The Ontario Securities Commission

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Table of Contents

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 CSA Staff Notice 33-318 Review of Practices Firms Use to Compensate and Provide Incentives to their Representatives

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA Staff Notice 33-318
Review of Practices Firms Use to Compensate and Provide Incentives to their Representatives

December 15, 2016

Substance and purpose

Staff from the Canadian Securities Administrators (**Staff** or **we**) published on April 28, 2016 the *CSA Consultation Paper 33-404 – Proposals to Enhance the Obligations of Advisers, Dealers, and Representatives toward their Clients* (the **Consultation Paper**), in which we outlined a framework for proposed targeted reforms relating to the client-registrant relationship. A description of potential guidance on the conflicts which may arise from compensation and sales practices is described at Appendix A of the Consultation Paper. The Consultation Paper contains a review of the CSA research related to the client-registrant relationship and indicates that we would publish a notice summarizing the results of a survey conducted in 2014 (the **Survey**) to identify the compensation arrangements and incentive practices that firms use to motivate their representatives' day-to-day behavior.

Apart from the Survey, there is significant focus and ongoing work on compensation arrangements and incentive practices by the CSA, the Mutual Fund Dealers Association of Canada (**MFDA**) and Investment Industry Regulatory Organization of Canada (**IIROC**).

This notice outlines the results of the Survey on practices that surveyed firms use to compensate their representatives, including direct tools such as commissions, performance reviews and sales targets (**compensation arrangements**), as well as indirect tools such as promotions and valuation of representatives' books of business for various purposes (for example, retirement and awards) (**incentive practices**). In addition, we set out our view of the potential material conflicts of interest that could arise from some of the compensation arrangements and incentive practices identified in the Survey.

Some of the compensation arrangements and incentive practices identified in this notice may allow a firm to more effectively manage potential or actual conflicts of interest that may arise. Firms may also have adequate controls in place to mitigate potential material conflicts of interest that could arise from their compensation arrangements and incentive practices. CSA Staff remind firms that we consider a conflict of interest to be any circumstance where the interests of different parties, such as the interests of a client and those of a registrant, are inconsistent or divergent. As explained in the Companion Policy to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, a registered firm's policies and procedures for managing conflicts should allow the firm and its staff to (i) identify conflicts of interest that should be avoided, (ii) determine the level of risk that a conflict of interest raises, and (iii) respond appropriately to conflicts of interest.

We may issue further guidance and/or proposed regulation related to compensation arrangements and incentive practices in light of our ongoing work on this issue and in conjunction with our review and analysis of comments received on the Consultation Paper and our consideration of proposed reforms. The Survey results are just one factor that may inform our work in this area.

Scope and methodology of the Survey

The purpose of the Survey was primarily to investigate the incentive practices in use for retail representatives serving clients in the MFDA and IIROC channels and to a lesser extent, high net worth clients in the portfolio manager/exempt market dealer

channel. Firms surveyed represent some of the largest firms in the industry, in terms of assets under administration and number of approved persons.

For integrated firms (i.e., an integrated firm is one that owns both distribution and asset management or product manufacturing generally), in particular, we wanted to identify all the incentive models in use across all registrant channels to understand the connections between related entities. For the independent firms, we wanted to ensure that the Survey included dealers from both the MFDA and IIROC channels. At the time the Survey was conducted, the six MFDA dealers surveyed administered 34% of assets and employed 31% of approved persons in that registration channel and the eight IIROC dealers surveyed administered 50% of assets and employed 38% of approved persons in that registration channel. There were a further 10 portfolio manager firms included in the Survey which combined had $238 billion in assets under management, $45 billion of which was managed directly on behalf of individuals.

Survey Results

1. Certain referral arrangements

Some firms use one-time or ongoing payments as an incentive for representatives to pass on business to related and/or third party financial service providers. Practices among surveyed firms ranged widely and included receiving one-time and ongoing (in some cases perpetual) referral fees and receiving both securities and non-securities related referral fees, including referral fees on mortgages, investment loans and insurance.

This practice may encourage representatives to search through their existing books of business to find those clients that could be sold the targeted product or service whether they need it or not. In the case of related party referral arrangements, it may encourage representatives to send their clients to another arm of their firm, even when third party product and/or service options may be more suitable. It may also encourage representatives to shift clients to more profitable business lines within the firm with little or no benefit to the client.

2. Compensation heavily weighted towards sales activity and revenue generation

These types of practices include the following:

100% variable pay based on commission/fee revenue

A representative's compensation is based entirely on the commission or fee revenue that the representative generates for the firm.

Sales bonuses greater than 100% of base pay

Bonuses are so large relative to base pay that the compensation system essentially functions as a 100% variable pay arrangement.

Unbalanced scorecards (sales/revenue metrics >50%)

Scorecard compensation arrangements that tie a high weight of total compensation, either directly or indirectly, to sales or revenue targets so that the compensation system essentially functions as a 100% variable pay arrangement.

These practices may encourage representatives to generate revenue as quickly as possible to secure the benefit, which may encourage representatives to focus on the easiest route to reach the target (i.e., to focus on what is easiest to sell, what generates the most revenue, what they can sell most of), rather than what is suitable for the client. The focus may be on generating revenue for the firm and representative rather than generating value for clients. Staff note these types of compensation arrangements are often associated with unwanted representative behaviours such as churning, the sale of unsuitable products or the sale of suitable products in unsuitable amounts.

3. Professional titles tied to sales or revenue targets

Firms may assign professional titles (e.g., vice president, senior representative, specialist) to representatives based on their ability to reach certain sales and revenue targets.

This practice may encourage representatives to focus on the easiest route to reach a target (i.e., to focus on what's easiest to sell, what generates most revenue, what they can sell most of), rather than on what is suitable for a client, particularly as representatives get close to the target. Also, when the benefit confers a title to the representative (e.g., President's Club member), it could be misconstrued by the client as a measure of skill level, experience or quality, rather than a measure of sales activity, which may inappropriately increase client trust in the representative.

4. Representative bonuses (no set bonus criteria)

Some (or all) of the representative's bonus is set at the discretion of a manager, business line head or firm central committee. There are no set criteria for the distribution and amount of the bonus paid. In some cases, bonus criteria change substantially from year to year.

This practice may allow a firm flexibility to give greater bonuses to representatives that have demonstrated positive, client-focused behaviours that have not been captured or are not easily captured by other performance measures. We acknowledge that some firms have put in place a discretionary bonus structure for business reasons (e.g., to provide the firm with more flexibility to manage how much it pays its representatives from year to year depending on the firm's financial success); however, discretionary bonuses that provide very little transparency about the criteria used to award the bonus to the representative may be used to encourage practices that create serious conflicts of interest for the representative.

5. Monetary and non-monetary incentives to favour proprietary products

These arrangements favour proprietary products over third-party products whether through higher payout rates, bonuses, increased revenue recognition or through other forms of additional compensation. Only integrated firms reported these practices. Some firms reported paying their representatives a higher grid payout rate for all their proprietary mutual funds while others paid a higher rate only for a subset of their funds. Other firms based a part of representatives' annual bonus on the performance of their business unit, which included both distribution and asset management. Other firms also reported annual performance review processes that seemed to focus on representatives' activity vis-à-vis the sale of proprietary products over and above their ability to generate revenue for the firm generally.

These practices create a serious conflict of interest. These practices create an incentive for representatives and the firm to drive sales of proprietary products in order to maximize the firm's profits, which can result in inappropriate advice and inferior client outcomes. In addition, with respect to the distribution of mutual funds in particular, some of these practices may contravene the provisions of Part 4 of National Instrument 81-105 – *Mutual Fund Sales Practices*.

6. "First past the post" incentives

Representatives receive monetary and non-monetary compensation that is determined by the representatives' revenue or sales rank within the firm over a set time period or through a representative being one of a limited number to reach a revenue or sales target within the firm (e.g., bonuses, increased payout rates, recognition trips/conferences tied to being in the top percentage in terms of revenue generation, President's Club membership). Integrated firms were more likely to report using this practice than independent firms.

This practice may encourage representatives to increase sales and generate revenue as quickly as possible to secure the benefit. This introduces or increases the conflict between clients' long term needs and firms' short term revenue and profitability targets. Also, when the benefit confers a title to the representative (e.g., President's Club member), it could be misconstrued by the client as a measure of skill level, experience or quality, rather than a measure of sales activity, which may inappropriately increase client trust in the representative. This practice may also encourage representatives to focus on the easiest route to reach the target (i.e., to focus on what is easiest to sell, what generates the most revenue, what they can sell most of), rather than what is suitable for the client.

7. Non-neutral grids

Representative grid or other variable compensation payouts that differ depending on the product or service sold to the client (e.g., higher grid payout rates for initial public offerings, third party mutual funds included on the firm's recommended list, fee-based accounts, new clients).

This practice may encourage representatives to promote certain products and services over others, or in the case of higher payout rates for new clients, encourages representatives to favour certain clients over others, based on their firm's priorities rather than a client's needs. This practice may encourage representatives to sell products that are unsuitable or to sell suitable products in unsuitable amounts.

8. Investment amount incentives (ticket size tiers, minimum amounts)

The representative's compensation is tied to the size of the investment made by the client at a point in time (e.g., through investment minimums or grids that differentiate payout rates by ticket size tiers). As a result, representatives that generate the same overall revenue, but do so with clients who invest in smaller increments, earn less.

This practice may create a conflict of interest by encouraging the representative to recommend that the client invest or save more whether they need to or not; to concentrate their investment into a single product; or, to adjust the timing of their

investment to increase the size of each trade. This practice may encourage the representative to recommend suitable products in unsuitable amounts.

9. Cross-selling incentives

This incentive practice is based on the range of products sold, including bonuses for reaching certain product mix targets (securities and non-securities financial products) and penalties for selling only one product type. All registrants who reported using this arrangement were part of an integrated firm.

This practice may encourage, and in the case of penalizations requires, representatives to push products and services that a client may not need or that are not suitable. Representatives are typically only compensated for cross-selling products offered by related entities. Even when the need may be valid, the client may be better served by utilizing unrelated products and services.

10. Manager compensation tied to staff sales/revenue targets

Compensation arrangements where a material portion (in some cases the majority) of the manager's pay is tied to the sales and revenue targets of his or her staff.

A manager may not be able to properly oversee staff or to appropriately evaluate conflicts when the manager is compensated in this manner. This practice may persuade managers to encourage their staff to focus on those activities that maximize the manager's compensation, rather than on those activities that serve the client's interest, even if it results in the sale of unsuitable products.

11. Changes to representative grid minimums, tiering and/or payout rates

This incentive practice involves increasing grid minimums, grid tiering or making other changes to the grid payout rates (e.g., lowering payout rates for the lower tiers, increasing payout rates for the higher tiers) in order to meet firm revenue and profitability targets.

This incentive practice may encourage representatives to no longer service those clients from whom they cannot generate more revenue. This practice may also encourage representatives to generate more revenue from their existing books of business in order to maintain the same levels of compensation and increasing production, which could lead to inappropriate behaviours such as churning or sales of unsuitable products.

12. Group sales/revenue targets

Representatives' compensation is tied to team and/or branch sales and revenue targets.

While this incentive practice has the merit of potentially encouraging team work, it may result in too much weight being put towards a firm's rather than the client's goals. Group goals may in some cases also have a target product mix or proprietary product focus. This may encourage team members to push lagging members to generate more sales and revenue, providing further incentives for the representative to focus on the team's (and by extension the firm's) goal at the expense of the client's interest or suitability.

13. Retroactive compensation increases

Representatives receive a retroactive increase in their previous grid payouts or other forms of compensation when they reach a certain revenue or sales target.

While the representative gets an increase in the payout received on previous sales service, the client who received that service gets no equivalent retroactive added value. This practice may encourage representatives to increase sales and generate more revenue for the firm as a revenue or sales target approaches. This may lead them to focus less on what the client needs and more on the revenue needed to trigger an increase. This may encourage representatives to focus on the easiest route to reach the target (i.e., to focus on what is easiest to sell, what generates most revenue, what they can sell most of), rather than on what is suitable for the client.

14. Accelerator (stepped payments)

Representatives receive higher payout rates for sales or revenues generated over a certain target over a certain fixed period of time. This arrangement is often used for new sales awards and to determine limited bonus rates on top of regular grid payout rates.

This practice may encourage representatives to try to get all sales or revenues in before the end of the payout period, which may lead to the timing of investments becoming geared to the representatives' compensation rather than the clients' needs. This practice may also encourage representatives to generate revenue as quickly as possible to secure the benefit, which may encourage representatives to focus on the easiest route to reach the target (i.e., to focus on what is easiest to sell, what generates the most revenue, what they can sell most of), rather than on what is suitable for the client.

15. Product and/or service specific promotions and competitions

Some firms set up competitions to encourage representatives to sell certain types of products or services.

The primary focus of the competitions is to provide incentives to representatives to sell products and/or services that are a priority for their firm rather than a priority for their clients. The practice may encourage representatives to promote products and services that the client does not need.

16. Revenue recognition biases

The amount of representatives' revenue credited to the grid varies depending on the type of product sold (e.g., proprietary versus third party products).

This practice may encourage representatives to favour products and services in their recommendations to clients that credit more revenue to the grid.

17. Lock-in incentives

Firms establish sales or revenue targets that lock in higher compensation rates in subsequent periods if representatives meet the target (e.g., through future bonus, grid payouts or revenue recognition rates).

This practice may encourage representatives to increase sales or generate revenue as they approach the required targets. This may increase the potential conflict between the client's needs and what the representative needs to earn to move up to the next tier on the grid. This practice may encourage representatives to advance the timing of clients' investments so that the representatives can be credited during the benefit determination period or to focus on the easiest route to reach the target as it gets close rather than on what is suitable for the client.

18. Deferred compensation

Incentive practices include a deferred component of total compensation for one or more years. This typically includes such things as deferred cash and equity awards (restricted and performance shares or units). This practice encourages representatives to take a long term focus and helps the firm minimize reputational risk. It allows for a credible threat of clawback if representatives engage in inappropriate sales practices.

Staff notes that this incentive practice does not always align the representative and client interests. Depending on the type of deferral arrangement (e.g., restricted share units) in place, it may encourage a long-term firm rather than client focus. For example, deferred compensation that is tied to firm profitability may encourage the representative to recommend proprietary over third party products, which may not be suitable for the clients.

19. Capped or decreasing incentives (fee capping)

These incentive practices are designed to equalize compensation (and minimize conflicts) across the product shelf such as through caps on embedded commissions. In addition, they are designed to limit and/or temper representatives' incentive to focus on revenue rather than focus on the client such as through grid payouts that increase at a decreasing rate as the rate of activity increases.

20. Qualitative client feedback

Under this arrangement, variable compensation is based on the quality of client feedback (e.g., through client surveys, net promoter scores, satisfactory client outcome). This practice directly ties the representative's compensation to the client experience.

21. Rolling sales/revenue targets

Representatives' sales and revenue targets are based on rolling, rather than fixed, time periods. Relative to fixed time period targets and other practices such as retroactive and lock-in incentives, rolling targets reduce some of the drive given to representatives to make sales or otherwise book revenues before a set target date.

22. Risk based clawbacks

The firm has policies in place to clawback or reduce deferred compensation if it was generated from activities that have been deemed high risk to the firm. This incentive practice seeks to reduce a representative's incentive to engage in activities that the firm has deemed high risk or that the firm is likely to deem high risk in the future.

23. Independent compliance staff compensation

Compensation of compliance staff is not tied to the sales or revenue targets of representatives, the branch or the business line that compliance staff oversees. The separation, or independence, of compliance staff compensation encourages effective oversight of representative activities and reduces the potential for mis-selling.

24. Neutral Grid

Compensation grids are neutral when payout rates and revenue tiers do not differ by product or service sold to the client or by account or client type. Simpler compensation grids tend to discourage representatives from focusing on any one product or service for personal gain.

25. Penalties for poor sales practices

The firm has policies in place that clearly define penalties for poor sales practices (e.g., tracking client complaints), including a credible mechanism for recouping previously paid compensation. This practice encourages representatives to focus on the quality, as well as quantity, of sales.

26. Client Turnover

Compensation is tied in some way to client turnover or the average length of client relationships in representatives' books of business. This incentive practice encourages representatives to focus on creating long-term, high value client relationships.

27. Return on book oversight or alarms

The firm actively monitors representatives' return on book or other profitability metrics and investigates representatives with unusually high returns. In addition to helping to limit mis-selling, this practice also helps limit price gouging.

Next Steps

We will continue to analyze the information gathered from the focused activity of the CSA, MFDA and IIROC, as well as the comments received on the Consultation Paper, to determine the appropriate regulatory response, if any, to address conflicts of interest that arise from compensation arrangements and incentive practices.

Questions

Please refer your questions to any of the following:

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1.2 Notices of Hearing

1.2.1 Krishna Sammy

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

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

AND

IN THE MATTER OF
KRISHNA SAMMY

NOTICE OF HEARING

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to the *Securities Act*, RSO 1990, c S.5 at the offices of the Commission at 20 Queen Street West, 17th Floor, on December 15, 2016 at 11:30 a.m., or as soon thereafter as the hearing can be held;

AND TAKE FURTHER NOTICE that the purpose of the hearing is to consider a request made by Krishna Sammy for a further decision and an order varying or setting aside the order of the Commission dated October 28, 2016, which dismissed his Application for a Hearing and Review of a decision of the Hearing Panel of the Investment Industry Regulatory Organization of Canada dated January 22, 2016;

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

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

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

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

DATED at Toronto this 12th day of December, 2016.

"Grace Knakowski"
Secretary to the Commission

1.3 Notices of Hearing with Related Statements of Allegations

1.3.1 BMO Nesbitt Burns Inc. et al. – ss. 127(1), 127(2)

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

IN THE MATTER OF
BMO NESBITT BURNS INC.,
BMO PRIVATE INVESTMENT COUNSEL INC.,
BMO INVESTMENTS INC. AND
BMO INVESTORLINE INC.

NOTICE OF HEARING
(Subsections 127(1) and 127(2) of the Securities Act)

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to subsections 127(1) and 127(2) of the *Securities Act* at the offices of the Commission located at 20 Queen Street West, 17th Floor, on December 15, 2016 at 10:00 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 whether it is in the public interest to approve the Settlement Agreement dated December 9, 2016, on a no-contest basis, between Staff of the Commission and BMO Nesbitt Burns Inc., BMO Private Investment Counsel Inc., BMO Investments Inc. and BMO InvestorLine Inc.;

BY REASON OF the allegations set out in the Statement of Allegations dated December 12, 2016 and such additional allegations as counsel may advise and the Commission may permit;

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

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

DATED at Toronto this 12th day of December, 2016.

"Grace Knakowski"
Secretary to the Commission

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

IN THE MATTER OF
BMO NESBITT BURNS INC.,
BMO PRIVATE INVESTMENT COUNSEL INC.,
BMO INVESTMENTS INC. AND
BMO INVESTORLINE INC.

STATEMENT OF ALLEGATIONS OF
STAFF OF THE ONTARIO SECURITIES COMMISSION

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

I. THE RESPONDENTS

1. BMO Nesbitt Burns Inc. ("BMO NB") is a corporation amalgamated pursuant to the laws of Canada and is an indirect subsidiary of the Bank of Montreal ("BMO"), a diversified financial services provider. BMO NB is a member of the Investment Industry Regulatory Organization of Canada ("IIROC") and is registered with the Commission as an investment dealer, investment fund manager and futures commission merchant. The matters described below with regard to BMO NB pertain only to the Private Client Division business unit within it that provides advice to retail clients.

2. BMO Private Investment Counsel Inc. ("BPIC") is a corporation incorporated pursuant to the laws of Canada and is an indirect subsidiary of BMO. BPIC is registered with the Commission as an investment fund manager, portfolio manager and exempt market dealer.

3. BMO Investments Inc. ("BMO II") is a corporation amalgamated pursuant to the laws of Canada. It is an indirect subsidiary of BMO and part of its wealth management businesses. BMO II is a member of the Mutual Fund Dealers Association of Canada and is registered with the Commission as an investment fund manager and mutual fund dealer.

4. BMO InvestorLine Inc. ("BMO IL") is a corporation incorporated pursuant to the laws of Canada and is an indirect subsidiary of BMO. BMO IL is a member of IIROC and is registered with the Commission as an investment dealer. Together, BMO NB, BPIC, BMO II and BMO IL are referred to herein as the "BMO Registrants."

II. THE BMO REGISTRANTS' CONDUCT

5. Commencing in early February 2015, the BMO Registrants promptly self-reported to Commission

Staff inadequacies in their 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 BMO Registrants in a timely manner.

6. Commission Staff do not allege, and have found no evidence of dishonest conduct by the BMO Registrants.

7. The BMO Registrants 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. The BMO Registrants either have already taken or are taking corrective action, including implementing additional controls, supervisory and monitoring systems, to prevent the re-occurrence of the Control and Supervision Inadequacies in the future.

8. Some of the BMO Registrants' clients have fee-based accounts and are charged a fee for investment management services received in respect of assets held in the accounts (the "Fee-Based Accounts"). The investment management fee is based on the client's assets under management or assets under administration (the "Account Fee").

9. BMO II offers a number of funds (each a "BMO Fund") that are available in different series. For certain of these BMO Funds, there are two series of the same mutual fund which differ in that the management expense ratio ("MER") of one series is lower than the MER of the other series (the "MER Differential Funds"). The lower MER series of these MER Differential Funds are available to clients who meet certain eligibility criteria.

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

    1) for some BMO NB clients with Fee-Based Accounts, certain investment products (including but not limited to mutual funds, principal protected notes and principal at risk notes, collectively, the "Investment Products") and structured investment products (including but not limited to exchange traded funds and closed ended funds, collectively, the "Structured Investment Products") 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, 2008 to April 30, 2016;

    2) for some BPIC clients with Fee-Based Accounts, certain Investment Products and Structured Investment Products with embedded trailer fees were transferred into their BPIC Fee-Based Accounts and were incorrectly included in Account Fee calculations, resulting in some clients paying excess fees during the period January 1, 2008 to June 30, 2016;

    3) for some BMO IL clients with Fee-Based Accounts, certain Investment Products and Structured Investment Products 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 September 10, 2012 to March 31, 2016;

    4) some clients of BMO II were not advised that they qualified for a lower MER series of an MER Differential Fund and indirectly paid excess fees when they invested in the higher MER series of the same mutual fund during the period April 1, 2012 to June 30, 2015;

    5) some clients of BMO NB were not advised that they qualified for a lower MER series of an MER Differential Fund and indirectly paid excess fees when they invested in the higher MER series of the same mutual fund during the period January 1, 2008 to October 31, 2016;

    6) some clients of BPIC were not advised that they qualified for a lower MER series of an MER Differential Fund when they transferred certain mutual funds into their BPIC accounts and indirectly paid excess fees when they invested in the higher MER series of the same mutual fund during the period January 1, 2008 to October 31, 2016; and

    7) some clients of BMO IL were not advised that they qualified for a lower MER series of an MER Differential Fund and indirectly paid excess fees when they invested in the higher MER series of the same mutual fund during the period September 10, 2012 to July 22, 2016.

III. BREACH OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

11. In respect of the Control and Supervision Inadequacies, the BMO Registrants failed to establish, maintain and apply procedures to establish controls and supervision:

(a) sufficient to provide reasonable assurance that the BMO Registrants, and each individual acting on behalf of the BMO Registrants, 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 BMO Registrants to correct the non-compliant conduct in a timely manner.

12. 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 BMO Registrants' systems of controls and supervision associated with the Control and Supervision Inadequacies were contrary to the public interest.

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

DATED at Toronto, this 12th day of December 2016.

1.5.1 Notices from the Office of the Secretary

1.5.1 Lance Kotton and Titan Equity Group Ltd.

FOR IMMEDIATE RELEASE
December 8, 2016

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

IN THE MATTER OF
LANCE KOTTON and
TITAN EQUITY GROUP LTD.

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

A copy of the Reasons and Decision dated December 7, 2016 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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 Edward Furtak et al.

FOR IMMEDIATE RELEASE
December 8, 2016

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

IN THE MATTER OF
EDWARD FURTAK,
AXTON 2010 FINANCE CORP.,
STRICT TRADING LIMITED,
RONALD OLSTHOORN,
TRAFALGAR ASSOCIATES LIMITED,
LORNE ALLEN AND
STRICTRADE MARKETING INC.

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

1. shall serve and file Staff's written submissions on sanctions and costs on or before Thursday, December 22, 2016;

2. The Respondents shall serve and file their responding written submissions on sanctions and costs on or before Monday, January 16, 2017;

3. Staff shall serve and file Staff's reply submissions, if any, on or before Monday, January 23, 2017; and

4. The hearing to determine sanctions and costs will be held at the offices of the Commission at 20 Queen Street West, Toronto, Ontario, on Monday, January 30, 2017, commencing at 10:00 a.m.

A copy of the Order dated December 7, 2016 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
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SECRETARY TO THE COMMISSION

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

1.5.3 Blue Gold Holding Ltd. et al.

FOR IMMEDIATE RELEASE
December 9, 2016

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

AND

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

TORONTO – The Commission issued its Reasons and Decision on Sanctions and Costs and an Order in the above noted matter.

A copy of the Reasons and Decision on Sanctions and Costs and the Order dated December 7, 2016 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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For investor inquiries:

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

1.5.4 Portfolio Strategies Securities Inc. and Clifford Todd Monaghan

FOR IMMEDIATE RELEASE
December 9, 2016

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

AND

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

AND

IN THE MATTER OF
CLIFFORD TODD MONAGHAN

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

A copy of the Reasons and Decision dated December 8, 2016 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.5.5 AAOption et al.

FOR IMMEDIATE RELEASE
December 12, 2016

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

IN THE MATTER OF
AAOPTION,
GALAXY INTERNATIONAL SOLUTIONS LTD. and DAVID ESHEL

TORONTO – The Commission issued an Order in the above noted matter which provides that the hearing in this matter is adjourned to January 19, 2017 at 4:00 p.m., or such further and other date as may be agreed to by the parties and set by the Office of the Secretary.

A copy of the Order dated December 9, 2016 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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 BMO Nesbitt Burns Inc. et al.

FOR IMMEDIATE RELEASE
December 12, 2016

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

IN THE MATTER OF
BMO NESBITT BURNS INC.,
BMO PRIVATE INVESTMENT COUNSEL INC.,
BMO INVESTMENTS INC. AND
BMO INVESTORLINE INC.

TORONTO – The Office of the Secretary issued a Notice of Hearing to consider whether it is in the public interest to approve the Settlement Agreement dated December 9, 2016, on a no-contest basis, between Staff of the Commission and BMO Nesbitt Burns Inc., BMO Private Investment Counsel Inc., BMO Investments Inc. and BMO InvestorLine Inc.

The hearing pursuant to subsections 127(1) and 127(2) of the *Securities Act*, RSO 1990, c. S.5 will be held at the offices of the Commission located at 20 Queen Street West, 17th Floor, on December 15, 2016 at 10:00 a.m.

A copy of the Notice of Hearing dated December 12, 2016 and Statement of Allegations of Staff of the Ontario Securities Commission dated December 12, 2016 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

1.5.7 Krishna Sammy

FOR IMMEDIATE RELEASE
December 12, 2016

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

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

AND

IN THE MATTER OF
KRISHNA SAMMY

TORONTO – The Ontario Securities Commission will hold a hearing to consider a request made by Krishna Sammy for a further decision and an order varying or setting aside the order of the Commission dated October 28, 2016, which dismissed his Application for a Hearing and Review of a decision of the Hearing Panel of the Investment Industry Regulatory Organization of Canada dated January 22, 2016.

The hearing will be held on December 15, 2016 at 11:30 a.m. on the 17th floor of the Commission's offices located at 20 Queen Street West, Toronto.

A copy of the Notice of Hearing dated December 12, 2016 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Brandes Investment Partners & Co. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to multiple fund families from the requirement to send a printed information circular to registered holders of the securities of an investment fund – relief subject to a number of conditions, including sending an explanatory document in lieu of the printed information circular and giving securityholders the option to request and obtain at no charge a printed information circular – notice-and-access for investment funds.

Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, s. 12.2(2)(a).

December 5, 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
BRANDES INVESTMENT PARTNERS & CO.,
CAPITAL INTERNATIONAL ASSET MANAGEMENT (CANADA), INC.,
FIDELITY INVESTMENTS CANADA ULC,
FRANKLIN TEMPLETON INVESTMENTS CORP.,
GUARDIAN CAPITAL LP,
INVESCO CANADA LTD.,
LYSANDER FUNDS LIMITED,
NGAM CANADA LP,
NORTHWEST & ETHICAL INVESTMENTS L.P.,
RBC GLOBAL ASSET MANAGEMENT INC.,
RUSSELL INVESTMENTS CANADA LIMITED,
SUN LIFE GLOBAL INVESTMENTS (CANADA) INC.,
TD ASSET MANAGEMENT INC.,
VANGUARD INVESTMENTS CANADA INC.
(each a Filer, and collectively, the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from each Filer, on behalf of existing and future investment funds that are or will be managed from time to time by the Filer or by an affiliate or successor of the Filer (the **Funds**), for a decision under the securities legislation of the Jurisdiction (the **Legislation**) granting an exemption from the requirement contained in paragraph 12.2(2)(a) of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) for a person or company that solicits proxies, by or on behalf of management of a Fund, to send an information circular to each

registered holder of securities of a Fund whose proxy is solicited, and instead allow a Fund to send a Notice-and-Access Document (as defined in condition 1 of this decision) using the Notice-and-Access Procedure (as defined in condition 2 of this decision) (the **Exemption Sought**).

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

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

(b) each 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 the jurisdiction(s) listed opposite its name in Schedule "A" (collectively, with the Jurisdiction, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) and National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* (**NI 54-101**) have the same meaning if used in this decision, unless otherwise defined.

Representations

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

The Filers and the Funds

1. The head office location of each Filer is set forth in Schedule "A".

2. The Jurisdictions in which each Filer is registered and the specific categories of registration for each Filer are provided in Schedule "A".

3. The Funds are, or will be, managed by the Filers or by an affiliate or successor of the Filers.

4. The Funds are, or will be, investment funds and are, or will be, reporting issuers in one or more of the Jurisdictions.

5. None of the Filers, nor any of the existing Funds, are in default of any of the requirements of securities legislation of the Jurisdictions.

Meetings of Securityholders of the Funds

6. Pursuant to applicable legislation, each Filer must call a meeting of securityholders of one or more Funds from time to time to consider and vote on matters requiring securityholder approval.

7. In connection with a meeting, a Fund is required to comply with the requirements in NI 81-106 regarding the sending of proxies and information circulars to registered holders of its securities, which include a requirement that each person or company that solicits proxies by or on behalf of management of a Fund send, with the notice of meeting, to each registered holder of securities of a Fund whose proxy is solicited, an information circular, prepared in compliance with the requirements of Form 51-102F5 of NI 51-102, to securityholders of record who are entitled to receive notice of the meeting.

8. A Fund is also required to comply with NI 51-102 for communicating with registered holders of its securities, and to comply with NI 54-101 for communicating with beneficial owners of its securities.

Notice-and-Access Procedure – Corporate Finance Issuers

9. Section 9.1.1 of NI 51-102 permits, if certain conditions are met, a reporting issuer that is not an investment fund to use the notice-and-access procedure and send, instead of an information circular, a notice to each registered holder of its securities that contains certain specific information regarding the meeting and an explanation of the notice-and-access procedure.

10. Section 2.7.1 of NI 54-101 permits a reporting issuer that is not an investment fund to use a similar procedure to communicate with each beneficial owner of its securities.

Reasons supporting the Exemption Sought

11. A meeting of investment fund securityholders is substantively no different than a meeting of corporate finance securityholders. As a result, if the notice-and access procedure set forth in NI 51-102 and in NI 54-101 can be used by a corporate finance issuer for a meeting of its securityholders in order to send a notice-and-access document instead of an information circular, it would not be detrimental to the protection of investors to allow an investment fund to also use the Notice-and-Access Procedure to send a Notice-and-Access Document, instead of the information circular.

12. With the Exemption Sought, securityholders will maintain the same access to the same quality of disclosure material currently available. Without limiting the generality of the foregoing:

    (a) all securityholders of record entitled to receive an information circular will receive instructions on how to access the information circular and will be able to receive a printed copy, without charge, if they so desire; and

    (b) the conditions to the Exemption Sought mandate that the Notice-and-Access Document will be sent to securityholders sufficiently in advance of a meeting so that if a securityholder wishes to receive a printed copy of the information circular, there will be sufficient time for each Filer, directly or through the Filer's agent, to send the information circular.

13. With the Notice-and-Access Procedure, no securityholder will be deprived of their ability to access the information circular in his/her/its preferred manner of communication.

14. In accordance with each Filer's standard of care owed to the relevant Fund pursuant to applicable legislation, each Filer will only use the Notice-and-Access Procedure for a particular meeting where it has concluded it is appropriate and consistent with the purposes of notice-and-access (as described in the Companion Policy to NI 54-101) to do so, also taking into account the purpose of the meeting and whether the Fund would obtain a better participation rate by sending the information circular with the other proxy-related materials.

15. There are significant costs involved in the printing and delivery of the proxy-related materials, including information circulars, to securityholders in the Funds.

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 Decision Makers under the Legislation is that the Exemption Sought is granted, provided that, in respect of each Fund or the Filer soliciting proxies by or on behalf of management of a Fund:

1. The registered holders or beneficial owners, as applicable, of securities of the Fund are sent a document that contains the following information and no other information (the **Notice-and-Access Document**):

    (a) the date, time and location of the meeting for which the proxy-related materials are being sent;

    (b) a description of each matter or group of related matters identified in the form of proxy to be voted on unless that information is already included in a Form 54-101F6 or Form 54-101F7 as applicable, that is being sent to the beneficial owner of securities of the Fund under condition (2)(c) of this decision;

    (c) the website addresses for SEDAR and the non-SEDAR website where the proxy-related materials are posted;

    (d) a reminder to review the information circular before voting;

    (e) an explanation of how to obtain a paper copy of the information circular and, if applicable, the financial statements;

    (f) a plain-language explanation of the Notice-and-Access Procedure that includes the following information:

        (i) the estimated date and time by which a request for a paper copy of the information circular and, if applicable, the financial statements of the Fund, is to be received in order for the registered holder or beneficial owner, as applicable, to receive the paper copy in advance of any deadline for the submission of voting instructions for the meeting;

(ii) an explanation of how the registered holders or the beneficial owners, as applicable, of securities of the Fund are to return voting instructions, including any deadline for return of those instructions;

(iii) the sections of the information circular where disclosure regarding each matter or group of related matters identified in the Notice-and-Access Document can be found; and

(iv) a toll-free telephone number the registered holders or the beneficial owners, as applicable, of securities of the Fund can call to get information about the Notice-and-Access Procedure.

2. The Filer, on behalf of the Fund, sends the Notice-and-Access Document in compliance with the following procedure (the **Notice-and-Access Procedure**), in addition to any and all other applicable requirements:

(a) the proxy-related materials are sent a minimum of 30 days before a meeting and a maximum of 50 days before a meeting;

(b) if the Fund sends proxy-related materials:

(i) directly to a NOBO using the Notice-and-Access Procedure, then the Fund must send the Notice-and-Access Document and, if applicable, any paper copies of information circulars and the financial statements, at least 30 days before the date of the meeting; and

(ii) indirectly to a beneficial owner using the Notice-and-Access Procedure, then the Fund must send the Notice-and-Access Document and, if applicable, any paper copies of information circulars and the financial statements to the proximate intermediary (A) at least 3 business days before the 30th day before the date of the meeting, in the case of proxy-related materials that are to be sent on by the proximate intermediary by first class mail, courier or the equivalent, or (B) at least 4 business days before the 30th day before the date of the meeting, in the case of proxy-related materials that are to be sent using any other type of prepaid mail;

(c) using the procedures referred to in section 2.9 or 2.12 of NI 54-101, as applicable, the beneficial owner of securities of the Fund is sent, by prepaid mail, courier or the equivalent, the Notice-and-Access Document and a Form 54-101F6 or Form 54-101F7, as applicable;

(d) the Filer, on behalf of the Fund, files on SEDAR the notification of meeting and record dates on the same date that it sends the notification of meeting date and record date pursuant to subsection 2.2(1) of NI 54-101 (as such time may be abridged);

(e) public electronic access to the information circular and the Notice-and-Access Document is provided on or before the date that the Notice-and-Access Document is sent to registered holders or to beneficial owners, as applicable, of securities of the Fund in the following manner:

(i) the information circular and the Notice-and-Access Document are filed on SEDAR; and

(ii) the information circular and the Notice-and-Access Document are posted until the date that is one year from the date that the documents are posted, on a website of the Filer or the Fund;

(f) a toll-free telephone number is provided for use by the registered holders or beneficial owners, as applicable, of securities of the Fund to request a paper copy of the information circular and, if applicable, the financial statements of the Fund, at any time from the date that the Notice-and-Access Document is sent to the registered holders or the beneficial owners, as applicable, up to and including the date of the meeting, including any adjournment;

(g) if a request for a paper copy of the information circular and, if applicable, the financial statements of the Fund, is received at the toll-free telephone number provided in the Notice-and-Access Document or by any other means, a paper copy of any such document requested is sent free of charge to the registered holder or beneficial owner, as applicable, at the address specified in the request in the following manner:

(i) in the case of a request received prior to the date of the meeting, within 3 business days after receiving the request, by first class mail, courier or the equivalent; and

(ii) in the case of a request received on or after the date of the meeting, and within one year of the date the information circular is filed on SEDAR, within 10 calendar days after receiving the request, by prepaid mail, courier or the equivalent;

(h) a Notice-and-Access Document is only accompanied by:

(i) a form of proxy;

(ii) if applicable, the financial statements of the Fund to be presented at the meeting; and

(iii) if the meeting is to approve a reorganization of the Fund with a mutual fund, as contemplated by paragraph 5.1(1)(f) of NI 81-102 *Investment Funds*, the fund facts document, ETF summary document or ETF facts document, as applicable, for the continuing mutual fund;

(i) a Notice-and-Access Document may only be combined in a single document with a form of proxy;

(j) if the Filer, directly or through the Filer's agent, receives a request for a copy of the information circular and if applicable, the financial statements of the Fund, using the toll-free telephone number referred to in the Notice-and-Access Document or by any other means, it must not do any of the following:

(i) ask for any information about the registered holder or beneficial owner, other than the name and address to which the information circular and, if applicable, the financial statements of the Fund are to be sent; and

(ii) disclose or use the name or address of the registered holder or beneficial owner for any purpose other than sending the information circular and, if applicable, the financial statements of the Fund;

(k) the Filer, directly or through the Filer's agent, must not collect information that can be used to identify a person or company who has accessed the website address to which it posts the proxy-related materials pursuant to condition (2)(e)(ii) of this decision.

(l) in addition to the proxy-related materials posted on a website in the manner referred to in condition (2)(e)(ii) of this decision, the Filer must also post on the website the following documents:

(i) any disclosure document regarding the meeting that the Filer, on behalf of the Fund, has sent to registered holders or beneficial owners of securities of the Fund; and

(ii) any written communications the Filer, on behalf of the Fund, has made available to the public regarding each matter or group of matters to be voted on at the meeting, whether or not they were sent to registered holders or beneficial owners of securities of the Fund;

(m) materials that are posted on a website pursuant to condition (2)(e)(ii) of this decision must be posted in a manner and be in a format that permit an individual with a reasonable level of computer skill and knowledge to do all of the following easily:

(i) access, read and search the documents on the website; and

(ii) download and print the documents;

(n) despite subsection 2.1(b) of NI 54-101, if the Fund relies upon this Decision, it must set a record date for notice that is no fewer than 40 days before the date of the meeting;

(o) in addition to section 2.20 of NI 54-101, the Fund may only abridge the time prescribed in subsection 2.1(b), 2.2(1) or 2.5(1) of NI 54-101 if the Fund fixes the record date for notice to be at least 40 days before the date of the meeting and sends the notification of meeting and record dates at least 3 business days before the record date for notice;

(p) the notification of meeting date and record date sent pursuant to subsection 2.2(1)(b) of NI 54-101 shall specify that the Fund is sending proxy-related materials to registered holders or beneficial owners, as applicable, of securities of the Fund using the Notice-and-Access Procedure pursuant to the terms of this Decision;

(q) the Filer, on behalf of the Fund, provides disclosure in the information circular to the effect that the Fund is sending proxy-related materials to registered holders or beneficial owners, as applicable, of securities of the Fund using the Notice-and-Access Procedure pursuant to the terms of this Decision; and

(r) the Filer pays for delivery of the information circular and, if applicable, the financial statements of the Fund, to registered holders or to beneficial owners, as applicable, of securities of the Fund if a copy of such material is requested following receipt of the Notice-and-Access Document.

The Exemption Sought terminates on the coming into force of any legislation or regulation allowing an investment fund to use a notice-and-access procedure.

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

Schedule "A"

Filers Registration Information

	Name of Fund Manager (Filers)	Head Office Location	Jurisdictions in which Exemption Sought is required	Category of Registration	Jurisdiction of Registration
1.	Brandes Investment Partners & Co.	Toronto, Ontario	All provinces and territories of Canada	Mutual Fund Dealer	All provinces and territories of Canada (except Quebec)
				Exempt Market Dealer	All provinces and territories of Canada
				Portfolio Manager	All provinces and territories of Canada
				Investment Fund Manager	Ontario, Quebec, and Newfoundland and Labrador
2.	Capital International Asset Management (Canada), Inc.	Toronto, Ontario	All provinces and territories of Canada.	Exempt Market Dealer	Alberta, British Columbia, Nova Scotia, Ontario and Quebec
				Portfolio Manager	Ontario
				Investment Fund Manager	Ontario, Quebec and Newfoundland
3.	Fidelity Investments Canada ULC	Toronto, Ontario	All provinces and territories of Canada.	Investment Fund Manager	
				Portfolio Manager	Ontario, Quebec and Newfoundland and Labrador
				Mutual Fund Dealer	All provinces and territories of Canada
				Commodity Trading Manager	Ontario
4.	Franklin Templeton Investments Corp.	Toronto, Ontario	All provinces and territories of Canada.	Exempt Market Dealer	All provinces of Canada and Yukon
				Investment Fund Manager	Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario, and Quebec
				Mutual Fund Dealer	All provinces of Canada and Yukon
				Portfolio Manager	All provinces of Canada and Yukon
				Commodity Trading Manager	Ontario

	Name of Fund Manager (Filers)	Head Office Location	Jurisdictions in which Exemption Sought is required	Category of Registration	Jurisdiction of Registration
5.	Guardian Capital LP	Toronto, Ontario	All provinces and territories of Canada.	Exempt Market Dealer	All provinces of Canada
				Portfolio Manager	All provinces of Canada
				Investment Fund Manager	Newfoundland and Labrador, Quebec, and Ontario
				Commodity Trading Counsel	Ontario
				Commodity Trading Manager	Ontario
6.	Invesco Canada Ltd.	Toronto, Ontario	All provinces and territories of Canada.	Mutual Fund Dealer	Quebec, Prince Edward Island, Ontario, Nova Scotia, Alberta, British Columbia
				Exempt Market Dealer	All provinces of Canada
				Portfolio Manager	All provinces of Canada
				Investment Fund Manager	Ontario, Quebec and Newfoundland and Labrador
				Commodity Trading Manager	Ontario
7.	Lysander Funds Limited	Richmond Hill, Ontario	All provinces and territories of Canada.	Investment Fund Manager	Quebec, Ontario, and Newfoundland and Labrador
				Exempt Market Dealer	Ontario
8.	NGAM Canada LP	Toronto, Ontario	All provinces and territories of Canada.	Investment Fund Manager	Quebec, Ontario, and Newfoundland and Labrador
				Mutual Fund Dealer	Ontario
				Portfolio Manager	Ontario
9.	Northwest & Ethical Investments L.P.	Toronto, Ontario	All provinces and territories of Canada.	Exempt Market Dealer	British Columbia, Ontario, Quebec, and Saskatchewan
				Investment Fund Manager	British Columbia, Ontario, Quebec, and Newfoundland and Labrador
				Portfolio Manager	Ontario

	Name of Fund Manager (Filers)	Head Office Location	Jurisdictions in which Exemption Sought is required	Category of Registration	Jurisdiction of Registration
10.	RBC Global Asset Management Inc.	Toronto, Ontario	All provinces and territories of Canada.	Exempt Market Dealer	All provinces and territories of Canada
				Portfolio Manager	All provinces and territories of Canada
				Investment Fund Manager	British Columbia, Newfoundland and Labrador, Ontario, and Quebec
				Commodity Trading Manager	Ontario
11.	Russell Investments Canada Limited	Toronto, Ontario	All provinces and territories of Canada.	Investment Fund Manager	All provinces and territories of Canada
				Exempt Market Dealer	All provinces and territories of Canada
				Portfolio Manager	All provinces and territories of Canada
				Adviser	Manitoba
				Mutual Fund Dealer	Ontario
				Commodity Trading Manager	Ontario
12.	Sun Life Global Investments (Canada) Inc.	Toronto, Ontario	All provinces and territories of Canada.	Mutual Fund Dealer	All provinces and territories of Canada
				Investment Fund Dealer	Newfoundland and Labrador, Ontario, and Quebec
				Commodity Trading Manager	Ontario
				Portfolio Manager	Ontario
13.	TD Asset Management Inc.	Toronto, Ontario	All provinces and territories of Canada.	Exempt Market Dealer	All provinces and territories of Canada
				Portfolio Manager	All provinces and territories of Canada
				Investment Fund Manager	Newfoundland and Labrador, Ontario, and Quebec
				Commodity Trading Manager	Ontario

	Name of Fund Manager (Filers)	Head Office Location	Jurisdictions in which Exemption Sought is required	Category of Registration	Jurisdiction of Registration
14.	Vanguard Investments Canada Inc.	Toronto, Ontario	All provinces and territories of Canada.	Exempt Market Dealer	All provinces of Canada
				Investment Fund Manager	Newfoundland and Labrador, Ontario, and Quebec
				Commodity Trading Manager	Ontario
				Portfolio Manager	Ontario

2.1.2 Front Street Capital 2004 et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval granted for change of manager of mutual funds – change of manager is not detrimental to unitholders or the public interest – change of manager approval granted on the condition that prior approval of the funds' unitholders is obtained at a special meeting of unitholders.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 5.5(1)(a), 5.5(3), 5.7.

November 29, 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
FRONT STREET CAPITAL 2004
(the Filer)

AND

IN THE MATTER OF
THE FRONT STREET FUNDS
(as defined below)

AND

IN THE MATTER OF
ASTON HILL FINANCIAL INC.
(Aston Hill)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for approval under paragraph 5.5(1)(a)of National Instrument 81-102 *Investment Funds* (**NI 81-102**) of a proposed change of manager of the mutual funds listed in Appendix "A" (the **Front Street Funds**) from the Filer to Aston Hill or an affiliate of Aston Hill (the **Approval Sought**).

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

(a) the Ontario Securities Commission is the principal regulator (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, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Québec, Saskatchewan, Yukon Territory, Northwest Territories and Nunavut.

Interpretation

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

Representations

This decision is based on the following facts represented by the Filer and Aston Hill, as the case may be:

Front Street Capital 2004

1. The Filer is a partnership established under the laws of the province of Ontario. The Filer's head office is located in Toronto, Ontario.

2. The Filer is registered as an investment fund manager in Ontario, Québec and Newfoundland and Labrador, as an adviser in the category of portfolio manager in Ontario and British Columbia, and as a dealer in the category of exempt market dealer in Ontario and Alberta.

3. The partners of the Filer are and will be, immediately prior to Closing (as defined below):

Partner	Partnership Interest Immediately Prior to Closing (%)
Lamarche Partner Corporation	8.35%
Mersch (AFAB) Partner Corporation	8.35%
9880160 Canada Inc.	6.28%
9896821 Canada Inc.	6.28%
Mistere Partner Corporation	1.38%
Hryma Partner Corporation	1.17%
FS Group Holdings Ltd.	68.19%

4. The individuals who ultimately control the corporate partners of the Filer, other than FS Group Holdings Ltd. (**FS Group**), are Normand G. Lamarche (Lamarche Partner Corporation), Frank L. Mersch (Mersch (AFAB) Partner Corporation), Gordon Markwart (9880160 Canada Inc.), Sandra Markwart (9896821 Canada Inc.), David Conway (Mistere Partner Corporation) and Linda Hryma (Hryma Partner Corporation).

5. FS Group, a corporation established under the laws of the province of Ontario, is the majority controlling partner of the Filer. FS Group is ultimately controlled by four individuals: Gordon McMillan, Andy McKay, Edward Barr and Tim Diamond.

6. The Filer is not in default of securities legislation in any province or territory of Canada

Front Street Funds

7. The Filer is the manager of the Front Street Funds, which are open-ended public retail mutual funds.

8. Each Front Street Fund is organized either as a trust established under the laws of the province of Ontario or the province of British Columbia or as a separate class of shares of Front Street Mutual Funds Limited, a corporation established under the laws of Canada.

9. Each Front Street Fund is a reporting issuer in each province and territory of Canada and is not in default of securities legislation in any province or territory of Canada.

10. Securities of the Front Street Funds are distributed in each province and territory of Canada under simplified prospectuses dated June 28, 2016.

11. The Filer is also the manager of certain pooled funds, which are not reporting issuers in any province or territory of Canada.

Aston Hill Financial Inc.

12. Aston Hill is a corporation established under the laws of the province of Alberta. Aston Hill is expected to be continued under the laws of the province of Ontario prior to the Closing of the Proposed Transaction (as defined below), shareholder approval for which has already been obtained. Aston Hill is a reporting issuer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan. The common shares of Aston Hill are listed and posted for trading on the Toronto Stock Exchange.

13. Aston Hill is a diversified asset management company that offers retail mutual funds, closed end funds, hedge funds and segregated institutional funds through various subsidiaries. The activities of Aston Hill are currently conducted through the following entities (collectively, the **AH Managers**):

    (i) **Aston Hill Asset Management Inc. (Aston Hill Asset Management)** – is a corporation established under the laws of the province of Ontario and is registered as an adviser in the category of portfolio manager and a dealer in the category of exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario and Québec. Aston Hill Asset Management Inc. is also registered as an investment fund manager in Ontario, Québec and Newfoundland and Labrador. Aston Hill Asset Management Inc. is the manager of open-ended public retail mutual funds governed by NI 81-102 (**Aston Hill Mutual Funds**), and offers pooled funds and segregated managed accounts to institutional clients.

    (ii) **Aston Hill Capital Markets Inc. (Aston Hill Capital)** – is a corporation established under the laws of the province of Ontario and is registered as an adviser in the category of portfolio manager in Ontario and as an investment fund manager in Ontario, Québec and Newfoundland and Labrador. Aston Hill Capital Markets Inc. is the manager of TSX-listed non-redeemable investment funds governed by NI 81-102 (**Aston Hill Closed-End Funds** and together with the Aston Hill Mutual Funds, the **AH Funds**).

    (iii) **AHF Capital Partners Inc. (AHF Capital Partners)** – is a corporation established under the laws of the province of Ontario and is registered as an investment fund manager, an adviser in the category of portfolio manager and a dealer in the category of exempt market dealer in Ontario. AHF Capital Partners Inc. is a sub-advisor to certain funds managed by Aston Hill Asset Management Inc.

14. The authorized capital of Aston Hill consists of an unlimited number of common shares. As of September 8, 2016, there were: (i) 106,443,760 common shares issued and outstanding; (ii) outstanding options to purchase an aggregate of 5,408,333 common shares pursuant to Aston Hill's rolling stock option plan dated June 8, 2011, as amended on October 26, 2011; (iii) 253,539 deferred share units issued to outside directors of Aston Hill granted pursuant to the Deferred Share Unit Plan of Aston Hill dated January 23, 2012; and (iv) 2,775,000 restricted share units outstanding. Except for the common shares, there are currently no other shares of any class or series in the capital of Aston Hill outstanding. Aston Hill has also issued subordinated convertible debentures (Debentures) in the aggregate principal amount of $33,710,000 bearing an interest rate of 6.50% and maturing on January 31, 2019. The Debentures are convertible at a price of approximately $0.65 such that approximately 1,538.46215 common shares of Aston Hill would be issued for each $1,000 principal amount of Debentures converted.

The Proposed Transaction

15. In a press release issued on September 9, 2016, the Filer and Aston Hill announced that Aston Hill and 2535706 Ontario Ltd. (**AH Sub**), a wholly-owned subsidiary of Aston Hill have entered into an agreement (the **Acquisition Agreement**) in which (i) Aston Hill will acquire 99.99% of the interests of the Filer and 100% of the issued and outstanding Class A voting shares and Class B non-voting shares of Tuscarora Capital Inc. (**TCI**), for consideration consisting of 120,000,000[1] common shares in the capital of Aston Hill (the **Transaction Consideration**) and (ii) AH Sub will acquire 0.01% of the interests of the Filer, for consideration consisting of $1,800.00 (the **Proposed Transaction**).

16. As a condition of Closing, the holders of Debentures of Aston Hill were asked to approve amendments to the terms of such Debentures (the **Debentureholder Approvals**) that result in such holders receiving for each $1,000 principal amount of Debentures (i) 1,445 common shares of Aston Hill and (ii) an amended Debenture having a principal amount of $600 that will pay interest at the rate of 7.00% per annum, that will mature on June 30, 2021 and that will be convertible at a conversion price of $0.30 per common share of Aston Hill (the **Debenture Consideration**). As a result, upon closing of the Proposed Transaction, current holders of Debentures will collectively be issued 48,710,950 common shares of Aston Hill and amended Debentures with an aggregate principal amount of $20,226,000.

[1] After the additional investment is made by 9896821 Canada Inc. prior to the Closing of the Proposed Transaction, the number of common shares of Aston Hill issued will be 124,453,333.

17. Upon Closing and after giving effect to the Debenture Consideration, the partners (those holding interests as set out in the "Partnership Interest Immediately Prior to Closing (%)" column in the table in paragraph 3) of the Filer will own approximately 46% of Aston Hill, the current shareholders of Aston Hill will own approximately 37% of Aston Hill (41% and 33%, respectively, on a fully diluted basis) and the remaining 17% of the common shares will be owned by the current debentureholders, resulting in approximately 54% of the common shares of Aston Hill remaining in the hands of existing securityholders.

18. FS Group, the majority controlling partner of the Filer, will acquire approximately 91 million common shares of Aston Hill upon Closing, representing 31%[2] of the outstanding common shares of Aston Hill, after giving effect to the Proposed Transaction. As a result, the common shares of Aston Hill will continue to be widely held, with no controlling shareholder following Closing of the Proposed Transaction.

19. The board of directors of Aston Hill, after consultation with its financial and legal advisors, and based on the unanimous recommendation of a special committee of the Aston Hill board of directors established to review the Proposed Transaction (**Special Committee**), unanimously recommended that holders of Aston Hill common shares and Debentures vote in favour of the Proposed Transaction at a special meeting of shareholders and debentureholders (collectively, the **Aston Hill Meetings**) to consider the Proposed Transaction.

20. Further details of the Proposed Transaction are set out in the Acquisition Agreement and in the joint management information circular in connection with the Aston Hill Meetings, both of which have been filed by Aston Hill on SEDAR.

21. Shareholders and debentureholders of Aston Hill approved the Proposed Transaction at the Aston Hill Meetings held on November 22, 2016. Debentureholders of Aston Hill also voted in favour of the Debentureholder Approvals at the Aston Hill Meetings.

22. Completion of the Proposed Transaction is subject to customary closing conditions, including a favourable vote of a majority of the votes cast by shareholders of Aston Hill, the Debentureholder Approvals and applicable regulatory approvals. Assuming timely receipt of all such approvals and the satisfaction of all other conditions, closing is expected to occur on or about November 30, 2016 and no later than December 31, 2016 (the **Closing**).

23. In accordance with National Instrument 81-106 *Investment Fund Continuous Disclosure*, the Filer has treated the announcement of the Proposed Transaction as a "material change" for the Front Street Funds and therefore filed the press release dated September 9, 2016, a material change report dated September 9, 2016 announcing the Proposed Transaction and amendments dated September 19, 2016 in relation to the Front Street Funds' simplified prospectuses.

24. A notice of the Proposed Transaction has been delivered to the Compliance and Registrant Regulation branch of the Principal Regulator pursuant to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) with respect to the Filer and TCI and other parties as applicable, including notice required under section 11.9 of NI 31-103 in respect of the AH Managers. An application has also been filed with the Investment Industry Regulatory Organization of Canada to seek District Council approval for the Proposed Transaction with respect to TCI.

Proposed Change of Manager

25. As the ownership of the interests of the Filer will change such that, on Closing, Aston Hill will own 100% of the interests of the Filer, the Proposed Transaction will result in a change of control of the Filer.

26. Prior to Closing, it is expected that Aston Hill Asset Management and Aston Hill Capital will be amalgamated or otherwise combined or the management contracts will be assigned to one of Aston Hill Asset Management or Aston Hill Capital. The resulting entity (**AH Amalco**) will remain the investment fund manager of the AH Funds and will become the investment fund manager of the Front Street Funds (the **Change of Manager**), likely by way of assignment of the management agreements of the Front Street Funds to AH Amalco.

27. Although the Proposed Transaction will initially result in a change of control of the Filer, the series of transactions described in paragraph 25 will eventually result in a Change of Manager for the Front Street Funds. Consistent with OSC Staff Notice 81-710 *Approvals for Change in Control of a Mutual Fund Manager and Change of a Mutual Fund Manager Under National Instrument 81-102 Mutual Funds*, securityholder approval for the Change of Manager was sought and received at special meetings of securityholders of the Front Street Funds held on November 10, 2016.

[2] This assumes that the additional investment by 9896821 Canada Inc. has been made.

28. The Proposed Transaction is expected to result in significant cost savings and certain other synergies between the Filer's business and operations and the business and operations of the AH Managers. However, certain aspects of the operations and business of the Filer and of the AH Managers will not change in a significant manner.

29. The parties anticipate the following impacts upon the Filer, the AH Managers, the Front Street Funds and the AH Funds:

    (i) It is expected that the senior management teams of the Filer and the AH Managers will be substantially harmonized following Closing, resulting in changes to certain officers and directors (or equivalent) of the Filer and of Front Street Mutual Funds Limited. Joe Canavan will be the UDP of Aston Hill Asset Management, Aston Hill Capital and the Filer upon Closing and of AH Amalco in the future. Other members of senior management of the Filer and of the AH Managers are likely to join the senior management team of AH Amalco.

    (ii) It is expected that the name and branding of the Filer, of the AH Managers, of the Front Street Funds and of the AH Funds, will change. The change of name of Aston Hill requires shareholder approval, which approval was received at the Aston Hill Meetings held on November 22, 2016.

    (iii) Other than the potential consolidation of the portfolio management teams as a result of the amalgamation or combination to create AH Amalco, there are no current plans to make significant changes to the individual portfolio managers of the Filer and the AH Managers who are currently responsible for the management of the portfolios of the Front Street Funds and the AH Funds, respectively, but such changes could be made in the future, once the parties have completed their assessment of the performance of each individual portfolio manager. Any significant changes to the individual portfolio managers of the Front Street Funds and the AH Funds would be treated as material changes, where appropriate.

    (iv) There has been no assessment as to whether there will be any change to the investment objectives or strategies of the Front Street Funds or of the AH Funds or whether there will be any mergers of the Front Street Funds with the AH Funds. If any such changes are contemplated following Closing, they will be treated as material changes and appropriate regulatory and securityholder approvals will be sought.

    (v) All external service providers to the Front Street Funds and the AH Funds will be assessed and there may be changes to such service providers following Closing.

    (vi) It is expected that there will be synergies with respect to the wholesale and client service support of, and back office and compliance supervisory personnel for, the Front Street Funds and the AH Funds as a result of the Proposed Transaction. However, no decision has been made as to which support staff and personnel of the Filer and the AH Managers will change.

    (vii) The operations of the Front Street Funds and the AH Funds will be reviewed following Closing, which may result in changes to the management fees and expenses charged to the Front Street Funds and the AH Funds. Securityholder approval will be sought for any changes that could result in an increase to the fees and expenses charged with respect to the Front Street Funds and the AH Funds, as required by sections 5.1(1)(a) and 5.1(1)(a.1) of NI 81-102.

    (viii) The members of the Independent Review Committee (IRC) of the Front Street Funds will cease to be IRC members by operation of section 3.10(1)(c) of National Instrument 81-107 *Independent Review Committee for Investment Funds*. However, immediately following Closing, the members of the IRC of the AH Funds will be appointed as members of the IRC of the Front Street Funds and certain members of the IRC of the Front Street Funds may be appointed to the IRC of the AH Funds. In any event, the current members of the IRC of the AH Funds will constitute a majority of the combined IRC following Closing.

30. The Proposed Transaction is expected to benefit the Filer and the Front Street Funds:

    (i) It will result in the Filer becoming part of a multi-faceted public Canadian asset management business, which should be advantageous to its financial position and its ability to fulfill its regulatory and compliance obligations to the Front Street Funds and as a registrant. The expected synergies between the Filer's business and operations and the business and operations of the AH Managers are anticipated to result in a reduction in expenses borne by the Front Street Funds and the AH Funds.

    (ii) The operations of the Front Street Funds and the AH Funds will be reviewed following Closing and all external service providers to the Front Street Funds and the AH Funds will be assessed. The parties expect to be able to leverage the increased scale of the combined entities to renegotiate service contracts with external service

providers to the Front Street Funds and the AH Funds. This review, assessment and renegotiation process is expected to result in increased efficiencies in the operations of the Front Street Funds and the AH Funds and may result in a reduction in expenses borne by the Front Street Funds and the AH Funds.

(iii) While there are no current plans to make significant changes to the individual portfolio managers of the Filer and the AH Managers (other than the potential consolidation of the portfolio management teams as a result of the amalgamation or combination to create AH Amalco) who are currently responsible for the management of the portfolios of the Front Street Funds and the AH Funds, respectively, such changes could be made in the future, once the parties have completed their assessment of the performance of each individual portfolio manager. Any such changes are expected to benefit the Front Street Funds and the AH Funds because the new portfolio management team will be selected to bring greater investment discipline to the relevant fund and thereby is expected to reduce the investment volatility of such fund.

(iv) The Filer and the AH Managers will be able to enhance future product offerings by leveraging the talent of the portfolio managers and sub-advisors used by the AH Funds and the Front Street Funds to create new investment funds. This enhancement of product offerings is expected to benefit the AH Funds and the Front Street Funds as it is expected to result in a more diverse array of investment options for investors.

(v) The parties will be able to leverage the strengths and talents of the Aston Hill group of companies, to be able to adopt best practices in the management of the Front Street Funds and the AH Funds. It is expected that there will be synergies with respect to the compliance supervisory personnel for Filer and the AH Managers. As a result, there is the potential for an increase in compliance experience and resources available to the Front Street Funds and the AH Funds.

(vi) There are significant cost savings available to drive future cash flow growth for Aston Hill and its securityholders.

(vii) The Filer's wholesalers will be able to leverage the distribution networks of the AH Funds to expand the distribution of the Front Street Funds and the AH Managers' wholesalers will be able to leverage the distribution networks of the Front Street Funds to expand the distribution of the AH Funds. Increased sales of the Front Street Funds and the AH Funds is expected to result in (a) a larger asset base over which to spread expenses, thereby offering the potential for investors to benefit from lower MERs in the funds and (b) an investment portfolio of greater value, thereby offering the potential for greater investment diversification.

31. The Filer referred the Proposed Transaction to the Front Street Funds' IRC for its review, which advised the Filer that, after reasonable inquiry, the Change of Manager achieves a fair and reasonable result for the Front Street Funds.

32. Securityholders of the Front Street Funds approved the Change of Manager of the Front Street Funds at special meetings (the **Front Street Funds Special Meetings**) held on November 10, 2016 in accordance with section 5.1(1)(b) of NI 81-102.

33. The Front Street Funds and the AH Funds will not bear any of the costs and expenses associated with the Proposed Transaction, including the Change of Manager. The costs and expenses of Proposed Transaction (including the Change of Manager) will be borne by the Filer and/or Aston Hill (or one of its affiliates).

34. The Filer does not expect the Change of Manager to adversely affect its financial position or its ability to fulfill its regulatory obligations.

35. The Approval Sought will not be detrimental to the protection of the securityholders of the Front Street Funds or prejudicial to the public interest.

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 Approval Sought is granted provided that:

(a) the Filer obtains prior approval of the securityholders of the Front Street Funds for the Change of Manager at the Front Street Funds Special Meetings;

(b) the notice of the Front Street Funds Special Meetings and the management information circular in respect of the Front Street Funds Special Meetings (the Circular) are sent to the securityholders of the Front Street Funds and copies thereof are filed on SEDAR in accordance with applicable securities legislation;

(c) the Circular contains:

(i) sufficient information regarding the business, management and operations of Aston Hill, including details of the AH Funds and the officers and board of directors of Aston Hill;

(ii) all information necessary to allow securityholders of the Front Street Funds to make an informed decision about the Change of Manager and to vote on the Change of Manager; and

(d) all other information and documents necessary to comply with the applicable proxy solicitation requirements of securities legislation for the Front Street Funds Special Meetings are sent to securityholders of the Front Street Funds.

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

APPENDIX "A"

FRONT STREET FUNDS

Front Street MLP and Infrastructure Income Class
Front Street Resource Growth and Income Class
Front Street Balanced Monthly Income Class (formerly, Front Street Diversified Income Class)
Front Street Growth Class
Front Street Special Opportunities Class
Front Street Global Opportunities Class
Front Street Growth and Income Class
Front Street Tactical Equity Class
Front Street Money Market Class
Front Street Tactical Bond Class
Front Street Global Balanced Income Class
Front Street Tactical Bond Fund
Front Street Growth Fund

2.1.3 American Hotel Income Properties REIT LP

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 51-102 Continuous Disclosure Obligations, s. 13.1 – business acquisition report – the applicant requires relief from the requirement to file a business acquisition report – the acquisition is insignificant applying the asset and investment tests but applying the profit or loss test produces an anomalous results because the significance of the acquisition under this test is disproportionate to its significance on an objective basis in comparison to the results of the other significance tests and all other business, commercial, financial and practical factors – the applicant has provided additional measures that demonstrate the insignificance of the property to the applicant and that are generally consistent with the results when applying the asset and investment tests.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, s. 13.1.

November 30, 2016

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

AND

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

AND

IN THE MATTER OF
AMERICAN HOTEL INCOME PROPERTIES REIT LP
(the Filer)

DECISION

Background

1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) granting relief from the requirement in Part 8 of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) to file a business acquisition report (BAR) in connection with the Filer's acquisition of a portfolio of four branded, select-service hotels located in Jacksonville, Florida, Lake City, Florida and Chattanooga, Tennessee (two hotels) (the Florida/Tennessee Portfolio) on October 27, 2016 (the Exemption Sought).

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

(a) the British Columbia Securities Commission is the principal regulator for this application,

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

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

Interpretation

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

Representations

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

The Filer

1. the Filer is an Ontario limited partnership established under the laws of the Province of Ontario pursuant to a declaration of limited partnership and its head office is located in Vancouver, British Columbia;

2. the Filer is a reporting issuer under the securities legislation of each of the provinces and territories of Canada;

3. the limited partnership units of the Filer are listed and posted for trading on the Toronto Stock Exchange under the trading symbol "HOT.UN";

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

5. the Filer is in the business of indirectly acquiring hotel properties substantially in the United States;

6. from its February 20, 2013 initial public offering and several subsequent bought deals, the Filer has raised over Cdn$450 million in gross proceeds, the net proceeds of which have been used by the Filer to, among other things, partially finance its indirect acquisition of 84 hotel properties in the United States (including the Florida/Tennessee Portfolio);

The Acquisition

7. on October 27, 2016, the Filer acquired the Florida/Tennessee Portfolio for a total gross purchase price of approximately US$47.0 million, excluding approximately USD$2.8 million for brand mandated property improvement plans and before customary closing and post-closing acquisition adjustments;

8. the acquisition of the Florida/Tennessee Portfolio constitutes a "significant acquisition" of the Filer for the purposes of Part 8 of NI 51-102, requiring the Filer to file a BAR within 75 days of the acquisition pursuant to section 8.2(1) of NI 51-102;

Significance Tests for the BAR

9. under Part 8 of NI 51-102, the Filer is required to file a BAR for any completed acquisition that is determined to be significant based on the acquisition satisfying any of the three significance tests set out in section 8.3(2) of NI 51-102;

10. the acquisition of the Florida/Tennessee Portfolio is not a significant acquisition under the asset test in section 8.3(2)(a) of NI 51-102 as the value of the Florida/Tennessee Portfolio represented only approximately 8.1% of the consolidated assets of the Filer as of December 31, 2015;

11. the acquisition of the Florida/Tennessee Portfolio is not a significant acquisition under the investment test in section 8.3(2)(b) of NI 51-102 as the Filer's acquisition costs represented only approximately 8.1% of the consolidated assets of the Filer as of December 31, 2015;

12. the acquisition of the Florida/Tennessee Portfolio would, however, be a significant acquisition under the profit or loss test in section 8.3(2)(c) of NI 51-102; in particular, the Filer's proportionate share of the consolidated specified profit or loss of the Florida/Tennessee Portfolio exceeds 20% of the consolidated specified profit or loss of the Filer calculated using audited annual financial statements of the Filer and unaudited annual financial information for the Florida/Tennessee Portfolio, in each case, for the year ended December 31, 2015;

13. the application of the profit or loss test produces an anomalous result for the Filer because it exaggerates the significance of the Acquisition out of proportion to its significance on an objective basis in comparison to the results of the asset test and investment test;

De Minimis Acquisition

14. the Filer does not believe (nor did it at the time that it made the acquisition) that the acquisition of the Florida/Tennessee Portfolio is significant to it from a commercial, business, practical or financial perspective; and

15. the Filer has provided the principal regulator with additional operational measures that demonstrate the non-significance of the acquisition of the Florida/Tennessee Portfolio to the Filer; these additional operational measures compared other operational information such as net operating income, revenue and number of rooms for the Florida/Tennessee Portfolio to that of the Filer, and the results of those measures are generally consistent with the results of the asset test and the investment test.

Decision

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

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

"Robert Kirwin"
Director, Corporate Finance
British Columbia Securities Commission

2.1.4 First Asset Investment Management Inc. and First Asset Short Term Government Bond Index Class ETF

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to an exchange-traded mutual fund for extension of lapse date of their prospectus for 36 days – Filer will incorporate offering of the mutual fund under the same offering documents as related family of funds when they are renewed – Extension of lapse date will not affect the currency or accuracy of the information contained in the current prospectus.

Applicable Legislative Provisions

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

November 18, 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
FIRST ASSET INVESTMENT MANAGEMENT INC.
(the Filer)

AND

IN THE MATTER OF
FIRST ASSET SHORT TERM GOVERNMENT
BOND INDEX CLASS ETF
(the Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Fund for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the time limits for the renewal of the prospectus of the Fund dated February 23, 2016 (the **Prospectus**) be extended to those time limits that would apply if the lapse date were April 1, 2017 (the **Requested Relief**).

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

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

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

Interpretation

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

Representations

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

1. The Filer is a corporation incorporated under the laws of Ontario. The Filer's head office is located in Toronto, Ontario.

2. The Filer is registered as a portfolio manager in Ontario and as an investment fund manager under the securities legislation of each of Ontario, Québec and Newfoundland and Labrador. The Filer is the investment fund manager of the Fund.

3. The Fund is an exchange-traded mutual fund (**ETF**) established under the laws of Ontario, and is a reporting issuer as defined in the securities legislation of each of the Jurisdictions.

4. Neither the Filer nor the Fund is in default of securities legislation in any of the Jurisdictions.

5. The Fund currently distributes securities in the Jurisdictions under the Prospectus. Securities of the Fund trade on the Toronto Stock Exchange with the ticker symbol "FGB".

6. Pursuant to subsection 62(1) of the Act, the lapse date of the Prospectus is February 23, 2017 (the **Lapse Date**). Accordingly, under subsection 62(2) of the Act, the distribution of securities of the Fund would have to cease on the Lapse Date unless: (i) the Fund files a pro forma prospectus at least 30 days prior to February 23, 2017; (ii) the final prospectus is filed no later than 10 days after February 23, 2017; and (iii) a receipt for the final prospectus is obtained within 20 days of February 23, 2017.

7. In addition to securities of the Fund, the Prospectus qualifies the distribution of securities of four other ETFs (the **Terminating Funds**).

8. On November 9, 2016, the Filer announced that it intends to terminate the Terminating Funds on or about January 16, 2017. As a result, after that date, the Fund will be the only issuer whose securities are qualified by the Prospectus.

9. The Filer is the investment fund manager of three other ETFs (the **Affiliated Funds**) that currently distribute their securities to the public under a prospectus that has a lapse date of April 1, 2017. The Fund and each Affiliated Fund is a class of shares of First Asset Fund Corp.

10. The Filer wishes to combine the Prospectus with the prospectus of the Affiliated Funds in order to reduce the cost of renewing the Prospectus and on-going printing and related costs. Offering the Fund under the same prospectus as the Affiliated Funds would assist in disseminating information with respect to the Fund and the Affiliated Funds in matters such as switching between the Fund and the Affiliated Funds. Further, the Affiliated Funds share many common operational and administrative features with the Fund, and combining them in the same prospectus will allow investors to more easily compare their features.

11. It would be impractical to alter and modify all the dedicated systems, procedures and resources required to prepare the renewal prospectus and ETF summary document for the Affiliated Funds, and unreasonable to incur the costs and expenses associated therewith, so that the renewal prospectus for the Affiliated Funds can be filed on or before the Lapse Date.

12. The Filer may make minor changes to the features of the Affiliated Funds as part of the process of renewing the Affiliated Funds' prospectus. The ability to incorporate the Fund into the prospectus of the Affiliated Funds will ensure that the Filer can make the operational and administrative features of the Fund and the Affiliated Funds consistent with each other, if necessary.

13. There have been no material changes in the affairs of the Fund since the date of the Prospectus. Accordingly, the Prospectus and current ETF summary document of the Fund represent current information regarding the Fund.

14. Given the disclosure obligations of the Fund, should any material changes occur, the Prospectus will be amended as required under the Legislation.

15. The Requested Relief will not affect the accuracy of the information contained in the Prospectus and will therefore not be prejudicial to the public interest.

Decision

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

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

"Vera Nunes"
Manager, Investment Funds and Structured Products
Ontario Securities Commission

2.1.5 Dundee Acquisition Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from the requirement to include in an information circular disclosure prescribed under securities legislation and described in the form of prospectus – issuer is a special purpose acquisition corporation – prospectus filed and receipted with respect to the issuer's qualifying acquisition – relief granted.

Applicable Legislative Provisions

Form 51-102F5 Information Circular, Item 14.2.

November 29, 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
DUNDEE ACQUISITION LTD.
(the "Filer")

DECISION

Background

The principal regulator in the Jurisdiction (the "**Decision Maker**") has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the "**Legislation**") exempting the Filer from the requirements in Item 14.2 of Form 51-102F5 *Information Circular* ("**Form 51-102F5**") to include in an information circular disclosure prescribed under securities legislation and described in the form of prospectus (the "**Exemption Sought**").

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

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, NP 11-203 and NI 51-102 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 a corporation incorporated under the *Business Corporations Act* (Ontario) (the "**OBCA**").

3. The Filer is a reporting issuer in all of the provinces and territories of Canada and is not in default under applicable securities legislation in such jurisdictions.

4. The Filer is a "special purpose acquisition corporation", or "SPAC", under Part X of the Toronto Stock Exchange ("**TSX**") Company Manual ("**Part X**"), as varied by exemptive relief, having completed its SPAC initial public offering ("**IPO**") on April 21, 2015 pursuant to a final prospectus that was filed in each of the provinces and territories of Canada dated April 14, 2015.

5. The Filer's authorized share capital consists of shares of two classes: Class A Restricted Voting Shares, issued to investors in the IPO, and Class B Shares held by the Filer's founding shareholders (some of which were also qualified under the IPO prospectus). In addition, the Filer issued Share Purchase Warrants as part of the IPO, each such Warrant being exercisable, beginning 30 days after completion of a "qualifying acquisition" by the Filer, to acquire one Class B Share at a price of Cdn. $11.50 per share.

6. The Class A Restricted Voting Shares and Share Purchase Warrants of the Filer are listed on the TSX under the symbols "DAQ.A" and "DAQ.WT", respectively. The Class B Shares of the Filer are not listed on the TSX or any other marketplace.

7. The Filer has entered into an arrangement agreement dated August 25, 2016 (the "**Arrangement Agreement**"), with CHC Student Housing Corp. ("**CHC**") in respect of a proposed business combination transaction between the Filer and CHC involving CHC acquiring all of the shares of the Filer pursuant to a plan of arrangement under the OBCA, the subsequent amalgamation of the Filer, CHC and a newly-incorporated subsidiary of CHC under the plan of

arrangement to form an amalgamated corporation named "Canadian Student Living Group Inc." (the "**Resulting Issuer**") and the concurrent completion of a series of acquisitions of student housing properties (the "**Qualifying Acquisition**").

8. In connection with the Qualifying Acquisition, the Filer is required to prepare and file a management information circular (the "**Information Circular**") to be delivered to its shareholders in connection with a meeting of its shareholders to be called to seek shareholder approval for the Qualifying Acquisition under Part X. The Information Circular is required to include disclosure about the Qualifying Acquisition, prescribed under securities legislation and described in the form of prospectus that the applicable entity would be eligible to use immediately prior to the sending and filing of the information circular under the requirements of Section 14.2 of Form 51-102F5 which is in the form required by Form 41-101F1 *Information Required in a Prospectus* ("**Form 41-101F1**").

9. In connection with the Qualifying Acquisition, the Filer filed a non-offering prospectus dated and receipted on November 25, 2016 in the form required by Form 41-101F1 with each of the provincial and territorial securities regulatory authorities in Canada (the "**Prospectus**").

10. The Prospectus, in the form required by Form 41-101F1, will be incorporated by reference in the Information Circular.

Decision

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

The decision of the Decision Maker under the Legislation is that:

(a) the Exemption Sought is granted to the Filer provided that the Prospectus is incorporated by reference in the Information Circular; and

(b) the Exemption Sought will terminate in respect of the Filer if the Filer does not complete the Qualifying Transaction in the manner contemplated in this decision.

"Winnie Sanjoto"
Manager, Corporate Finance

2.2 Orders

2.2.1 Richardson GMP Limited And Richardson GMP (USA) Limited

Headnote

Application for an order pursuant to section 74 of the Securities Act (Ontario) that a registered U.S. investment adviser, affiliated with an Ontario registered investment dealer, be exempted, subject to certain conditions, from requirements of subsection 25(3) of the Act in respect of advice provided by its representatives in respect of the tax-advantaged retirement savings, education savings or disability savings plans of ex-U.S. clients.

Applicable Legislative Provisions

Statutes Cited

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

December 2, 2016

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5, AS AMENDED
(THE ACT)

AND

IN THE MATTER OF
RICHARDSON GMP LIMITED AND
RICHARDSON GMP (USA) LIMITED

ORDER
(SUBSECTION 74(1) OF THE ACT)

WHEREAS the Ontario Securities Commission (the **Commission**) has received an application from Richardson GMP Limited (**RGMP Canada**) and Richardson GMP (USA) Limited (**RGMP USA**) (collectively, the **Filers**) for a decision pursuant to subsection 74(1) of the Act for the Requested Exemptive Relief, as defined below.

AND WHEREAS the Filers seek a decision exempting RGMP USA and those of its individual representatives who are also registered under the Act as dealing representatives, in the approval category of portfolio management, of RGMP Canada (the **Dual Representatives**) from the adviser registration requirement of subsection 25(3) of the Act in respect of advice provided by the Dual Representatives, acting on behalf of RGMP USA, to an individual (the **Ex-U.S. Client**) if the advice is in respect of the Ex-U.S. Client's tax-advantaged retirement savings, education savings or disability savings plan (the **U.S. Plan**), and (i) the U.S. Plan is located in the United States of America (the **U.S.**), (ii) the Ex-U.S. Client is a holder of or contributor to the U.S. Plan, and (iii) the Ex-U.S. Client was previously resident in the U.S. (the **Requested Exemptive Relief**).

AND WHEREAS terms defined in National Instrument 14-101 *Definitions* have the same meaning if used in this order, unless otherwise defined.

AND WHEREAS the Filers having represented to the Commission that:

1. RGMP Canada is a privately-held corporation incorporated under the federal laws of Canada. Its head office is located in Toronto, Ontario.

2. RGMP Canada carries on business in Ontario (the **Jurisdiction**) and British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (the **Other Jurisdictions**), with offices located in the Jurisdiction and each of the Other Jurisdictions (other than New Brunswick, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut).

3. RGMP Canada provides a broad array of wealth management services to residents of Canada, including financial planning, wills and estates planning, tax planning, insurance planning, and brokerage services.

4. RGMP Canada is registered as an investment dealer in the Jurisdiction and each of the Other Jurisdictions and as a derivatives dealer in Quebec. It is a dealer member of the Investment Industry Regulatory Organization of Canada (**IIROC**).

5. RGMP Canada is not in default of securities legislation in any jurisdiction of Canada.

6. RGMP Canada does not trade (or provide advice with respect to the trading) in securities to, with, or on behalf of clients resident in the U.S. (**U.S. Clients**) (other than in respect of tax-advantaged retirement savings, education savings or disability savings plans (**RSPs**) held by U.S. Clients who were formerly resident in Canada and who have moved to the U.S. with RSPs).

7. RGMP Canada is not registered under U.S. federal securities law or any other applicable U.S. securities law to (and does not) carry on the business of a registered broker-dealer or registered investment adviser in the U.S.

8. RGMP USA is a wholly-owned subsidiary of RGMP Canada incorporated under the federal laws of Canada. Its head office is located in Toronto, Ontario.

9. At this time, RGMP USA has no physical presence in the U.S., but carries on business in the Jurisdiction and each of the Other Jurisdictions (other than Saskatchewan, New Brunswick, Newfoundland and Labrador, Yukon, the Northwest Territories and Nunavut), with offices located in the Jurisdiction and each of the Other Jurisdictions in which RGMP Canada has offices.

10. The Filers operate their businesses out of the same premises in the Jurisdiction and each of the Other Jurisdictions (other than New Brunswick, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (where neither Filer maintains an office) and (in the case of RGMP USA) Saskatchewan).

11. RGMP USA provides a broad array of wealth management services to U.S. Clients in reliance upon Ontario Securities Commission Rule 32-505 *Conditional Exemption from Registration for United States Broker-Dealers and Advisors Servicing U.S. Clients from Ontario*, including financial planning, wills and estates planning, tax planning, insurance planning and brokerage services.

12. RGMP USA is registered as an investment adviser under the *Investment Advisers Act of 1940* (United States) (the **1940 Act**).

13. RGMP USA is not in default of securities legislation of any jurisdiction of Canada, U.S. federal securities law or any other applicable U.S. securities law.

14. RGMP USA is not registered under the securities laws of any jurisdiction of Canada.

15. RGMP USA has engaged Pershing Advisor Solutions LLC (**Pershing Advisor Solutions**) for trading, custody, clearing and settlement services pursuant to the terms of an investment advisor agreement dated March 19, 2013, as amended from time to time (the **Investment Advisor Agreement**).

16. In accordance with the provisions of the Investment Advisor Agreement, Pershing LLC (**Pershing**), an affiliate of Pershing Advisor Solutions, carries RGMP USA's client accounts and provides prime brokerage services to the clients of RGMP USA.

17. Pershing Advisor Solutions is an introducing broker-dealer, a Delaware limited liability company and a member of the Financial Industry Regulatory Authority (**FINRA**). Pershing is a broker-dealer and securities clearing firm, a Delaware limited liability company, and a member of FINRA and the New York Stock Exchange.

18. Each of the Dual Representatives acts on behalf of both Filers in one of the Filers' offices located in the Jurisdiction or one of the Other Jurisdictions in which the Filers maintain offices. Each Dual Representative is registered as a dealing representative of RGMP Canada in one or more of the Jurisdiction and the Other Jurisdictions.

19. None of the Dual Representatives is in default of securities legislation of any jurisdiction of Canada, U.S. federal securities law, or any other applicable U.S. securities law.

20. Each Dual Representative, when acting on behalf of RGMP Canada, advises only clients of RGMP Canada resident in the jurisdiction(s) of his or her registration as a dealer and U.S. Clients formerly resident in Canada in respect of their RSPs.

21. When acting on behalf of RGMP USA, each Dual Representative currently advises only U.S. Clients.

22. RGMP USA and the Dual Representatives, acting on behalf of RGMP USA, desire to advise Ex-U.S. Clients with respect to the trading of securities in their U.S. Plans despite their residency in the Jurisdiction. A Dual Representative, acting on behalf of RGMP USA, would only advise Ex-U.S. Clients resident in the Jurisdiction if he or she is registered as a dealing representative of RGMP Canada in the Jurisdiction.

23. The advice that RGMP USA provides to Ex-U.S. Clients will be ancillary to RGMP USA's principal business which is advising U.S. Clients.

24. RGMP USA expects that the amount of revenue derived from Ex-U.S. Clients will represent approximately 8% of its total revenue. If the revenue derived from Ex-U.S. Clients exceeds 10% of its total revenue, RGMP USA will file forthwith a letter to the Commission advising of the same. The letter will refer to this order and this requirement, the percentage of the revenue derived from Ex-U.S. Clients, and the date on which the revenue exceeded 10% of its total revenue. The letter will also refer to the date on which the exceeded threshold was discovered.

25. The Dual Representatives have the proficiency, education and experience to provide advice to Ex-U.S. Clients with respect to the trading of securities in their U.S. Plans.

26. Pershing Advisor Solutions will provide trading, custody, clearing and settlement services for all Ex-U.S. Clients of RGMP USA (in respect of their U.S. Plans) pursuant to the Investment Advisor Agreement.

27. Pershing Advisor Solutions relies upon the exemption from the dealer registration requirement of the securities laws of each Jurisdiction under section 8.18 of National Instrument 31-103 (**NI 31-103**) *Registration Requirements, Exemptions and Ongoing Registrant Obligations* in connection with *inter alia* trades in "foreign securities" with a "permitted client" (each as defined in NI 31-103). Accordingly, RGMP USA and the Dual Representatives will only advise Ex-U.S. Clients who are "permitted clients" with respect to the trading of "foreign securities" (each as defined in NI 31-103) in their U.S. Plans while Pershing carries, and provides prime brokerage services to, those accounts (unless Pershing registers as an investment dealer in the Jurisdiction or seeks exemptive relief sufficient to permit it to trade in Canadian securities and/or to permit it to trade with or for residents of Canada who are not "permitted clients" (as defined in NI 31-103)).

28. When providing advice to Ex-U.S. Clients with respect to the trading of securities in their U.S. Plans, RGMP USA and the Dual Representatives will comply with U.S. federal securities law and any other applicable U.S. securities law.

29. For purposes of the Act, and as a market participant, each of the Filers is required by subsection 19(1) of the Act to: (i) keep such books, records and other documents as are necessary for the proper recording of its business transactions and financial affairs, and the transactions that it executes on behalf of others; and (ii) keep such books, records and documents as may otherwise be required under the Act.

30. All Ex-U.S. Clients of RGMP USA will enter into a customer agreement and associated account opening documentation with RGMP USA. All communications with Ex-U.S. Clients will be through RGMP USA and the Dual Representatives, and will be under RGMP USA branding.

31. To avoid client confusion, all Ex-U.S. Clients of RGMP USA will receive disclosure that explains the relationship between RGMP USA and RGMP Canada.

32. RGMP USA confirms that there are currently no regulatory actions of the type contemplated by the Notice of Regulatory Action attached as Appendix "B" hereto in respect of RGMP USA or any predecessors or specified affiliates of RGMP USA.

AND WHEREAS upon being satisfied that it would not be prejudicial to the public interest for the Commission to grant the Requested Exemptive Relief on the basis of the terms and conditions proposed,

IT IS ORDERED that pursuant to subsection 74(1) of the Act, the Requested Exemptive Relief is granted, provided that:

(a) the advice is for an individual's U.S. Plan, and

  i. the U.S. Plan is located in the U.S.,

  ii. the individual is a holder of or contributor to the U.S. Plan, and

  iii. the individual was previously resident in the U.S.;

(b) RGMP USA does not advertise for or solicit new clients in the Jurisdiction;

(c) RGMP USA remains registered as an investment adviser under the 1940 Act;

(d) RGMP USA and each of the Dual Representatives are in compliance with and remain in compliance with any applicable adviser licensing or registration requirements under applicable securities legislation of the U.S.;

(e) RGMP Canada remains registered under the Act as an investment dealer and is a dealer member of IIROC;

(f) each Dual Representative providing the advice on behalf of RGMP USA is registered under the Act as a dealing representative in a category that would permit it to advise Ex-U.S. Clients with respect to the trading of securities in their U.S. Plans in compliance with the Act, if the U.S. Plans were instead tax-advantaged retirement savings plan located in Canada;

(g) each Filer notifies the Commission of any regulatory action after the date of this order in respect of the Filer, or any predecessors or specified affiliates of the Filer by completing and filing Appendix B hereto with the Commission within 10 days of the commencement of such action;

(h) RGMP USA discloses to the Ex-U.S. Clients that it (and the Dual Representatives providing advice on its behalf) are not subject to full regulatory requirements otherwise applicable under the Act;

(i) RGMP USA and the Dual Representatives, in the course of their dealings with Ex-U.S. Clients, act fairly, honestly and in good faith;

(j) RGMP USA:

i. enters into customer agreements and associated account opening documentation with all Ex-U.S. Clients, such that all communications with Ex-U.S. Clients will be through RGMP USA and the Dual Representatives, and will be under RGMP USA branding;

ii. provides all Ex-U.S. Clients with disclosure that explains the relationship between RGMP USA and RGMP Canada;

(k) the execution of each trade identified or recommended by RGMP USA (and each Dual Representative providing the advice on its behalf) for an Ex-U.S. Client resident in the Jurisdiction will be conducted by a person registered as a dealer under the Act in a category that would permit them to execute the trade or otherwise exempt them from the dealer registration requirement of the Act for purposes of the trade; and

(l) this Order will terminate on the earlier of:

(i) five years after the date of this Order; and

(ii) the coming into force of a change in Ontario securities law (as defined in the Act) that exempts RGMP USA from the registration requirement in the Act in connection with the advice it provides to an Ex-U.S. Client with respect to the U.S. Plan on terms and conditions other than those set out in this Order.

DATED at Toronto this 2nd day of December, 2016.

"Monica Kowal"
Commissioner
Ontario Securities Commission

"Edward P. Kerwin"
Commissioner
Ontario Securities Commission

APPENDIX "B"

NOTICE OF REGULATORY ACTION

1. Has the firm, or any predecessors or specified affiliates[1] of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

   Yes _____ No _____

   If yes, provide the following information for each settlement agreement:

Name of entity
Regulator/organization
Date of settlement (yyyy/mm/dd)
Details of settlement
Jurisdiction

2. Has any financial services regulator, securities or derivatives exchange, SRO or similar organization:

		Yes	No
(a)	Determined that the firm, or any predecessors or specified affiliates of the firm violated any securities regulations or any rules of a securities or derivatives exchange, SRO or similar organization?	____	____
(b)	Determined that the firm, or any predecessors or specified affiliates of the firm made a false statement or omission?	____	____
(c)	Issued a warning or requested an undertaking by the firm, or any predecessors or specified affiliates of the firm?	____	____
(d)	Suspended or terminated any registration, licensing or membership of the firm, or any predecessors or specified affiliates of the firm?	____	____
(e)	Imposed terms or conditions on any registration or membership of the firm, or predecessors or specified affiliates of the firm?	____	____
(f)	Conducted a proceeding or investigation involving the firm, or any predecessors or specified affiliates of the firm?	____	____
(g)	Issued an order (other than an exemption order) or a sanction to the firm, or any predecessors or specified affiliates of the firm for securities or derivatives-related activity (e.g. cease trade order)?	____	____

   If yes, provide the following information for each action:

Name of Entity	
Type of Action	
Regulator/organization	
Date of action (yyyy/mm/dd)	Reason for action
Jurisdiction	

[1] In this Appendix, the term "specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*.

3. Is the firm aware of any ongoing investigation of which the firm or any of its specified affiliate is the subject?

Yes _____ No _____

If yes, provide the following information for each investigation:

Name of entity
Reason or purpose of investigation
Regulator/organization
Date investigation commenced (yyyy/mm/dd)
Jurisdiction

Name of firm
Name of firm's authorized signing officer or partner
Title of firm's authorized signing officer or partner
Signature
Date (yyyy/mm/dd)

Witness

The witness must be a lawyer, notary public or commissioner of oaths.

Name of witness
Title of witness
Signature
Date (yyyy/mm/dd)

This form is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:

https://www.osc.gov.on.ca/filings

2.2.2 Authorization Order – s. 3.5(3)

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

AND

IN THE MATTER OF
AN AUTHORIZATION PURSUANT TO
SUBSECTION 3.5(3) OF THE ACT

AUTHORIZATION ORDER
(Subsection 3.5(3))

WHEREAS a quorum of the Ontario Securities Commission (the "Commission") may, pursuant to subsection 3.5(3) of the Act, in writing authorize any member of the Commission to exercise any of the powers and perform any of the duties of the Commission, including the power to conduct contested hearings on the merits.

AND WHEREAS, by an authorization order made on August 19, 2016, pursuant to subsection 3.5(3) of the Act ("Authorization"), the Commission authorized each of MAUREEN JENSEN, MONICA KOWAL, D. GRANT VINGOE, EDWARD P. KERWIN, JANET LEIPER, ALAN J. LENCZNER, TIMOTHY MOSELEY, and CHRISTOPHER PORTNER acting alone, to exercise, subject to subsection 3.5(4) of the Act, the powers of the Commission to grant adjournments and set dates for hearings, to hear and determine procedural matters, and to make and give any orders, directions, appointments, applications and consents under sections sections 5, 11, 12, 17, 19, 20, 122, 126, 127, 128, 129, 140, 144, 146, and 152 of the Act that the Commission is authorized to make and give, including the power to conduct contested hearings on the merits.

NOW, THEREFORE, IT IS ORDERED that the Authorization is hereby revoked;

THE COMMISSION HEREBY AUTHORIZES, pursuant to subsection 3.5(3) of the Act, each of MAUREEN JENSEN, MONICA KOWAL, D. GRANT VINGOE, PHILIP ANISMAN, EDWARD P. KERWIN, JANET LEIPER, ALAN J. LENCZNER, and TIMOTHY MOSELEY acting alone, to exercise, subject to subsection 3.5(4) of the Act, the powers of the Commission to grant adjournments and set dates for hearings, to hear and determine procedural matters, and to make and give any orders, directions, appointments, applications and consents under sections 5, 11, 12, 17, 19, 20, 122, 126, 127, 128, 129, 140, 144, 146, and 152 of the Act that the Commission is authorized to make and give, including the power to conduct contested hearings on the merits; and

THE COMMISSION FURTHER ORDERS that this Authorization Order shall have full force and effect until revoked or such further amendment may be made.

DATED at Toronto, this 6th day of December, 2016.

"Christopher Portner"
Commissioner

"Deborah Leckman"
Commissioner

2.2.3 Edward Furtak et al.

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

AND

**IN THE MATTER OF
EDWARD FURTAK,
AXTON 2010 FINANCE CORP.,
STRICT TRADING LIMITED,
RONALD OLSTHOORN,
TRAFALGAR ASSOCIATES LIMITED,
LORNE ALLEN and
STRICTRADE MARKETING INC.**

ORDER

WHEREAS:

1. On March 30, 2015 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in connection with a Statement of Allegations filed by Staff of the Commission ("Staff") on March 30, 2015 with respect to Edward Furtak, Axton 2010 Finance Corp., Strict Trading Limited, Ronald Oslthoorn, Trafalgar Associates Limited, Lorne Allen and Strictrade Marketing Inc. (collectively, the "Respondents");

2. The Commission held the hearing on the merits, and after which issued its Reasons and Decision on the merits on November 24, 2016, where in the Panel concluded there had been contraventions of the Act by the Respondents; and

3. The parties have consented to the following schedule regarding a hearing on sanctions and costs;

IT IS HEREBY ORDERED that:

1. Staff shall serve and file Staff's written submissions on sanctions and costs on or before Thursday, December 22, 2016;

2. The Respondents shall serve and file their responding written submissions on sanctions and costs on or before Monday, January 16, 2017;

3. Staff shall serve and file Staff's reply submissions, if any, on or before Monday, January 23, 2017; and

4. The hearing to determine sanctions and costs will be held at the offices of the Commission at 20 Queen Street West, Toronto, Ontario, on Monday, January 30, 2017, commencing at 10:00 a.m.

DATED at Toronto this 7th day of December, 2016.

"Janet Leiper"

2.2.4 Blue Gold Holding Ltd. et al. – ss. 127, 127.1

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

AND

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

ORDER
(Sections 127 and 127.1 of the Securities Act)

WHEREAS:

1. On March 11, 2015, the Ontario Securities Commission (the "**Commission**") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5 (the "**Act**") in connection with a Statement of Allegations dated March 11, 2015, filed by Staff of the Commission with respect to Derek Blackburn and Blue Gold Holdings Ltd., Raj Kurichh and Nigel Greening (collectively, the "**Respondents**");

2. The Commission held the hearing on the merits on April 18, 20, 25 and 26, 2016, during which the allegations against Derek Blackburn were withdrawn;

3. The Commission issued its Reasons and Decision on the merits on July 26, 2016 (the "**Merits Decision**"), wherein the Panel concluded there had been contraventions of the Act by the Respondents and the Panel required Staff to take steps to arrange a hearing regarding sanctions and costs;

4. The Commission held the hearing regarding sanctions and costs on November 4, 2016 and heard submissions from Staff of the Commission and counsel for Raj Kurichh, with no one appearing for the other Respondents; and

5. On December 7, 2016, the Commission issued its Reasons and Decision on Sanctions and Costs (the "**Sanctions Decision**");

IT IS ORDERED that:

1. with respect to Blue Gold Holdings Ltd. ("**BGH**"):

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

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

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

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

2. with respect to Raj Kurichh ("**Kurichh**"):

   (a) pursuant to paragraph 9 of subsection 127(1) of the Act, Kurichh shall pay to the Commission an administrative penalty of $200,000, which amount shall 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;

   (b) pursuant to paragraph 10 of subsection 127(1) of the Act, Kurichh shall disgorge to the Commission $2,629,052.37, which amount shall 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;

   (c) pursuant to section 127.1 of the Act, Kurichh shall pay $100,000 to the Commission to reimburse the costs of the investigation and hearings;

   (d) pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act, trading in any securities or derivatives by Kurichh, and the acquisition of any securities by Kurichh, shall cease permanently, except that following satisfaction of the three payments required to be paid by him, evidenced by a certificate issued by Staff of the Commission, Kurichh may trade securities in his own name, only through one registrant who has been given a copies of the Merits Decision and the Sanctions Decision;

   (e) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Kurichh permanently, except to the extent necessary to allow him to trade securities as permitted by the preceding paragraph;

(f) pursuant to paragraphs 7, 8, 8.1, 8.2, 8.3 and 8.4 of subsection 127(1) of the Act, Kurichh shall immediately resign any position he holds as a director or officer of an issuer, registrant or investment fund manager, and he is prohibited permanently from holding any such position; and

(g) pursuant to paragraph 8.5 of subsection 127(1) of the Act, Kurichh is prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter; and

3. with respect to Nigel Greening ("**Greening**"):

(a) pursuant to paragraph 9 of subsection 127(1) of the Act, Greening shall pay to the Commission an administrative penalty of $150,000, which amount shall 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;

(b) pursuant to paragraph 10 of subsection 127(1) of the Act, Greening shall disgorge to the Commission $2,548,997.28, which amount shall 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;

(c) pursuant to section 127.1 of the Act, Greening shall pay $25,000 to the Commission to reimburse the costs of the investigation and hearings;

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

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

(f) pursuant to paragraphs 7, 8, 8.1, 8.2, 8.3 and 8.4 of subsection 127(1) of the Act, Greening shall immediately resign any position he holds as a director or officer of an issuer, registrant or investment fund manager, and he is prohibited permanently from holding any such position; and

(g) pursuant to paragraphs 8.5 of subsection 127(1) of the Act, Greening is prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter.

DATED at Toronto this 7th day of December, 2016.

"Alan Lenczner"

"Janet Leiper"

"Timothy Moseley"

2.2.5 AAOption et al.

**IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5**

AND

**IN THE MATTER OF
AAOPTION,
GALAXY INTERNATIONAL SOLUTIONS LTD. and
DAVID ESHEL**

ORDER

WHEREAS:

1. On October 26, 2016, Staff ("Staff") of the Ontario Securities Commission (the "Commission") filed a Statement of Allegations seeking an order against AAOption, Galaxy International Solutions Ltd. and David Eshel (collectively, the "Respondents"), pursuant to subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5;

2. On October 28, 2016, the Commission issued a Notice of Hearing in respect of that Statement of Allegations, setting November 23, 2016 as the date of the hearing;

3. On November 16, 2016, Staff filed an affidavit of service sworn by Lee Crann on the same day, describing steps taken by Staff to serve the Respondents with the Notice of Hearing, Statement of Allegations and Staff's disclosure materials;

4. On November 23, 2016, Staff appeared before the Commission and made submissions, and the Respondents did not appear or make submissions;

5. On November 23, 2016, the hearing in this matter was adjourned to December 7, 2016 at 3:00 p.m.;

6. On December 1, 2016, Staff filed a supplementary affidavit of service sworn by Lee Crann on the same day, describing further steps taken by Staff to serve David Eshel with the Notice of Hearing, Statement of Allegations and Staff's disclosure materials;

7. On December 7, 2016, Staff appeared before the Commission and made submissions, and the Respondents did not appear or make submissions;

IT IS ORDERED THAT the hearing in this matter is adjourned to January 19, 2017 at 4:00 p.m., or such further and other date as may be agreed to by the parties and set by the Office of the Secretary.

DATED at Toronto this 9th day of December, 2016.

"Monica Kowal"

2.2.6 Canadian National Railway Company and BMO Nesbitt Burns Inc. – 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 a specified number 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 – 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 number of common shares transferred by the third party from its existing inventory to the issuer for purchase under the program be equivalent to the number of common shares that the third party has purchased, or had purchased on its behalf, on Canadian markets.

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 AND
BMO NESBITT BURNS INC.

ORDER
(Section 6.1 of National Instrument 62-104)

UPON the application (the "**Application**") of Canadian National Railway Company (the "**Issuer**") and BMO Nesbitt Burns Inc. ("**BMO Nesbitt**", and together with the Issuer, the "**Filers**") 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 4,840,000 (the "**Program Maximum**") of its common shares (the "**Common Shares**") from BMO Nesbitt pursuant to a share repurchase program (the "**Program**");

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

AND UPON the Issuer having represented to the Commission the matters set out in paragraphs 1, 2, 3, 4, 9 to 18, inclusive, 20 to 26, inclusive, 30, 32, 34, 35, 36, 38 and 39;

AND UPON BMO Nesbitt and Bank of Montreal ("**BMO**"), and together, the "**BMO Entities**") having represented to the Commission the matters set out in paragraphs 5, 6, 7, 8, 18 to 21, inclusive, 24, 25, 27 to 31, inclusive, 33, 37, 39 and 40 as they relate to the BMO Entities:

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 766,451,225 were issued and outstanding as of November 17, 2016.

5. BMO Nesbitt 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) 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 4,840,000 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 October 23, 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 "**Notice**") which was accepted by the TSX effective October 30, 2016, the Issuer is permitted to make a normal course issuer bid (the "**Normal Course Issuer Bid**") to purchase up to 33,000,000 Common Shares, representing approximately 5.1% of the Issuer's public float of Common Shares as of the date specified in the Notice. The Notice 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 in accordance with sections 628 to 629.3 of Part VI of the TSX Company Manual (the "**TSX Rules**") or a securities regulatory authority, 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 Citigroup Global Markets Inc. 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, 2016, 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 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 will be reduced by the number of Plan Trustee Purchases and purchases under the ARP, if any.

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 November 17, 2016 consisted of 647,400,551 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 and The Toronto-Dominion Bank ("**TD**") an order on October 25, 2016 pursuant to section 6.1 of NI 62-104 exempting the Issuer from the Issuer Bid Requirements in connection with the proposed purchases by the Issuer of up to 2,723,662 Common Shares from TD pursuant to a share repurchase program (the "**TD Program**"). As at November 18, 2016, the Issuer has purchased 895,724 Common Shares under the TD Program. The TD Program will terminate on the earlier of December 23, 2016 and the date on which the Issuer will have purchased 2,723,662 Common Shares from TD under the TD Program. The Issuer expects the TD Program to be completed on or about December 15, 2016.

18. The Filers wish to participate in the Program during, and as part of, the Normal Course Issuer Bid to enable the Issuer to purchase from BMO Nesbitt, and for BMO Nesbitt to sell to the Issuer, that number of Common Shares equal to the Program Maximum.

19. Pursuant to the terms of the Program Agreement (as defined below), 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.

20. The Program will be governed by, and conducted in accordance with, the terms and conditions of a Share Repurchase Program Agreement (the "**Program Agreement**") that will be entered into among the Filers and BMO prior to the commencement of the Program and a copy of which will be delivered by the Filers to the Commission promptly thereafter.

21. The Program will begin on the Trading Day following the completion or termination of the TD Program, and will terminate on the earlier of March 15, 2017 and the date on which the Issuer will have purchased the Program Maximum under the Program (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.

22. 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**").

23. The Program Maximum will be 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.

24. The Program Term will include a Blackout Period. During a Blackout Period, the Program will be an "automatic securities purchase plan" as defined in National Instrument 55-104 *Insider Reporting Requirements and Exemptions* (as applied, *mutatis mutandis*, to purchases made by an issuer), and BMO Nesbitt will conduct the Program in its sole discretion, in accordance with the irrevocable instructions established by the Issuer, and conveyed by the Issuer to BMO Nesbitt, 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 TSX has (a) been advised of the Issuer's intention to enter into the Program, (b) been provided with a copy of the Program Agreement, and (c) pre-cleared the Program.

25. 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 have given to Scotia Capital Inc., as its designated Responsible Broker in Canada, if the Issuer was conducting the Normal Course Issuer Bid in reliance on the Exemptions.

26. The Issuer will not give purchase instructions in respect of the Program to BMO Nesbitt at any time that the Issuer is aware of Undisclosed Information (as defined below).

27. 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:

    (a) 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; and

(b) 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.

28. The aggregate number of Common Shares acquired by BMO Nesbitt in connection with the Program:

(a) shall not exceed the Program Maximum; and

(b) on Canadian Other Published Markets shall not exceed that number of Common Shares remaining eligible for purchase by the Issuer pursuant to the Other Published Markets Exemption, calculated as at the date of the Program Agreement.

29. 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; and

(c) on a Trading Day where trading ceases on the TSX or some other event that would impair BMO Nesbitt's ability to acquire Common Shares on Canadian Markets occurs (a "**Market Disruption Event**"), the number of Common Shares acquired by BMO Nesbitt on such Trading Day up until the time of the Market Disruption Event.

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.

30. 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.

31. BMO Nesbitt will not sell any Inventory Shares to the Issuer under the Program unless BMO Nesbitt has purchased the equivalent number of Common Shares on Canadian Markets. The number of Common Shares that are purchased by BMO Nesbitt on Canadian Markets on a Trading Day will be equal to the Number of Common Shares for such Trading Day. BMO Nesbitt will provide the Issuer with a daily written report of BMO Nesbitt's purchases, which report will indicate, *inter alia*, the aggregate number of Common Shares acquired, the Canadian Market on which such Common Shares were acquired, and the Modified Maximum Daily Limit.

32. During the Program Term, the Issuer will (a) not purchase any Common Shares (other than Inventory Shares purchased under the Program), (b) prohibit the Responsible Brokers from acquiring any Common Shares on its behalf, (c) prohibit the Plan Trustee from undertaking any Plan Trustee Purchases, and (d) prohibit the designated broker under the ARP from acquiring any Common Shares on its behalf.

33. purchases of Common Shares under the Program will be made by BMO Nesbitt and neither of the BMO Entities will engage in any hedging activity in connection with the conduct of the Program.

34. 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.

35. 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.

36. 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.

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

38. 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.

39. 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**”).

40. Each of the BMO Entities:

(a) has policies and procedures in place to ensure that the Program will be conducted in accordance with, among other things, the Program Agreement and this Order, and to preclude those persons responsible for administering the Program from acquiring any Undisclosed Information during the conduct of the Program; and

(b) will, prior to entering into the Program Agreement, (i) ensure that its systems are capable of adhering to, and performing in accordance with, the requirements of the Program and this Order, and (ii) provide all necessary training and take all necessary actions to ensure that the persons administering and executing the purchases under the Program are aware of, and understand the terms of this Order.

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 issues the Press Release;

(b) all purchases of Common Shares under the Program are made on Canadian Markets by BMO Nesbitt, and are

(i) made in accordance with the NCIB Rules applicable to the Normal Course Issuer Bid, as modified by paragraph 27 of this Order,

(ii) 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, with those Common Shares purchased on Canadian Other Published Markets being 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,

(iii) marked with such designation as would be required by the applicable marketplace and UMIR for trades made by an agent of the Issuer, and

(iv) monitored by the BMO Entities on a continual basis for the purposes of ensuring compliance with the terms of this Order, NCIB Rules, and applicable securities law;

(c) during the Program Term, (i) the Issuer does not purchase any Common Shares (other than Inventory Shares purchased under the Program), (ii) no Common Shares are purchased on behalf of the Issuer by the Responsible Brokers, (iii) no Plan Trustee Purchases are undertaken by the Plan Trustee, and (iv) no Common Shares are acquired on behalf of the Issuer by the designated broker under the ARP;

(d) the number of Inventory Shares transferred by BMO Nesbitt to the Issuer for purchase under the Program in respect of a particular Trading Day is equivalent to the number of Common Shares purchased by BMO Nesbitt on Canadian Markets in respect of the Trading Day;

(e) no hedging activity is engaged in by the BMO Entities in connection with the conduct of the Program;

(f) at the time that the Program Agreement is entered into by the Filers and BMO

(i) the Common Shares are "highly liquid securities", as that term is defined in section 1.1 of OSC Rule 48-501 and section 1.1 of UMIR, and

(ii) none of the Issuer, any member of the Trading Products Group of BMO Nesbitt, or 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, was aware of any Undisclosed Information;

(g) no purchase instructions in respect of the Program are given by the Issuer to BMO Nesbitt at any time that the Issuer is aware of Undisclosed Information;

(h) 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; and

(i) 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 5th day of December, 2016.

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

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Lance Kotton and Titan Equity Group Ltd. – s. 127(8)

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

IN THE MATTER OF
LANCE KOTTON AND
TITAN EQUITY GROUP LTD.

REASONS AND DECISION
(Subsection 127(8) of the Securities Act)

Hearing:	November 18, 2016		
Decision:	December 7, 2016		
Panel:	Timothy Moseley	–	Commissioner
Appearances:	Pamela Foy Anna Huculak	–	For Staff of the Commission
	No one appeared for Lance Kotton or Titan Equity Group Ltd.		

TABLE OF CONTENTS

REASONS AND DECISION

I. OVERVIEW

[1] When considering repeated requests to extend a temporary cease trade order, what factors should the Ontario Securities Commission (the "**Commission**") take into account in assessing the public interest?

[2] On November 6, 2015, the Commission granted the request of Enforcement Staff of the Commission ("**Staff**") that a temporary order be issued pursuant to subsection 127(5) of the *Securities Act* (the "**Act**")[1] against Lance Kotton and Titan Equity Group Ltd. (the "**Respondents**"). The order (the "**Temporary Order**") was issued based upon Staff's representations to the Commission that the Respondents may have engaged in, and may have been continuing to engage in, breaches of Ontario securities law, including fraud.

[3] The Temporary Order was extended pursuant to subsection 127(8) of the Act three times (on November 19, 2015, December 15, 2015 and April 14, 2016) with the Respondents' consent. On October 12, 2016, Staff requested a further six-month extension. The Respondents did not consent but expressly declined to object. At that hearing, I repeated concerns raised by a different panel of the Commission at the April 14 hearing; namely, that a long time had elapsed since the Temporary Order was first issued, and Staff had not yet initiated an enforcement proceeding by filing a Statement of Allegations. I extended the Temporary Order to November 21, 2016, and I adjourned the hearing to November 18 to give Staff a full opportunity to address these concerns.

[4] At the November 18 hearing, the Respondents did not appear, and Staff advised that it had not heard from the Respondents since before the October 12 hearing. Staff addressed the concerns referred to above and renewed its request for an extension of the Temporary Order to April 21, 2017. I reserved my decision and in the meantime ordered that the Temporary Order be extended pending the release of this decision or other order of the Commission.

[5] My concerns persist. While the decision of whether, and if so when, to file a Statement of Allegations is a matter of discretion for Staff, and not ordinarily the subject of review by this tribunal, and while I engage in no such review in this matter, the Commission is charged with deciding upon each request for extension of a temporary order whether it is in the public interest to do so. For the reasons set out below, I conclude that under the current circumstances, including the status of the investigation, it is in the public interest to extend the Temporary Order for only two months.

[6] For clarity in these reasons, I refer generally to any proceeding initiated by the filing of a Statement of Allegations as an "**Enforcement Proceeding**" and any proceeding initiated by the issuance of a temporary order pursuant to subsection 127(5) of the Act, with one or more extensions of the cease trade provisions in the temporary order, as a "**TCTO Proceeding**".

II. BACKGROUND

[7] At the relevant time, Kotton was the owner and the directing mind of the respondent Titan Equity Group Ltd. ("**Titan Equity**"). Kotton, along with Titan Equity and related entities (collectively, the "**Titan Group**") were in the real estate investment, acquisition and development business.

[8] In its original request for the Temporary Order, Staff said it appeared that the Respondents:

a. without an available exemption, engaged in, or held themselves out to be in, the business of trading in securities without being registered and contrary to subsection 25(1) of the Act;

b. without an available exemption, traded in securities, where such trades constituted distributions of securities, in circumstances in which no preliminary prospectus or prospectus was filed, contrary to subsection 53(1) of the Act;

c. perpetrated a fraud by misappropriating funds for Kotton's personal use, contrary to section 126.1 of the Act; and

d. made misleading statements to investors, contrary to section 126.2 of the Act.

[9] On November 13, 2015, one week after the Commission issued the Temporary Order, the Commission applied to the Superior Court of Justice for an order pursuant to section 129 of the Act appointing a receiver over the assets of Kotton

[1] RSO 1990, c S.5.

and the Titan Group (the "**Receivership Application**").[2] In support of that application, the Commission cited the following, among other things:

a. the Titan Group had issued securities to finance the acquisition and development of various properties;

b. Kotton and Titan Equity had solicited the public to invest in those securities;

c. as of November 2015, more than $30 million had been raised from investors in the securities;

d. the Respondents had engaged in and continued to engage in various breaches of securities law;

e. the Respondents were insolvent and could not repay investors;

f. there was a history of mismanagement of the investments;

g. there was a concern that the Respondents would improperly dissipate assets; and

h. Kotton appeared to have benefitted personally from investor monies.

[10] On November 16, 2015, the Court granted the Commission's request and appointed Grant Thornton Limited as Receiver.

III. ANALYSIS

A. Introduction

[11] Subsection 127(8) of the Act provides:

> … the Commission may extend a temporary order under paragraph 2 of subsection (1) [the authority to issue a cease trade order] for such period as it considers necessary if satisfactory information is not provided to the Commission within the fifteen-day period [beginning with the issuance of the original order].

[12] Once Staff has met its initial burden in support of the issuance of a temporary order, subsection 127(8) shifts the onus to a respondent to provide satisfactory information, absent which the Commission "is justified in extending a temporary cease trade order."[3] In this case Staff met its burden. The Respondents have adduced no information. The Commission would therefore be justified in extending the Temporary Order. The question is whether it should.

[13] As the Commission has previously held, a temporary cease trade order is "an extraordinary remedy", and the authority to issue this extraordinary remedy exists because it is "essential that the Commission be able to act quickly, at an early stage of an investigation, to protect investors from harm. [emphasis added]"[4] The description of a temporary cease trade order as an extraordinary remedy recognizes that the order may include certain of the potentially significant sanctions set out in subsection 127(1) of the Act without the need for a Statement of Allegations, a merits hearing, or a sanctions hearing.

[14] The justification for this extraordinary remedy may decline over time as an investigation progresses. In deciding whether to further extend a temporary order, the Commission must have regard to the relevant circumstances as they exist at the time of the request and must determine what the public interest comprises in the context of the TCTO Proceeding. That requires the Commission to balance numerous factors. I now address each of the factors that I consider to be relevant in this case.

B. The Respondents' position

[15] The Respondents were originally represented by counsel in the TCTO Proceeding but counsel withdrew in March 2016. The Respondents consented to the six-month extension of the Temporary Order on April 11, 2016. Before the October 12 hearing, they said that they did not object to the further six-month extension sought by Staff.

[16] The October 12 order was served on the Respondents by email. Staff has no information as to why the Respondents failed to communicate with Staff regarding the November 18 hearing.

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2 *Ontario Securities Commission v. Lance Kotton et al.*, Court File No. 15-11178-00CL.

3 *Shallow Oil & Gas Inc.* (2008), 31 OSCB 2007 ("***Shallow Oil***") at para 36.

4 *Shallow Oil* at para 33.

C. Complexity of the investigation

[17] The record supports Staff's strenuous submission that the investigation is complex, especially because of difficulties involved in gaining access to evidence given the apparent volume of documents in the custody of law firms and the resulting questions of privilege. I accept Staff's assertions that Staff is working diligently on this challenging matter and that the investigation is progressing more slowly than it might otherwise, through no fault of Staff.

D. The investor protection purpose of the Temporary Order

[18] In exercising its authority under section 127, the Commission must have regard to the twin purposes of the Act set out in section 1.1, one of which is investor protection. As the Supreme Court of Canada has held, the purpose of the section 127 public interest jurisdiction is "protective and preventive, intended to be exercised to prevent likely future harm to Ontario's capital markets".[5]

[19] A temporary cease trade order can protect the interests of investors who contributed funds to the assets that are the subject of the proceeding, since the investors' chances of recovery may be improved by a temporary order that limits the respondents' ability to deal with the assets. The order can also protect the interests of investors more broadly, i.e., any investors in the capital markets, by reducing the risk of harm that would result if the Respondents were permitted to trade generally. I consider each type of interest separately.

1. Investors in the Titan Group

[20] The web page established by the Receiver with respect to this matter (the "**Receiver's Web Page**", to which Staff directed me),[6] the documents posted on that page, and evidence submitted to the Commission by Staff, demonstrate that the Receiver in co-operation with Staff has taken steps to dispose of assets in an effort to preserve funds for investors and creditors.

[21] Unfortunately, in this case, the prospects of investors recovering funds from either of the Respondents are grim. In the words of the Receiver in early September, 2016, "it does not appear that there will be funds available for distribution to investors/creditors of … Kotton … [and] Titan Equity …".[7]

[22] The investor protection purpose that initially justified the Temporary Order has all but evaporated as far as the Titan Group investors are concerned.

2. Investors generally

[23] On the record before me, it is difficult to imagine what meaningful contribution a temporary order will make at this juncture to the protection of investors generally. First, such an order would not be appreciably more deterrent than the co-existing Receivership Application and the Receiver's activities. Second, all the Respondents' assets are subject to the receivership. As the Receiver has found, the Respondents are insolvent. The Respondents have little or no ability to participate in the capital markets even absent an order. The Temporary Order therefore currently does little to protect investors generally. That may change if relevant circumstances change.

E. Transparency of Commission proceedings

[24] At the October 12 hearing, I expressed the concern that a member of the public who sought to understand why the Temporary Order had been extended would find little readily available information. While the detailed affidavits submitted by Staff are part of the public record, these are not easily accessible, especially to impoverished investor victims (if any) or non-Toronto residents.

[25] Staff offered three responses. First, Staff argued in written submissions filed prior to the hearing that the only purpose of a Statement of Allegations is to provide respondents with notice and particulars of the case they have to meet, and that notice to the public is not a purpose of the Statement of Allegations. Staff offered no authority for these propositions, and I reject them. I accept Staff's oral submission that notice to respondents is the primary purpose of the Statement of Allegations. However, a Statement of Allegations also serves the purpose of enhancing transparency of Commission proceedings. It may serve other purposes as well.

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5 *Committee for Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 at para 42, quoting Laskin J.A. in the court below.

6 http://www.grantthornton.ca/titan

7 Seventh Report of the Receiver, September 2, 2016, at para 33. Posted on the Receiver's Web Page.

[26] Second, Staff referred to the Receiver's Web Page. However, virtually all the content found there relates to the receivership itself, as opposed to a potential or existing proceeding before the Commission. Any material filed by the Commission (other than material dealing with a motion regarding privilege) dates to the commencement of the Receivership Application one year ago. While there are many facts common to both this TCTO Proceeding and the Receivership Application, the information available at the Receiver's Web Page makes no meaningful contribution to the transparency of proceedings before the Commission, and stands in stark contrast to the contribution that would be made by a Statement of Allegations filed by Enforcement Staff, which could then easily be found on the Commission's website.[8]

[27] Third, Staff suggested that I issue an order that would grant the five-month extension requested and that would contain additional recitals, one of which would refer to "the affidavits of Staff in support of the Temporary Order and extensions thereof" being posted on the Commission's website. The Commission does not post affidavit material filed in proceedings on its website, and it would be unwise to establish that precedent in this proceeding.

F. Control over Commission proceedings

[28] It is trite to say that a tribunal has the authority to control its own process. In reliance upon this authority and with the goal of ensuring the due administration of Ontario securities law, including avoiding delayed (and therefore denied) justice, the Commission has taken steps over the years to improve its processes and to promote fair and timely response to allegations of breaches of Ontario securities law.

[29] Significant among these measures was the adoption, in January 2015, of the Commission's Case Management Timeline for Enforcement Proceedings (the "**Case Management Guideline**").[9] This guideline, issued pursuant to the Ontario Securities Commission *Rules of Procedure*,[10] assists with the just and expeditious disposition of Commission proceedings.

[30] The Case Management Guideline is well suited to the management of Enforcement Proceedings, but is poorly suited to TCTO Proceedings. This is true in several respects, not least of which are the mechanisms available in Enforcement Proceedings that promote agreement on documents or other evidence, allow the narrowing of issues, and/or facilitate settlement of all or part of a proceeding.

[31] I repeat the important principle set out at paragraph [5] above. It would be improper for the tribunal to oversee Enforcement Staff's investigation or the issuance of a Statement of Allegations other than in exceptional circumstances.[11] However, as appropriately conceded by Staff at the November 18 hearing, the length and status of an investigation are relevant considerations for the Commission when determining whether it is in the public interest to extend a temporary cease trade order. This is consistent with the Commission's interest in timely response to alleged breaches and expeditious progress toward a merits hearing.

G. Longevity of temporary cease trade orders

[32] Staff offered as precedents three temporary cease trade orders with longevity of seventeen months,[12] twenty-two months[13] and thirty-three months respectively.[14] I give those orders no weight, since all three are orders only, without reasons that would reveal the underlying circumstances or that would indicate whether the issue before me was addressed in those cases. Further, the three orders pre-date the implementation of the Case Management Guideline, which reflected the Commission's heightened interest in seeing proceedings concluded expeditiously.

H. Ability of Staff to amend a Statement of Allegations

[33] Staff submits that it may be improper to file a Statement of Allegations before the investigation is complete, when Staff intends to amend the document to provide further particulars or otherwise.

[34] Nothing prevents Staff from continuing an investigation after filing a Statement of Allegations. Staff routinely amends Statements of Allegations when it considers amendments to be necessary and appropriate. Often the amendments provide additional particulars and/or introduce new substantive allegations, including additional alleged breaches of Ontario securities law. In some cases, allegations are withdrawn. There is no rule, practice guideline, or decision of the

8 http://www.osc.gov.on.ca/en/Proceedings_all-commission_index.htm

9 (2015), 38 OSCB 835.

10 (2014), 37 OSCB 4168.

11 *Re Azeff* (2012), 35 OSCB 5159 at paras 211, 285-87.

12 *Re Norshield Asset Management (Canada) Ltd.* (2006), 29 OSCB 4952.

13 *Re FactorCorp Financial Inc.* (2009), 32 OSCB 4052.

14 *Re Buckingham Securities Inc.* (2001), 24 OSCB 4558.

Commission of which I am aware (and none was referred to by Staff) that would inhibit a good faith amendment of a Statement of Allegations during an Enforcement Proceeding.

[35] I have no doubt that Staff continues to work hard, particularly to reconcile the flow of funds, a step that is often an important component to Staff's case at a merits hearing. However, the record suggests strongly that Staff is in a position to prepare a Statement of Allegations with reasonable particularity. Staff submitted sworn evidence in the Receivership Application more than one year ago in which a Senior Forensic Accountant in the Enforcement Branch of the Commission stated without reservation or qualification that the Respondents had engaged in and were continuing to engage in the breaches of Ontario securities law described above. Staff's factum, submitted to the Superior Court of Justice, was equally definitive. When this affidavit was discussed at the hearing before me, Staff did not retreat from the sworn evidence.

I. Balancing the considerations

[36] Cases such as this one present an unavoidable interplay between a temporary order and the Enforcement Proceeding that almost always follows. Staff's clear discretion with respect to a Statement of Allegations cannot be disentangled from the Commission's obligation to decide whether it is in the public interest to extend a temporary order.

[37] As discussed earlier, each of the many considerations reviewed above is relevant to an assessment of the public interest in the context of Staff's request. The relative weights of the considerations listed above do not remain static for the life of the investigation. In fact, the opposite is true.

[38] As Staff observes, notice to the Respondents is not as compelling a consideration as it would be had the Respondents objected to Staff's request. Having said that, I am reluctant to attribute significant weight to the Respondents' non-objection, given that they are not represented by counsel in the TCTO Proceeding.

[39] The investor protection purpose of the Temporary Order has diminished over time while the interests of transparency and control over the process continue to increase. The record demonstrates a thorough investigation that began no later than early July of 2015, and which has, according to Staff, enabled Staff to describe the most important elements of a Statement of Allegations. Such a document could be amended as necessary once issued. While Staff considers itself currently unable to file a Statement of Allegations that is as precise and particular as it would like, Staff's evidence in the Receivership Application and submissions in various hearings in the TCTO Proceeding give the clear impression that Staff fully intends to file a Statement of Allegations.

[40] No alternative has been presented that would better achieve the important goals described above, and no prejudice to the Respondents has been identified that would result from the filing of a Statement of Allegations in the near future. Weighing all these considerations, I find that the time is very near when the Temporary Order ought not to be extended unless one or more relevant factors change sufficiently to cause that conclusion to change.

IV. CONCLUSION

[41] For the reasons set out above, I decline to grant the five-month extension requested by Staff. I will issue an order that extends the Temporary Order by a further two months, to February 7, 2017, to permit Staff and the Respondents to consider these reasons. Staff should contact the Secretary's Office to arrange a hearing on or before that date, should Staff intend to seek a further extension of the Temporary Order.

[42] I do not purport to, nor do I have the authority to, bind a future panel of the Commission whether I am a member of that panel or not. Having said that, I observe that if, two months from now, there are no changed circumstances other than the passage of time, and there are no novel and persuasive submissions, then the importance of transparency and the Commission's control over its process will have grown relative to the investor protection considerations. Under those circumstances, if they exist at that time, it will be more difficult for Staff to justify a further extension of the Temporary Order. If I were considering such a request, I would likely decline it.

Dated at Toronto this 7th day of December, 2016.

"Timothy Moseley"

3.1.2 Blue Gold Holdings Ltd. et al. – ss. 127, 127.1

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

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

REASONS AND DECISION ON SANCTIONS AND COSTS
(Sections 127 and 127.1 of the Securities Act)

Hearing:	November 4, 2016		
Decision:	December 7, 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
	Clarke Tedesco	–	For Raj Kurichh
	No one appeared for Blue Gold Holdings Ltd. or Nigel Greening		

TABLE OF CONTENTS

REASONS AND DECISION ON SANCTIONS AND COSTS

I. OVERVIEW

[1] In a merits decision issued on July 26, 2016 (the "**Merits Decision**"),[1] the Ontario Securities Commission (the "**Commission**") found that the respondents Blue Gold Holdings Ltd. ("**BGH**"), Raj Kurichh and Nigel Greening had contravened various provisions of the *Securities Act* (the "**Act**").[2] No findings were made against the respondent Derek Blackburn, who died before the merits hearing and against whom Enforcement Staff of the Commission ("**Staff**") withdrew all allegations.

[2] The Commission made the following findings:

a. BGH, Kurichh and Greening (collectively referred to as the "**Respondents**" for the purposes of this decision) engaged in the business of trading without being registered, contrary to section 25 of the Act;

b. BGH and Kurichh engaged in illegal distributions of BGH shares, contrary to section 53 of the Act; and

c. BGH and Kurichh contravened section 38 of the Act by representing that BGH would become a public company listed on an exchange.

[3] The Commission also found various frauds:

a. Kurichh knowingly participated in BGH's fraudulent misrepresentations regarding BGH's sales pipeline and government approval of BGH's activities, contrary to section 126.1 of the Act;

b. Kurichh actively participated in Blackburn's fraudulent diversion of company funds for Blackburn's personal use, contrary to section 126.1 of the Act; and

c. BGH and Kurichh fraudulently diluted the interests of BGH's retail shareholders (the "**Dilution Fraud**"), contrary to section 126.1 of the Act.

[4] At paragraphs 9(e) and 88(e) of the Merits Decision, the Commission found that Kurichh and Greening, as directors and officers of BGH, were also deemed to have contravened Ontario securities law by their having acquiesced in or actively participated in BGH's breaches. In those paragraphs, the Commission should have cited section 129.2 of the Act but incorrectly cited section 129.1. With that correction, the finding stands.

[5] Staff seeks the following:

a. permanent orders effectively removing the Respondents from Ontario's capital markets;

b. permanent orders prohibiting Kurichh and Greening from being directors or officers, or from being a registrant, fund manager or promoter;

c. administrative penalties of $200,000 and $150,000 against Kurichh and Greening, respectively, with BGH being jointly and severally liable for these penalties;

d. orders that the Respondents disgorge amounts obtained as a result of their non-compliance with Ontario securities law; and

[1] *Re Blue Gold Holdings Ltd.* (2016), 39 OSCB 6947.

[2] RSO 1990, c S.5.

e. costs of approximately $180,000 against Kurichh and $25,000 against Greening, with BGH being jointly and severally liable for both amounts.

[6] For the reasons that follow, we order the permanent bans and administrative penalties sought by Staff, as well as disgorgement orders and costs. The prohibition against Kurichh trading in securities is subject to a carve-out following payment of the amounts ordered.

II. LEGAL FRAMEWORK

[7] Subsection 127(1) of the Act lists the sanctions that may be imposed where the Commission considers it to be in the public interest to do so. This jurisdiction must be exercised in a manner consistent with the two purposes of the Act; namely the protection of investors from unfair, improper or fraudulent practices, and the fostering of fair and efficient capital markets and confidence in the capital markets.[3]

[8] The Supreme Court of Canada held in 2001 that the public interest jurisdiction and the sanctions listed in section 127 of the Act are protective and preventive and are intended to prevent future harm to Ontario's capital markets.[4] Any sanctions must be appropriate and proportionate to the respondent's conduct in the circumstances of the case.

[9] The Commission has identified a non-exhaustive list of factors to be considered with respect to sanctions generally, including the seriousness of the misconduct, any mitigating factors, and the likely effect of any sanction on the respondent as well as on others ("general deterrence").[5]

III. ANALYSIS

A. THE RESPONDENTS

[10] Staff submits that the Respondents' misconduct, including the illegal trading and distribution of securities, was all part of a scheme to defraud investors. That may not have been the case from BGH's inception, since, as noted in the Merits Decision, "BGH was, at least for a time, attempting to conduct a legitimate business."[6] However, we agree with Staff's submission that over time, all of the Respondents' misconduct served to facilitate the frauds perpetrated against the BGH investors.

[11] The seriousness of the Respondents' misconduct is compounded by the significant financial harm that the misconduct caused BGH investors and by the fact that it was not an isolated occurrence. Rather, it was recurrent and extended over a long time.

[12] The steps taken by the Respondents are a clear justification for the concern expressed in 2010 by Staff of the Canadian Securities Administrators (CSA) regarding certain going public transactions.[7] CSA Staff identified characteristics that may indicate that a transaction is contrary to the public interest. The following circumstances are particularly relevant to this matter and underscore the seriousness of the Respondents' conduct:

a. a business with little operating history and no clear proxy for valuation;

b. intended reliance on a stock exchange as the sole gatekeeper;

c. issuance of shares for nominal amounts, particularly where founders receive a large block of shares in return for a nominal amount compared to the initial public offering price; and

d. founders who spend little time or resources developing the business.

B. KURICHH

1. Introduction

[13] Kurichh was inexperienced in the capital markets. He testified that his background was in policing and that his involvement with BGH was the first time he had ever raised capital. Staff did not challenge this assertion.

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3 Subsection 1(1) of the Act.

4 *Committee for Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission),* 2001 SCC 37 at paras 42-43.

5 *Re Bradon Technologies Ltd.* (2016), 39 OSCB 4907 ("***Bradon***") at para 28; and at para 47, citing *Re Cartaway Resources Corp.*, [2004] 1 SCR 672 at para 52.

6 Merits Decision at para 21.

7 CSA Staff Notice 41-305: *Share Structure Issues – Initial Public Offerings* (2010), 33 OSCB 8469.

[14] Kurichh first met Blackburn in 2005. In 2010, Blackburn told Kurichh about his new venture, and Kurichh became an officer of BGH from its earliest days. He maintains that his activities were limited to raising capital and "keep[ing] investors happy", and that he was not involved in the technical side of the business.

2. Kurichh's Misconduct

[15] As is reflected in the Merits Decision, some of Kurichh's fraudulent conduct was deliberate and planned. He knowingly:

a. participated in the issuance of a blatantly false news release that claimed that BGH's technology had received approval from the provincial government;

b. participated in the production of false documents that significantly overstated the true value of BGH's sales pipeline;

c. played a part in falsifying BGH's subscription forms, some of which purported to show that an investor was "a close personal friend of a director, executive officer, founder or control person" of BGH, when Kurichh knew that this was not the case; and

d. participated in the diversion of company funds to Blackburn's personal use.

[16] Kurichh engaged in the business of trading in securities without being registered and in illegal distributions of BGH shares, and he made prohibited representations that BGH would become a public company, listed on an exchange.

[17] In addition, Kurichh was an active participant in the Dilution Fraud, although he did not expressly admit to having acted deceitfully. Despite that, his conduct breached section 126.1 of the Act, which imposes responsibility where a person participates in conduct that the person "knows or reasonably ought to know perpetrates a fraud".

3. Potential Mitigating Factors

[18] In determining sanctions that would be proportionate to a respondent's conduct, the Commission should consider potentially mitigating factors, including the role played by the respondent in any breaches, the respondent's experience in the marketplace and whether the respondent has recognized the seriousness of the misconduct or has otherwise expressed remorse.

(a) Kurichh's role in the frauds other than the Dilution Fraud

[19] Kurichh testified at the merits hearing, and submits now, that he played a secondary role to that of Blackburn with respect to all the activities that are the subject of this proceeding. This assertion was not seriously challenged by Staff and was corroborated by the merits hearing testimony of Mr. Albi, who was a sometime Chief Financial Officer and accounting service provider to BGH and related entities. We accept Kurichh's description of his overall involvement in BGH relative to that of Blackburn.

[20] However, Kurichh goes further. He testified at the merits hearing that he did everything at Blackburn's direction, including when Kurichh permitted the issuance of false documents with his name on them, and when Kurichh knowingly repeated false claims to investors. According to Kurichh, this is just the way Blackburn operated.

[21] In addition, Kurichh maintains that as far as he knew, BGH and Blackburn were relying upon legal advice from a reputable law firm. Kurichh says he was comforted by that belief.

[22] These assertions cannot benefit Kurichh with respect to frauds in which he was deliberately deceitful. The seriousness of that misconduct is not moderated by the fact that others participated, and we reject the suggestion that Kurichh was in any way pressured or compelled to engage in it. Kurichh did not claim that he even considered walking away from this enterprise at any time, and he offered no reason why he could not have done so had he made that choice.

[23] Similarly, these frauds are not justified by the sometime presence of a law firm, particularly given the limited communication between Kurichh and the firm. The only evidence of any such communication came from Kurichh, who identified five interactions over the course of a year and a half. Kurichh did not suggest that in any of the five instances anyone at the firm said anything remotely connected to the fraudulent conduct set out in paragraph [15] above.

(b) Kurichh's role in the Dilution Fraud

[24] Kurichh's counsel submits that we ought to treat the Dilution Fraud differently. In his submission, Kurichh understood that "it was all being reviewed and approved by counsel." There is some truth to Kurichh's counsel's submission that Kurichh "stumbled backwards" into the Dilution Fraud, as opposed to having deliberately breached the law.

[25] While we accept the truth of Kurichh's statement as to his understanding, the basis upon which he reached his understanding is weak, and is insufficient for a corporate officer or director in the circumstances of this case. As noted in the Merits Decision,[8] Kurichh correctly conceded that as an officer of BGH throughout the material time, as a director from December 2012, and as one of very few principals of the company, he ought to have done his own due diligence. This is particularly true since, even on Kurichh's evidence, in none of the interactions with the law firm did he hear a member of the firm give advice with respect to the validity or propriety of any steps that Kurichh or others were taking. Kurichh was at least reckless, if not wilfully blind, in drawing the inference he did.

(c) Kurichh's experience in the marketplace

[26] Kurichh's inexperience in the capital markets at the time of his misconduct cannot inure to his benefit with respect to the frauds that involved deceit. Fundamental to each finding involving a falsehood was the patency of the falsehood and Kurichh's intentional dishonesty, the severity of which is unaffected by his lack of expertise about securities.

[27] the other hand, the Dilution Fraud did comprise a series of somewhat complex corporate transactions. Kurichh's inexperience cannot excuse his participation in the scheme, but we do accept that it is a mitigating factor in this case. We expect anyone who occupies the role that Kurichh did to fulfill their duties and to be on the alert for improper conduct that may harm innocent investors. This obligation would be more pronounced for more experienced individuals, because they are better equipped to identify misconduct and possibly to prevent it.

(d) Remorse or recognition of harm

[28] Finally, we are unable to give Kurichh credit for any recognition of the harm caused to BGH investors, or for otherwise showing remorse. At both the merits and sanctions hearings, the thrust of Kurichh's response was to minimize his role and to attempt to deflect responsibility to Blackburn.

[29] At the sanctions hearing before us, Kurichh chose not to submit any evidence or to demonstrate in any way that he is remorseful. Kurichh's counsel submitted that we should give Kurichh credit for his being co-operative during Staff's investigation. However, we have no evidence in support of this submission, and Staff urged us to reject it.

[30] Kurichh's counsel also drew our attention to a draft *Statement of Financial Condition of Raj Kurichh* that was attached to email correspondence between Staff and Mr. Kurichh's former counsel. We were asked to conclude that settlement discussions took place during which Kurichh had demonstrated a willingness to make admissions. We were urged to give Kurichh some credit for doing so. In our view, Staff was correct in its submission in response that we should reject that invitation. The evidence available to us gives no reliable sense of how prepared Kurichh was to make concessions.

[31] Kurichh did attend both hearings in their entirety and was respectful and co-operative throughout. With limited exceptions, he accepted the evidence against him.

4. Disgorgement

(a) General principles

[32] Paragraph 10 of subsection 127(1) of the Act provides that if "a person or company has not complied with Ontario securities law", the Commission may, if it determines it to be in the public interest to do so, issue "an order requiring the person or company to disgorge to the Commission any amounts obtained as a result of the non-compliance."

[33] The purpose of a disgorgement order is not to provide restitution; rather, it is an equitable remedy that seeks to prevent a wrongdoer from retaining amounts obtained through the wrongdoing.[9]

[34] As the Commission has previously made clear, the words "amounts obtained" are to be distinguished from the concept of profit earned. Calculation of amounts obtained is done without reference to whether a respondent "profited" from one or more breaches of Ontario securities law.[10]

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8 At paras 85-86.

9 *Re Phillips* (2015), 38 OSCB 9311 ("***Phillips***") at paras 25-26.

10 *Re Limelight Entertainment Inc.* (2008), 31 OSCB 12030 ("***Limelight***") at paras 48-49.

[35] If we decide to issue a disgorgement order against one or more respondents, we must determine the "amounts obtained" as a result of non-compliance. It is Staff's position that these words refer not only to sums of money obtained (from investors, for example), but also to the non-cash benefits received as a result of the Dilution Fraud, *i.e.*, the shares of Blue Gold Tailing Technologies Inc. ("**BGTT**"). Staff says that this interpretation both accords with the natural meaning of the words and aligns with the legislative objective.

[36] It is well established that the words of a statute are to be given their ordinary and natural meaning, consistent with the intention of the legislature.[11] As noted above in paragraph [7], the legislative purpose of the Act is found in the twin objectives set out in section 1.1, namely investor protection and the promotion of fair and efficient capital markets and confidence in those markets.

[37] Staff submits that the ordinary meaning of the word "amount" can include quantities other than cash, that there are instances of that term in the Act in contexts where it is clear that the word's meaning is not limited to cash,[12] and that the proposed broader interpretation better aligns with the legislative objectives of investor protection and confidence in the capital markets.

[38] In Staff's submission, the broader interpretation better protects investors and fosters greater confidence in the capital markets in the specific context of this case and in similar cases, because it seeks to prevent a respondent from retaining anything received as a result of breaches of the Act.

[39] We therefore agree with Staff's submissions as to the proper interpretation of "amounts obtained"; *i.e.*, that it refers not only to cash, but must also include non-cash amounts obtained by Kurichh through the Dilution Fraud or otherwise (*e.g.*, shares of Golden Cross Resources Inc., which has since changed its name to Fineqia International Inc., and is referred to as "**Fineqia**" throughout these reasons).[13]

[40] The Commission has previously referred to disgorgement-related principles that were established in decisions of the United States Securities and Exchange Commission, and that were then adopted by this Commission with the substitution in Ontario of "amounts obtained" rather than "profits earned" for the reasons referred to above in paragraph [34].

[41] After considering those principles, which support Staff's proposed interpretation, the Commission held that it should consider the following factors when contemplating a disgorgement order, in addition to the considerations regarding sanctions generally that are referred to in paragraph [9] above:

a. whether an amount was obtained by a respondent as a result of non-compliance with the Act;

b. the seriousness of the misconduct and whether investors were seriously harmed;

c. whether the amount that a respondent obtained as a result of non-compliance with the Act is reasonably ascertainable;

d. whether those who suffered losses are likely to be able to be compensated in another way; and

e. the deterrent effect (both general and specific) of a disgorgement order.[14]

(b) Calculation of amounts obtained

[42] We accept Staff's submission, not contested by Kurichh, that we should calculate the disgorgement amount as at the time of the Dilution Fraud without regard to any subsequent event, including for example disposition of, or diminution in value of, shares received.[15]

[43] Staff bears the onus, in the first instance, of proving on a balance of probabilities the amount obtained as a result of a respondent's misconduct. If Staff discharges that burden, the risk of any uncertainty in the calculation "should fall on the wrongdoer whose non-compliance with the Act gave rise to the uncertainty."[16]

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11 *York Condominium Corp. No. 382 v Jay-M Holdings Ltd.*, 2007 ONCA 49 at paras 11-14.

12 Paragraph 10 of subsection 128(3) ("money") in contrast to paragraph 15 of subsection 128(3) ("amounts obtained"); subsection 137(1); and paragraph 2(ii) of subsection 138.5(1) of the Act.

13 Golden Cross Resources Inc. changed its name to Blue Gold Water Technologies Limited prior to the amalgamation, changed its name again to NanoStruck Technologies Inc., and then to Fineqia International Inc.

14 *Limelight* at para 52; *Re MRS Sciences Inc.* (2014), 37 OSCB 5611 at para 135, citing *Re Sabourin* (2010), 33 OSCB 5299 ("***Sabourin***") at paras 69 and 71.

15 *Phillips* at para 19.

(c) Personal benefits

[44] At the merits hearing, Staff submitted an analysis of the source and use of funds in connection with the matters referred to in the Statement of Allegations. The analysis showed that apart from the Dilution Fraud, Kurichh obtained a net amount of $376,288.09 from BGH, received further net proceeds of $91,545.00 from investors who acquired shares of BGH, and made business expenditures on behalf of BGH in the amount of $51,813.44. Staff seeks disgorgement of the funds Kurichh received from BGH and investors, less the amount he spent on behalf of the business, for a net total of $416,019.65. This amount was not challenged by Kurichh, and we accept it as accurate.

(d) Dilution Fraud

[45] Staff also submitted a summary of issuances of BGTT common shares that shows Kurichh receiving BGTT shares on four occasions in 2013. He received "consulting shares" (purportedly in return for consulting services provided) on January 15, January 31, and February 28, 2013 and gifted shares on March 8, 2013. All of Kurichh's 14.44 million shares of BGTT were exchanged in the amalgamation with Fineqia that closed on May 29, 2013.

[46] As noted above in paragraph [42], the amount to be disgorged should be calculated as at the time of the Dilution Fraud, *i.e.*, as Kurichh received the BGTT shares. Because BGTT shares were highly illiquid and did not trade for extended periods of time, it is impossible to directly attribute a market value to the shares as at a particular day. Staff submits that in the absence of a market price for the shares, we ought to refer to the closing price of Fineqia shares as near in time as possible to each of the four occasions on which Kurichh received shares, and then take into account the exchange ratio contemplated for the amalgamation.

[47] We asked Kurichh's counsel whether he proposed a better method of calculating this portion of the benefit that accrued to Kurichh. Kurichh's counsel was unable to offer an alternative. We therefore adopt Staff's proposed methodology. While this approach is not perfect, it is the best available.

[48] Staff's calculation, the detail of which was tendered as evidence and not challenged by Kurichh, leads to the conclusion that Kurichh received $2,270,559.95 worth of BGTT shares between January 15 and March 8, 2013. Staff seeks a disgorgement order in respect of the Dilution Fraud in the amount of $2,213,032.72, being the above value of BGTT shares less $57,527.73 as credit for Kurichh's consulting services actually provided, which amount was fixed by a BGTT resolution signed by Blackburn on January 15, 2013.

[49] The principles and considerations set out in paragraph [41] above support the inclusion of an amount in respect of the BGTT shares in any disgorgement order:

a. Kurichh received the BGTT shares as a result of the Dilution Fraud;

b. as the Commission has previously stated, fraud "is one of the most egregious securities regulatory violations and is both an affront to the individual investors directly targeted and decreases confidence in the fairness and efficiency of the entire capital market system generally";[17]

c. both investors who testified at the merits hearing described the total loss of their investment as being serious for them;

d. the amount obtained by Kurichh, *i.e.*, the value of the BGTT shares, is reasonably ascertainable; and

e. a disgorgement order would have a significant deterrent effect on Kurichh and others.

(e) Total to be disgorged

[50] Based on the above analysis, we conclude that it is in the public interest to order that Kurichh disgorge all amounts obtained as a result of the breaches of Ontario securities law found in the Merits Decision. This includes the $416,019.65 referred to in paragraph [44] above and the $2,213,032.72 referred to in paragraph [48] above, for a total of $2,629,052.37.

(f) Kurichh's offer to surrender Fineqia shares

[51] At the sanctions hearing, Kurichh offered to surrender the Fineqia shares that he controls, in part satisfaction of any disgorgement order we might make. However, the record before us does not tell a complete picture of what happened

[16] *Limelight* at para 53.

[17] *Re Bluestream Capital Corp.* (2015), 38 OSCB 2333 at para 45.

to Kurichh's Fineqia shares upon or following the amalgamation. A report from System for Electronic Disclosure by Insiders (SEDI) tendered at the sanctions and costs hearing shows Kurichh acquiring approximately 5.4 million shares of Fineqia on the date of the amalgamation. That same report indicates that Kurichh holds 5 million of those shares indirectly through Elbasan International Inc. ("**Elbasan**"), a corporation about which we heard no evidence either at the merits hearing or the sanctions and costs hearing. Kurichh holds the remaining 394,126 shares directly.

[52] At the sanctions hearing, we attempted to explore whether Kurichh has control over all shares of which he is shown as the beneficial owner. We were advised by his counsel that Kurichh does not, and that Kurichh "hasn't received any money for them", but we have no evidence to explain this, and we were given no further information by Staff or by Kurichh. While it is clear that there is some relationship between Kurichh and Elbasan, there is nothing in the record as to the nature of that relationship.

[53] Kurichh, through counsel, advised that the 5 million BGTT shares went directly to Elbasan and "were never his, personally." It is unclear to us on what basis this information can be reconciled with the SEDI report referred to above, that shows Kurichh as the beneficial owner of these shares.

[54] The only evidence before us leads us to the conclusion that Kurichh either received all of the Fineqia shares to which he was entitled and then disposed of some interest in some of the shares to Elbasan, or that he directed the transfer of some shares directly to Elbasan for no or some consideration. We cannot and need not speculate as to the circumstances of that possible transfer, and in any event the terms of whatever transfer happened do not reduce Kurichh's obligation to disgorge any amount obtained as a result of his misconduct.

[55] We accept Staff's submission that we ought not to attempt to fashion a mechanism whereby the Commission accepts control of some shares and oversees their disposition for the benefit of investors. While Kurichh's proposal that we do so is tempting in substance, we agree that it would be inappropriate for the Commission to manage or oversee such a process in this case, even assuming that the authority to do so exists.

5. Administrative Penalty

[56] Fraud is one of the most egregious regulatory violations. It is therefore not surprising that in many cases fraud has attracted some of the most severe sanctions available.

[57] Kurichh's breaches warrant the imposition of a meaningful administrative penalty. His acts of misconduct were recurrent, not isolated. He engaged in illegal trading and illegal distribution, and he made prohibited representations regarding listing. More seriously, his participation in the frauds involving deceit is unmitigated by any circumstances in his favour. His involvement in the Dilution Fraud contributed to significant financial losses being suffered by many investors, and represented a failure to discharge the responsibilities of a corporate officer and director in the circumstances in which he found himself.

[58] In reviewing previous Commission decisions in which administrative penalties were imposed, Staff found few that involved multiple respondents with varying degrees of culpability. Of the decisions that did meet that criterion,[18] the administrative penalties imposed upon the individual respondents who were found to have participated in fraud ranged from a minimum of $150,000 to a maximum of $750,000. In all those cases, the total investor loss was significantly less than in this case.

[59] Staff requested the imposition of a $200,000 administrative penalty against Kurichh. In our view, a greater penalty might be justified, given the finding of multiple frauds, the degree of Kurichh's participation in BGH's frauds, and the findings in addition to the frauds. However, the amount sought by Staff is not unreasonable and we accede to Staff's request.

6. Financial Sanctions Taken Together

[60] When the Commission imposes both a disgorgement order and an administrative penalty on a respondent, the Commission should consider the total of those sanctions in determining the appropriate amount of each.[19] In this case, we were not asked to reduce either the disgorgement amount or the administrative penalty in light of the other, should we make both orders. In any event, we see no reason to reduce either component. The disgorgement order fairly represents the amount improperly obtained, and the administrative penalty is at the lower end of the range, all for the reasons set out above.

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[18] *Bradon*; *Re Portfolio Capital Inc.* (2015), 38 OSCB 7357 ("***Portfolio***"); *Re 2196768 Ontario Ltd.* (2015), 38 OSCB 2374 ("***2196768***"); *Re Rezwealth Financial Services Inc.* (2014), 37 OSCB 6731; *Re Axcess Automation LLC* (2013), 36 OSCB 2919.

[19] *Re York-Rio Resources Inc.* (2014), 37 OSCB 3422 ("***York Rio***") at para 36, citing *Sabourin* at para 59.

[61] In addition, while a respondent's ability to pay may be a relevant consideration, it is not a dominant factor, and in any event we were not asked to reduce the amount of any financial sanction in recognition of Kurichh's ability to pay. Such a submission would have been difficult, given that we had no evidence of Kurichh's financial status. We were shown a draft and partially completed Statement of Financial Position purporting to show some information regarding Kurichh. We observe that the statement shows monthly revenue approximately equal to monthly expenses, and a net worth of approximately $24,000, including approximately 8.5 million shares of Fineqia (instead of the approximately 5.4 million reflected on the SEDI report). Those shares are stated to have an estimated fair market value of approximately $45,000 based on the last trading price of those shares before trading was halted on March 31, 2016, due to the announcement of a business change. The draft financial statement appears to have been prepared as at April 15, 2016, just two weeks later.

[62] However, the document is incomplete in substantial respects, is neither sworn nor affirmed, and was not tested by Staff. We therefore have no reliable basis on which, and no reason, to adjust our conclusions about the appropriate disgorgement or administrative penalty amounts.

7. Permanent Bans

[63] Staff requests that Kurichh be removed from the capital markets permanently through an order that, among other things, prohibits him from trading or acquiring securities, provides that the exemptions contained in Ontario securities law no longer apply to him, and prohibits him from acting as a director, officer, registrant, investment fund manager or promoter.

[64] Staff points to numerous Commission decisions in which individuals who have perpetrated a fraud are made subject to permanent bans of the kind sought by Staff.[20] Such bans often apply not only to the sole directing mind of an enterprise, but also to colleagues who played a lesser role but did participate in the fraud, usually along with other breaches such as contraventions of the dealer registration requirement or the prospectus requirement.[21]

[65] A permanent ban is a significant sanction that has both specific and general deterrent effect. For the reasons set out in paragraph [57] above, Kurichh's breaches warrant significant restrictions on his ability to participate in the capital markets.

[66] Taking all these factors into account, we find that it is in the public interest to order the permanent bans against Kurichh as requested by Staff, subject to the question of whether it would be appropriate to incorporate into those bans a "carve-out", *i.e.*, an opportunity for Kurichh to conduct limited trading at some point during the life of the order.

[67] Staff referred us to previous Commission decisions, some of which allowed a carve-out, and some of which did not. Kurichh submits that we should permit him to trade once he has satisfied any payment obligation we include in our order, as the Commission has ordered in some cases. Staff agreed that Kurichh's proposal was appropriate.

[68] We accept that submission. We therefore conclude that following satisfaction of the amounts Kurichh is ordered to pay, Kurichh should be able to trade in securities through one registrant who is given a copy of the Merits Decision and this decision, and a certificate of Staff that the amounts ordered to be paid have indeed been paid. Providing that Kurichh may trade through only one registrant ensures that the registrant has the complete picture of Kurichh's trading activity and would therefore be well positioned to prevent or detect impropriety.

8. Joint and Several Liability for Amounts Owed by BGH

[69] Staff submits that Kurichh ought to be held jointly and severally liable for the amount of any disgorgement order we make against BGH. As Staff notes, the Commission has on numerous occasions issued orders that hold one respondent jointly and severally liable for amounts ordered to be paid by another respondent.

[70] In support of this submission, Staff points to the fact that the calculation of the amount to be disgorged is as of early 2013, without any recognition that the shares beneficially held by Kurichh may already have, and/or may in the future, increase in value. Staff submits that we should reduce, as much as possible, the risk that Kurichh will satisfy the disgorgement order but be left retaining a benefit that he ought not to have.

[71] Staff's fear of this scenario is amplified by the fact that Fineqia is now seeking to "provide an online platform and associated services for the placement of debt and equity securities, initially in the UK", according to a news release issued on November 1, 2016. That same news release announces that Fineqia recently raised more than $5 million in a non-brokered oversubscribed private placement.

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20 See, *e.g.*, *Bradon* and *Portfolio*.

21 See, *e.g.*, *2196768* and *Re Winick* (2014), 37 OSCB 501.

[72] Kurichh's submission is that he ought not to be made jointly and severally liable for amounts owed by BGH, particularly because he has never had, and still has, no access to or control over the funds or assets in the hands of BGH. Kurichh distinguishes the decisions submitted by Staff on this basis.

[73] In support of this, Kurichh refers us to the Commission's 2013 decision in *Re Global Energy Group, Ltd.*,[22] which bears important similarities to this case. The Commission held that although more than US$16 million was raised from investors through a scheme involving a corporate respondent and two individual respondents, approximately US$11.5 million of those funds went into accounts over which none of those three respondents had any control or authority. The Commission declined to order that each of the three respondents disgorge the full amount. Instead, each respondent was required to disgorge the smaller amount obtained by that respondent.

[74] In response, Staff urged us to consider *Phillips*, the 2015 decision cited in paragraph [33] above, in which the Commission explicitly found that it was appropriate to hold the respondents jointly and severally liable for amounts obtained by non-respondents as part of the fraudulent scheme. In our view, there are important factors present in that case that are not applicable here:

a. the respondents created a complex corporate structure that comprised about 161 limited partnerships and companies, with significant interrelationships among, and transactions between, those entities;[23]

b. the Commission stated in *Phillips* that individual respondents "cannot shelter behind the corporate vehicles through which their conduct was carried out";[24] we see no basis to draw a similar conclusion in this case; and

c. the respondents in *Phillips* were registrants and had been registered in various capacities for a number of years.[25]

[75] In our view, the Commission decision in *Global Energy* is consistent with the principles discussed in paragraphs [32] to [41] above and we adopt its approach. We echo the concern of the Commission in *Sabourin*[26] that in the circumstances of this case, where each of BGH and Kurichh obtained separate amounts, with Kurichh's ostensibly being for the services he provided to BGH, holding Kurichh liable for amounts obtained by BGH could amount to "double counting". We caution that this concern is driven by the facts of this case, and must not be taken as a rejection of joint and several where appropriate.

[76] The disgorgement amount with respect to Kurichh represents the entirety of the amount he obtained through all of the events that were the subject of the Merits Decision. It also reflects the role that Kurichh played.[27] We decline to impose joint and several liability on Kurichh for amounts obtained by BGH.

C. GREENING

1. Introduction

[77] Our approach to analyzing Kurichh's role and the appropriate sanctions for Kurichh applies equally to Greening. We now consider the same principles and factors, in the context of the facts as they apply to Greening.

[78] Given Greening's failure to participate meaningfully in the merits hearing, or at all in the sanctions and costs hearing, we have no evidence from him that might be relevant to a sanctions order, beyond the evidence cited in the Merits Decision.

2. Greening's Misconduct

[79] The Commission found that Greening:

a. engaged in the business of trading without being registered, contrary to section 25 of the Act; and

b. as a director and officer of BGH throughout, is deemed to have contravened Ontario securities law by virtue of his having authorized, permitted or acquiesced in BGH's breaches.[28]

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22 (2013), 36 OSCB 12153 ("***Global Energy***") at para 81.

23 *Phillips* at para 41.

24 *Phillips* at para 22.

25 *Phillips* at para 38.

26 At para 71.

27 *York Rio* at para 69.

28 Merits Decision at para 88(e).

3. Potential Mitigating Factors

[80] Greening's role in the breaches was analyzed in the Merits Decision. For the reasons noted above, we have no evidence that might operate in Greening's favour as mitigating factors.

[81] In particular, we have no basis to conclude that Greening was acting at Blackburn's direction, we have no information about Greening's experience in the marketplace, and we have no indication of any remorse or other acknowledgment of the harm caused to investors.

4. Disgorgement

[82] Staff seeks a disgorgement order of $2,213,032.72 against Greening in respect of the Dilution Fraud, which amount is equal to that sought in respect of Kurichh. Greening and Kurichh received the same number of BGTT shares at the same times, and there is no reason to distinguish between them with respect to the Dilution Fraud. For the reasons set out above in paragraphs [46] to [49], we will order that Greening disgorge the same amount.

[83] In addition, Staff's analysis referred to in paragraph [44] above demonstrates that Greening received net proceeds of $256,777.56 from BGH share sales in breach of the dealer registration requirement, which amount remains in Greening's hands, as far as the record before us indicates. Staff's analysis also shows that Greening received an additional net amount of $79,187.00 from BGH. Staff seeks disgorgement of this amount as a result of Greening having authorized, permitted or acquiesced in all breaches but the Dilution Fraud.

[84] We accept Staff's unchallenged submissions with respect to disgorgement and will order that Greening disgorge a total of $2,548,997.28.

5. Administrative Penalty

[85] In our view, Greening should be ordered to pay a lesser administrative penalty than we concluded Kurichh should pay, since we did not find that Greening deliberately and deceitfully perpetrated a fraud. However, given Greening's role as director and officer throughout, and his resulting shared responsibility for BGH's participation in the Dilution Fraud, a significant administrative penalty is warranted. We find that it is in the public interest for Greening to pay an administrative penalty in the amount of $150,000.

6. Financial Sanctions Taken Together

[86] When we consider the total disgorgement amount and the administrative penalty against Greening together, we see no reason to adjust either, in the absence of a request to do so and in the absence of any evidence to support such a conclusion.

7. Permanent Bans

[87] Staff requests that Greening also be removed from the capital markets permanently through an order that, among other things, prohibits him from trading in or acquiring securities, provides that the exemptions contained in Ontario securities law no longer apply to him, and prohibits him from acting as a director, officer, registrant, investment fund manager or promoter.

[88] In our view, the permanent bans sought by Staff are appropriate in all the circumstances and are in the public interest, given Greening's role throughout as discussed in the Merits Decision, including his responsibility for BGH's participation in the Dilution Fraud.

[89] We had no request before us to allow Greening a "carve-out" following his satisfaction of amounts owing under our order, so we make no such provision.

8. Joint and Several Liability for Amounts Owed by BGH

[90] For the reasons set out above at paragraphs [75] to [76], we decline Staff's request to order that Greening be jointly and severally liable for any amounts we order to be paid by BGH.

D. BGH

[91] Staff requests that BGH be permanently removed from the capital markets through an order that, among other things, ceases trading in its securities, ceases trading by it in securities, and removes from it the benefit of the exemptions contained in Ontario securities law. In our view, such an order is amply supported by our findings in this case.

[92] Staff also seeks a disgorgement order against BGH, comprising two amounts, both of which are supported by Staff's analysis referred to in paragraph [44] above and are unchallenged:

a. $949,036.88, being the net amount obtained from investors less the net amounts obtained by Kurichh and Greening, as referred to in paragraphs [44] and [83] above; and

b. $3,516,001.41, the net amount obtained in respect of the Dilution Fraud, being the value of BGTT shares issued under the licence agreement between BGH and BGTT, less the value of the license rights under that agreement.

[93] We accept Staff's submission as to the amounts obtained by BGH. We must, however, determine whether it is in the public interest to order disgorgement of part or all of those amounts.

[94] As noted above in paragraph [33], the purpose of a disgorgement order is to prevent a wrongdoer from retaining amounts obtained through breaches of Ontario securities law. In this case, the wrongdoers were the individual Respondents. BGH was the vehicle through which they carried out their wrongdoing.

[95] To impose a substantial disgorgement order on BGH would, to the extent BGH has any assets and anyone with authority to dispose of those assets and direct the disgorgement of money, deprive harmed investors of any chance of recovering funds from BGH, should they decide to pursue a claim. While any such funds would be directed to worthwhile causes under subsection 3.4(2)(b) of the Act, in our view the better cause is the interests of the harmed investors. Accordingly, we decline to make a disgorgement order against BGH.

[96] For the same reasons, we decline Staff's request that BGH be made jointly and severally liable for the amounts ordered to be paid by Kurichh and/or Greening.

[97] In light of our conclusion that it is in the public interest to prohibit BGH from trading in securities, we wish to note that if BGH holds shares of Fineqia or any other securities and those securities have value that harmed investors choose to pursue, it is open to affected persons, on a proper application under section 144 of the Act, to ask the Commission to vary any order we make so as to permit the disposition of those securities.

IV. COSTS

[98] Section 127.1 of the Act empowers the Commission to order that a respondent pay costs of an investigation and hearing if the Commission is satisfied that the respondent has breached the Act. Such an order is not a sanction; instead it allows the Commission to recover some of the costs expended in connection with the investigation and hearing. In determining an appropriate order for costs, the Commission considers many factors,[29] among which the most relevant in this case are the seriousness of the breaches, the relative impact of each respondent on the costs incurred, the respondent's conduct in the proceeding, and the reasonableness of the costs requested by Staff.

[99] In support of its claim for costs, Staff submitted detailed evidence that identifies each member of Staff who was involved in the investigation and the hearings, with the corresponding number of hours spent by, and hourly rate for, each person. Staff documented approximately $15,000 in disbursements, consisting primarily of court reporting services.

[100] Staff seeks costs in the total amount of approximately $204,000, which represents a discount of approximately 77% from the costs incurred. In arriving at this substantial discount, Staff limited its claim for time to that spent by only one investigator and one counsel. Staff further reduced the amount claimed by attributing most of the time spent to the investigation of Blackburn's activities and to preparation for a merits hearing that would include Blackburn as a respondent.

[101] Staff asks that the costs order against Greening be $25,000 of the total $204,000 sought. In our view, that amount is toward the low end of a reasonable range. While Greening's role in the breaches of Ontario securities law was less active than Kurichh's, those breaches were serious, Greening was a founder of BGH, he was a director and officer of BGH throughout, he executed all the necessary resolutions, and he was responsible for each of BGH's contraventions.[30] However, the amount requested is reasonable, and we will make that order.

[102] Staff seeks the balance of $179,000 from Kurichh. Staff is being conservative in its overall approach by excluding the time in respect of Blackburn and by applying a further discount from time spent. However, in our view a costs amount

[29] *Bradon* at para 114, citing *Re Ochnik* (2006), 29 OSCB 5917 at para 29; Ontario Securities Commission *Rules of Procedure* (2014), 37 OSCB 4168, r 18.2.

[30] Merits Decision at para 87.

of $100,000 is more appropriate for Kurichh, particularly because had it not been for Blackburn's conduct, the allegations in this proceeding (including those against Kurichh) would likely have been substantially narrower, had there been any at all.

V. CONCLUSION

[103] For the reasons set out above, we will issue an order that provides as follows:

a. with respect to BGH:

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

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

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

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

b. with respect to Kurichh:

i. pursuant to paragraph 9 of subsection 127(1) of the Act, Kurichh shall pay to the Commission an administrative penalty of $200,000, which amount shall 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;

ii. pursuant to paragraph 10 of subsection 127(1) of the Act, Kurichh shall disgorge to the Commission $2,629,052.37, which amount shall 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;

iii. pursuant to section 127.1 of the Act, Kurichh shall pay $100,000 to the Commission to reimburse the costs of the investigation and hearings;

iv. pursuant to paragraphs 2 and 2.1 of subsection 127(1) of the Act, trading in any securities or derivatives by Kurichh, and the acquisition of any securities by Kurichh, shall cease permanently, except that following satisfaction of the three payments required to be paid by him, evidenced by a certificate issued by Staff of the Commission, Kurichh may trade securities in his own name, only through one registrant who has been given a copy of the Merits Decision and this decision;

v. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Kurichh permanently, except to the extent necessary to allow him to trade securities as permitted by the preceding paragraph;

vi. pursuant to paragraphs 7, 8, 8.1, 8.2, 8.3 and 8.4 of subsection 127(1) of the Act, Kurichh shall immediately resign any position he holds as a director or officer of an issuer, registrant or investment fund manager, and that he be prohibited permanently from holding any such position; and

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

c. with respect to Greening:

i. pursuant to paragraph 9 of subsection 127(1) of the Act, Greening shall pay to the Commission an administrative penalty of $150,000, which amount shall 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;

ii. pursuant to paragraph 10 of subsection 127(1) of the Act, Greening shall disgorge to the Commission $2,548,997.28, which amount shall 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;

iii. pursuant to section 127.1 of the Act, Greening shall pay $25,000 to the Commission to reimburse the costs of the investigation and hearings;

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

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

vi. pursuant to paragraphs 7, 8, 8.1, 8.2, 8.3 and 8.4 of subsection 127(1) of the Act, Greening shall immediately resign any position he holds as a director or officer of an issuer, registrant or investment fund manager, and that he be prohibited permanently from holding any such position; and

vii. pursuant to paragraphs 8.5 of subsection 127(1) of the Act, Greening is prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter.

Dated at Toronto this 7th day of December, 2016.

“Alan Lenczner”

“Janet Leiper”

“Timothy Moseley”

3.1.3 Portfolio Strategies Securities Inc. and Clifford Todd Monaghan

IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5

AND

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

AND

IN THE MATTER OF
CLIFFORD TODD MONAGHAN

REASONS AND DECISION

Hearing:	December 5, 2016		
Decision:	December 8, 2016		
Panel:	Alan J. Lenczner	–	Commissioner
Appearances:	Matthew Britton	–	For Staff of the Commission
	Diana Iannetta	–	For Staff of the Investment Industry Regulatory Organization of Canada
	Usman Sheikh	–	For Portfolio Strategies Securities Inc.
	Clifford Todd Monaghan	–	For himself

REASONS AND DECISION

[1] Mr. Monaghan has filed an Amended Application for a Hearing and Review (Application) of the Investment Industry Regulatory Organization of Canada's (IIROC) April 13, 2012 approval of the recapitalization of Portfolio Strategies Securities Inc. (PSSI) and the Ontario Securities Commission (OSC) non-objection letter dated April 20, 2012.

[2] In response, PSSI, the OSC and IIROC brought motions to dismiss or stay the Application on the basis that: (1) Mr. Monaghan is not directly affected by the decision and therefore has no standing to bring the hearing and review, (2) the request for the hearing and review was filed after the 30 day time limit set out in the *Securities Act* RSO 1990, c S.5 (the Act), and (3) the request for a hearing and review is frivolous and vexatious.

[3] Mr. Monaghan brought a cross motion to dismiss the motions of PSSI, the OSC and IIROC.

[4] Mr. Monaghan is a shareholder of Laurier Capital Holdings Inc. (LCHI). He owns 34.4% of LCHI. Prior to the approval of the PSSI transaction, LCHI held 100% ownership of PSSI. After the approval of the PSSI transaction, LCHI's interest in PSSI was reduced to 4.8%.

[5] Mr. Monaghan's complaint is that IIROC approved the PSSI transaction based on incorrect and misleading information and that notice of IIROC's decision approving the transaction was not promulgated in a timely manner. At the hearing Mr. Monaghan emphasized that the failure of IIROC to post its decision approving the transaction on its website and the lack of transparency surrounding the decision significantly delayed Mr. Monaghan's ability to properly seek civil remedies; specifically to bring an oppression remedy to rectify the stripping of his value in PSSI.

[6] The relief sought by Mr. Monaghan in his request for a hearing and review does not fall within the jurisdiction of IIROC or the OSC. In his application, Mr. Monaghan seeks to unwind the PSSI transaction because the dilutive outcome of the transaction was unfavourable to him. Private issues between shareholders do not fall within IIROC or the OSC's regulatory authority. Commercial disputes fall within the jurisdiction of the courts. Mr. Monaghan was unsuccessful before the Superior Court and Divisional Court and now he is attempting to use the OSC hearing and review process as a way to request an unwinding of the PSSI transaction.

[7] IIROC has the role of overseeing all investment dealers, which also includes approving transactions involving investment dealers. IIROC Dealer Member Rule 5.4 which parallels the requirement in section 11.10 of NI 31-103 requires that IIROC approve transactions that permit an investor to own a significant equity interest in a dealer member. It is through this lens that IIROC reviewed the PSSI transaction. As part of this review, pursuant to IIROC Rule 5.4(2)(c) IIROC examined the following factors: whether the transaction is likely to give rise to a conflict of interest, whether it is likely to hinder the registered firm in complying with securities legislation, whether the transaction is inconsistent with an adequate level of investor protection, or otherwise prejudicial to the public interest.

[8] The IIROC District Council considered as a relevant factor that:

> The transaction will not result in a change in the operations of PSSI, its key Executive (i.e. UDP and CCO) or the composition of its board of directors. From a regulatory perspective the transaction should have no material impact. Background checks were conducted on HoldCo and no concerns were identified such that approval of the transaction should be withheld. Messrs. Kent, Carbonaro, Gilday and Poulter are all currently IIROC Approved Persons and Mr. Kent is already approved as an Investor.
>
> (Memorandum to the IIROC District Council dated March 21, 2012 – Exhibit 1 page 124)

[9] This was a straightforward transaction which only involved a change in share ownership. The issues raised by Mr. Monaghan are not regulatory issues but shareholder issues which belong before the proper forum in the courts. Mr. Monaghan cannot bring such disputes before the regulators.

[10] In order to bring a request for a hearing and review before the OSC, the person requesting the review must be "directly affected" by the decision. The leading case interpreting the meaning of "directly affected" is *Re Instinet Corp.*, (1995) 18 OSCB 5439 (*Instinet*). In that case, it was emphasized at paragraph 57 that:

> Given the nature and purpose of our registration system, it was difficult for us to conceive of a case in the registration context where someone other than the registrant or an applicant for registration would be "directly affected" by a Director's decision.

[11] The reasoning in *Instinet* also applies to the current case. PSSI is the investment dealer and was directly affected by the decision to approve the transaction and received notice of the decision. Individual shareholders of an investment dealer are not provided with notice of the decision. Mr. Monaghan is a shareholder of LCHI, which held a position in PSSI. With respect to the nature of the power exercised by IIROC, this was a regulatory power intended to assess the fitness for registration of any new significant investor of a regulated investment dealer and was directed towards ensuring the protection of the investing public as clients of such dealers. It was not the role of IIROC to address complaints of a shareholder regarding corporate acts of recapitalization.

[12] The Act also requires that a request for a hearing and review of a decision of a self-regulatory organization must be brought within 30 days after the mailing of the notice of the decision.

[13] In this case, the IIROC decision to approve the transaction was dated April 13, 2012. Mr. Monaghan's initial application for a hearing and review is dated June 3, 2015, more than 3 years later.

[14] More importantly, a review of the documents from Mr. Monaghan's civil proceedings demonstrates that Mr. Monaghan was aware of the regulatory approvals for the PSSI transaction at a much earlier date. Once Mr. Monaghan received the non-consolidated September 30, 2013 financial statements for LCHI in January 2014, which showed that LCHI no longer owned 100% of PPSI, it was clear that a transaction had taken place. Upon reviewing this financial statement Mr. Monaghan requisitioned a shareholder meeting of LCHI, the result of which he rejected. He then commenced civil proceedings. Specifically, Mr. Monaghan knew that the PSSI transaction took place as paragraph 15 of his 2014 Statement of Claim in the civil oppression remedy proceeding states:

> On January 26, 2014 the Plaintiff learned that sometime in 2012 the Corporation's 100% interest in Portfolio Strategies was reduced to 4.8%.

[15] In the civil proceeding, Mr. Monaghan argued before Justice Penny of the Superior Court of Justice for Ontario that the PSSI transaction was never actually confirmed until 2014 and that the form and result of the transaction were not precisely contemplated earlier on. However, Justice Penny rejected this argument:

> Given the plaintiff's admissions on discovery and his counsel's correspondence in 2011, I can only conclude that the limitation period with respect to the claim on the Portfolio dilution transaction

> began to run, at the latest, between January and May 2011, more than three years before the claim was eventually commenced.
>
> (Endorsement of Justice Penny of the Ontario Superior Court of Justice, dated February 16, 2016 at para. 39)

[16] On February 16, 2016, Justice Penny granted the motion for summary judgment dismissing Mr. Monaghan's civil claim as statute-barred. This decision was upheld by the Divisional Court on November 10, 2016.

[17] I see no reason to interfere with the decision of the Superior Court and Divisional Court. These courts found that Mr. Monaghan knew of the approval of the PSSI transaction at an earlier date and he could have commenced his legal proceedings earlier within the limitation period. The same applies for Mr. Monaghan's request for a hearing and review. Mr. Monaghan failed to take timely action to commence his request for a hearing and review within any reasonably applied time limit.

[18] Taking into consideration that Mr. Monaghan did not adhere to the time limit in the Act to bring his request for a hearing and review when he had knowledge of the PSSI transaction and that Mr. Monaghan is not a person directly affected by IIROC's regulatory decision to approve the PSSI transaction and that the relief sought by Mr. Monaghan is relief that is properly the subject of an oppression remedy before the courts and is part of a shareholder dispute that does not fall within the regulatory mandate of IIROC and the OSC to review, I grant the motions of PSSI, IIROC and the OSC and dismiss Mr. Monaghan's Application for a hearing and review.

Dated at Toronto this 8th day of December 2016.

"Alan J. Lenczner"

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke

THERE IS NOTHING TO REPORT THIS WEEK.

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Altitude Resources Inc.	02 December 2016	08 December 2016

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order

THERE IS NOTHING 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
AlarmForce Industries Inc.	19 September 2016	30 September 2016	30 September 2016		
Performance Sports Group Ltd.	19 October 2016	31 October 2016	31 October 2016		
Starrex International Ltd.	30 December 2015	11 January 2016	11 January 2016		

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Chapter 5

Rules and Policies

5.1.1 Amending Instruments for OSC Rules 13-502 Fees and 13-503 (Commodity Futures Act) Fees

AMENDMENTS TO
OSC RULE 13-502 *FEES*
AND
OSC RULE 13-503 *(COMMODITY FUTURES ACT) FEES*

Making of Amending Instruments

On December 6, 2016, the Commission by way of quorum approved amending instruments (**Amending Instruments**) to amend OSC Rule 13-502 *Fees* (**OSC Rule 13-502**) and OSC Rule 13-503 *(Commodity Futures Act) Fees* (**OSC Rule 13-503**).

Delivery of Amending Instruments to Minister

The Commission delivered the Amending Instruments to the Minister of Finance on December 8, 2016. If the Minister approves the amendments within 60 days, they will come into force on March 1, 2017.

Substance and Purpose of Amending Instruments

Section 7.1 of OSC Rule 13-502 and section 4.1 of OSC Rule 13-503 each require non-Canadian dollar amounts referenced in each rule as of a particular date to be converted into Canadian dollars, using the daily noon exchange rate posted on the Bank of Canada website as of the particular date. From March 1, 2017, the Bank of Canada plans to post daily exchange rates calculated as of 4:30 p.m. rather than those calculated as of noon.

For example, participation fees for a reporting issuer under OSC Rule 13-502 are based on the issuer's capitalization in Canadian dollars. Section 7.1 of OSC Rule 13-502 specifies the exchange rate for the calculation, in the event that the initial capitalization calculation is in a foreign currency.

To take into account this change on the Bank of Canada website and to provide for administrative convenience for market participants, the Commission has made amendments to each of the Rules so that the exchange rate used for a particular date is the daily exchange rate posted on the Bank of Canada website for the last business day preceding the particular date.

The amendments do not materially change OSC Rule 13-502 or OSC Rule 13-503, so they have not been published for comment.

Authority for Amending Instruments

Paragraph 143(1)43 of the *Securities Act* provides authority for making the amendment to OSC Rule 13-502.

Paragraph 65(1)25 of the *Commodity Futures Act* provides authority for making the amendment to OSC Rule 13-503.

Annexes

Annexes A and B contain the Amending Instruments.

Questions

Please refer your questions to:

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ANNEX A

AMENDMENT TO OSC RULE 13-502 *FEES*

1. Ontario Securities Rule 13-502 Fees is amended by this Instrument.

2. Section 7.1 is replaced with the following:

7.1 **Canadian dollars** – If a calculation under this Rule requires the price of a security, or any other amount, as it was on a particular date, and that price or amount is not in Canadian dollars, it must be converted into Canadian dollars using the daily exchange rate for the last business day preceding the particular date as posted on the Bank of Canada website.

3. This Instrument comes into force on March 1, 2017.

ANNEX B

AMENDMENT TO OSC RULE 13-503 *(COMMODITY FUTURES ACT) FEES*

1. Ontario Securities Rule 13-503 (Commodity Futures Act) Fees is amended by this Instrument.

2. Section 4.1 is replaced with the following:

4.1 **Canadian dollars** – If a calculation under this Rule requires the price of a security, or any other amount, as it was on a particular date, and that price or amount is not in Canadian dollars, it must be converted into Canadian dollars using the daily exchange rate for the last business day preceding the particular date as posted on the Bank of Canada website.

3. This Instrument comes into force on March 1, 2017.

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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:
Allied Properties Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 8, 2016
NP 11-202 Preliminary Receipt dated December 8, 2016
Offering Price and Description:
$1,000,000,000.00 - Debt Securities, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2564629

Issuer Name:
American Hotel Income Properties REIT LP
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated December 9, 2016
NP 11-202 Preliminary Receipt dated December 9, 2016
Offering Price and Description:
Cdn$100,062,000.00 - 9,810,000 Units
Price: Cdn$10.20 per Offered Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
TD Securities Inc.
Canaccord Genuity Corp.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
Haywood Securities Inc.
Industrial Alliance Securities Inc.
RBC Dominion Securities Inc.
Promoter(s):
-
Project #2563813

Issuer Name:
Baylin Technologies Inc.
Principal Regulator - Ontario
Type and Date:
Amened and Restated Preliminary Short Form Prospectus dated December 8, 2016
NP 11-202 Preliminary Receipt dated December 9, 2016
Offering Price and Description:
$5,000,550.00 - 2,703,000 Common Shares
Price: $1.85 per Common Share
Underwriter(s) or Distributor(s):
Paradigm Capital Inc.
Raymond James Ltd.
Promoter(s):
-
Project #2555534

Issuer Name:
Boralex Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated December 9, 2016
Received on December 8, 2016
Offering Price and Description:
$150,016,500.00 - 9,010,000 Subscription Receipts each, representing the right to receive one Common Share
Price: $16.65 per Subscription Receipt
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Desjardins Securities Inc.
TD Securities Inc.
Cormark Securities Inc.
Industrial Alliance Securities Inc.
Raymond James Ltd.
Promoter(s):
-
Project #2564863

Issuer Name:
Brookfield Infrastructure Finance Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 8, 2016
NP 11-202 Preliminary Receipt dated December 9, 2016
Offering Price and Description:
C$2,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2564712

Issuer Name:
Brookfield Infrastructure Finance LLC
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 8, 2016
NP 11-202 Preliminary Receipt dated December 9, 2016
Offering Price and Description:
C$2,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2564711

Issuer Name:
Brookfield Infrastructure Finance Pty Ltd
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 8, 2016
NP 11-202 Preliminary Receipt dated December 9, 2016
Offering Price and Description:
C$2,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2564713

Issuer Name:
Brookfield Infrastructure Finance ULC
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 8, 2016
NP 11-202 Preliminary Receipt dated December 9, 2016
Offering Price and Description:
C$2,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2564709

Issuer Name:
Epoch European Equity Fund
Epoch Global Equity Class
Epoch Global Equity Fund
Epoch Global Shareholder Yield Currency Neutral Fund
Epoch Global Shareholder Yield Fund
Epoch International Equity Fund
Epoch U.S. Blue Chip Equity Currency Neutral Fund
Epoch U.S. Blue Chip Equity Fund
Epoch U.S. Large-Cap Value Class
Epoch U.S. Large-Cap Value Fund
Epoch U.S. Shareholder Yield Fund
TD Advantage Aggressive Growth Portfolio
TD Advantage Balanced Growth Portfolio
TD Advantage Balanced Income Portfolio
TD Advantage Balanced Portfolio
TD Advantage Growth Portfolio
TD Asian Growth Class
TD Asian Growth Fund
TD Balanced Growth Fund
TD Balanced Income Fund
TD Balanced Index Fund
TD Canadian Blue Chip Dividend Fund
TD Canadian Bond Fund
TD Canadian Bond Index Fund
TD Canadian Core Plus Bond Fund
TD Canadian Corporate Bond Fund
TD Canadian Diversified Yield Fund
TD Canadian Equity Class
TD Canadian Equity Fund
TD Canadian Equity Pool
TD Canadian Equity Pool Class
TD Canadian Index Fund
TD Canadian Large-Cap Equity Fund
TD Canadian Low Volatility Class
TD Canadian Low Volatility Fund
TD Canadian Money Market Fund
TD Canadian Small-Cap Equity Class
TD Canadian Small-Cap Equity Fund
TD Canadian Value Class
TD Canadian Value Fund
TD Comfort Aggressive Growth Portfolio
TD Comfort Balanced Growth Portfolio
TD Comfort Balanced Income Portfolio
TD Comfort Balanced Portfolio
TD Comfort Conservative Income Portfolio
TD Comfort Growth Portfolio
TD Core Canadian Value Fund
TD Corporate Bond Plus Fund (formerly TD Corporate Bond Capital Yield Fund)
TD Diversified Monthly Income Fund
TD Dividend Growth Class
TD Dividend Growth Fund
TD Dividend Income Class
TD Dividend Income Fund
TD Dow Jones Industrial Average Index Fund
TD Emerging Markets Class
TD Emerging Markets Fund
TD Emerging Markets Low Volatility Fund
TD Entertainment & Communications Fund
TD European Index Fund
TD Fixed Income Pool
TD Global Bond Fund

TD Global Equity Pool
TD Global Equity Pool Class
TD Global Low Volatility Class
TD Global Low Volatility Fund
TD Global Risk Managed Equity Class
TD Global Risk Managed Equity Fund
TD Health Sciences Fund
TD High Yield Bond Fund
TD Income Advantage Portfolio
TD International Growth Class
TD International Growth Fund
TD International Index Currency Neutral Fund
TD International Index Fund
TD International Stock Fund
TD Monthly Income Fund
TD Nasdaq Index Fund
TD North American Dividend Fund
TD Precious Metals Fund
TD Premium Money Market Fund
TD Real Return Bond Fund
TD Resource Fund
TD Retirement Balanced Portfolio
TD Retirement Conservative Portfolio
TD Risk Management Pool
TD Science & Technology Fund
TD Short Term Bond Fund
TD Short Term Investment Class
TD Strategic Yield Fund
TD Tactical Monthly Income Class
TD Tactical Monthly Income Fund
TD Tactical Pool
TD Tactical Pool Class
TD Target Return Balanced Fund
TD Target Return Conservative Fund
TD U.S. Blue Chip Equity Fund
TD U.S. Corporate Bond Fund
TD U.S. Equity Portfolio
TD U.S. Index Currency Neutral Fund
TD U.S. Index Fund
TD U.S. Low Volatility Currency Neutral Fund
TD U.S. Low Volatility Fund
TD U.S. Mid-Cap Growth Class
TD U.S. Mid-Cap Growth Fund
TD U.S. Money Market Fund
TD U.S. Monthly Income Fund
TD U.S. Monthly Income Fund - C$
TD U.S. Quantitative Equity Fund
TD U.S. Risk Managed Equity Class
TD U.S. Risk Managed Equity Fund
TD U.S. Small-Cap Equity Fund
TD Ultra Short Term Bond Fund
TD US$ Retirement Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 28, 2016 to Final Simplified Prospectus dated July 28, 2016
NP 11-202 Receipt dated December 9, 2016
Offering Price and Description:
Investor Series, H-Series, Advisor Series, T-Series, F-Series, S-Series, D-Series, Premium Series, Premium F-Series, K-Series, PS-Series and Private Series @ Net Asset Value
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:
CanniMed Therapeutics Inc.
Principal Regulator - Saskatchewan
Type and Date:
Amended and Restated to Preliminary Long Form Prospectus dated December 6, 2016
NP 11-202 Preliminary Receipt dated December 6, 2016
Offering Price and Description:
$* - * Common Shares
Price: $* per Common Share
Underwriter(s) or Distributor(s):
Altacorp Capital Inc.
Canaccord Genuity Corp.
Clarus Securities Inc.
Mackie Research Capital Corporation
Haywood Securities Inc..
Promoter(s):
-
Project #2557942

Issuer Name:
Canopy Growth Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 9, 2016
NP 11-202 Preliminary Receipt dated December 9, 2016
Offering Price and Description:
$60,017,200.00 - 5,662,000 Common Shares
Price: $10.60 per Common Shares
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Dundee Securities Ltd.
Cormark Securities Inc.
PI Financial Corp.
Canaccord Genuity Corp.
Promoter(s):
Bruce Linton
Project #2563805

Issuer Name:
Franklin Bissett All Canadian Focus Corporate Class
Franklin Bissett All Canadian Focus Fund
Franklin Bissett Canadian All Cap Balanced Corporate Class
Franklin Bissett Canadian All Cap Balanced Fund
Franklin Bissett Canadian Balanced Corporate Class
Franklin Bissett Canadian Balanced Fund
Franklin Bissett Canadian Dividend Corporate Class
Franklin Bissett Canadian Dividend Fund
Franklin Bissett Canadian Equity Corporate Class
Franklin Bissett Canadian Equity Fund
Franklin Bissett Canadian Short Term Bond Fund
Franklin Bissett Core Plus Bond Fund (formerly Franklin Bissett Bond Fund)
Franklin Bissett Corporate Bond Fund
Franklin Bissett Dividend Income Corporate Class
Franklin Bissett Dividend Income Fund
Franklin Bissett Energy Corporate Class
Franklin Bissett Microcap Fund
Franklin Bissett Money Market Corporate Class
Franklin Bissett Money Market Fund
Franklin Bissett Monthly Income and Growth Fund
Franklin Bissett Small Cap Corporate Class
Franklin Bissett Small Cap Fund
Franklin Bissett Strategic Income Corporate Class
Franklin Bissett Strategic Income Fund
Franklin Bissett U.S. Focus Corporate Class
Franklin Bissett U.S. Focus Fund
Franklin Global Small-Mid Cap Fund
Franklin High Income Fund
Franklin Mutual European Fund
Franklin Mutual Global Discovery Corporate Class
Franklin Mutual Global Discovery Fund
Franklin Mutual U.S. Shares Corporate Class
Franklin Mutual U.S. Shares Fund
Franklin Quotential Balanced Growth Corporate Class Portfolio
Franklin Quotential Balanced Growth Portfolio
Franklin Quotential Balanced Income Corporate Class Portfolio
Franklin Quotential Balanced Income Portfolio
Franklin Quotential Diversified Equity Corporate Class Portfolio
Franklin Quotential Diversified Equity Portfolio
Franklin Quotential Diversified Income Corporate Class Portfolio
Franklin Quotential Diversified Income Portfolio
Franklin Quotential Growth Corporate Class Portfolio
Franklin Quotential Growth Portfolio
Franklin Strategic Income Fund
Franklin Templeton Canadian Large Cap Fund
Franklin U.S. Core Equity Fund
Franklin U.S. Monthly Income Corporate Class
Franklin U.S. Monthly Income Fund
Franklin U.S. Monthly Income Hedged Corporate Class
Franklin U.S. Opportunities Corporate Class (formerly Franklin Flex Cap Growth Corporate Class)
Franklin U.S. Opportunities Fund (formerly Franklin Flex Cap Growth Fund)
Franklin U.S. Rising Dividends Corporate Class
Franklin U.S. Rising Dividends Fund
Franklin U.S. Rising Dividends Hedged Corporate Class
Franklin Global Growth Corporate Class (formerly, Franklin World Growth Corporate Class)
Franklin Global Growth Fund (formerly, Franklin World Growth Fund)
Templeton Asian Growth Corporate Class
Templeton Asian Growth Fund
Templeton BRIC Corporate Class
Templeton EAFE Developed Markets Fund
Templeton Emerging Markets Corporate Class
Templeton Emerging Markets Fund
Templeton Frontier Markets Corporate Class
Templeton Frontier Markets Fund
Templeton Global Balanced Fund
Templeton Global Bond Fund
Templeton Global Bond Fund (Hedged)
Templeton Global Smaller Companies Corporate Class
Templeton Global Smaller Companies Fund
Templeton Growth Corporate Class
Templeton Growth Fund, Ltd.
Templeton International Stock Corporate Class
Templeton International Stock Fund
Principal Regulator - Ontario
Type and Date:
Amendment #5 dated December 6, 2016 to Final Simplified Prospectus dated May 27, 2016
Received on December 7, 2016
Offering Price and Description:
Series F, FT, O, OT, PF and PFT units; Series F, FT, O and OT shares

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Issuer Name:
Knight Therapeutics Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated December 9, 2016
NP 11-202 Preliminary Receipt dated December 9, 2016
Offering Price and Description:
$87,000,000.00 - 8,700,000 Common Shares
Price: $10.00 per Offered Share
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Cormark Securities Inc.
Bloom Burton & Co. Limited
CIBC World Markets Inc.
Laurentian Bank Securities Inc.
Mackie Research Capital Corporation
National Bank Financial Inc.
Paradigm Capital Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #2564202

Issuer Name:
LAURENTIAN BANK OF CANADA
Principal Regulator - Quebec
Type and Date:
Preliminary Shelf Prospectus dated December 7, 2016
NP 11-202 Preliminary Receipt dated December 7, 2016
Offering Price and Description:
$1,000,000,000.00 - Debt Securities (subordinated indebtedness), Common Shares, Class A Preferred Shares, Subscription Receipts, Warrants
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2564304

Issuer Name:
Morumbi Resources Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 9, 2016
NP 11-202 Preliminary Receipt dated December 12, 2016
Offering Price and Description:
39,000,000 Common Shares (Issuable upon the automatic exercise of 39,000,000 issued and outstanding Subscription Receipts)

Underwriter(s) or Distributor(s):
Dundee Capital Partners
Promoter(s):
-
Project #2565223

Issuer Name:
Open Text Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 5, 2016
NP 11-202 Preliminary Receipt dated December 6, 2016
Offering Price and Description:
U.S. $1,000,000,000.00 - Common Shares, Preference Shares, Debt Securities, Depositary Shares, Warrants, Purchase Contracts, Units, Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2478650

Issuer Name:
Open Text Corporation
Principal Regulator - Ontario
Type and Date:
Amended and Restated Final Shelf Prospectus dated December 9, 2016
Received on December 9, 2016
Offering Price and Description:
U.S. $1,000,000,000.00
Common Shares
Preference Shares
Debt Securities
Depositary Shares
Warrants
Purchase Contracts
Units
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2478650

Issuer Name:
Open Text Corporation
Principal Regulator - Ontario
Type and Date:
Amended and Restated Final Shelf Prospectus dated May 10, 2016
Received on December 9, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2478650

Issuer Name:
SANDSTORM GOLD LTD.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated December 9, 2016
NP 11-202 Preliminary Receipt dated December 9, 2016
Offering Price and Description:
U.S. $200,000,000.00 - Common Shares, Warrants, Subscription Receipts, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2564980

Issuer Name:
ShawCor Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 9, 2016
NP 11-202 Preliminary Receipt dated December 9, 2016
Offering Price and Description:
$150,060,000.00 - 4,575,000 Common Shares
Price: $32.80 per Common Share
Underwriter(s) or Distributor(s):
TD Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
AltaCorp Capital Inc.
Cormark Securities Inc.
BMO Nesbitt Burns Inc.
HSBC Securities (Canada) Inc.
Industrial Alliance Securities Inc.
J.P. Morgan Securities Canada Inc.
RBC Dominion Securities Inc.
Promoter(s):
-
Project #2564442

Issuer Name:
TransCanada Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Shelf Prospectus dated December 8, 2016
Received on December 8, 2016
Offering Price and Description:
$2,000,000,000.00 - Common Shares, First Preferred Shares, Second Preferred Shares, Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2564681

Issuer Name:
Axiom All Equity Portfolio
Axiom Balanced Growth Portfolio
Axiom Balanced Income Portfolio
Axiom Canadian Growth Portfolio
Axiom Diversified Monthly Income Portfolio
Axiom Foreign Growth Portfolio
Axiom Global Growth Portfolio
Axiom Long-Term Growth Portfolio
Renaissance Canadian All-Cap Equity Fund
Renaissance Canadian Balanced Fund
Renaissance Canadian Bond Fund
Renaissance Canadian Core Value Fund
Renaissance Canadian Dividend Fund
Renaissance Canadian Growth Fund
Renaissance Canadian Monthly Income Fund
Renaissance Canadian Small-Cap Fund
Renaissance Canadian T-Bill Fund
Renaissance China Plus Fund
Renaissance Corporate Bond Fund
Renaissance Diversified Income Fund
Renaissance Emerging Markets Fund
Renaissance Floating Rate Income Fund
Renaissance Global Bond Fund
Renaissance Global Focus Currency Neutral Fund
Renaissance Global Focus Fund
Renaissance Global Growth Currency Neutral Fund
Renaissance Global Growth Fund
Renaissance Global Health Care Fund
Renaissance Global Infrastructure Currency Neutral Fund
Renaissance Global Infrastructure Fund
Renaissance Global Markets Fund
Renaissance Global Real Estate Currency Neutral Fund
Renaissance Global Real Estate Fund
Renaissance Global Resource Fund
Renaissance Global Science & Technology Fund
Renaissance Global Small-Cap Fund
Renaissance Global Value Fund
Renaissance High Income Fund
Renaissance High-Yield Bond Fund
Renaissance International Dividend Fund
Renaissance International Equity Currency Neutral Fund
Renaissance International Equity Fund
Renaissance Money Market Fund
Renaissance Optimal Conservative Income Portfolio
Renaissance Optimal Global Equity Currency Neutral Portfolio
Renaissance Optimal Global Equity Portfolio
Renaissance Optimal Growth & Income Portfolio
Renaissance Optimal Income Portfolio
Renaissance Optimal Inflation Opportunities Portfolio
Renaissance Real Return Bond Fund
Renaissance Short-Term Income Fund
Renaissance U.S. Dollar Corporate Bond Fund
Renaissance U.S. Dollar Diversified Income Fund
Renaissance U.S. Equity Fund
Renaissance U.S. Equity Growth Currency Neutral Fund
Renaissance U.S. Equity Growth Fund
Renaissance U.S. Equity Income Fund
Renaissance U.S. Equity Value Fund
Renaissance U.S. Money Market Fund
Principal Regulator - Ontario

Type and Date:
Amendment #1 dated December 5, 2016 to Final Simplified Prospectus dated September 1, 2016
NP 11-202 Receipt dated December 8, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2509672

Issuer Name:
Imperial U.S. Equity Pool
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated December 5, 2016 to Final Simplified Prospectus December 16, 2015
NP 11-202 Receipt dated December 9, 2016
Offering Price and Description:
Class A units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Canadian Imperial Bank of Commerce
Project #2410126

Issuer Name:
Brompton Oil Split Corp.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated December 7, 2016
NP 11-202 Receipt dated December 8, 2016
Offering Price and Description:
Offering: $200,000,000 - Preferred Shares and Class A Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2562628

Issuer Name:
Brookfield Business Partners L.P.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated December 6, 2016
NP 11-202 Receipt dated December 7, 2016
Offering Price and Description:
US$1,000,000,000.00 - Limited Partnership Units, Preferred Limited Partnership Units, Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
Brookfield Asset Management Inc.
Project #2555710

Issuer Name:
First Asset Hamilton Capital European Bank ETF
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 25, 2016 to Final Long Form Prospectus dated July 15, 2016
NP 11-202 Receipt dated December 12, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
First Asset Investment Management Inc.
Project #2498933

Issuer Name:
Franklin Bissett Canadian Government Bond Fund
Franklin Quotential Fixed Income Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated December 6, 2016 to Final Simplified Prospectus dated November 8, 2016
NP 11-202 Receipt dated December 9, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Franklin Templeton Investments Corp.
FTC Investors Services Inc.
Franklin Templeton Investments Corp.
Promoter(s):
Franklin Templeton Investments Corp.
Project #2535927

Issuer Name:
Oakmark International Natixis Tax Managed Fund
Oakmark Natixis Tax Managed Fund
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated November 30, 2016 to Final Simplified Prospectus September 16, 2016
NP 11-202 Receipt dated December 8, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
NGAM Canada LP
Promoter(s):
-
Project #2516019

Issuer Name:
Mackenzie High Diversification Canadian Equity Class
Mackenzie High Diversification Emerging Markets Equity Fund
Mackenzie High Diversification European Equity Fund
Mackenzie High Diversification Global Equity Fund
Mackenzie High Diversification International Equity Fund
Mackenzie High Diversification US Equity Fund
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated November 30, 2016 to Final Simplified Prospectus dated September 29, 2016
NP 11-202 Receipt dated December 6, 2016
Offering Price and Description:
Series A, AR, D, F, F5, FB, FB5, O, PW, PWF, PWF5, PWT5, PWX, PWX5 and T5 securities @ Net Asset Value
Underwriter(s) or Distributor(s):
Quadrus Investment Services Ltd.
LBC Financial Services Inc
LBC Financial Services Inc.
Promoter(s):
Mackenzie Financial Corporation
Project #2516157

Issuer Name:
Mackenzie Maximum Diversification All World Developed ex North America Index ETF
Mackenzie Maximum Diversification All World Developed Index ETF
Mackenzie Maximum Diversification Canada Index ETF
Mackenzie Maximum Diversification Developed Europe Index ETF
Mackenzie Maximum Diversification Emerging Markets Index ETF
Mackenzie Maximum Diversification US Index ETF
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 30, 2016 to Final Long Form Prospectus dated June 3, 2016
NP 11-202 Receipt dated December 6, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Mackenzie Financial Corporation
Project #2468385

Issuer Name:
Mainstreet Health Investments Inc. (formerly, Kingsway Arms Retirement Residences Inc.)
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated December 9, 2016
NP 11-202 Receipt dated December 9, 2016
Offering Price and Description:
US$45,000,000.00 - 5.00% Convertible Unsecured Subordinated Debentures
Price: US$1,000 per Debenture
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
CANACCORD GENUITY CORP.
SCOTIA CAPITAL INC.
RAYMOND JAMES LTD.
TD SECURITIES INC.
DESJARDINS SECURITIES INC.
ECHELON WEALTH PARTNERS INC.
Promoter(s):
MAINSTREET INVESTMENT COMPANY, LLC
Project #2558949

Issuer Name:
NEI Ethical Select Income Portfolio
NEI Ethical Select Conservative Portfolio
NEI Ethical Select Balanced Portfolio
NEI Ethical Select Growth Portfolio
NEI Select Conservative Portfolio
NEI Select Balanced Portfolio (formerly NEI Select Canadian Balanced Portfolio)
NEI Select Growth Portfolio (formerly NEI Select Canadian Growth Portfolio)
NEI Select Global Maximum Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated November 28, 2016 to Final Simplified Prospectus dated June 10, 2016
NP 11-202 Receipt dated December 7, 2016
Offering Price and Description:
Series A, Series B, Series F and Series I units @ Net Asset Value
Underwriter(s) or Distributor(s):
Credential Asset Management Inc.
Credential Asset Management
Promoter(s):
-
Project #2477315

Issuer Name:
NexGen Canadian Cash Tax Managed Fund
NexGen Canadian Bond Tax Managed Fund
Loomis Sayles Global Diversified Corporate Bond Tax Managed Fund (formerly, NexGen Corporate Bond Tax Managed Fund)
NexGen Canadian Preferred Share Tax Managed Fund
NexGen Canadian Diversified Income Tax Managed Fund
Natixis Strategic Balanced Registered Fund (formerly, NexGen Turtle Canadian Balanced Registered Fund)
NexGen Intrinsic Balanced Tax Managed Fund
NexGen Canadian Dividend Tax Managed Fund
NexGen Intrinsic Growth Tax Managed Fund
NexGen U.S. Dividend Plus Tax Managed Fund
NexGen U.S. Growth Tax Managed Fund
NexGen Global Equity Tax Managed Fund
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated November 30, 2016 to Final Simplified Prospectus dated June 10, 2016
NP 11-202 Receipt dated December 8, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
NGAM CANADA LP
NGAM Canada LP
NGAM Canada LP
Promoter(s):
NGAM CANADA LP
Project #2480155

Issuer Name:
Open Text Corporation
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus (NI 44-102) dated December 9, 2016
NP 11-202 Receipt dated December 12, 2016
Offering Price and Description:
U.S. $1,000,000,000.00 - Common Shares, Preference Shares, Debt Securities, Depositary Shares, Warrants, Purchase Contracts, Units, Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2478650

Issuer Name:
Open Text Corporation
Principal Regulator - Ontario
Type and Date:
Amendment dated December 9, 2016 to Final Shelf Prospectus dated May 10, 2016
NP 11-202 Receipt dated December 12, 2016
Offering Price and Description:
U.S. $1,000,000,000.00 -Common Shares, Preference Shares, Debt Securities, Depositary Shares, Warrants, Purchase Contracts, Units
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2478650

Issuer Name:
Prairie Provident Resources Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated December 8, 2016
NP 11-202 Receipt dated December 9, 2016
Offering Price and Description:
Up to $5,000,000.00 -Up to 5,882,353 CEE Flow-Through Shares
Up to $300,000.00 - Up to 375,000 CDE Flow-Through Shares
Underwriter(s) or Distributor(s):
Mackie Research Capital Corporation
Industrial Alliance Securities Inc.
Promoter(s):
-
Project #2555393

Issuer Name:
Renaissance U.S. Equity Private Pool (formerly Frontiers U.S. Equity Pool)
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated December 5, 2016 to Final Simplified Prospectus, Annual Information Form and Fund Facts (NI 81-101) dated April 19, 2016
NP 11-202 Receipt dated December 9, 2016
Offering Price and Description:
Class A, Premium Class, Premium-T4 Class, Premium-T6 Class, Class H-Premium, Class H-Premium T4, Class H-Premium T6, Class C, Class F-Premium, Class F-Premium T4, Class F-Premium T6, Class FH-Premium, Class FH-Premium T4, Class FH-Premium T6, Class N-Premium, Class N-Premium T4, Class N-Premium T6, Class NH-Premium, Class NH-Premium T4, Class NH-Premium T6, Class I, Class O, and Class OH units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2408744

Issuer Name:
Sentry All Cap Income Fund (formerly, Sentry Diversified Income Fund)
Sentry Alternative Asset Income Fund
Sentry Balanced Income Portfolio (formerly, Sentry Income Portfolio)
Sentry Balanced Yield Private Pool Class
Sentry Canadian Bond Fund (formerly Sentry Bond Plus Fund)
Sentry Canadian Core Fixed Income Private Trust
Sentry Canadian Equity Income Private Pool Class
Sentry Canadian Equity Income Private Trust
Sentry Canadian Fixed Income Private Pool
Sentry Canadian Income Class (formerly Sentry Select Canadian Income Class)
Sentry Canadian Income Fund (formerly Sentry Select Canadian Income Fund)
Sentry Canadian Resource Class (formerly Sentry Select Canadian Resource Class)
Sentry Conservative Balanced Income Class
Sentry Conservative Balanced Income Fund (formerly Sentry Select Conservative Income Fund)
Sentry Conservative Income Portfolio
Sentry Conservative Monthly Income Fund (formerly, Sentry Income Advantage Fund)
Sentry Corporate Bond Class (formerly, Sentry Enhanced Corporate Bond Class)
Sentry Corporate Bond Fund (formerly, Sentry Enhanced Corporate Bond Fund)
Sentry Diversified Equity Class (formerly Sentry Diversified Total Return Class)
Sentry Diversified Equity Fund (formerly Sentry Diversified Total Return Fund)
Sentry Energy Fund (formerly, Sentry Energy Growth and Income Fund)
Sentry Energy Private Trust
Sentry Global Balanced Yield Private Pool Class
Sentry Global Core Fixed Income Private Trust
Sentry Global Equity Income Private Pool Class
Sentry Global Growth and Income Class (formerly Sentry Global Dividend Class)
Sentry Global Growth and Income Fund (formerly Sentry Global Dividend Fund)
Sentry Global High Yield Bond Class (formerly, Sentry Tactical Bond Class)
Sentry Global High Yield Bond Fund (formerly, Sentry Tactical Bond Fund)
Sentry Global High Yield Fixed Income Private Trust
Sentry Global Infrastructure Fund (formerly, Sentry Infrastructure Fund)
Sentry Global Infrastructure Private Trust
Sentry Global Investment Grade Private Pool Class
Sentry Global Mid Cap Income Fund
Sentry Global Monthly Income Fund (formerly, Sentry Global Balanced Income Fund)
Sentry Global Real Estate Private Trust
Sentry Global REIT Class (formerly, Sentry REIT Class)
Sentry Global REIT Fund (formerly, Sentry REIT Fund)
Sentry Global Tactical Fixed Income Private Pool
Sentry Growth and Income Fund (formerly Sentry Select Growth & Income Fund)
Sentry Growth and Income Portfolio
Sentry Growth Portfolio
Sentry International Equity Income Private Pool Class
Sentry International Equity Income Private Trust
Sentry Money Market Class (formerly Sentry Select Money Market Class)
Sentry Money Market Fund (formerly Sentry Select Money Market Fund)
Sentry Precious Metals Class (formerly, Sentry Precious Metals Growth Class)
Sentry Precious Metals Fund (formerly, Sentry Precious Metals Growth Fund)
Sentry Precious Metals Private Trust
Sentry Real Growth Pool Class
Sentry Real Income 1941-45 Class
Sentry Real Income 1946-50 Class
Sentry Real Income 1951-55 Class
Sentry Real Long Term Income Pool Class
Sentry Real Long Term Income Trust
Sentry Real Mid Term Income Pool Class
Sentry Real Mid Term Income Trust
Sentry Real Short Term Income Pool Class
Sentry Real Short Term Income Trust
Sentry Small/Mid Cap Income Class
Sentry Small/Mid Cap Income Fund (formerly Sentry Small Cap Income Fund)
Sentry U.S. Equity Income Currency Neutral Private Pool Class
Sentry U.S. Equity Income Private Pool Class
Sentry U.S. Equity Income Private Trust
Sentry U.S. Growth and Income Class
Sentry U.S. Growth and Income Currency Neutral Class
Sentry U.S. Growth and Income Fund
Sentry U.S. Monthly Income Fund (formerly, Sentry U.S. Balanced Income Fund)
Principal Regulator - Ontario
Type and Date:
Amendment #4 dated November 29, 2016 to Final Simplified Prospectus dated June 14, 2016
NP 11-202 Receipt dated December 7, 2016
Offering Price and Description:
Series A, B, F, I, O, S and Z
Underwriter(s) or Distributor(s):
Sentry Investments Inc.
Promoter(s):
Sentry Investments Inc.
Project #2475733

Issuer Name:
Sprott Energy Opportunities Trust
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated December 6, 2016
NP 11-202 Receipt dated December 7, 2016
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
TD SECURITIES INC.
BMO NESBITT BURNS INC.
SCOTIA CAPITAL INC.
GMP SECURITIES L.P.
MANULIFE SECURITIES INCORPORATED
RAYMOND JAMES LTD.
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
SPROTT PRIVATE WEALTH LP
Promoter(s):
SPROTT ASSET MANAGEMENT LP,
Project #2547571

Issuer Name:
Uranium Participation Corporation
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated December 9, 2016
NP 11-202 Receipt dated December 9, 2016
Offering Price and Description:
$200,000,000.00 - Common Shares, Warrants, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2552221

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Voluntary Surrender	Newpark Capital Corp.	Exempt Market Dealer	December 7, 2016
Voluntary Surrender	Mirabaud Gestion Inc.	Portfolio Manager	December 8, 2016
Name Change	From: A CUBED CAPITAL INC. To: QUBD CAPITAL INC.	Investment Fund Manager, Portfolio Manager, Exempt Market Dealer and Commodity Trading Manager	September 26, 2016

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.3 Clearing Agencies

13.3.1 CDS – Material Amendments to CDS Procedures Relating to Cessation of Eligibility of Physical Certificates for Deposit at CDS – 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

CESSATION OF ELIGIBILITY OF PHYSICAL CERTIFICATES FOR DEPOSIT AT CDS

The Ontario Securities Commission is publishing for 30 day public comment material amendments to the CDS Procedures relating to cessation of eligibility of physical certificates for deposit at CDS. The purpose of the proposed procedure amendments is to eliminate an issuer's option to deposit new physical security certificates at CDS and to promote immobilization and dematerialization of securities.

The comment period ends on January 14, 2017.

A copy of the CDS Notice is published on our website at http://www.osc.gov.on.ca.

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Chapter 25

Other Information

25.1 Consents

25.1.1 Orla Mining Ltd. – s. 4(b) of Ont. Reg. 289/00 made under the OBCA

Headnote

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under the Canada Business Corporations Act.

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, Ont. Reg. 289/00, as am., s. 4(b).

IN THE MATTER OF
R.R.O 1990, REGULATION 289/00
(THE "REGULATION")
MADE UNDER THE BUSINESS CORPORATIONS ACT (ONTARIO),
R.S.O. 1990, c. B.16, AS AMENDED
(THE "OBCA")

AND

IN THE MATTER OF
ORLA MINING LTD.

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application of Orla Mining Ltd. (the "**Corporation**") to the Ontario Securities Commission (the "**Commission**") requesting the consent from the Commission pursuant to subsection 4(b) of the Regulation, for the Corporation to continue in another jurisdiction pursuant to Section 181 of the OBCA;

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

AND UPON the Corporation having represented to the Commission that:

1. The Corporation was incorporated as Red Mile Capital Corp. under the *Business Corporations Act* (Alberta) (the "**ABCA**") by Articles of Incorporation dated May 31, 2007. On February 18, 2010 the Corporation changed its name to Red Mile Minerals Corp and on June 3, 2010 was continued from the ABCA to the *Business Corporations Act* (British Columbia) (the "**BCBCA**"). On April 21, 2015 it was continued from the BCBCA to the OBCA and on June 12, 2015 changed its name to Orla Mining Ltd.

2. The Corporation's head office is located at Suite 1240, 1140 West Pender Street, Vancouver, BC V6E 4G1 and its registered office is located at Suite 2100, 40 King Street West, Toronto, Ontario, M5H 3C2.

3. The Corporation has an authorized share capital consisting of an unlimited number of common shares ("**Common Shares**") and an unlimited number of preferred shares. As at November 18, 2016, 32,962,924 Common Shares and no preferred shares were issued and outstanding.

4. The Corporation's outstanding Common Shares are listed and posted for trading on the TSX Venture Exchange (the "**Exchange**") under the symbol "OLA".

5. The Corporation has applied to the Director under the OBCA pursuant to Section 181 of the OBCA (the "**Application for Continuance**") for authorization to continue under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the "**CBCA**"), under its name "Orla Mining Ltd." (the "**Continuance**").

6. Pursuant to subsection 4(b) of the Regulation, where an applicant corporation is an offering corporation, the Application for Continuance must be accompanied by a consent from the Commission.

7. The Corporation is an offering corporation under the OBCA and is a reporting issuer under the *Securities Act* (Ontario) (the "**Act**") and the securities legislation of each of British Columbia and Alberta (collectively, the "**Legislation**"). British Columbia is currently the Corporation's principal regulator.

8. The Corporation intends to remain a reporting issuer in Ontario and in the provinces of British Columbia and Alberta.

9. The Corporation is not in default of (i) any of the provisions of the OBCA, the Act or the Legislation, including any of the rules or regulations made thereunder; and (ii) any of the rules, regulations or policies of the Exchange.

10. The Corporation is not a party to any proceeding or, to the best of its knowledge, information and belief, pending proceeding under the OBCA, Act or Legislation.

11. The Continuance has been proposed in order to enable the Corporation to be amalgamated with Pershimco Resources Inc. ("**Pershimco**"), a corporation organized under the CBCA, by way of a plan of arrangement and for the amalgamated company to thereafter conduct its business and affairs in accordance with the provisions of the CBCA. The arrangement transaction (the "**Arrangement**") to which the proposed Continuance relates is disclosed in the management information circular of the Corporation dated October 31, 2016 (the "**Circular**") and the management information circular of Pershimco dated October 31, 2016.

12. A summary of the material provisions respecting the proposed Continuance was provided to the shareholders of the Corporation in the Circular in respect of the Corporation's special meeting of shareholders which was held of November 30, 2016 (the "**Meeting**"). The Circular includes full disclosure of the reasons for, and the implications of, the proposed Continuance and a summary of the material differences between the OBCA and the CBCA. The Circular was mailed on November 3, 2016 and November 4, 2016 to the Corporation's shareholders and optionholders of record at the close of business on October 21, 2016 and was filed on November 7, 2016 on the System for Electronic Document Analysis and Retrieval.

13. The general nature of the Corporation's business is that it is a mineral exploration company. Following the Continuance and completion of the Arrangement, the Corporation will focus on continued exploration and development at Pershimco's Cerro Quema mineral project located in Panama and will seek further growth opportunities in the Americas.

14. In accordance with the OBCA and the Corporation's constating documents, the special resolution of shareholders (the "**Continuance Resolution**") to be obtained at the Meeting in connection with the proposed Continuance requires the approval of not less than 66 2/3% of the aggregate votes cast by the shareholders present in person or represented by proxy at the Meeting. Each shareholder is entitled to one vote for each Common Share held. In accordance with the CBCA and the Corporation's constating documents, the special resolution of shareholders and optionholders (the "**Arrangement Resolution**") to be obtained at the Meeting in connection with the proposed Arrangement requires the approval of not less than 66 2/3% of the aggregate votes cast by the shareholders and optionholders present in person or represented by proxy at the Meeting. Each shareholder is entitled to one vote for each Common Share held and each optionholder is entitled to one vote for each Common Share issuable upon exercise of each option held. The shareholders and optionholders vote on the Arrangement Resolution together as a single class. Additionally, the Arrangement Resolution must be passed by a simple majority of the votes cast on the resolution by shareholders present in person or by proxy at the Meeting, excluding the votes cast for Common Shares held or controlled by "related parties" and "interested parties" as defined under Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions*.

15. The Corporation's shareholders of record as of the record date for the Meeting had the right to dissent with respect to the proposed Continuance pursuant to Section 185 of the OBCA and with respect to the proposed Arrangement pursuant to section 190 of the CBCA. The Circular disclosed full particulars of these rights in accordance with applicable law.

16. The Continuance Resolution was approved at the Meeting by 99.98% of the votes cast by the shareholders of the Corporation. None of the shareholders of the Corporation exercised dissent rights in respect of the Continuance pursuant to Subsection 185 of the OBCA at the Meeting. The Arrangement Resolution was approved at the Meeting by (i) 99.98% of the votes cast by the shareholders and optionholders of the Corporation, voting as a single class, and (ii)

99.93% of the votes cast by shareholders of the Corporation, excluding votes cast in respect of shares over which Marc Prefontaine, Hans Smit, Troy Fierro, Richard Hall, Kerry Sparkes, Aaron Wolfe, Pierre Lassonde and John Graham, and their affiliates and joint actors, exercise control or direction. None of the shareholders of the Corporation exercised dissent rights in respect of the Arrangement pursuant to Subsection 190 of the CBCA at the Meeting.

17. Following the Continuance, the Corporation intends to amalgamate with Pershimco and continue as a new corporation under the CBCA under the name "Orla Mining Ltd.". The amalgamated corporation will be a reporting issuer in Ontario and in each of the other jurisdictions where it is currently a reporting issuer, and the British Columbia Securities Commission will remain as the Corporation's principal regulator. The Corporation is required to be continued under the CBCA in order to effect the Arrangement.

18. Following the Continuance, the Corporation's head and registered office will both be located at Suite 1240, 1140 West Pender Street, Vancouver, BC V6E 4G1 and British Columbia will remain the Corporation's principal regulator.

19. The Corporation's material rights, duties and obligations under the CBCA will be substantially similar to those of a corporation governed by the OBCA.

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

THE COMMISSION HEREBY CONSENTS to the continuance of the Corporation as a corporation under the CBCA.

DATED at Toronto, Ontario this 30th day of November, 2016.

"Garnet W. Fenn"
Commissioner
Ontario Securities Commission

"Edward P. Kerwin"
Commissioner
Ontario Securities Commission

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Index

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