed by the BCSC. Specifically, Staff requests that the Commission order that Zhong:

a. resign any positions he holds as director or officer of any issuer or registrant;

b. be prohibited permanently from becoming or acting as a director or officer of an issuer or registrant;

c. be prohibited permanently from becoming or acting as a registrant or promoter;

d. be prohibited permanently from trading in any securities or derivatives and of acquiring any securities; and

e. be prohibited permanently from any exemptions contained in Ontario securities law.

[30] Zhong's misconduct was serious. As the BCSC found, Zhong traded in securities without being registered, made prohibited representations to investors by guaranteeing the return of the principal of their investments and perpetrated a fraud on the investors.[23]

[31] In particular, Zhong solicited investors to buy and sell foreign currencies on their behalf, held himself out as an expert forex trader and received significant compensation for these activities.[24] Through this conduct, Zhong showed disregard for the registration regime which ensures that only properly qualified and suitable individuals are permitted to be registrants and to trade on behalf of the public.

[32] As the BCSC found, Zhong's promise to return the principal of an investment "disguises the real risks associated with [the] investment and prevents investors from fully understanding and making informed investment decisions".[25] Further, he failed to disclose the risks involved in forex trading and how he would be compensated.

[33] Zhong's misconduct resulted in significant harm to 14 investors, who lost more than $400,000. As the BCSC noted, Zhong was personally enriched as a result of his misconduct, at the investors' expense, through trading agent fees and referring broker commissions.[26]

[34] Had Zhong's misconduct occurred in Ontario, it would likely have attracted consequences similar to those ordered by the BCSC.

[35] Appropriately, Staff does not seek an order in Ontario that would require the payment of an additional administrative penalty or the further disgorgement of funds. The order sought would restrict Zhong's access to and participation in Ontario's capital markets.

[36] In my view, the order requested by Staff is proportionate to the misconduct as found by the BCSC, would serve to protect Ontario's investors and capital markets, would further the objective of inter-jurisdictional co-operation, and would have an appropriate general deterrence effect in Ontario.

VI. CONCLUSION

[37] For the reasons set out above, I find that it is in the public interest to impose the sanctions requested by Staff.

---

21 *Asbestos* at para 42, adopting the words of Laskin J.A. from the court below.

22 *Asbestos* at para 43, citing with approval *Re Mithras Management Ltd.* (1990), 13 OSCB 1600.

23 BCSC Merits Decision at paras 70, 74, 92 and 99.

24 BCSC Merits Decision at para 69.

25 BCSC Sanctions Decision at para 8.

26 BCSC Sanctions Decision at paras 16-17 and 42.

[38] I will therefore issue an order which provides that:

(a) pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act, trading in any securities or derivatives, or acquisition of any securities by Zhong shall cease permanently;

(b) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law shall not apply to Zhong permanently;

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

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

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

Dated at Toronto this 26th day of July, 2016.

"Timothy Moseley"

3.1.2 Blue Gold Holdings Ltd. et al. – s. 127(1)

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

REASONS AND DECISION
(Subsection 127(1) of the Securities Act)

Hearing:	April 18, 20, 25 and 26, 2016		
Decision:	July 26, 2016		
Panel:	Alan Lenczner, Q.C.	–	Commissioner and Chair of the Panel
	Janet Leiper	–	Commissioner
	Timothy Moseley	–	Commissioner
Appearances:	Swapna Chandra Anna Huculak	–	For Staff of the Commission
	Raj Kurichh	–	On his own behalf
	Nigel Greening	–	On his own behalf

TABLE OF CONTENTS

REASONS AND DECISION

I. INTRODUCTION

A. Overview of Significant Events

[1] The respondents Derek Blackburn, Raj Kurichh and Nigel Greening were the founding principals and shareholders of the respondent Blue Gold Holdings Ltd. ("**BGH**"), a company formed in March 2010, and headquartered in Mississauga, Ontario, to engage in the business of manufacturing water treatment equipment.

[2] Upon incorporation, BGH's directors were Blackburn and Greening. Blackburn, an Ontario resident, was BGH's President and Chief Executive Officer. Greening, a resident of England, was BGH's Executive Vice-President, Field Operations and Installations. Kurichh, a resident of Ontario, was an officer of BGH throughout the material time, but did not become a director until December 2012.

[3] BGH initially issued approximately 3.28 million shares to each of Blackburn, Greening and Kurichh for nominal consideration. Beginning in July 2010, Blackburn, Greening and Kurichh raised approximately $1.5 million from approximately 100 investors in Ontario and elsewhere through the sale of shares of BGH, as a result of which Blackburn, Greening and Kurichh together owned 60% of BGH's outstanding shares, with the retail investors holding the remaining 40%.

[4] Over time, BGH acquired some intellectual property relating to water treatment, and made limited efforts to produce and deliver plants and equipment. BGH earned no business-related revenue at any time during its existence.

[5] In late 2012 and early 2013, BGH's principals transferred BGH's assets to a new corporation, Blue Gold Tailing Technologies Inc. ("**BGTT**"). BGTT then amalgamated with Golden Cross Resources Inc., a company listed on the Canadian Securities Exchange. Through a series of transactions, BGH's retail shareholders' interest in the enterprise was reduced from 40% to 12%.

B. Allegations, Issues and Conclusions

[6] Enforcement Staff of the Ontario Securities Commission ("**Staff**" of the "**Commission**") alleges that the respondents contravened Ontario securities law by:

a) engaging in the business of trading in BGH shares without being registered;

b) conducting an illegal distribution of BGH shares;

c) making prohibited representations relating to the listing of BGH shares on an exchange; and

d) perpetrating frauds upon BGH investors by:

i) deceiving them as to BGH's activities and as to government approval of those activities;

ii) misusing investor funds; and

iii) improperly diluting their interests through, among other things, the issuance of shares of BGTT.

[7] Staff alleges that as directors and officers of BGH, each of Blackburn, Kurichh and Greening authorized, permitted or acquiesced in the alleged breaches of the *Securities Act*, RSO 1990, c S.5 (the "**Act**") by BGH, and therefore that they are responsible for those breaches.

[8] After this proceeding was initiated, but before the hearing on the merits began, Blackburn died. Staff therefore withdrew all allegations against him. Staff seeks various sanctions against BGH, Kurichh and Greening.

[9] For the reasons that follow, we conclude that:

a) BGH, Kurichh and Greening engaged in the business of trading, without being registered, thereby contravening section 25 of the *Act*;

b) BGH and Kurichh engaged in distributions of BGH shares without a prospectus, and their purported reliance upon the accredited investor exemption was not valid, as a result of which they contravened section 53 of the *Act*;

c) BGH and Kurichh made representations that BGH would become a public company, listed on an exchange, and thereby contravened section 38 of the *Act*;

d) with respect to Staff's allegations of fraud,

i) Kurichh knowingly participated in BGH's fraudulent misrepresentations regarding BGH's sales pipeline and government approval of BGH's activities;

ii) Kurichh actively participated in Blackburn's fraudulent diversion of company funds for Blackburn's personal use; and

iii) BGH and Kurichh fraudulently diluted the interests of BGH's retail shareholders; and

e) pursuant to section 129.1 of the *Act*, Kurichh and Greening are deemed to have contravened Ontario securities law, by virtue of their having acquiesced or actively participated in BGH's breaches described above.

[10] We therefore order that a sanctions hearing be held in respect of Kurichh and Greening.

II. PRELIMINARY MATTERS

A. Greening's Participation in the Hearing

[11] Greening was present at the hearing on its first day, but made no opening submissions and declined to cross-examine the one witness who testified that day.

[12] On the second day of the hearing, Greening did not appear. The hearing proceeded in his absence. Late in the morning of that day, Greening sent an email to the Commission's registrar, in which he advised that he had urgent matters to take care of, that he was unsure whether he would appear for subsequent hearing days, and that the hearing should continue without him. He did not appear again during the hearing.

B. Transcript of Blackburn's Examination

[13] Prior to his death, Staff conducted two examinations of Blackburn under oath. Staff sought to introduce the transcripts of those examinations into evidence. Kurichh and Greening consented to the admission of the transcripts.

III. LEGAL FRAMEWORK, ISSUES AND ANALYSIS

A. Introduction

[14] As noted above in paragraph 6, Staff alleges that the respondents contravened four provisions of Ontario securities law. In addition, Staff seeks to have Kurichh and Greening held responsible for BGH's breaches. In the following paragraphs, we set out the relevant provisions, and identify and analyze the issues presented.

B. Engaging in the Business of Trading Without Being Registered

[15] Subsection 25(1) of the *Act* provides:

> Unless a person or company is exempt under Ontario securities law from the requirement to comply with this subsection, the person or company shall not engage in or hold himself, herself or itself out as engaging in the business of trading in securities or derivatives unless the person or company [is registered.]

[16] None of the respondents has ever been registered. Further, there was no suggestion that any of the respondents was entitled to an exemption from the registration requirement.

[17] There is no dispute that the respondents traded in securities of BGH. Therefore, we must determine whether those trades, taken together, constitute "engaging in the business of trading" within the meaning of subsection 25(1) of the *Act*.

[18] Section 1.3 of Companion Policy 31-103CP, *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, sets out five factors that Staff "consider relevant in determining whether an individual or firm is trading or advising in securities for a business purpose". Of those five factors, two are particularly relevant in this case.

[19] One factor asks whether the trading was carried on "with repetition, regularity or continuity". The respondents traded repeatedly and continuously, beginning in July 2010. Approximately 125,000 BGH shares were sold to retail shareholders in that month, and by the end of 2010, approximately 3.3 million shares had been issued. Trading continued in a nearly unbroken pattern until late 2012.

[20] Another factor suggests that we consider whether the activity in question constitutes "directly or indirectly soliciting" securities transactions. Any new corporation seeking capital must, of course, solicit trades. We must determine whether the activities in this case cross the line between permissible solicitation and the business of trading.

[21] In answering that question, it is useful to consider the extent to which the efforts of the respondents were devoted to capital raising as opposed to the underlying business. BGH was, at least for a time, attempting to conduct a legitimate business. However, over time, whatever real business may have existed did not persist, and instead the respondents' efforts were devoted primarily to raising capital. BGH generated no business-related revenues at any time in its existence. Any funds that it had came exclusively from shareholders.

[22] We therefore conclude that, while BGH's early efforts to raise capital may not have crossed the line, there is no doubt that by late 2012, both Kurichh and Greening actively solicited new shareholders, and did so in a manner that constitutes engaging in the business of trading in securities.

C. Illegal Distribution

[23] Subsection 53(1) of the *Act* states:

> No person or company shall trade in a security on his, her or its own account or on behalf of any other person or company if the trade would be a distribution of the security, unless a preliminary prospectus and a prospectus have been filed and receipts have been issued for them by the Director.

[24] Subsection 1(1) of the *Act* defines "distribution" to include a trade in securities of an issuer that have not been previously issued. The BGH shares had not been previously issued.

[25] At the beginning of the hearing, Kurichh and Greening confirmed that no prospectus was ever used in connection with the issuance of BGH shares.

[26] Neither respondent expressly claimed the benefit of an exemption to subsection 53(1). However, some of the documents relating to the process of subscribing for BGH shares alluded to the private issuer exemption and the accredited investor exemption.

[27] We can easily dispose of the private issuer exemption, which at the relevant time was found in section 2.4 of NI 45-106, *Prospectus Exemptions*. Its availability was limited to issuers with no more than fifty beneficial shareholders. It is undisputed in this case that there were well more than fifty beneficial shareholders of BGH.

[28] It remains for us to determine whether the distributions of BGH shares qualified for the accredited investor exemption. At the relevant time, this exemption was found in section 2.3 of NI 45-106, which stated, in part:

> The prospectus requirement does not apply to a distribution of a security if the purchaser purchases the security as principal and is an accredited investor.

[29] BGH's subscription forms allowed potential investors to indicate whether they were accredited investors, a term defined in NI 45-106. In the course of its investigation, Staff sent approximately 100 questionnaires to BGH investors, asking among other things whether the investor was in fact an accredited investor. The responses to those questionnaires disclosed that 77% of the investors did not qualify.

[30] In October 2012, Kurichh sent emails to BGH investors, asking them to complete a "Certificate of Purchaser" and to check the box that indicated that the investor was "a close personal friend of a director, executive officer, founder or control person of the issuer". The responses to the questionnaires sent by Staff make it apparent that most investors were not "friends" at all, but had instead been introduced to BGH by another person who was already an investor.

[31] Ms. D, an investor who testified at the hearing, stated that when she first received her subscription form, it consisted only of a two-page document without supporting schedules that were referred to in the document. More than a year later, she received the schedules, as well as a phone call from Blackburn. In that call, Blackburn advised her that the Commission was making inquiries about BGH because the company had sold more shares to non-accredited investors than was permitted. Blackburn asked Ms. D to check the box that would indicate that she was a friend or family member. She refused, given that she

did not know Blackburn at the time she purchased the shares, as a result of which BGH completed the form with the box checked purporting to indicate that Ms. D was an accredited investor.

[32] Mr. L, another investor who testified at the hearing, stated that on Kurichh's instructions he executed a subscription agreement that had previously been completed to indicate that he was a close personal friend of a director, executive officer, founder or control person. Shortly thereafter, he signed a "Certificate of Purchaser" to the same effect.

[33] Numerous investors, including Ms. D and Mr. L, were shown in BGH's records as being accredited investors when they were not. In some cases, the investors were asked (sometimes by Kurichh through e-mail) to complete the form inaccurately. In other cases, the form was completed inaccurately for them. There can be no doubt that at least some of the distributions of BGH shares did not qualify for the accredited investor exemption, and therefore contravened subsection 53(1) of the *Act*.

[34] At the hearing, Kurichh admitted that he instructed some investors to complete certificates indicating that they were close personal friends of BGH's principals when that was not in fact the case. We therefore conclude that Kurichh himself contravened that same provision.

[35] A number of the subscription agreements bear Greening's signature and appear to have been marked in advance to show that the investor was an accredited investor, thereby giving rise to a suspicion that Greening was a knowing participant in these illegal trades. However, Staff led no evidence to support this suspicion, and accordingly we are unable to find that Greening directly contravened subsection 53(1) of the *Act*.

D. Representations Regarding Listing

[36] The relevant portions of subsection 38(3) of the *Act* provide:

> Subject to the regulations, no person or company, with the intention of effecting a trade in a security … shall, except with the written permission of the Director, make any written or oral representation that the security … will be listed on an exchange … or that application has been or will be made to list the security … on an exchange … unless,
>
> (a) … application has been made to list or quote the securities and other securities issued by the same issuer are already listed on an exchange …; or
>
> (b) the exchange … has granted approval to the listing … of the securities …, conditional or otherwise, or has consented to, or indicated that it does not object to, the representation.

[37] Staff alleges that Blackburn and Kurichh made representations on behalf of BGH that BGH's securities would soon be listed on an exchange and that these representations were made with the intention of effecting a trade in securities of BGH.

[38] Staff also alleges, and it is undisputed, that none of the exceptions provided for in subsection 38(3) of the *Act* applies. Specifically,

a) the Director did not give permission for such representations to be made;

b) no application was ever made to list the securities on an exchange; and

c) no exchange had consented to or otherwise indicated that it did not object to any such representations.

[39] Given the withdrawal of all allegations against Blackburn, we must determine whether Kurichh made any of the representations alleged and, if so, whether he made those representations with the intention of effecting a trade in securities of BGH.

[40] In December 2010, BGH issued an information package intended for existing and potential investors. The package contained financial projections, referred to BGH's intention to list shares on the TSX Venture Exchange ("**TSXV**") through a reverse takeover, and indicated that a consultant's report would "support current valuation to the Ontario Securities & Exchange Commission (OSC) [sic] as part of the RTO".

[41] The intention to list the shares on the TSXV was repeated in:

a) a newsletter issued by BGH in March 2011, which updated the target date to June of 2011;

b) an online news release dated May 27, 2011, which stated that "Blue Gold has begun the process to list on the TSX:V";

c) an October 2011 telephone conversation between an investor and Kurichh, in which, according to the investor, Kurichh explained that the repeated delays in BGH going public were due to the sale of TMX Group Limited, the owner of the TSXV, and to the fact that it was a bad time for "green" stocks;

d) an information package issued by BGH titled "Highlights December 2011", which stated that BGH was "in process of engaging in an RTO whereby a publicly traded company listed on a Toronto Stock Exchange" would acquire a BGH subsidiary; and

e) an April 2012 account of an investor who had visited BGH's office and, according to the investor, been assured that all the necessary documentation for a reverse takeover was complete, and that the plan was to complete the transaction by the end of June.

[42] Ms. D testified that when Kurichh came to her home in July 2011 to "sell me shares", Kurichh told her that at the beginning of September:

> … there was going to be an IPO, that the shares were going to open at one dollar, if not two, if not three dollars, and therefore it was the time to invest because … it was such a great product, that there were great chances that the stock was going to open at a very strong price.

[43] Mr. L testified that, in a phone conversation with Kurichh in September 2012, Kurichh told him that BGH would go public within three to six months and that a family connection at the TSX would assist with processing the application, so there would be no difficulties going public. Shortly after this conversation, Mr. L visited BGH's facility and met with Blackburn and Kurichh. During that meeting, Kurichh repeated the representations.

[44] In his own testimony at the hearing, Kurichh admitted that he advised potential investors that the shares of BGH "would eventually become publicly traded". Kurichh claimed, however, that he was repeating information provided to him by Blackburn, and that Kurichh was never warned by Blackburn or by Wildeboer Dellelce LLP (BGH's counsel at the material time) that he could not do so. Kurichh concedes that he ought to have done his "own due diligence".

[45] The representations made were not merely general representations about plans to seek listing on an exchange. Representations of that nature could reasonably be expected from many budding issuers, and prohibiting such representations would unnecessarily impede the raising of capital. The representations in this case were specific as to the exchange on which the listing would be sought and as to the timing of the application. We therefore find that BGH and Kurichh made representations prohibited by subsection 38(3) of the *Act*.

E. Fraud

[46] Because Blackburn died before the hearing, Staff pursues fraud allegations only as against Kurichh, whether as principal or as a participant in fraud perpetrated by Blackburn. Staff's allegations can be grouped into three principal complaints:

a) there were numerous fraudulent misrepresentations regarding the extent to which BGH had secured contracts with third parties, whether BGH's activities had received government approval and whether certain celebrities were associated with BGH's activities;

b) Blackburn fraudulently diverted company funds for his own personal purposes; and

c) through a series of transactions including the assignment of intellectual property to a new entity, and the reverse take-over, the individual respondents fraudulently diluted the interests of retail shareholders.

[47] The relevant portions of section 126.1 of the *Act* provide:

> A person or company shall not, directly or indirectly, engage or participate in any act, practice or course of conduct relating to securities… that the person or company knows or reasonably ought to know,
>
> …
>
> (b) perpetrates a fraud on any person or company.

[48] In determining whether Kurichh contravened this section, we consider whether, with respect to each of the three categories identified in paragraph 46 above, there was conduct that was fraudulent in nature, and if so, the extent to which Kurichh knew or ought to have known that the conduct perpetrated a fraud.

1. Fraudulent Misrepresentations

a) Sales pipeline

[49] The only evidence suggesting the existence of a real revenue earning opportunity for BGH was with respect to an agreement entered into in April 2011, pursuant to which BGH agreed to sell, for approximately US$300,000, one waste water treatment plant to Hasar's Grupo Ecologico ("**Hasar's**") for installation in Guadalajara, Mexico. A ceremony was held in Mexico in January 2012 to celebrate the project's launch. The contract was never performed and BGH received no revenue from it.

[50] There was some evidence that BGTT had business opportunities. Specifically:

a) on May 1, 2012, BGTT and Hasar's entered into four Plant Installation and Operation Agreements to treat water at four locations in Mexico; and

b) on July 13, 2012, BGTT, Nano Water Technologies Africa (PTY) Ltd. and Sylvania Metals Pty Ltd. entered into a Plant Installation and Operation Agreement, pursuant to which mining tailings were to be collected and sold, with the profits to be distributed among the parties.

[51] In stark contrast to these limited opportunities, even if they were real, BGH issued numerous documents that painted a far rosier picture. For example:

a) in May 2012, BGH issued an investor presentation document that referred to the "Mexico Current Sales Pipeline", which was expected to generate profit of $17 million annually; and

b) in August 2012, BGH issued an investor presentation document that stated that BGH had 30 contracts in the sales pipeline, which contracts would generate annual revenue of approximately $100 million.

[52] The investor presentations significantly overstated the true value of the sales pipeline, and were used to solicit investment from BGH's retail shareholders. These representations were fraudulent.

[53] In his examinations by Staff in the course of the investigation, Blackburn testified that Kurichh participated in the production of these fraudulent documents. Kurichh did not dispute this at the hearing. We therefore conclude, on a balance of probabilities, that Kurichh knowingly participated in at least some of the fraudulent misrepresentations as to BGH's sales pipeline.

b) Government approval

[54] A March 2011 newsletter distributed to existing and potential BGH shareholders asserted that on March 21, Environment Canada had responded to Ontario's Ministry of the Environment with positive news, and that steps were being taken to seek provincial government approval.

[55] Blackburn, Kurichh and others attended a meeting with Ministry staff on May 17, 2011, to discuss whether BGH's product, Antinfek, could be used to treat wastewater in Ontario.

[56] Following that meeting, on May 26, 2011, the Ministry's representative issued a memorandum to Blackburn and others regarding the meeting. The representative noted that Ministry staff had two principal concerns about the use of Antinfek in Ontario, that further information was required, and that a favourable review was not guaranteed.

[57] The following day, BGH issued a news release titled "Blue Gold Canada Receives Approval from the Ministry of Environment". The release, which named Kurichh as the contact for further information, stated:

> Blue Gold Canada, the first ever organic & nano bio-technology based water purification company, has received approval from the Ministry of Environment Standards Development Branch ("the Ministry") to conduct a pilot project with Ontario Clean Water Agency.
>
> […]
>
> "This is a significant and measurable milestone in our progress here in Canada, we have already conducted these pilots in other countries with overwhelming results and the Ministry has approved Blue Gold to demonstrate the power of Antinfek 10H in accredited labs with Ontario Clean Water", states company co-founder Raj Kurichh.

[58] The Ontario Clean Water Agency became aware of the news release. Understandably, the agency considered the release to be inaccurate, and asked BGH to remove any reference to it.

[59] The news release was blatantly false, to the knowledge of BGH's principals, including Kurichh.

c) Celebrity involvement

[60] A December 2011 newsletter to BGH investors described relationships involving various public figures, including:

a) an introduction to the Prince of Monaco;

b) a relationship with a renowned car racing champion who, according to the newsletter, wished to introduce BGH products to a major car manufacturer; and

c) solicitation of BGH's participation in a film that would star two of Hollywood's most famous actors and that would prominently feature BGH's brand and products.

[61] No evidence was adduced at the hearing to support the truth of these representations. Similarly, we saw nothing in the many documents tendered as exhibits, including various communications among BGH's principals and others, to suggest that these representations were true. While we cannot conclude on a balance of probabilities that the representations were fraudulent, we note that they would undoubtedly have contributed to investor interest in BGH's activities.

2. Diversion of Company Funds for Blackburn's Benefit

[62] As noted above, BGH generated no business-related revenues at any time. Of the $3.2 million received by BGH throughout its existence, $1.4 million came from BGH shareholders, $1.2 million came from two of Blackburn's friends, who ultimately received gifted shares of BGTT, and almost $600,000 was transferred from BGTT as partial compensation for business expenses.

[63] Those funds were disbursed as follows:

a) $1.2 million transferred directly to Blackburn, and a further $184,000 for Blackburn's personal benefit, including a car, a yacht, and entertainment expenses;

b) $376,000 to Kurichh;

c) $79,000 to Greening;

d) $843,000 in business-related expenses; and

e) the remaining approximately $770,000 for other miscellaneous items, some of which may have been business-related.

[64] Kurichh admitted that in April 2011 he deposited investor money in his personal bank account. He testified that Blackburn was going through a divorce at the time and told Kurichh that he did not want to be seen to be living a lavish lifestyle. Kurichh claims that he asked Blackburn why the funds could not simply be deposited into BGH's account, but Blackburn avoided the question.

[65] In addition, both Blackburn and Kurichh admitted that they shopped for personal items at high-end retailers, using funds from BGH's bank account.

[66] Staff's Statement of Allegations does not allege the diversion of company funds for Kurichh's own personal benefit, and we therefore reach no conclusion as to whether or not that occurred. However, we conclude on a balance of probabilities that Kurichh knowingly participated in the diversion of funds to Blackburn's benefit, and therefore that Kurichh is personally responsible for that fraudulent diversion.

3. Dilution of Interest

a) Acquisition of intellectual property and creation of BGTT

[67] In its early days, BGH acquired intellectual property from several sources.

a) In June 2010, BGH entered into four licencing agreements with Dove Biotech Limited, pursuant to which BGH acquired certain rights to water remediation technology known as Antinfek. BGH terminated its relationship with the company in December 2011.

b) In June 2011, BGH acquired the rights to an "Integrated Wind Turbine and Desalination System" from its inventor.

c) In July 2011, BGH entered into an exclusive licencing agreement with the University of Saskatchewan, pursuant to which the university licenced certain patents to BGH in return for payments totalling $70,000 and royalties.

[68] By April 2012, it became evident that issues with BGH's financial and other records required the formation of a new corporation to accomplish the planned reverse take-over. Blackburn incorporated BGTT and became its sole shareholder and director.

[69] Immediately following the creation of BGTT, Emmanuel Moya, a paid advisor to BGH, assigned four patents to BGH and four to BGTT for nominal consideration. Blackburn and Kurichh directed that any new contracts for business opportunities developed by BGH with BGH clients were to be signed with BGTT rather than BGH. The fact that the business opportunities were being diverted to BGTT was not disclosed to the BGH retail shareholders.

[70] By September 2012, Blackburn, Kurichh and Greening held 60% of BGH's shares, having paid nominal consideration. Retail shareholders together held the remaining 40% and had contributed $1.5 million.

[71] On November 21, 2012, BGTT entered into an amalgamation agreement with a wholly-owned subsidiary of a publicly listed company, Golden Cross Resources Inc. ("**Golden Cross**").

[72] At a special meeting of BGH shareholders on December 14, 2012, the shareholders approved the sale of substantially all of BGH's assets in exchange for $1.5 million, payable in the form of approximately 30.5 million shares of BGTT. The sale was not completed, due to BGH's inability to deliver the audited financial statements that would be required to complete the reverse take-over.

[73] As a substitute for the failed asset sale, BGH and BGTT entered into an agreement on January 16, 2013, pursuant to which BGH granted BGTT an exclusive licence to exploit inventions claimed by BGH, including patents held by BGTT, and the licence agreement with the University of Saskatchewan. In return, BGTT issued approximately 30.5 million shares to BGH, with a "deemed aggregate value" of $1.5 million.

[74] In January 2013, the individual respondents signed various resolutions authorizing the issuance of BGTT shares. Pursuant to those authorizations, the following shares were issued:

a) approximately 20.2 million to Blackburn, Kurichh and Greening, at a price of 0.1868 cents per share;

b) approximately 27.9 million to the friends, family and business associates of the individual respondents, at a price of 0.1868 cents per share;

c) approximately 23.1 million to Blackburn, Kurichh and Greening (approximately 7.7 million each) at a price of 0.747 cents per share, as consideration for services under their respective consulting agreements with BGTT; and

d) the approximately 30.5 million to BGH at a deemed aggregate value of approximately $1.5 million, as referred to in paragraph 73 above.

[75] These transactions resulted in BGTT shares being issued for approximately five cents per share through the BGH agreements, but for fractions of a cent to BGH's principals and their family, friends and business associates.

[76] Following these share issuances, Blackburn, Kurichh and Greening held 60% of BGTT's shares, while the family, friends and business associates of BGTT's principals held 28%. BGH's retail shareholders' interest in the business was reduced from 40% (see paragraph 70 above) to a right to the remaining 12% interest in BGTT, through a proposed return of capital.

b) Amalgamation

[77] Between June and November 2012, Golden Cross made five separate loans to BGH and BGTT, totalling approximately $2.5 million, in respect of which Blackburn signed the promissory notes on behalf of both corporations.

[78] On May 29, 2013, the amalgamation of BGTT with Golden Cross was completed. The 102 million outstanding shares of BGTT were exchanged for shares of Golden Cross at a ratio of approximately 0.37 shares of Golden Cross for one share of BGTT. The closing price of Golden Cross shares on the day of the amalgamation was $0.19, fixing the total value of the transaction at approximately $7.2 million.

c) Disclosure to shareholders

[79] The December 2010 information package referred to in paragraph 40, above asserted that the value of Canadian licences held by BGH was $100 million.

[80] In the summer of 2012, two draft reports were obtained from different independent firms, which reports assessed the fair market value of some or all of the assets of BGH and/or BGTT:

a) a July 2012 report assessing the value of all assets of the Blue Gold Group (including BGH and BGTT), being the patents and licences as well as the potential contracts referred to in paragraph 50 above as being approximately $32 million; and

b) an August 2012 report assessing the value of the intangible assets of Blue Gold Group (principally the University of Saskatchewan licence and the patents assigned by Moya) as being approximately $9 to $10 million.

[81] Neither draft report was disclosed to BGH shareholders.

d) Conclusion

[82] Through the transfer of rights from BGH to BGTT, the dilution of the BGH retail shareholders' overall interest in the enterprise, and the failure to disclose to those shareholders the valuations received, the retail shareholders were fraudulently deprived of any opportunity they might have had to challenge the sequence of transactions. The respondents cannot benefit from our inability to know for certain whether the shareholders, had they been fully apprised of the principals' intentions and the draft valuations, would have successfully blocked the transactions or obtained compensation or other relief.

4. Findings as to Fraud

[83] For the reasons set out above, we conclude that BGH and Kurichh fraudulently:

a) misrepresented that BGH had secured more business than it actually had;

b) misrepresented that BGH had obtained government approval of its activities;

c) diverted investor funds for Blackburn's personal benefit; and

d) diluted the interests of BGH's retail shareholders.

F. Kurichh's and Greening's liability for BGH's breaches of the *Act*

[84] In seeking to hold Kurichh and Greening responsible for BGH's breaches of the *Act*, Staff relies on section 129.2, which provides:

> For the purposes of this *Act*, if a company … has not complied with Ontario securities law, a director or officer of the company … who authorized, permitted or acquiesced in the non-compliance shall be deemed to also have not complied with Ontario securities law …

[85] Kurichh admits that he was an active principal in BGH's activities throughout the material time. He submits that he was Blackburn's "puppet" and that he believed Blackburn was at all times acting on the basis of sound legal advice. Kurichh acknowledges, however, that he ought to have done his own due diligence.

[86] While Kurichh did not join the board of BGH until December 2012, he was an officer throughout the material time. This was not a large corporation in which some officers might justify being unaware of some of the corporation's activities. Kurichh was one of only three principals of the corporation, was fully involved in its activities, and is therefore responsible for each of BGH's contraventions of Ontario securities law, in addition to his own breaches described above. It is not sufficient for an officer in Kurichh's position to claim that he or she simply played along with the directions of others.

[87] While Greening was less involved, as a director and officer of BGH throughout the material time, he executed all necessary resolutions and, based on the evidence before us, offered no challenge or objection to any steps taken by BGH. Even if he had merely turned a blind eye, we would conclude that he had "acquiesced" in BGH's non-compliance with Ontario securities law. He is also, therefore, responsible for each of BGH's contraventions.

IV. CONCLUSION

[88] For the reasons set out above, we conclude that:

a) BGH, Kurichh and Greening engaged in the business of trading, without being registered, thereby contravening section 25 of the *Act*;

b) BGH and Kurichh engaged in distributions of BGH shares without a prospectus, and their purported reliance upon the accredited investor exemption was not valid, as a result of which they contravened section 53 of the *Act*;

c) BGH and Kurichh made representations that BGH would become a public company listed on the TSXV, and thereby contravened section 38 of the *Act*;

d) with respect to Staff's allegations of fraud,

   i) Kurichh knowingly participated in BGH's fraudulent misrepresentations regarding BGH's sales pipeline and government approval of BGH's activities;

   ii) Kurichh actively participated in Blackburn's fraudulent diversion of company funds to Blackburn's personal use; and

   iii) BGH and Kurichh fraudulently diluted the interests of BGH's retail shareholders; and

e) pursuant to section 129.1 of the *Act*, Kurichh and Greening are deemed to have contravened Ontario securities law, by virtue of their having acquiesced or actively participated in BGH's breaches described above.

[89] Staff shall contact the Commission's Office of the Secretary, copying all parties, within 15 days of these Reasons and Decision to arrange dates for a hearing regarding sanctions.

DATED at Toronto this 26th day of July, 2016.

"Alan Lenczner"

"Janet Leiper"

"Timothy Moseley"

3.1.3 Daniel William Yanaky – ss. 8(3), 21.7

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

AND

IN THE MATTER OF
DANIEL WILLIAM YANAKY

REASONS AND DECISION
(Section 21.7 and Subsection 8(3) of the Act)

Hearing:	June 2, 2016		
Decision:	July 28, 2016		
Panel:	Janet Leiper	–	Chair of the Panel
	AnneMarie Ryan	–	Commissioner
	Judith N. Roberts	–	Commissioner
Appearances:	Daniel William Yankaky	–	For himself
	Maria L. Abate	–	For the Mutual Fund Dealers Association of Canada
	Matthew L. Britton	–	For the Staff of the Commisssion

TABLE OF CONTENTS

REASONS AND DECISION

I. BACKGROUND

[1] On June 2, 2016, the Ontario Securities Commission (the **Commission**) held a hearing to consider an application made by Daniel William Yanaky for a hearing and review of a decision by the Mutual Fund Dealer's Association (**MFDA**).

[2] Yanaky was a registered mutual fund sales person with IPC Investment Corporation (**IPC**), and as an employee of IPC was an Approved Person pursuant to the MFDA By-laws.[1] On January 4, 2012, the MFDA received a report from IPC of a client complaint alleging that Yanaky had recommended that she and her husband (a non-client) invest in an "outside business activity." As a result, the MFDA commenced an investigation into this outside business activity, described as the **"Western Project"**. On or about December 19, 2013, the MFDA received a report of another complaint involving another client of Yanaky's and the Western Project.

[3] The MFDA sent five letters to Yanaky, between January 6, 2012 and June 6, 2012, requesting a written response to the complaints and answers to eleven questions as well as other documents. While Yanaky did respond to four of the five letters, the MFDA held a hearing on January 19th and 20th, 2015 and found that he did not provide answers to any of the questions or produce the documents requested by the MFDA.

[1] The Mutual Fund Dealers Association of Canada, By-law No 1, 2013 <http://www.mfda.ca/regulation/bylaw/By-law12-06-13.pdf> (**MFDA *By-law* No 1**).

[4] The MFDA held in their decision that Yanaky failed to cooperate with MFDA Staff in the course of their investigation, contrary to s. 22.1 of MFDA *By-law* No. 1[2] and ordered that Yanaky:

(a) Be permanently prohibited from conducting securities related business in any capacity while in the employ of or associated with any Member of the MFDA;

(b) Pay a fine of $75,000; and

(c) Pay costs to the MFDA in the amount of $5,000.

(*Yanaky (Re)*, 2014 CarswellNat 1600 at para 13)

[5] This Hearing Panel must decide whether there is reason to intervene with the decision of the MFDA and either substitute its own decision or remit the matter back to the MFDA for reconsideration. For the reasons below, we dismiss the application and confirm the decision of the MFDA.

II. ISSUES TO BE DETERMINED

[6] Under section 21.7 of the *Securities Act* (the **Act**)[3] the Commission has the authority to review regulatory decisions made by a self-regulatory organization, including the MFDA. Pursuant to s. 8(3) of the Act, the Commission may confirm the decision under review or make such other decision as the Commission considers proper. At the hearing and review, we heard submissions from Yanaky, MFDA Staff and Commission Staff.

[7] The applicant, Yanaky, must show that his case fits within one of the following five grounds before the Commission will set aside or vary a decision of the MFDA (*Taub v Investment Dealers Association of Canada*, 2009 ONCA 628):

1. The MFDA proceeded on an incorrect principle;

2. The MFDA erred in law;

3. The MFDA overlooked material evidence;

4. New and compelling evidence was presented to the Commission that was not presented to the MFDA; or

5. The Commission's view of the public interest conflicts with that of the MFDA.

(*Taub* at para. 33)

[8] Based on the submissions of Yanaky, the Hearing Panel determined that there are two of these issues to address in this review:

A. Did the MFDA Hearing Panel err in law because it did not have jurisdiction to investigate the activities of the applicant in relation to the Western Project; and

B. Is there is new and compelling evidence presented to the Commission that was not presented to the MFDA?

III. ANALYSIS

ISSUE 1: Did the MFDA Hearing Panel err in law?

[9] The MFDA *Rules* require that no Approved Person shall engage in securities related business except in accordance with the Rules.[4] The MFDA *Rules* set out that Approved Persons shall not engage in outside business activities without the knowledge and approval of the Member firm (in this case IPC).[5] The MFDA *Rules* also impose a duty for Approved Persons to deal honestly and in good faith with its clients, observe high standards of ethics, refrain from engaging in any business conduct that is unbecoming or detrimental to the public interest, and be of such character, business repute and have such training as is consistent with these standards of conduct.[6]

---

2 MFDA By-law No 1.

3 RSO 1990, c. S.5

4 The Mutual Fund Dealers Association of Canada, Rules, 2016, rule 1.1.1 <http://www.mfda.ca/regulation/rules/RulesMar17-16.pdf> (**MFDA *Rules***).

5 MFDA *Rules*, rule 1.2.1.

6 MFDA *Rules*, rule 2.1.1.

[10] The ability of the MFDA to conduct investigations is set out in its *By-laws*[7] The MFDA has the authority to investigate the conduct of any Approved Person, as it considers necessary, in relation to compliance matters.[8] For the purposes of such an investigation, an Approved Person is required to submit a report in writing, produce relevant copies of books, records and accounts, or to attend and give information respecting any such matters, as requested by the MFDA.[9]

[11] Yanaky submits that the MFDA did not have jurisdiction to investigate the Western Project because it is a personal and philanthropic venture involving only his friends and himself, and as such, it is not an outside business activity. Mr. Yanaky stated before us that he has not been, nor does he expect to be, compensated in any manner for his involvement in the project.

[12] Yanaky further submits that the MFDA did not have jurisdiction to investigate the matter because IPC was not directly involved with the Western Project. Proof of this, he states, is that one of the complainants in a parallel civil proceeding admitted in a sworn statement to knowing that IPC was not involved with the Western Project.

[13] MFDA Staff submit that a venture is not outside the jurisdiction of the MFDA simply because the subject of the investigation characterizes it as philanthropic or involving only personal friends. MFDA Staff submit that while Yanaky may have considered some of those persons he introduced to the Western Project as friends, they were also clients of his with investment accounts placed at IPC. MFDA Staff further submit that if Approved Persons were able to avoid cooperating with investigations by characterizing business dealings as "personal", the ability of the MFDA to investigate legitimate complaints would be severely impeded.

[14] MFDA Staff submit that the investigation into the Western Project carried out by the MFDA was squarely within its jurisdiction and justified by the receipt of client complaints involving the applicant. The complaints raised four concerns, including that Yanaky might have been engaged in:

a. Securities related business that was not carried on for the account of the Member, through the facilities of the Member and in accordance with the MFDA Rules;

b. Outside business activities without the knowledge and approval of the Member;

c. One or more contraventions of the standard of conduct that, among other things, require an Approved Person to deal fairly, honestly and in good faith with clients, observe high standards of ethics and conduct in the transaction of business or refrain from engaging in any business conduct which is unbecoming or detrimental to the public interest; and

d. An illegal distribution of securities that might be contrary to the Ontario securities law and/or outside the scope of the Applicant's registration category as a dealing representative of a mutual fund dealer.

[15] Commission Staff submitted that, in addition to the arguments made by MFDA Staff, the investigatory bar must be a low one in order for the MFDA to be an effective and credible regulator.

[16] In *British Columbia Securities Commission v Branch*, [1995] 2 SCR 3, the Supreme Court held that persons involved in the securities industries should not have a high expectation of privacy (para 58). In concurring reasons Justice L'Heureux-Dube stated:

> … I fail to see how market participants would not expect to be questioned by regulators from time to time as to their market activities, in order for the securities commission to be able to ensure that they or the corporations that they represent have compiled with the prescribed standards.
>
> (*Branch* at para 78.)

[17] The MFDA had the power under its By-laws to require Yanaky to provide a written report, answer questions and produce documents. It was justified in doing so. Indeed, following customer complaints of this nature, it was required to do so. We agree with the submissions of MFDA Staff and Commission Staff that effective regulation of the securities industry requires regulators to have the ability to conduct investigations into and require full cooperation from registered individuals, especially in response to client complaints.

[18] The MFDA was obligated to investigate these complaints as they were made by clients of an Approved Person and brought forward by the registrant, IPC, to the MFDA. If the venture was indeed a personal philanthropic activity and not an outside business activity, Yanaky was required to provide sufficient information to the MFDA to prove this to them.

---

7 MFDA *By-law, No. 1.*

8 MFDA, *By-law, No. 21*.

9 MFDA, *By-law, No. 22*.

[19] We take further guidance from the Supreme Court that market participants should expect to be actively regulated by their regulator. We conclude that the MFDA did not commit an error of law in deciding that it had jurisdiction to investigate the activities of Yanaky in relation to the Western Project.

ISSUE 2: Was there new and compelling evidence presented to the Commission?

1. Yanaky's professional obligations as an accountant

[20] Yanaky testified before us that he could not answer questions or provide documentation during the MFDA's investigation because of his professional obligations as a Certified Management Accountant. He submitted that doing so would reveal confidential information about his friends and clients and would result in disciplinary action by the Chartered Professional Accountants of Ontario.

[21] Yanaky did not make this argument in any of his responses to the letters sent to him by the MFDA, or at the hearing before the MFDA. He provided no documentation in support of this argument. Furthermore, he did not demonstrate how answering any of the questions or providing any of the documentation would breach this obligation, particularly given the general nature of the questions which did not seek to elicit tax or other personal information about any client.

[22] Accordingly we attach no weight to this argument. We find that Yanaky's argument that he was not able to cooperate with the MFDA investigation because of other professional obligations is not compelling evidence sufficient to warrant an intervention with the MFDA decision.

2. Overlooked material evidence

[23] In his evidence before the Hearing Panel, Yanaky stated that he had answered the questions asked of him by the MFDA during its investigation and stated that the MFDA had a document with the answers in its possession. The existence of such a document was not raised at the hearing before the MFDA. We were not provided with the document and MFDA Staff denied any knowledge of such a document.

[24] In his submissions, Yanaky appeared to concede that he had not made a substantive response to the questions from the MFDA. It was his view that the MFDA was acting outside of its jurisdiction and that they did not have the right to ask for information about what he characterized as a "personal venture" involving friends and family. In further written submissions received after the hearing, Yanaky stated again that while he had not specifically answered the MFDA questions, he had responded to them by stating that the Western Project was a personal venture and therefore outside of the scope of the MFDA authority

[25] Mr. Yanaky has effectively conceded that there is no overlooked material evidence that was not before the MFDA. Given our finding on the authority of the MFDA above, this ground of review must fail.

IV. CONCLUSION

[26] Effective oversight of registered mutual funds salespersons requires an obligation on the part of registrants to respond to their regulators, who in turn are accountable to the public. The MFDA is entitled to request substantive responses to its questions, especially where a complaint is made. A registrant may disagree with the assertion of jurisdiction, but they cannot refuse to provide sufficient information to allow an appropriate evaluation by the regulator, especially as in this case, where the initial complaint on its face concerns potential business dealings with clients of the registrant. We are of the view that the MFDA was entitled and obliged to act on the complaint.

[27] Based on these findings, we conclude that the MFDA acted appropriately in making its decision and order against Yanaky. The evidence and argument presented by Yanaky provide no basis for intervention. Accordingly, the application is dismissed.

Dated at Toronto this 28th day of July, 2016.

"Janet Leiper"

"Judith N. Robertson" "AnneMarie Ryan"

This page intentionally left blank

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

THERE ARE NO ITEMS TO REPORT THIS WEEK

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

THERE ARE NO ITEMS TO REPORT THIS WEEK.

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
DataWind Inc.	06 July 2016	18 July 2016	18 July 2016		
Matica Enterprises Inc.	17 May 2016	30 May 2016	30 May 2016		
Northern Power Systems Corp.	31 March 2016	13 April 2016	13 April 2016		
Starrex International Ltd.	30 December 2015	11 January 2016	11 January 2016		

This page intentionally left blank

Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
John Deere Canada Funding Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated July 28, 2016
NP 11-202 Receipt dated July 28, 2016
Offering Price and Description:
$3,500,000,000 - Medium Term Notes (Unsecured)
Unconditionally guaranteed as to payment of principal, premium (if any), interest and certain other amounts by JOHN DEERE CAPITAL CORPORATION
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
TD SECURITIES INC.
MERRILL LYNCH CANADA INC.
Promoter(s):
-
Project #2511384

Issuer Name:
TORC Oil &Gas Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated July 29, 2016
NP 11-202 Receipt dated July 28, 2016
Offering Price and Description:
$75,012,000.00 - 10,640,000 Common Shares
Price: $7.05 per Common Shares
Underwriter(s) or Distributor(s):
MACQUARIE CAPITAL MARKETS CANADA LTD.
TD SECURITIES INC.
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
RBC DOMINION SECURITIES INC.
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
PETERS & CO. LIMITED
FIRSTENERGY CAPITAL CORP.
CORMARK SECURITIES INC.
GMP SECURITIES L.P.
SCOTIA CAPITAL INC.
MERRILL LYNCH CANADA INC.
Promoter(s):
-
Project #2511384

Issuer Name:
Precision Drilling Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Base Shelf Prospectus dated July 28, 2016
NP 11-202 Receipt dated July 28, 2016
Offering Price and Description:
$1,000,000,000.00
Common Shares
Preferred Shares
Debt Securities
Warrants
Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2511727

Issuer Name:
Shopify Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated July 28, 2016
NP 11-202 Receipt dated July 29, 2016
Offering Price and Description:
$500,000,000.00
Class A Subordinate Voting Shares
Preferred Shares
Debt Securities
Warrants
Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2511675

Issuer Name:
TransCanada Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated July 28, 2016
NP 11-202 Receipt dated July 28, 2016
Offering Price and Description:
U.S.$ * - Trust Notes— Series 2016-A Due *, 2076 (Trust Notes — Series 2016-A)
The Trust Notes — Series 2016-A are guaranteed on a subordinated basis by TRANSCANADA PIPELINES LIMITED
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2511527

Issuer Name:
VALHALLA GAME STUDIOS INTERNATIONAL LTD.
Principal Regulator - British Columbia
Type and Date:
Amended and Restated to Preliminary Long Form Prospectus dated July 28, 2016
NP 11-202 Receipt dated July 28, 2016
Offering Price and Description:
Maximum Offering: $ * - * Units
Minimum Offering: $5,000,000.00 - * Units
Price: $* per Unit
Underwriter(s) or Distributor(s):
Echelon Wealth Partners Inc.
Promoter(s):
Satoshi Kanematsu
Tomonobu Itagaki
Project #2495209

Issuer Name:
Alexco Resource Corp.
Principal Regulator - British Columbia
Type and Date:
Final Base Shelf Prospectus dated July 29, 2016
NP 11-202 Receipt dated July 29, 2016
Offering Price and Description:
CDN$50,000,000
COMMON SHARES
WARRANTS
SUBSCRIPTION RECEIPTS
UNIT
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2508370

Issuer Name:
Avanco Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Final CPC Prospectus dated July 27, 2016
NP 11-202 Receipt dated July 28, 2016
Offering Price and Description:
$500,000.00 - 5,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
HAYWOOD SECURITIES INC.
Promoter(s):
Joanne Yan
Project #2501029

Issuer Name:
Black Creek Global Leaders Fund (Class A, AT6, D, E, EF, F, I, and O units)
Black Creek Global Leaders Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
Black Creek International Equity Fund (Class A, AT6, E, EF, F, I and O units)
Black Creek International Equity Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
Cambridge American Equity Fund (Class A, E, EF, F, I and O units)
Cambridge American Equity Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
Cambridge Canadian Dividend Fund (Class A, D, E, EF, F, I and O units)
Cambridge Canadian Dividend Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
Cambridge Canadian Equity Corporate Class (A, AT5, AT6, AT8, D, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT5, IT8, O, OT5, OT8, Y and Z shares)
Cambridge Canadian Growth Companies Fund (Class A, AT6, E, EF, F and O units)
Cambridge Global Dividend Fund (Class A, E, EF, F, I and O units)
Cambridge Global Dividend Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5, and OT8 shares)
Cambridge Global Equity Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5, OT8, and W shares)
Cambridge Growth Companies Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT8, I, IT8, O, OT5 and OT8 shares)
Cambridge Pure Canadian Equity Fund (Class A, E, EF, F, I, O units)
Cambridge Pure Canadian Equity Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
Cambridge Stock Selection Fund (formerly Cambridge Analyst Fund) (Class I units)
Cambridge U.S. Dividend Fund (Class A, AT6, D, E, EF, F, I and O units)

Cambridge U.S. Dividend Registered Fund (Class A, E, EF, F, I, and O units)
Cambridge U.S. Dividend US$ Fund (Class A, E, EF, F, I and O units)
CI American Managers® Corporate Class (A, AT8, E, ET8, EF, EFT8, F, I, IT8, O and OT8 shares)
CI American Small Companies Fund (Class A, E, EF, F, I and O units)
CI American Small Companies Corporate Class (A, AT8, E, ET8, EF, EFT8, F, I, IT8, O and OT8 shares)
CI American Value Fund (Class A, E, EF, F, I, O and Insight units)
CI American Value Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
CI Can-Am Small Cap Corporate Class (A, AT8, E, ET8, EF, EFT8, F, I, IT8, O and OT8 shares)
CI Canadian Dividend Fund (Class A, AT6, D, E, EF, F, I and O units)
CI Canadian Investment Fund (Class A, E, EF, F, I, O and Insight units)
CI Canadian Investment Corporate Class (A, AT5, AT6, AT8, D, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
CI Canadian Small/Mid Cap Fund (Class A, E, EF, F, I and O units)
CI Global Fund (Class A, E, EF, F, I, O and Insight units)
CI Global Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT8, I, IT8, O, OT5 and OT8 shares)
CI Global Health Sciences Corporate Class (A, E, EF, F, I, O, Y and Z shares)
CI Global High Dividend Advantage Fund (Class A, E, F, I and O units)
CI Global High Dividend Advantage Corporate Class (A, AT5, AT8, E, ET5, ET8, F, FT5, FT8, I, O, OT5 and OT8 shares)
CI Global Managers® Corporate Class (A, AT8, E, ET8, EF, EFT8, F, I, IT8, O and OT8 shares)
CI Global Small Companies Fund (Class A, E, EF, F, I, O and Insight units)
CI Global Small Companies Corporate Class (A, AT8, E, ET8, EF, EFT8, F, I, IT8, O and OT8 shares)
CI Global Value Fund (Class A, E, EF, F, I and O units)
CI Global Value Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, I, IT8, O, OT5 and OT8 shares)
CI International Value Fund (Class A, E, EF, F, I, O and Insight units)
CI International Value Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, I, IT8, O, OT5 and OT8 shares)
CI Pacific Fund (Class A, E, EF, F, I and O units)
CI Pacific Corporate Class (A, E, EF, F and O shares)
Harbour Fund (Class A, E, EF, F, I and O units)
Harbour Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
Harbour Global Equity Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
Harbour Voyageur Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT8, I, IT8, O, OT5 and OT8 shares)
Signature Emerging Markets Fund (Class A, E, EF, F, I and O units)
Signature Emerging Markets Corporate Class (A, AT8, E, ET8, EF, EFT8, F, I, IT8, O and OT8 shares)
Signature Global Dividend Fund (Class A, E, EF, F, I and O units)
Signature Global Dividend Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5, OT8 shares)
Signature Global Energy Corporate Class (A, E, EF, F and O shares)
Signature Global Resource Fund (Class A, E, EF, F, and O units)
Signature Global Resource Corporate Class (A, E, EF F, I and O shares)
Signature Global Science & Technology Corporate Class (A, E, EF, F, I and O shares)
Signature International Fund (Class A, E, EF, F, I, O and Insight units)
Signature International Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, I, IT8, O, OT5 and OT8 shares)
Signature Real Estate Pool (Class A, E, EF, F, I and O units)
Signature Select Canadian Fund (Class A, E, EF, F, I, O, Z and Insight units)
Signature Select Canadian Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT5, IT8, O, OT5 and OT8 shares)
Signature Select Global Fund (Class A, E, EF, F, I and O units)
Signature Select Global Corporate Class (A, AT5, AT8, E, EF, ET5, ET8, EFT5, EFT8, F, FT8, I, IT8, O, OT5 and OT8 shares)
Synergy American Fund (Class A, E, EF, F, I and O units)
Synergy American Corporate Class (A, AT8, E, ET8, EF, EFT8, F, I, IT8, O and OT8 shares)
Synergy Canadian Corporate Class (A, AT8, E, ET8, EF, EFT8, F, I, IT8, O, OT8, Y, Z and Insight shares)
Synergy Global Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, I, IT8, O, OT5, OT8, Y and Z shares)
Black Creek Global Balanced Fund (Class A, AT6, D, E, EF, F, I and O units)
Black Creek Global Balanced Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, O, OT5 and OT8 shares)
Cambridge Asset Allocation Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT5, IT8, O, OT5 and OT8 shares)
Harbour Global Growth & Income Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT5, IT8, O, OT5 and OT8 shares)
Harbour Growth & Income Fund (Class A, E, EF, F, I, O and Z units)
Harbour Growth & Income Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT5, IT8, O, OT5 and OT8 shares)

Signature Canadian Balanced Fund (Class A, AT6, D, E, EF, F, I, O, U, Y and Z units)
Signature Global Income & Growth Fund (Class A, E, EF, F, I and O units)
Signature Global Income & Growth Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT5, IT8, O, OT5 and OT8 shares)
Signature Income & Growth Fund (Class A, AT6, E, EF, F, I and O units)
Signature Income & Growth Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT5, IT8, O, OT5 and OT8 shares)
Synergy Tactical Asset Allocation Fund (Class A, E, EF, F, I and O units)
Cambridge Global High Income Fund (formerly Cambridge High Income Fund) (Class A, E, EF, F, I and O units)
Cambridge Income Fund (Class A, E, F and O units)
Cambridge Income Corporate Class (A, AT5, AT8, E, ET5, ET8, F, FT5, FT8, O, OT5 and OT8 shares)
CI Income Fund (Class A, E, EF, F, I and O units)
CI Investment Grade Bond Fund (Class A, E, EF, F, I and O units)
CI Money Market Fund (Class A, E, EF F, I, O, Z and Insight units)
CI Short-Term Advantage Corporate Class (A, AT8, E, F, I, IT8 and O shares)
CI Short-Term Corporate Class (A, E, EF, F, I and O shares)
CI Short-Term US$ Corporate Class (A, E and O shares)
CI U.S. Income US$ Pool (Class A, E, EF, F, I and O units)
CI US Money Market Fund (Class A and I units)
Lawrence Park Strategic Income Fund (Class A, E, EF, F, I and O units)
Marret High Yield Bond Fund (Class A, E, EF, F, I and O units)
Marret Short Duration High Yield Fund (Class A, E, EF, F, I and O units)
Marret Strategic Yield Fund (Class A, E, EF, F, I and O units)
Signature Canadian Bond Fund (Class A, E, EF, F, I, O, Y, Z and Insight units)
Signature Canadian Bond Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, I, IT8, O, OT5 and OT8 shares)
Signature Corporate Bond Fund (Class A, E, EF, F, I, O, Z and Insight units)
Signature Corporate Bond Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5, and OT8 shares)
Signature Diversified Yield Fund (Class A, E, F, I and O units)
Signature Diversified Yield Corporate Class (A, AT5, AT8, E, ET5, ET8, F, FT5, FT8, I, IT5, IT8, O, OT5 and OT8 shares)
Signature Diversified Yield II Fund (Class A, E, EF, F, I and O units)
Signature Dividend Fund (Class A, E, EF, F, I, O and Z units)
Signature Dividend Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
Signature Global Bond Fund (Class A, E, EF, F, I, O and Insight units)
Signature Global Bond Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, I, IT8, O, OT5 and OT8 shares)
Signature Gold Corporate Class (A, E, EF, F, I and O shares)
Signature High Income Fund (Class A, E, EF, F, I and O units)
Signature High Income Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
Signature High Yield Bond Fund (Class A, E, F, I and O units)
Signature High Yield Bond Corporate Class (A, AT5, AT8, E, ET8, F, FT5, FT8, O and OT8 shares)
Signature High Yield Bond II Fund (Class A, E, EF, F, I and O units)
Signature Preferred Share Pool (Class A, E, EF, F, I and O units)
Signature Short-Term Bond Fund (Class A, E, EF, F, I and O units)
Signature Tactical Bond Pool (Class A, E, EF, F, I and O units)
Portfolio Series Balanced Fund (Class A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, O, OT5 and OT8 units)
Portfolio Series Balanced Growth Fund (Class A, AT5, AT6, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT8, I, O, OT5 and OT8 units)
Portfolio Series Conservative Balanced Fund (Class A, AT6, E, EF, F, I and O units)
Portfolio Series Conservative Fund (Class A, AT6, E, EF, F, I, O, U, UT6 and Z units)
Portfolio Series Growth Fund (Class A, AT5, AT6, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT8, I, O, OT5 and OT8 units)
Portfolio Series Income Fund (Class A, E, EF, F, I and O units)
Portfolio Series Maximum Growth Fund (Class A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT8, I, O, OT5 and OT8 units)
Select 80i20e Managed Portfolio Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5, OT8, W, WT5 and WT8 shares)
Select 70i30e Managed Portfolio Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5, OT8, W and WT8 shares)
Select 60i40e Managed Portfolio Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5, OT8, W, WT5 and WT8 shares)
Select 50i50e Managed Portfolio Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5, OT8, W and WT8 shares)
Select 40i60e Managed Portfolio Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT8, O, OT5, OT8, W, WT5 and WT8 shares)
Select 30i70e Managed Portfolio Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT8, I, IT8, O, OT5, OT8, W and WT5 shares)
Select 20i80e Managed Portfolio Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F,

FT8, I, IT8, O, OT5, OT8, and W shares)
Select 100e Managed Portfolio Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT5, IT8, O, OT5, OT8, W, and WT8 shares)
Select Canadian Equity Managed Corporate Class (A, E, EF, F, I, O, V, W, Y and Z shares)
Select Income Managed Corporate Class (A, AT5, AT8, E, ET5, ET8, EF, EFT5, EFT8, F, FT5, FT8, I, IT5, IT8, O, OT5, OT8, U, V, W, WT5, WT8, Y and Z shares)
Select International Equity Managed Corporate Class (A, E, EF, F, I, O, V, W, Y and Z shares)
Select U.S. Equity Managed Corporate Class (A, E, EF, F, I, O, V, W, Y and Z shares)
Select Staging Fund (Class A, F, I and W units)
Principal Regulator - Ontario

Type and Date:
Final Simplified Prospectuses dated July 27, 2016
NP 11-202 Receipt dated July 29, 2016

Offering Price and Description:
A, AT5, AT8, E, ET5, ET8, ETFT5, EFT8, F, FT5, FT8, I, IT5, IT8, O, OT5, OT8, V, W, Y, Z and Insight

Underwriter(s) or Distributor(s):
-

Promoter(s):
CI Investments Inc.

Project #2494270

Issuer Name:
Canadian Apartment Properties Real Estate Investment Trust
Principal Regulator - Ontario

Type and Date:
Final Short Form Prospectus dated July 26, 2016
NP 11-202 Receipt dated July 26, 2016

Offering Price and Description:
$150,052,000.00 - 4,660,000 Units, at a price of $32.20 per Unit

Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Raymond James Ltd.
Dundee Securities Ltd.
GMP Securities L.P.

Promoter(s):
-

Project #2506655

Issuer Name:
Class A, E, F, I and W Units of the following United Pools:
Cash Management Pool
Short Term Income Pool
Canadian Fixed Income Pool
Global Fixed Income Pool
Enhanced Income Pool
Canadian Equity Value Pool
Canadian Equity Growth Pool
Canadian Equity Small Cap Pool
US Equity Value Pool
US Equity Growth Pool
US Equity Small Cap Pool
International Equity Value Pool
International Equity Growth Pool
Emerging Markets Equity Pool
Real Estate Investment Pool
Class A, E, ET8, F, I, IT8, W and WT8 Shares of the following United Corporate Classes*:
Short Term Income Corporate Class
Canadian Fixed Income Corporate Class
Global Fixed Income Corporate Class
Enhanced Income Corporate Class
Canadian Equity Value Corporate Class
Canadian Equity Growth Corporate Class
Canadian Equity Alpha Corporate Class
Canadian Equity Small Cap Corporate Class
US Equity Value Corporate Class
US Equity Growth Corporate Class
US Equity Alpha Corporate Class
US Equity Small Cap Corporate Class
International Equity Value Corporate Class
International Equity Growth Corporate Class
International Equity Alpha Corporate Class
Emerging Markets Equity Corporate Class
Real Estate Investment Corporate Class
Class E, ET8, I and IT8 shares of the following United Corporate Classes*:
US Equity Value Currency Hedged Corporate Class
International Equity Value Currency Hedged Corporate Class
*each United Corporate Class consists of shares of CI Corporate Class Limited
Principal Regulator - Ontario

Type and Date:
Final Simplified Prospectuses dated July 27, 2016
NP 11-202 Receipt dated July 29, 2016

Offering Price and Description:
Class A, E, F, I and W Units
Class A, E, ET8, F, I, IT8, W and WT8 Shares

Underwriter(s) or Distributor(s):
Assante Capital Management Ltd.

Promoter(s):
-

Project #2493946

Issuer Name:
Copper Mountain Mining Corporation
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated July 27, 2016
NP 11-202 Receipt dated July 27, 2016
Offering Price and Description:
$6,501,000 11,820,000 Units
Price: $0.55 per Unit
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
-
Project #2508407

Issuer Name:
Dynamic U.S. Sector Focus Class
(Series A, E, F, I and O shares)
Principal Regulator - Ontario
Type and Date:
Amendment #7 dated July 14, 2016 to the Simplified Prospectus and Annual Information Form dated November 18, 2015
NP 11-202 Receipt dated July 26, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
1832 Asset Management L.P.
GCIC Ltd.
1832 Asset Management L. P.
Promoter(s):
-
Project #2405037

Issuer Name:
Dream Global Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated July 28, 2016
NP 11-202 Receipt dated July 28, 2016
Offering Price and Description:
$85,050,000.00 - 9,450,000 Units
PRICE: $9.00 per Unit
Underwriter(s) or Distributor(s):
TD SECURITIES INC.
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
SCOTIA CAPITAL INC.
BMO NESBITT BURNS INC.
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
GMP SECURITIES L.P.
NATIONAL BANK FINANCIAL INC.
Promoter(s):
-
Project #2507669

Issuer Name:
TD Canadian Money Market Fund (Institutional Series, O-Series, Investor Series, Advisor Series and F-Series Securities)
TD Premium Money Market Fund (Investor Series and F-Series Securities)
TD U.S. Money Market Fund (Institutional Series and Premium Series Securities)
TD Ultra Short Term Bond Fund (Investor Series, Advisor Series, F-Series, O-Series and D-Series Securities)
TD Short Term Bond Fund (Investor Series, Advisor Series, F-Series, Institutional Series, O-Series, Private Series, Premium Series, Premium F-Series and D-Series Securities)
TD Canadian Bond Fund (Investor Series, Advisor Series, F-Series, Institutional Series, O-Series, Private Series, Premium Series, Premium F-Series and D-Series Securities)
TD Income Advantage Portfolio (Investor Series, Advisor Series, F-Series, Institutional Series, O-Series, H-Series, T-Series, S-Series, PS-Series, Premium Series, Premium F-Series, D-Series and K-Series Securities)
TD Canadian Core Plus Bond Fund (Investor Series, Advisor Series, F-Series, Institutional Series, O-Series, Premium Series, Premium F-Series and D-Series Securities)
TD Canadian Corporate Bond Fund (Investor Series, Advisor Series, F-Series, Private Series, Premium Series, Premium F-Series and D-Series Securities) (formerly TD Private Canadian Corporate Bond Fund)
TD Corporate Bond Capital Yield Fund (Investor Series, Advisor Series, F-Series, and Premium Series Securities)
TD U.S. Corporate Bond Fund (Investor Series, Advisor Series, F-Series, O-Series, Private Series, Premium Series, Premium F-Series and D-Series Securities) (formerly TD Private U.S. Corporate Bond Fund)
TD Real Return Bond Fund (Investor Series, Advisor Series, F-Series, O-Series, Private Series and D-Series Securities)
TD Global Bond Fund (Investor Series, Advisor Series, F-Series, Institutional Series, O-Series, Private Series and D-Series Securities)
TD High Yield Bond Fund (Investor Series, Advisor Series, F-Series, Institutional Series, O-Series, H-Series, T-Series, S-Series, Private Series, Premium Series, Premium F-Series and D-Series Securities)
TD Monthly Income Fund (H-Series, T-Series, S-Series, C-Series, Investor Series, Advisor Series, F-Series and D-Series Securities)
TD Tactical Monthly Income Fund (O-Series, H-Series, T-Series, S-Series, PS-Series, Investor Series, Advisor Series, F-Series, Premium Series, Premium F-Series, D-Series and K-Series Securities)
TD U.S. Monthly Income Fund (H-Series, T-Series, S-Series, PS-Series, Investor Series, Advisor

Series, F-Series, Premium Series, Premium F-Series, D-Series and K-Series Securities)
TD U.S. Monthly Income Fund – C$ (H-Series, T-Series, S-Series, Investor Series, Advisor
Series, F-Series, Premium Series, Premium F-Series and D-Series Securities)
TD Balanced Income Fund (O-Series, C-Series, Investor Series, Advisor Series and F-Series
Securities)
TD Diversified Monthly Income Fund (O-Series, H-Series, T-Series, S-Series Investor Series,
Advisor Series and F-Series Securities)
TD Strategic Yield Fund (H-Series, T-Series, S-Series, Investor Series, Advisor Series, F-Series,
Premium Series, Premium F-Series and D-Series Securities)
TD Balanced Growth Fund (Investor Series, Advisor Series and F-Series Securities)
TD Dividend Income Fund (Institutional Series, O-Series, H-Series, T-Series, S-Series Investor
Series, Advisor Series, F-Series, Premium Series, Premium F-Series and D-Series Securities)
TD Canadian Diversified Yield Fund (Private Series and D-Series Securities) (formerly TD
Private Canadian Diversified Yield Fund)
TD Canadian Low Volatility Fund (D-Series, Institutional Series, O-Series, H-Series, T-Series,
S-Series, Private Series, Investor Series, Advisor Series, F-Series, Premium Series and
Premium F-Series)
TD Dividend Growth Fund (D-Series, Institutional Series, O-Series, H-Series, T-Series, S-Series,
Investor Series, Advisor Series, F-Series, Premium Series and Premium F-Series Securities)
TD Canadian Blue Chip Dividend Fund (D-Series and Private Series Securities) (formerly TD
Private Canadian Blue Chip Dividend Fund)
TD Canadian Large-Cap Equity Fund (D-Series, O-Series and Private Series) (formerly TD
Private Canadian Blue Chip Equity Fund)
TD Canadian Equity Fund (D-Series, Institutional Series, O-Series, Private Series, Investor
Series, Advisor Series, F-Series, Premium Series and Premium F-Series Securities)
TD Core Canadian Value Fund (D Series and Private Series Securities) (formerly TD Private
Canadian Value Fund)
TD Canadian Value Fund (D-Series, Institutional Series, O-Series, Investor Series, Advisor
Series and F-Series Securities)
TD Canadian Small-Cap Equity Fund (D-Series, Institutional Series, O-Series, Investor Series,
Advisor Series and F-Series Securities)
TD U.S. Risk Managed Equity Fund (D-Series, O-Series, H-Series, T-Series, S-Series, Investor
Series, Advisor Series, F-Series, Premium Series and Premium F-Series Securities)
TD U.S. Low Volatility Fund (D-Series, O-Series, H-Series, T-Series, S-Series, Investor Series,
Advisor Series, F-Series, Premium Series and Premium F-Series Securities)
TD U.S. Low Volatility Currency Neutral Fund (D-Series, H-Series, T-Series, S-Series, Investor
Series, Advisor Series, F-Series, Premium Series and Premium F-Series Securities)
TD North American Dividend Fund (D-Series, Institutional Series, H-Series, T-Series, S-Series,
Investor Series, Advisor Series, F-Series, Premium Series and Premium F-Series Securities)
TD Global Risk Managed Equity Fund (O-Series, H-Series, T-Series, S-Series, Investor Series,
Advisor Series, F-Series, Premium Series, Premium F-Series and D-Series Securities)
TD Global Low Volatility Fund (O-Series, H-Series, T-Series, S-Series, Private Series, Investor
Series, Advisor Series, F-Series, Premium Series, Premium F-Series and D-Series Securities)
TD International Growth Fund (Institutional Series, O-Series, Investor Series, Advisor Series,
F-Series and D-Series Securities)
TD International Stock Fund (Private Series and D-Series Securities) (formerly TD Private
International Stock Fund)
TD Emerging Markets Low Volatility Fund (O-Series, H-Series, T-Series, S-Series, Investor
Series, Advisor Series, F-Series and D-Series Securities)
TD Asian Growth Fund (Institutional Series, O-Series, Investor Series, Advisor Series and
F-Series Securities)
TD Emerging Markets Fund (O-Series, Investor Series, Advisor Series, F-Series and Private-EM
Series Securities)
Epoch U.S. Shareholder Yield Fund (Institutional Series, H-Series, T-Series, S-Series, Private
Series, Investor Series, Advisor Series, F-Series, Premium Series, Premium F-Series and
D-Series Securities)
Epoch U.S. Blue Chip Equity Fund (Private Series and D-Series Securities) (formerly TD Private
U.S. Blue Chip Equity Fund)
Epoch U.S. Blue Chip Equity Currency Neutral Fund (Private Series and D-Series Securities)
(formerly TD Private U.S. Blue Chip Equity Currency Neutral Fund)
Epoch U.S. Large-Cap Value Fund (Institutional Series, O-Series, Private Series, Investor
Series, Advisor Series, F-Series, Premium Series, Premium F-Series and D-Series Securities)
Epoch Global Shareholder Yield Fund (Institutional Series, O-Series, H-Series, T-Series,
S-Series, Private Series, Investor Series, Advisor Series, F-Series, Premium Series, Premium
F-Series and D-Series Securities)
Epoch Global Shareholder Yield Currency Neutral Fund (H-Series, T-Series, S-Series, Investor
Series, Advisor Series, F-Series, Premium Series, premium F-Series and D-Series Securities)
Epoch Global Equity Fund (O-Series, (Investor Series, Advisor Series, F-Series, Premium
Series, Premium F-Series and D-Series Securities)
Epoch International Equity Fund (O-Series, Private Series, Investor Series, Advisor Series,
F-Series and D-Series Securities)
Epoch European Equity Fund (Investor Series, Advisor Series and F-Series Securities)

TD Resource Fund (Investor Series, Advisor Series, F-Series and D-Series Securities)
TD Precious Metals Fund (Investor Series, Advisor Series and F-Series Securities)
TD Entertainment & Communications Fund (Investor Series, Advisor Series, F-Series and D-Series Securities)
TD Science & Technology Fund (Investor Series, Advisor Series, F-Series and D-Series Securities)
TD Health Sciences Fund (Investor Series, Advisor Series, F-Series, O-Series and D-Series Securities)
TD Canadian Bond Index Fund (Investor Series, e-Series, Institutional Series, O-Series and F-Series Securities)
TD Balanced Index Fund (Investor Series and O-Series Securities)
TD Canadian Index Fund (Investor Series, e-Series, Institutional Series, O-Series and F-Series Securities)
TD Dow Jones Industrial Average Index Fund (Investor Series, e-Series and F-Series Securities)
TD U.S. Index Fund (Investor Series, e-Series, Institutional Series, O-Series and F-Series Securities)
TD U.S. Index Currency Neutral Fund (Investor Series, e-Series, Institutional Series, O-Series and F-Series Securities)
TD Nasdaq® Index Fund (Investor Series, e-Series and F-Series Securities)
TD International Index Fund (Investor Series, e-Series, Institutional Series, O-Series and F-Series Securities)
TD International Index Currency Neutral Fund (Investor Series, e-Series and F-Series Securities)
TD European Index Fund (Investor Series, e-Series and F-Series Securities)
TD Target Return Conservative Fund (Private Series, Investor Series, Advisor Series, F-Series, Premium Series, Premium F-Series, D-Series and O-Series Securities)
TD Target Return Balanced Fund (Private Series, Investor Series, Advisor Series, F-Series, Premium Series, Premium F-Series and D-Series Securities)
TD US$ Retirement Portfolio (H-Series, T-Series, S-Series, PS-Series, Investor Series, Advisor Series, F-Series, Premium Series, Premium F-Series and K-Series Securities)
TD Retirement Conservative Portfolio (H-Series, T-Series, S-Series, PS-Series, Investor Series, Advisor Series, F-Series, Premium Series, Premium F-Series, K-Series and D-Series Securities)
TD Retirement Balanced Portfolio (H-Series, T-Series, S-Series, PS-Series, Investor Series, Advisor Series, F-Series, Premium Series, Premium F-Series, K-Series and D-Series Securities)
TD Advantage Balanced Income Portfolio (Investor Series, Advisor Series, F-Series, H-Series, T-Series and S-Series Securities)
TD Advantage Balanced Portfolio (Investor Series, Advisor Series, F-Series, H-Series, T-Series and S-Series Securities)
TD Advantage Balanced Growth Portfolio (Investor Series, Advisor Series, F-Series, H-Series, T-Series and S-Series Securities)
TD Advantage Growth Portfolio (Investor Series, Advisor Series and F-Series Securities)
TD Advantage Aggressive Growth Portfolio (Investor Series, Advisor Series and F-Series Securities)
TD Comfort Conservative Income Portfolio (Investor Series Securities)
TD Comfort Balanced Income Portfolio (Investor Series Securities)
TD Comfort Balanced Portfolio (Investor Series Securities)
TD Comfort Balanced Growth Portfolio (Investor Series Securities)
TD Comfort Growth Portfolio (Investor Series Securities)
TD Comfort Aggressive Growth Portfolio (Investor Series Securities)
TD Short Term Investment Class* (Investor Series, Advisor Series and F-Series Securities)
TD Tactical Monthly Income Class* (Investor Series, Advisor Series and F-Series Securities)
TD Dividend Income Class* (Investor Series, Advisor Series and F-Series Securities)
TD Canadian Low Volatility Class* (Investor Series, Advisor Series and F-Series Securities)
TD Dividend Growth Class* (Investor Series, Advisor Series and F-Series Securities)
TD Canadian Equity Class* (Investor Series, Advisor Series and F-Series Securities)
TD Canadian Value Class* (Investor Series, Advisor Series and F-Series Securities)
TD Canadian Small-Cap Equity Class* (Investor Series, Advisor Series and F-Series Securities)
TD U.S. Risk Managed Equity Class* (Investor Series, Advisor Series and F-Series Securities)
Epoch U.S. Large-Cap Value Class* (Investor Series, Advisor Series and F-Series Securities)
TD U.S. Mid-Cap Growth Class* (Investor Series, Advisor Series and F-Series Securities)
TD Global Risk Managed Equity Class* (Investor Series, Advisor Series and F-Series Securities)
TD Global Low Volatility Class* (Investor Series, Advisor Series and F-Series Securities)
Epoch Global Equity Class* (Investor Series, Advisor Series and F-Series Securities)
TD International Growth Class* (Investor Series, Advisor Series and F-Series Securities)
TD Asian Growth Class* (Investor Series, Advisor Series and F-Series Securities)
TD Emerging Markets Class* (Investor Series, Advisor Series and F-Series Securities)
TD Fixed Income Pool (W-Series and Private Series Securities)
TD Risk Management Pool (W-Series and Private Series Securities)
TD Canadian Equity Pool (W-Series and Private Series Securities)
TD Canadian Equity Pool Class* (W-Series Securities)

TD Global Equity Pool (W-Series and Private Series Securities)
TD Global Equity Pool Class* (W-Series Securities)
TD Tactical Pool (W-Series and Private Series Securities)
TD Tactical Pool Class* (W-Series Securities)
TD U.S. Blue Chip Equity Fund (W-Series, Institutional Series, O-Series, Investor Series,
Advisor Series, F-Series and Private-EM Series Securities)
TD U.S. Quantitative Equity Fund (W-Series, Investor Series, O-Series, F-Series and Premium
F-Series Securities)
TD U.S. Equity Portfolio (W-Series, Investor Series, Advisor Series and F-Series Securities)
TD U.S. Mid-Cap Growth Fund (W-Series, Institutional Series, O-Series, Investor Series,
Advisor Series, F-Series and Private-EM Series Securities)
TD U.S. Small-Cap Equity Fund (W-Series, O-Series, Investor Series, Advisor Series and
F-Series Securities)
(*A class of TD Mutual Funds Corporate Class Ltd.)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated July 28, 2016
NP 11-202 Receipt dated July 29, 2016
Offering Price and Description:
Investor Series Securities
e-Series Securities
Institutional Series Securities
O-Series Securities
Premium Series Securities
H-Series Securities
T-Series Securities
S-Series Securities
C-Series Securities
PS-Series Securities
Private Series Securities
Advisor Series Securities
F-Series Securities
W-Series Securities
D-Series Securities
K-Series Securities
Private-EM Series Securities
Premium F-Series Securities
Underwriter(s) or Distributor(s):
TD Investment Services Inc. (for Investor Series units)
TD Investment Services Inc. (for Investor Series and e-Series units)
TD Investment Services Inc.(for Investor Series units)
TD Investment Services Inc. (for Investor Series and e-Series Units)
TD Waterhouse Canada Inc.
TD Waterhouse Canada Inc. (W-Series and WT-Series only)
TD Investment Services Inc. (for Investor Series)
TD Investment Services Inc. (for Investor Series and Premium Series units)
Promoter(s):
TD Asset Management Inc.
Project #2498580

Issuer Name:
Horizons BetaPro S&P 500 VIX Short-Term Futures ETF
Horizons BetaPro S&P 500 VIX Short-Term Futures Inverse ETF
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated July 7, 2016 to the Long Form Prospectus dated December 22, 2015
NP 11-202 Receipt dated July 27, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Horizons ETFs Management (Canada) Inc.
Project #2419198

Issuer Name:
Marquis Institutional Balanced Growth Portfolio (Series A, E, F, G, I, T and V securities)
Marquis Institutional Balanced Portfolio (Series A, E, F, G, I, T and V securities)
Marquis Institutional Bond Portfolio (Series A, E, F, I, O and V securities)
Marquis Institutional Canadian Equity Portfolio (Series A, E, F, I, O, T and V securities)
Marquis Institutional Equity Portfolio (Series A, E, F, I, T and V securities)
Marquis Institutional Global Equity Portfolio (Series A, E, F, I, O, T and V securities)
Marquis Institutional Growth Portfolio (Series A, E, F, I, T and V securities)
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated July 21, 2016 to the Simplified Prospectuses and Annual Information Form dated November 25, 2015
NP 11-202 Receipt dated July 26, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
1832 Asset Management L.P.
Promoter(s):
1832 Asset Management L.P.
Project #2404600

Issuer Name:
NEI Ethical American Multi-Strategy Fund
(Series A, Series F and Series I units)
NEI Ethical Global Dividend Fund
(Series A, Series F, Series I, Series P and Series PF units)
NEI Ethical Global Equity Fund
(Series A, Series F and Series I units)
NEI Northwest Global Equity Fund
(Series A, Series F and Series I units)
NEI Northwest Global Equity Corporate Class
(Series A and Series F shares)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated July 21, 2016 to the Simplified Prospectuses and Annual Information Form dated June 10, 2016
NP 11-202 Receipt dated July 27, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Credential Asset Management Inc.
Credential Asset Management
Promoter(s):
-
Project #2477315

Issuer Name:
Purpose Diversified Real Asset Fund
(ETF shares, Series A shares, Series F shares, Series I shares, Series D shares, Series XA
shares and Series XF Shares)
Purpose Enhanced US Equity Fund
(ETF shares, ETF non-currency hedged shares, Series A shares, Series A non-currency hedged
shares, Series F shares, Series F non-currency hedged shares, Series I shares, Series I
non-currency hedged shares, Series D shares, Series XA shares and Series XF shares)
Purpose Multi-Strategy Market Neutral Fund
(ETF units, Class A units, Class F units, Class I units and Class D units)
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated July 28, 2016
NP 11-202 Receipt dated July 29, 2016
Offering Price and Description:
ETF units and shares, Series A units and shares, Series F units and shares, Series I units and shares, Series D units and shares, Series XA shares and Series XF Shares, ETF non-currency hedged shares, Series A non-currency hedged shares, Series F non-currency hedged shares and Series I non-currency hedged shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2500583

Issuer Name:
Scotia T-Bill Fund (Series A units)
Scotia Money Market Fund (Series A, Series I and Premium Series units)
Scotia U.S. $ Money Market Fund (Series A units)
Principal Regulator - Ontario
Type and Date:
Amendment No. 2 dated July 25, 2016 to the Simplified Prospectuses of the above Issuers dated November 12, 2015 and Amendment No. 3 dated July 25, 2016 to the Annual Information Form dated November 12, 2015NP 11-202 Receipt dated July 27, 2016
Offering Price and Description:
Series A, Series I, Series K, Series M, Advisor Series and Premium Series units
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
1832 Asset Management L.P.
Project #2398768; 2398786

Issuer Name:
Sun Life MFS Global Growth Fund (Series A, D, T5, T8, F, I, O securities)
Sun Life MFS Global Value Fund (Series A, T5, T8, F, I, O securities)
Sun Life MFS U.S. Growth Fund (Series A, AH, T5, T8, F, FH, I, IH, O, OH securities)
Sun Life MFS U.S. Value Fund (Series A, AH, T5, T8, F, FH, I, IH, O, OH securities)
Sun Life MFS International Growth Fund (Series A, D, T5, T8, F, I, O securities)
Sun Life MFS International Value Fund (Series A, T5, T8, F, I, O securities)
Sun Life Schroder Emerging Markets Fund (Series A, F, I, O securities)
Sun Life MFS Global Total Return Fund (Series A, T5, F, I, O securities)
Sun Life Milestone 2020 Fund (Series A securities)
Sun Life Milestone 2025 Fund (Series A securities)
Sun Life Milestone 2030 Fund (Series A securities)
Sun Life Milestone 2035 Fund (Series A securities)
Sun Life Multi-Strategy Bond Fund (formerly Sun Life Beutel Goodman Canadian Bond Fund)
(Series A, F, I, O securities)
Sun Life MFS Monthly Income Fund (Series A, T5, F, I, O securities)
Sun Life Money Market Fund (Series A, D, F, I, O securities)
Sun Life Dynamic Energy Fund (Series A, T5, T8, F, I, O securities)
Sun Life BlackRock Canadian Balanced Class* (Series A, AT5, F, O securities)
Sun Life BlackRock Canadian Composite Equity Class* (Series A, AT5, F, I, O securities)
Sun Life BlackRock Canadian Equity Class* (Series A, AT5, AT8, F, I, O securities)
Sun Life Money Market Class* (Series A, F, O securities)
Sun Life Dynamic Equity Income Class* (Series A, AT5, F, I, O securities)
Sun Life Dynamic Strategic Yield Class* (Series A, AT5, F, I, O securities)
Sun Life MFS Dividend Income Class* (Series A, AT5, F, I, O securities)
Sun Life Granite Conservative Class* (Series A, AT5, F, O securities)
Sun Life Granite Moderate Class* (Series A, AT5, F, O securities)
Sun Life Granite Balanced Class* (Series A, AT5, F, O securities)
Sun Life Granite Balanced Growth Class* (Series A, AT5, AT8, F, O securities)
Sun Life Granite Growth Class* (Series A, AT5, AT8, F, O securities)
Sun Life MFS Canadian Equity Class* (Series A, AT5, F, O securities)
Sun Life Sentry Value Class* (Series A, AT5, F, I, O securities)
Sun Life MFS U.S. Growth Class* (Series A, AT5, AT8, F, O securities)
Sun Life MFS Global Growth Class* (Series A, AT5, AT8, F, O securities)
Sun Life MFS International Growth Class* (Series A, AT5, AT8, F, O securities)
(*each a class of shares of Sun Life Global Investments Corporate Class Inc.)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated July 29, 2016
NP 11-202 Receipt dated July 29, 2016
Offering Price and Description:
Series A, Series AH, Series AT5, Series T5, Series AT8, Series T8, Series D, Series F, Series FH, Series I, Series IH, Series O and Series OH securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
Sun Life Global Investments (Canada) Inc.
Project #2499012

This page intentionally left blank

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Business	Cheverny Capital Inc.	Exempt Market Dealer	July 26, 2016
Change in Registration Category	Tacita Capital Inc.	From: Portfolio Manager To: Portfolio Manager, Investment Fund Manager and Exempt Market Dealer	July 27, 2016

This page intentionally left blank

Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.3 Clearing Agencies

13.3.1 CDS – Material Amendments to CDS Procedures – CDS Transfer Agent Standards – OSC Staff Notice of Request for Comment

OSC STAFF NOTICE OF REQUEST FOR COMMENT

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS)

MATERIAL AMENDMENTS TO CDS PROCEDURES

CDS TRANSFER AGENT STANDARDS

The Ontario Securities Commission is publishing for 30 day public comment material amendments to the CDS Procedure related to CDS Transfer Agent standards. The proposed standards are intended to expand the regulatory, information provision, operational, and capital adequacy requirements imposed on CDS-approved transfer agents.

The comment period ends on September 3, 2016.

A copy of the CDS Notice is published on our website at http://www.osc.gov.on.ca.

This page intentionally left blank

Index