

The Ontario Securities Commission

# OSC Bulletin

April 20, 2017

Volume 40, Issue 16

(2017), 40 OSCB

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

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Published under the authority of the Commission by:

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# Chapter 1

## Notices / News Releases

### 1.1 Notices

#### 1.1.1 CSA Staff Notice 45-323 – Update on Use of the Rights Offering Exemption in National Instrument 45-106 Prospectus Exemptions



Canadian Securities  
Administrators

Autorités canadiennes  
en valeurs mobilières

### CSA Staff Notice 45-323 Update on Use of the Rights Offering Exemption in National Instrument 45-106 Prospectus Exemptions

April 20, 2017

#### Purpose

This notice provides an update by staff of the Canadian Securities Administrators (**staff** or **we**) on use of the streamlined rights offering exemption for reporting issuers (the **rights offering exemption** or **exemption**) effective in all Canadian jurisdictions since December 8, 2015. It also provides guidance based on our reviews of offerings using the exemption.

#### Background

The Canadian Securities Administrators (the **CSA**) adopted the rights offering exemption as a way of addressing concerns that issuers seldom used prospectus-exempt rights offerings to raise capital because of the associated time and cost. At the same time, rights offerings can be one of the fairer ways for issuers to raise capital as they provide existing security holders with an opportunity to protect themselves from dilution. We designed the rights offering exemption to make prospectus-exempt rights offerings more attractive to reporting issuers while maintaining investor protection. Key elements of the rights offering exemption include:

- a new rights offering notice that reporting issuers must file and send to security holders informing them how to access the rights offering circular electronically,
- a new form of simplified rights offering circular in a question and answer format intended to be easier to prepare and more straightforward for investors to understand – it has to be filed but not sent to security holders,
- a dilution limit of 100%, increased from 25%, and
- the addition of statutory secondary market liability.

When we proposed the rights offering exemption, we indicated that staff in certain jurisdictions would conduct reviews of rights offerings for a period of two years after adoption. Staff have monitored use of rights offerings for the first year of use.

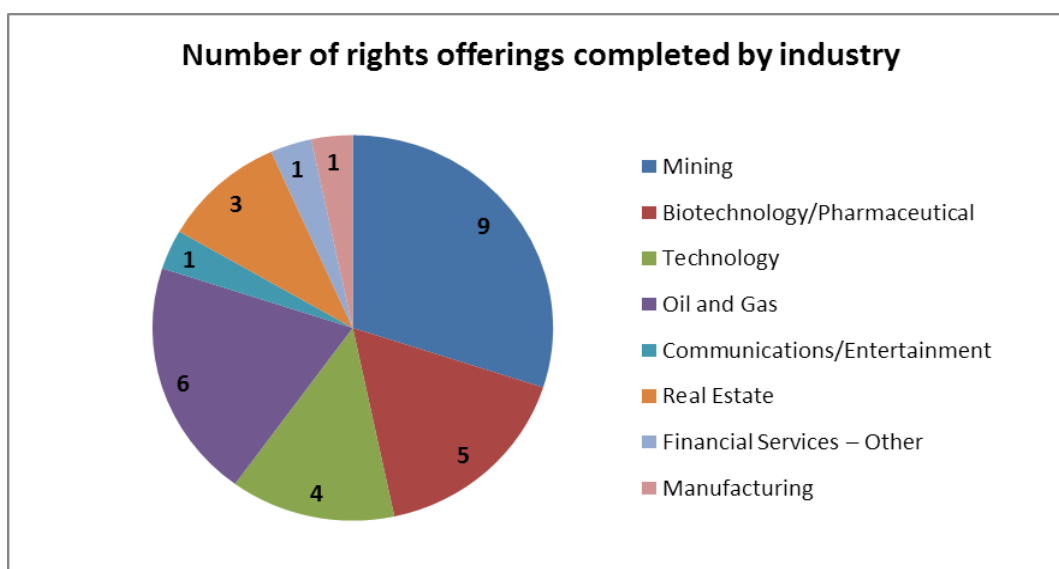
#### Use of rights offering exemption

##### *General*

Use of prospectus-exempt rights offerings by reporting issuers has increased significantly Canada-wide since adoption of the exemption. Prior to adoption, there were approximately 13 prospectus-exempt rights offerings by Canadian reporting issuers each year. As of December 31, 2016, 30 issuers had used the exemption to raise \$247.6 million, as follows:

Rights offerings completed and amounts raised		
Principal jurisdiction	Number	Amount Raised
Ontario	11	\$ 84,369,332
BC	10	\$ 68,910,946
Alberta	6	\$ 40,839,787
Manitoba	2	\$ 52,432,332
Québec	1	\$ 1,000,239
<b>Total</b>	<b>30</b>	<b>\$247,552,636</b>

As indicated below, the rights offering exemption was used across all industries.



While the majority of issuers that used the rights offering exemption were venture issuers, the exemption was also used by issuers listed on the TSX. In total, 23 venture issuers used the exemption as compared to seven TSX-listed issuers.

*Time and cost*

One of the reasons we adopted the rights offering exemption was to reduce the time and cost for an issuer to complete a rights offering. Prior to adoption of the exemption, CSA staff looked at 93 prospectus-exempt rights offerings by reporting issuers over a seven-year time period. During that time period, the average length of time to complete a rights offering was 85 days.

Since the adoption of the exemption, the time to conduct a rights offering has been reduced significantly. Our reviews indicate that the average number of days from filing of the rights offering notice to closing was just under 38 days.

*Dilution and participation by insiders*

On average, issuers sought to issue 50.6% of the outstanding securities of the applicable class through the rights offering and actually issued 39% of the outstanding securities. The percentage of amounts raised from insiders was 48%. In addition, in 15 rights offerings, a stand-by commitment was provided in whole or in part by an insider or related party.

**Reviews of rights offerings**

We reviewed all 30 rights offerings conducted using the exemption. In general, we found that the offerings met the requirements of the exemption. However, we noted the following areas where compliance and disclosure could be improved:

- stand-by commitments,
- use of available funds, and
- closing news release.

## 1. Stand-by Commitments

Of the 30 rights offerings that we reviewed, 17 had stand-by commitments. In 10 offerings, the stand-by commitment was provided by multiple parties. We note that the use of multiple stand-by guarantors potentially mitigates any concerns regarding change of control of the issuer provided that the guarantors are not acting jointly or in concert.

When a rights offering has a stand-by commitment, Form 45-106F15 *Rights Offering Circular for Reporting Issuers* (the **Form**) requires additional disclosure including the relationship of the stand-by guarantor with the issuer, the security holdings of the stand-by guarantor before and after the rights offering, and confirmation that the stand-by guarantor has the financial ability to carry out its stand-by commitment.

Item 24 of the Form requires the issuer to explain the nature of its relationship with the stand-by guarantor including whether, and, if applicable, the basis on which the stand-by guarantor is a related party of the issuer. As the stand-by guarantor is often a related party of the issuer, we think this disclosure is important information for security holders to have in considering their investment decision.

In some rights offerings, we noted weakness in the disclosure regarding the nature of the relationship between the issuer and the stand-by guarantors. For instance, one issuer did not disclose the relationship at all, although the relationship was disclosed in a separate continuous disclosure document. We note that prior disclosure of a relationship in the issuer's continuous disclosure record is not sufficient to meet the requirements of the Form.

Issuers are also required to confirm in the rights offering circular that the stand-by guarantor has the financial ability to carry out its stand-by commitment. This statement provides clarity to security holders that the stand-by guarantor will be able to fulfill its obligations. We highlight this requirement because providing this statement in the rights offering circular is a condition of use of the exemption.

## 2. Use of available funds

Two of the key disclosure items in the Form are the available funds after the rights offering and how the issuer will use them. Most issuers we reviewed provided sufficient disclosure in these areas. However, we noted recurring deficiencies in the areas set out below.

### *Working capital*

As part of disclosing available funds after the rights offering, an issuer must disclose any working capital deficiency. This includes adding the working capital deficiency as a line item in the table of available funds. This disclosure is important because it gives security holders a better picture of the issuer's prospects following the rights offering than if the disclosure of the proceeds were provided without taking into account the working capital deficiency.

Issuers are required to disclose the working capital deficiency as of the most recent month end. If there has been a significant change in working capital since the most recently audited annual financial statements, the issuer must explain that change. We found that some issuers did not explain the change in working capital. In the Form, we provide guidance on what we would consider to be a significant change. Examples are changes that result in material uncertainty regarding the issuer's going concern assumption or a change in the working capital balance from positive to negative or vice versa. We remind issuers that even if the change in working capital is from a negative position to a positive position, it must still be explained.

### *Liquidity*

Issuers whose available funds are insufficient to cover short-term liquidity requirements and overhead expenses for the next 12 months are required to

- discuss how management plans to discharge liabilities as they become due,
- state the minimum amount required to meet short-term liquidity demands, and
- disclose management's assessment of the issuer's ability to continue as a going concern.

This disclosure is critical to investors because it highlights significant risks that the issuer is facing or may face in the short term. We noted a number of issuers that reported a working capital deficiency without providing meaningful disclosure as contemplated in the Form.

#### *Allocation of Available Funds*

Issuers are required to provide a detailed breakdown of how they will use the available funds and to describe in reasonable detail each of the principal purposes. We noted some instances where the level of detail in the breakdown of the use of funds could be improved.

In general, allocating funds simply to working capital is not sufficient to meet the requirement for either a detailed breakdown or reasonable detail. We would generally expect issuers with negative cash flow from operating activities to provide a breakdown of their key expenses for at least the next 12 months. For instance, if an issuer is engaged in mineral exploration, we would expect it to break down the available funds so that investors know how much is allocated to each exploration program as well as how much is allocated to general and administrative and other key expenses.

### **3. Closing news release**

Another requirement of the exemption is that the issuer must file a closing news release disclosing certain details about who subscribed to the rights offering, including the amount subscribed for by insiders and stand-by guarantors, distinguishing between the basic and additional subscription privileges. We found some instances where issuers did not include all of the required information.

We also remind issuers that there is a specific SEDAR document type for closing news releases and that closing news releases should be filed under this document type in the same SEDAR project as the rights offering circular.

### **Conclusion**

Since adoption of the rights offering exemption in December 2015, the exemption is being used more frequently and is allowing issuers to raise more capital in a shorter time frame. In general, issuers have been using the exemption appropriately and complying with the Form requirements. We will continue to monitor use of the exemption and will provide further guidance as necessary.



## Questions

Please refer your questions to any of the following:

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1.1.2 Steven J. Martel et al.

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

**AND**

**IN THE MATTER OF  
STEVEN J. MARTEL,  
MARTEL GROUP OF COMPANIES INC., and  
8446997 CANADA INC.**

**NOTICE OF WITHDRAWAL**

**WHEREAS**

1. on March 29, 2016, 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") to consider whether it is in the public interest to make certain orders against Steven J. Martel, Martel Group of Companies Inc., and 8446997 Canada Inc. (together, the "Respondents");
2. the Notice of Hearing was issued in relation to allegations as set out in the Statement of Allegations filed by Staff of the Commission ("Staff") dated March 29, 2016, and amended on July 22, 2016 ("Staff's Allegations").

**TAKE NOTICE** that Staff hereby withdraws Staff's Allegations against the Respondents as of April 13, 2017.

April 13, 2017

**STAFF OF THE ONTARIO SECURITIES COMMISSION**

20 Queen Street West, Suite 2200  
Toronto, Ontario M5H 3S8

1.2 Notices of Hearing

1.2.1 Crystal Wealth Management System Limited et al.

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

AND

IN THE MATTER OF  
CRYSTAL WEALTH MANAGEMENT SYSTEM LIMITED,  
CLAYTON SMITH,  
CLJ EVEREST LTD AND  
1150752 ONTARIO LIMITED

NOTICE OF HEARING  
(Subsections 127(7) & 127(8) of the Securities Act)

**WHEREAS** the Ontario Securities Commission (the "Commission") issued temporary orders on April 6 and April 7, 2017, pursuant to sections 127(1) and 127(5) of the *Securities Act*, RSO 1990, c S.5 (the "Act");

**WHEREAS**, the April 7, 2017 temporary order was requested to add clarification to the April 6, 2017 temporary order;

**WHEREAS** the April 7, 2017 temporary order provided as follows:

1. pursuant to paragraphs 2 and 2.1 of subsection 127(1), all trading, including redemptions and distributions, or acquisitions of the securities of the funds listed below shall cease:

Crystal Wealth Media Strategy  
Crystal Wealth Mortgage Strategy  
Crystal Enlightened Resource & Precious Metal Fund  
Crystal Wealth Medical Strategy  
Crystal Wealth Enlightened Factoring Strategy  
ACM Growth Fund  
ACM Income Fund  
Crystal Wealth High Yield Mortgage Strategy  
Crystal Enlightened Bullion Fund  
Absolute Sustainable Dividend Fund  
Absolute Sustainable Property Fund  
Crystal Wealth Enlightened Hedge Fund  
Crystal Wealth Infrastructure Strategy  
Crystal Wealth Conscious Capital Strategy  
Crystal Wealth Retirement One Fund

(collectively with any other investment funds managed or advised by Crystal Wealth, the "Crystal Wealth Funds");

2. pursuant to paragraphs 2 and 2.1 of subsection 127(1), all trading in securities held by the Crystal Wealth Funds, or the acquisition of securities by Crystal Wealth Management System Limited ("Crystal Wealth") on behalf of the Crystal Wealth Funds shall cease;
3. pursuant to paragraphs 2 and 2.1 of subsection 127(1), the trading in or the acquisition of any securities or derivatives by Clayton Smith ("Smith"), CLJ Everest Ltd and 1150752 Ontario Limited shall cease;
4. pursuant to subsection 127(2), as an exception to the prohibition on trading securities and derivatives in paragraphs 2 and 3 above, Crystal Wealth in its capacity as portfolio manager for the Funds may, and Smith in his capacity as advising representative may, if in compliance with Ontario securities law, place orders to sell securities and derivatives already held as of the date of this temporary order by the Crystal Wealth Funds, provided that the sales occur through the facilities of a recognized exchange and all proceeds of such sales remain in the account of the respective Crystal Wealth Fund for which the order was placed until further order of the Commission;

5. pursuant to subsection 127(2), as an exception to the prohibition on trading securities and derivatives in paragraphs 2 and 3 above, Smith in his capacity as advising representative may, if in compliance with Ontario securities law, place orders to sell securities and derivatives already held by clients in discretionary accounts for which Crystal Wealth is the portfolio manager (the "Managed Accounts"), provided that the sales occur through the facilities of a recognized exchange;
6. pursuant to subsection 127(2), the following terms and conditions apply to the registration of Crystal Wealth as an exempt market dealer:
  1. Crystal Wealth and any dealing representatives shall not accept any new money for investment from any existing clients, and shall not accept any new clients or open any new client accounts of any kind;
7. pursuant to subsection 127(2), the following terms and conditions apply to the registration of Crystal Wealth as a portfolio manager and investment fund manager:
  1. Crystal Wealth's activities as a portfolio manager and investment fund manager shall be applied exclusively to the Managed Accounts and to the Crystal Wealth Funds, subject to the restrictions on trading set out in paragraph 2 and the exception in paragraph 4;
  2. Crystal Wealth and any advising representatives shall not accept any new money for investment from any existing clients, shall not accept any new clients or open any new client accounts of any kind; and
8. pursuant to subsection 127(6) of the Act, this Order shall take effect immediately and shall expire on the 15th day after its making unless extended by the Commission.

(the "Temporary Order")

**TAKE NOTICE THAT** the Commission will hold a hearing (the "Hearing") pursuant to subsections 127(7) and 127(8) of the Act at the offices of the Commission, 17th Floor, 20 Queen Street West, in the City of Toronto, on April 28, 2017 at 10:00 a.m. or as soon thereafter as the Hearing can be held;

**TO CONSIDER** whether it is in the public interest for the Commission:

1. to extend the Temporary Order pursuant to subsections 127(7) and 127(8) of the Act until the conclusion of the hearing or until such further time as considered necessary by the Commission; and
2. to make such further orders as the Commission considers appropriate;

**BY REASON OF** the recitals set out in the Temporary Order and of such allegations and evidence as the parties may advise and the Commission may permit;

**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 that party and such party is not entitled to 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 plus 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 13th day of April, 2017

"Grace Knakowski"  
Secretary to the Commission

1.3 Notices of Hearing with Related Statements of Allegations

1.3.1 Benedict Cheng et al. – s.127(1)

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

**AND**

**IN THE MATTER OF  
BENEDICT CHENG,  
FRANK SOAVE,  
JOHN DAVID ROTHSTEIN and  
ERIC TREMBLAY**

**NOTICE OF HEARING  
(Subsection 127(1) of the Securities Act)**

**TAKE NOTICE** that the Ontario Securities Commission (the “Commission”) will hold a hearing pursuant to subsection 127(1) of the *Securities Act*, RSO, c S.5 (the “Act”), at the offices of the Commission at 20 Queen Street West, 17th floor, Toronto, commencing on April 18, 2017 at 9:00 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 April 12, 2017 between Staff of the Commission and John David Rothstein;

**BY REASON OF** the allegations set out in the Statement of Allegations of Staff, dated April 12, 2017, and such additional allegations as counsel may advise and the Commission may permit;

**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 that party, and such party is not entitled to any further notice of the proceedings;

**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 plus 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 April, 2017.

“Grace Knakowski”  
Secretary to the Commission

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

**AND**

**IN THE MATTER OF  
BENEDICT CHENG,  
FRANK SOAVE,  
JOHN DAVID ROTHSTEIN AND  
ERIC TREMBLAY**

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

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

**A. Overview**

1. This case is about illegal insider tipping and trading, misleading statements made to Staff investigators, and breaches of confidentiality, involving some senior market participants.
2. In or about April 2014, Benedict Cheng ("Cheng"), in the course of his duties as a portfolio manager and Co-Chief Investment Officer at Aston Hill Asset Management Inc. ("AHAM"), became aware of generally undisclosed material facts (the "Material Facts", described below) with respect to Amaya Gaming Group Inc. (now Amaya Inc.) ("Amaya").
3. On June 11, 2014, while in a special relationship with Amaya, Cheng informed John David Rothstein ("Rothstein") about some or all of the Material Facts and their source before they were generally disclosed, contrary to subsection 76(2) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act").
4. On June 11, 2014, Cheng instructed, encouraged and/or suggested to Rothstein that he inform others about the Material Facts and their source before they were generally disclosed, contrary to the public interest.
5. On June 11 and 12, 2014, while in a special relationship with Amaya, Rothstein informed Frank Soave ("Soave") about some or all of the Material Facts and their source before they were generally disclosed, contrary to subsection 76(2) of the Act.
6. On June 11 and 12, 2014, respectively, while in a special relationship with Amaya, Rothstein and Soave traded in shares of Amaya with knowledge of some or all of the Material Facts before they were generally disclosed, contrary to subsection 76(1) of the Act.
7. In the course of its investigation, Staff examined Cheng, Soave, Rothstein and Eric Tremblay ("Tremblay") under oath pursuant to subsection 13(1) of the Act. In the course of those examinations, Cheng, Soave and Tremblay made misleading statements to Staff on material matters and/or omitted facts required to make the statements not misleading, contrary to subsection 122(1)(a) of the Act.
8. Cheng disclosed to others (other than his counsel) the nature and/or content of the confidential summons he received from Staff on May 4, 2016, plus information about his confidential examination, contrary to section 16 of the Act.
9. Cheng instructed, encouraged and/or suggested to Rothstein what Rothstein's evidence to Staff should be when examined under oath, contrary to the public interest.

**B. The Respondents**

10. In 2014, Cheng was the President of Aston Hill Financial Inc. ("AHF") and the Co-Chief Investment Officer at AHF and AHAM. He was registered with the Ontario Securities Commission (the "Commission") as a portfolio manager. He personally managed three funds which together had approximately \$3 billion in assets. Cheng completed the Canadian Securities Course in 1988, obtained a Bachelor of Commerce degree in 1989 and earned the CFA designation in 1994. Cheng has been registered with the Commission since at least 1997.
11. In 2014, Rothstein was a Senior Vice President and National Sales Manager at AHAM. Rothstein first became employed in the securities industry in 1996 after taking the Canadian Securities Course. In 2014, Rothstein reported to Cheng and Cheng was his boss.

12. In 2014, Soave was a First Vice President and Investment Advisor at CIBC Wood Gundy ("CIBC"). Soave first got registered with the Commission in 1990 as a registered representative of an investment dealer and has been registered for over 26 years. He has completed the Canadian Securities Course, the examination based on the Manual for Registered Representatives and the Partners, Directors and Senior Officers Course.
13. In 2014, Tremblay was the Chief Executive Officer of AHF, the Chairman of the Board of Directors of AHF and the ultimate designated person (UDP) of AHAM. He had been in these roles since 2006.

**C. Background to the Allegations**

14. In 2014:
  - a. AHAM was a wholly-owned subsidiary of AHF. According to AHF's Annual Information Form for the year ended December 31, 2014, in 2014:
    - i. AHF (through its subsidiaries) was engaged in the management, marketing, distribution and administration of mutual funds, closed-end funds, private equity funds, hedge funds and segregated institutional funds; and
    - ii. AHAM was a Toronto-based registered investment fund manager specializing in the development, sales and management of closed-end investment funds, open-end funds and hedge funds;
  - b. AHF was a reporting issuer in Ontario with its shares publicly traded on the Toronto Stock Exchange (the "TSX") under the symbol AHF;
  - c. Amaya was an entertainment solutions provider for the regulated gaming industry and a reporting issuer in Ontario. Its shares traded on the TSX under the symbol AYA. In April 2014 Amaya had a market capitalization of approximately \$600 million; and
  - d. Canaccord Genuity Group Inc. ("Canaccord") was a Toronto-based financial services firm providing financial advice to Amaya.
15. On or about April 25, 2014, a representative of Canaccord invited AHAM to sign a non-disclosure agreement in order to attend a meeting to learn about an investment opportunity which, to pursue, would require AHAM to learn material, generally-undisclosed information about Amaya.
16. Cheng agreed to have AHF sign the non-disclosure agreement on behalf of AHAM, and on April 29, 2014 a representative of AHAM met with representatives of Canaccord and Amaya and learned about a proposed transaction whereby Amaya would acquire all of the issued and outstanding shares of Oldford Group Limited, the parent company of the owner and operator of the PokerStars and Full Tilt Poker brands in a transaction valued at over US\$4 billion (the "Acquisition"). The proposed transaction was a material fact in respect of Amaya.
17. The investment opportunity was for funds managed by AHAM to participate in financing the Acquisition (together with significant debt and new Amaya shares to be issued at \$20 per share). The price for Amaya shares closed on the TSX on April 29, 2014 at \$6.82 per share. Amaya's intention to issue new shares at \$20 per share represented a significant premium over the then market price for those shares, and was also a material fact in respect of Amaya.
18. Two funds managed by Cheng agreed to participate in financing the Acquisition and, from that time until the Acquisition was announced, Cheng knew the material terms of the Acquisition before they were generally disclosed.
19. In particular, Cheng knew the following Material Facts before the Acquisition was generally disclosed on June 12, 2014:
  - a. Amaya was going to purchase the ultimate owner and operator of the PokerStars and Full Tilt Poker brands in a transaction valued at over US\$4 billion;
  - b. the Acquisition was confidential and not yet generally disclosed;
  - c. the Acquisition would be announced that day after market close;
  - d. AHAM was providing partial financing for the Acquisition (i.e., funds managed by Cheng were providing partial financing for the Acquisition);
  - e. Amaya would be issuing new shares at \$20 per share to help pay for the Acquisition; and

- f. \$20 per share represented a premium of approximately 66% per Amaya share over the then market price for those shares.

**D. Cheng informs Rothstein of some or all of the undisclosed Material Facts and their source**

- 20. On June 11, 2014 at or about 12:12pm, Cheng sent an email to Rothstein inviting him to come to one of the AHAM boardrooms.
- 21. Rothstein met Cheng in the boardroom as instructed. Contrary to subsection 76(2) of the Act, Cheng proceeded to inform Rothstein of some or all of the undisclosed Material Facts, including that:
  - a. Amaya was about to acquire the PokerStars and Full Tilt Poker brands in a major transaction;
  - b. the Acquisition was confidential and not yet generally disclosed;
  - c. public announcement of the Acquisition was imminent; and
  - d. Cheng was aware of these facts because AHAM was participating in the Acquisition.
- 22. Rothstein understood that the Acquisition would cause the price for Amaya shares to increase significantly. Also at the meeting, Cheng instructed, encouraged and/or suggested to Rothstein to inform others, who had lost money on certain other investments promoted by AHF and/or AHAM, about the Acquisition before it was announced. Rothstein understood that the purpose of providing them with the material, undisclosed information was to make up for these losses.
- 23. Rothstein agreed to follow Cheng's instructions, encouragement and/or suggestion.

**E. Rothstein informs Soave of some or all of the undisclosed Material Facts and their source**

- 24. Shortly after his boardroom discussion with Cheng on June 11, 2014, Rothstein tried to contact individuals who had losses on investments that had been promoted by AHF and/or AHAM in order to inform them about the Acquisition before it was announced. Rothstein connected with one individual – Soave.
- 25. At about 4pm on June 11, 2014, Rothstein texted to Soave “AYA”. Soave texted back “Sorry never owned it should I”. A few minutes later Rothstein texted back “Yes”.
- 26. Rothstein called Soave the morning of June 12, 2014. During that telephone call Rothstein informed Soave of some or all of the Material Facts, including that:
  - a. Amaya was about to announce a major transaction that would be significantly positive for its share price (i.e., the Acquisition);
  - b. the Acquisition was confidential and not yet generally disclosed;
  - c. public announcement of the Acquisition was imminent;
  - d. the information came from Cheng who was aware of these facts because AHAM was participating in the Acquisition; and
  - e. Cheng had instructed him to share this confidential information about the Acquisition with Soave as a make up for other losses.
- 27. Soave asked Rothstein who else was involved in providing financing for the Acquisition. As Rothstein did not then know the answer to that question, he agreed to make inquiries and get back to Soave.
- 28. At approximately 10:15am on June 12, 2014, Soave sent an email to Rothstein stating “Thanks”. At approximately 10:18am, Rothstein replied by email with “Blackrock, blackstone and another huge one behind it.”
- 29. In 2014, BlackRock Inc. and The Blackstone Group L.P. were very large U.S. based asset managers with trillions of dollars under management. It would later be publicly disclosed that both of these companies provided financing to Amaya to help pay for the Acquisition.
- 30. Rothstein informing Soave of some or all of the Material Facts and their source before they were generally disclosed was contrary to subsection 76(2) of the Act.



**F. Soave trades in Amaya shares with knowledge of the undisclosed Material Facts and their source**

31. At approximately 10:35am on June 12, 2014, Soave placed an order to purchase and that day did purchase 5,000 shares of Amaya at \$12.10 per share at CIBC for a total investment of \$60,755 (including commission).
32. Trading in the shares of Amaya was halted less than two hours later at 12:22pm.
33. At approximately 1:23pm, Soave sent a text to Rothstein stating "Wholy Shit" (sic).
34. The Acquisition was announced that evening at approximately 9pm. The price for Amaya shares opened on the TSX the next morning at \$19.05 per share, an increase of approximately 57% relative to Soave's purchase price the day before.
35. Soave sold all his Amaya shares on June 13, 2014 at an average price of \$19.78 per share for total proceeds of \$98,921 (net of commission) – a profit of \$38,166, or a return of approximately 63% over 1 day. Soave had never purchased Amaya shares before.
36. On June 13, 2014, after the bulk of his Amaya shares had been sold, Soave texted "Thank you" to Rothstein. Rothstein replied "Unbelievable".
37. Soave's purchase of Amaya shares on June 12, 2014 was an insider trade contrary to subsection 76(1) of the Act.

**G. Rothstein trades in Amaya shares with knowledge of the undisclosed Material Facts and their source**

38. On June 11, 2014 at about 2:49pm, approximately 2.5 hours after speaking to Cheng about Amaya in the boardroom, Rothstein entered an order to purchase and did purchase 700 shares of Amaya at \$11.875 per share in an account in trust for his children at BMO InvestorLine for a total investment of \$8,322 (including commission).
39. Amaya announced the Acquisition the next day. The price for Amaya shares opened on the TSX on June 13, 2014 at \$19.05 per share, an increase of approximately 60% relative to Rothstein's purchase price two days prior.
40. Rothstein sold his Amaya shares on June 13, 2014 at \$19.77 per share for total proceeds of \$13,829 (net of commission) – a profit of \$5,507, or a return of approximately 66% over 2 days. Rothstein had never purchased Amaya shares before.
41. Rothstein's purchase of Amaya shares on June 11, 2014 was an insider trade contrary to subsection 76(1) of the Act.

**H. Misleading Statements**

**(a) Cheng's Misleading Statements**

42. During his compelled examination with Staff, Cheng made numerous statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading. In particular, Cheng misled Staff by, among other things:
  - a. denying that he informed Rothstein of some or all of the Material Facts before they were generally disclosed;
  - b. claiming that his June 11, 2014 meeting with Rothstein had nothing to do with Amaya; and
  - c. claiming not to know anything about Rothstein informing Soave about some or all of the Material Facts before they were generally disclosed.
43. These statements were materially misleading and were not corrected by Cheng until he was confronted with evidence to the contrary, or at all. These statements concealed the truth, which was that Cheng informed Rothstein about some or all of the Material Facts, and that Cheng instructed, encouraged and/or suggested to Rothstein that he inform others about some or all of the Material Facts.
44. Cheng's conduct in making misleading statements to Staff was a breach of subsection 122(1)(a) of the Act.

**(b) Soave's Misleading Statements**

45. During his compelled examination with Staff, Soave made numerous statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.
46. In particular, Soave misled Staff by, among other things:
- a. denying that Rothstein informed him of some or all of the Material Facts;
  - b. denying that he purchased shares of Amaya because of the Material Facts about which Rothstein had informed him;
  - c. claiming falsely that he purchased Amaya shares in June 2014 because of rumours in the marketplace and because of movement in the price and volume of the shares; and
  - d. providing false explanations for texts and emails he sent.
47. These statements were materially misleading and were not corrected by Soave until he was confronted with evidence to the contrary, or at all. These statements concealed the truth, which was that Rothstein informed Soave about some or all of the Material Facts and that Soave purchased shares of Amaya because of that generally undisclosed information.
48. Soave's conduct in making misleading statements to Staff was a breach of subsection 122(1)(a) of the Act.

**(c) Tremblay's Misleading Statements**

49. During his compelled examinations with Staff, Tremblay made numerous statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.
50. In particular, Tremblay misled Staff by, among other things:
- a. disavowing any knowledge of Cheng informing Rothstein about some or all of the Material Facts before they were generally disclosed;
  - b. disavowing any knowledge of Cheng instructing, encouraging or suggesting to Rothstein that he inform others about the Material Facts before they were generally disclosed;
  - c. disavowing any knowledge that Rothstein informed Soave about some or all of the Material Facts before they were generally disclosed; and
  - d. claiming that Rothstein told him that he purchased shares of Amaya because of information he heard from brokers.
51. These statements were materially misleading and were not corrected by Tremblay until he was confronted with evidence to the contrary, or at all. These statements concealed the truth, which was that Tremblay knew that:
- a. Cheng had informed Rothstein about some or all of the Material Facts before they were generally disclosed;
  - b. Cheng had instructed, encouraged or suggested to Rothstein that he inform Soave about the Material Facts before they were generally disclosed;
  - c. Rothstein did inform Soave of some or all of the Material Facts before they were generally disclosed; and
  - d. Rothstein purchased shares of Amaya while in possession of some or all of the Material Facts he learned from Cheng, before they were generally disclosed.
52. Tremblay was the Chief Executive Officer of AHF, the Chairman of the Board of Directors of AHF and the ultimate designated person (UDP) of AHAM.
53. Tremblay's conduct in making misleading statements to Staff was a breach of subsection 122(1)(a) of the Act.

**I. Cheng's Breaches of Confidentiality**

**(a) Disclosure of summons**

54. On May 4, 2016, Staff served a summons on Cheng compelling him to attend for an interview with Staff pursuant to subsection 13(1) of the Act, and to provide documents relating to Amaya during the period September 1, 2013 to December 31, 2014. The cover letter to the summons explained the confidentiality requirements surrounding Staff's investigation as per section 16 of the Act, and reproduced the full text of that provision.
55. Notwithstanding the cover letter explaining the confidentiality requirements of the summons, Cheng informed others (other than his counsel) about the fact he had received a summons, and that it related to an investigation by the OSC into trading in the shares of Amaya.
56. Cheng's disclosures concerning the nature and/or content of the summons he received were contrary to section 16 of the Act.

**(b) Disclosure of Staff examination**

57. Staff examined Cheng on June 9, 2016. At the commencement and end of that examination, Cheng acknowledged that he understood the confidentiality of Staff's investigative process under section 16 of the Act. However, despite acknowledging his understanding, Cheng disclosed the nature and content of his compelled examination to others who were interviewed by Staff.
58. Cheng's disclosures to other witnesses include:
- a. that he had been examined by Staff of the OSC;
  - b. questions asked by Staff and the answers given;
  - c. documents referenced by Staff in the course of the examination; and
  - d. names of individuals of interest to Staff.
59. By supplying this information, Cheng provided witnesses interviewed by Staff with an opportunity to tailor their evidence to his, thereby undermining Staff's ability to fulfill its statutory mandate.
60. Cheng's disclosures concerning Staff's confidential investigation were contrary to section 16 of the Act.

**J. Conduct Contrary to the Public Interest**

61. In 2016, in the course of Staff's investigation, Cheng instructed, encouraged and/or suggested to Rothstein (i) that he tell Staff, falsely, that he bought Amaya shares because of rumours in the marketplace, and (ii) that he should deny he received information about the Acquisition from Cheng.
62. As a senior capital markets participant, Cheng was expected to adhere to a very high standard of behaviour. Cheng failed to adhere to that very high standard by providing the instruction, encouragement and/or suggestion to Rothstein that he should mislead Staff as to why he purchased Amaya shares on June 11, 2014. This conduct was contrary to the public interest.
63. The breaches of the Act alleged herein are also conduct contrary to the public interest.
64. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

**DATED** at Toronto, April 12, 2017.

**1.5 Notices from the Office of the Secretary**

**1.5.1 Black Panther Trading Corporation and Charles Robert Goddard**

**FOR IMMEDIATE RELEASE  
April 12, 2017**

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

**AND**

**IN THE MATTER OF  
BLACK PANTHER TRADING CORPORATION and  
CHARLES ROBERT GODDARD**

**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 April 11, 2017 are available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
GRACE KNAKOWSKI  
SECRETARY TO THE COMMISSION

For media inquiries:

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

For investor inquiries:

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

**1.5.2 MM Café Franchise Inc., Techocan International Co. Ltd., 1727350 Ontario Ltd., Marianne Godwin, Dave Garnet Craig and Haiyan (Helen) Gao Jordan**

**FOR IMMEDIATE RELEASE  
April 12, 2017**

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

**AND**

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

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

1. the Final Interlocutory Appearance shall be held on April 21, 2017 at 10:00 a.m. or such other date as may be agreed to by the parties and set by the Office of the Secretary; and
2. the hearing dates of April 19, 20 and 21, 2017, are vacated, and the merits hearing shall commence on April 27, 2017 and continue on April 28, May 1, 3, 4, 5, 8, 9, 10, 23, 24, 26, 30 and 31 and June 1 and 2, 2017.

A copy of the Order dated April 11, 2017 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

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**1.5.3 Benedict Cheng, Frank Soave, John David Rothstein and Eric Tremblay**

**FOR IMMEDIATE RELEASE  
April 12, 2017**

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

**AND**

**IN THE MATTER OF  
BENEDICT CHENG,  
FRANK SOAVE,  
JOHN DAVID ROTHSTEIN and  
ERIC TREMBLAY**

**TORONTO** – The Office of the Secretary issued a Notice of Hearing on April 12, 2017 setting the matter down to be heard on May 4, 2017 at 10:00 a.m. or as soon thereafter as the hearing can be held in the above named matter. The hearing will be held at the offices of the Commission at 20 Queen Street West, 17th Floor, Toronto.

A copy of the Notice of Hearing dated April 12, 2017 and Statement of Allegations of Staff of the Ontario Securities Commission dated April 12, 2017 are available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
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SECRETARY TO THE COMMISSION

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

**1.5.4 Crystal Wealth Management System Limited**

**FOR IMMEDIATE RELEASE  
April 13, 2017**

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

**AND**

**IN THE MATTER OF  
CRYSTAL WEALTH MANAGEMENT SYSTEM LIMITED**

**TORONTO** – The Commission issued Temporary Orders pursuant to Subsections 127(1) and 127(5) in the above named matter.

A copy of the Temporary Orders dated April 6, 2017 and April 7, 2017 are available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

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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)

1.5.5 Steven J. Martel, Martel Group of Companies Inc., and 8446997 Canada Inc.

FOR IMMEDIATE RELEASE  
April 13, 2017

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

AND

IN THE MATTER OF  
STEVEN J. MARTEL,  
MARTEL GROUP OF COMPANIES INC., and  
8446997 CANADA INC.

**TORONTO** – Staff of the Ontario Securities Commission filed a Notice of Withdrawal against the Respondents, Steven J. Martel, Martel Group of Companies Inc. and 8446997 Canada Inc. as of April 13, 2017 in the above noted matter.

A copy of the Notice of Withdrawal dated April 13, 2017 is available at [www.osc.gov.on.ca](http://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)

1.5.6 Benedict Cheng, Frank Soave, John David Rothstein and Eric Tremblay

FOR IMMEDIATE RELEASE  
April 12, 2017

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

AND

IN THE MATTER OF  
BENEDICT CHENG,  
FRANK SOAVE,  
JOHN DAVID ROTHSTEIN and  
ERIC TREMBLAY

**TORONTO** – The Office of the Secretary issued a Notice of Hearing for a hearing to consider whether it is in the public interest to approve a settlement agreement entered into by Staff of the Commission and John David Rothstein in the above named matter.

The hearing will be held on April 18, 2017 at 9:00 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 April 12, 2017 is available at [www.osc.gov.on.ca](http://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)

1.5.7 Crystal Wealth Management System Limited,  
Clayton Smith, CLJ Everest Ltd and 1150752  
Ontario Limited

FOR IMMEDIATE RELEASE  
April 13, 2017

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

AND

IN THE MATTER OF  
CRYSTAL WEALTH MANAGEMENT SYSTEM LIMITED,  
CLAYTON SMITH,  
CLJ EVEREST LTD and  
1150752 ONTARIO LIMITED

**TORONTO** – The Office of the Secretary issued a Notice of Hearing on April 13, 2017 setting the matter down to be heard on April 28, 2017 at 10:00 a.m. to consider whether it is in the public interest for the Commission:

(1) to extend the Temporary Order pursuant to subsections 127(7) and (8) of the Act until the conclusion of the hearing, or until such further time as considered necessary by the Commission; and

(2) to make such further orders as the Commission considers appropriate.

A copy of the Notice of Hearing dated April 13, 2017 and Temporary Order dated April 13, 2017 are available at [www.osc.gov.on.ca](http://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)

1.5.8 Benedict Cheng et al.

FOR IMMEDIATE RELEASE  
April 18, 2017

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

AND

IN THE MATTER OF  
BENEDICT CHENG,  
FRANK SOAVE,  
JOHN DAVID ROTHSTEIN and  
ERIC TREMBLAY

**TORONTO** – Following a hearing held today, the Commission issued an Order in the above named matter approving the Settlement Agreement reached between Staff of the Commission and John David Rothstein.

A copy of the Order dated April 18, 2017 and Settlement Agreement dated April 12, 2017 are available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
GRACE KNAKOWSKI  
SECRETARY TO THE COMMISSION

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1-877-785-1555 (Toll Free)

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## Chapter 2

# Decisions, Orders and Rulings

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### 2.1 Decisions

#### 2.1.1 Northwest & Ethical Investments L.P., Nei Northwest Macro Canadian Asset Allocation Fund and Nei Northwest Macro Canadian Asset Allocation Corporate Class

##### Headnote

National Policy 11-203 *Process For Exemptive Relief Applications in Multiple Jurisdictions* – Approval of mutual fund mergers – approval required because the mergers do not meet the criteria for pre-approved reorganizations and transfers in National Instrument 81-102 – the fundamental investment objectives are not substantially similar – the merger will not be effected as a “qualifying transaction” or as a tax-deferred transactions – unitholders of the terminating funds are provided with timely and adequate disclosure regarding the merger.

##### Applicable Legislative Provisions

Paragraph 5.5(1)(b) of NI 81-102 Investment Funds.

April 13, 2017

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  
NORTHWEST & ETHICAL INVESTMENTS L.P.  
(the Manager)

AND

IN THE MATTER OF  
NEI NORTHWEST MACRO CANADIAN ASSET ALLOCATION FUND  
NEI NORTHWEST MACRO CANADIAN ASSET ALLOCATION CORPORATE CLASS  
(collectively, the Terminating Funds, and together with the  
Manager on behalf of the Terminating Funds, the Filers)

DECISION

##### Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filers for a decision (the **Requested Approval**) under the securities legislation of the Jurisdiction (the **Legislation**) approving the proposed mergers of the Terminating Funds with the Continuing Fund (as defined below) (the **Proposed Mergers**) pursuant to clause 5.5(1)(b) of National Instrument 81-102 – Investment Funds (**NI 81-102**).

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

- (a) the Ontario Securities Commission is the principal regulator (**Principal Regulator**) for the Application, and

- (b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 – Passport System (**MI 11-102**) is intended to be relied upon in each 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 in this Application unless they are otherwise defined in this Application. In addition, the following terms have the following meanings:

<b>Circular</b>	means the joint management information circular of the Terminating Funds
<b>Continuing Fund</b>	means NEI Northwest Tactical Yield Fund
<b>Funds</b>	means the Continuing Fund and the Terminating Funds
<b>IRC</b>	means the Independent Review Committee of the Funds
<b>Tax Act</b>	means the <i>Income Tax Act</i> (Canada)
<b>Terminating Corporate Fund</b>	means NEI Northwest Macro Canadian Asset Allocation Corporate Class
<b>Terminating Funds</b>	means each of NEI Northwest Macro Canadian Asset Allocation Fund and NEI Northwest Macro Canadian Asset Allocation Corporate Class
<b>Terminating Trust Fund</b>	means NEI Northwest Macro Canadian Asset Allocation Fund

**Representations**

- The Manager is an Ontario limited partnership. The general partner of the Manager (the **General Partner**) is Northwest & Ethical Investments Inc., a corporation formed under the laws of Canada with its head office in Ontario.
- The Manager is the investment fund manager of the Funds and is registered as (i) an exempt market dealer in British Columbia, Ontario, Quebec and Saskatchewan, (ii) an investment fund manager in British Columbia, Newfoundland and Labrador, Ontario and Quebec, and (iii) a portfolio manager in Ontario.
- Each of the Funds is either a mutual fund trust or a class of a mutual fund corporation established or incorporated under the laws of Ontario and is a reporting issuer under the applicable securities legislation of each Jurisdiction.
- The securities of each Fund are qualified for distribution in the Jurisdictions pursuant to a simplified prospectus and annual information form prepared and filed in accordance with the securities legislation of the Jurisdictions.
- Each Fund is subject to the requirements of NI 81-102. The securities of each Fund are issuable and redeemable on any business day.
- Neither the Manager nor any Fund is in default of securities legislation in any Jurisdiction.
- This Application is being made in connection with the following Proposed Mergers:

<b>TERMINATING FUND</b>	<b>CONTINUING FUND</b>
NEI Northwest Macro Canadian Asset Allocation Fund	NEI Northwest Tactical Yield Fund
NEI Northwest Macro Canadian Asset Allocation Corporate Class	NEI Northwest Tactical Yield Fund

8. In accordance with National Instrument 81-106 – *Investment Fund Continuous Disclosure*, a press release announcing the Proposed Mergers was issued on March 2, 2017. A material change report with respect to the Proposed Mergers was filed on SEDAR on March 2, 2017. Amendments to the Funds' simplified prospectus and annual information form and to the Terminating Funds' Fund Facts were filed on March 2, 2017.
9. The General Partner has received approval from its Board of Directors to proceed with the Proposed Mergers. In addition, pursuant to NI 81-107, the IRC concluded after considering the Proposed Mergers that the Proposed Mergers, if implemented, would achieve a fair and reasonable result for the Terminating Funds.
10. Regulatory approval of the Proposed Mergers is required as not all of the conditions of section 5.6 of NI 81-102 will be met. More particularly, each of the Proposed Mergers would not comply with the following conditions of section 5.6 of NI 81-102:
- (a) The Proposed Mergers between:
- (i) Terminating Trust Fund and Continuing Fund; and
- (ii) Terminating Corporate Fund and Continuing Fund
- will not be effected as a "qualifying transaction" within the meaning of the Tax Act or as tax-deferred transactions under the Tax Act and, as such, do not meet the requirements in section 5.6(1)(b) of NI 81-102.
- The Proposed Merger referred to in item (i) in the previous paragraph is proposed to proceed as a taxable merger as there would be a deemed tax year-end for the Continuing Fund if such Proposed Merger were undertaken on a tax-deferred basis pursuant to the "qualifying exchange" provision of the Tax Act. Where a deemed tax year-end is triggered, the Continuing Fund would be required to make a distribution and any unused tax losses would expire. As a result, the Manager believes that it is in the best interests of the Terminating Trust Fund and the Continuing Fund for such Proposed Merger to be carried out on a taxable basis in order to avoid any adverse tax consequences to the Continuing Fund and its existing securityholders.
- With respect to the Proposed Merger referred to in item (ii) in the previous paragraph, there are currently no provisions under the Tax Act to allow for a tax-deferred merger between the Terminating Corporate Fund and the Continuing Fund.
- (b) The Proposed Mergers do not meet the requirements of clause 5.6(1)(a)(ii) of NI 81-102 as the investment objectives of each Terminating Fund may not be considered by a reasonable person to be substantially similar to the investment objectives of the Continuing Fund. Among the differences are (i) the investment objectives of the Continuing Fund contemplate a broader geographical scope for the portfolio, and (ii) the Terminating Funds have a preservation of capital mandate as a part of their investment objectives whereas the Continuing Fund does not.
11. Except as noted above, the Proposed Mergers will otherwise comply with all other criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102.
12. The Manager has determined that the Proposed Mergers do not result in a material change for the Continuing Fund.
13. The investment portfolio and other assets of each Terminating Fund that will become assets of the Continuing Fund are acceptable to the advisor of the Continuing Fund and are consistent with the investment objectives of the Continuing Fund. To the extent that a particular security may be unsuitable or undesirable for the Continuing Fund, that security will be sold prior to the Proposed Mergers.
14. The Continuing Fund will be able to promptly invest any significant amounts of cash that the Continuing Fund receives from the Terminating Funds.
15. Investors of the Terminating Funds approved the Proposed Mergers at special meetings of investors held on April 10, 2017. The Proposed Mergers are expected to become effective on or about on or about April 18, 2017, or such later date as may be determined by the Manager (the **Merger Date**). The Manager expects to wind-up the Terminating Funds within 60 days of the Merger Date.
16. It is proposed that the following steps will be carried out to effect the Proposed Merger of the Terminating Trust Fund with the Continuing Fund:

- (a) Immediately following the close of business on the Merger Date, the Terminating Trust Fund will transfer all of its assets (less amounts necessary to satisfy its liabilities) to the Continuing Fund. The Terminating Trust Fund will receive, in exchange, units of the Continuing Fund, the aggregate net asset value (the **NAV**) of which is equal to the aggregate value of the assets transferred to the Continuing Fund, calculated as of the close of business on the Merger Date.
  - (b) Immediately thereafter, the units of the Continuing Fund received by the Terminating Trust Fund will be distributed to securityholders of the Terminating Trust Fund on a dollar-for-dollar and series-by-series basis in exchange for their units of the Terminating Trust Fund. This will result in each securityholder of the Terminating Trust Fund receiving units of the applicable series of the Continuing Fund with a value equal to the NAV of the units of the relevant series of the Terminating Trust Fund that were held by such securityholder.
  - (c) The above Proposed Merger will occur on a taxable basis. This means that the exchange of units of the Terminating Trust Fund for units of the Continuing Fund may result in a capital gain or loss to securityholders of the Terminating Trust Fund. In addition, any non-capital and net capital loss carryforwards of the Terminating Trust Fund will not be deductible in computing income and net realized capital gains realized on the assets formerly held by the Terminating Trust Fund for taxation years beginning after the Merger Date. However, non-capital and net capital loss carryforwards of the Continuing Fund will not be affected by the Proposed Merger.
17. It is proposed that the following steps will be carried out to effect the Proposed Merger of the Terminating Corporate Fund with the Continuing Fund:
- (a) Immediately following the close of business on the Merger Date, the Terminating Corporate Fund will transfer all of its assets (less amounts necessary to satisfy its liabilities) to the Continuing Fund. The Terminating Corporate Fund will receive, in exchange, units of the Continuing Fund, the aggregate NAV of which is equal to the aggregate value of the assets transferred to the Continuing Fund, calculated as of the close of business on the Merger Date.
  - (b) Immediately thereafter, the units of the Continuing Fund received by the Terminating Corporate Fund will be distributed to securityholders of the Terminating Corporate Fund on a dollar-for-dollar and series-by-series basis in exchange for their shares of the Terminating Corporate Fund. This will result in each securityholder of the Terminating Corporate Fund receiving units of the applicable series of the Continuing Fund with a value equal to the NAV of the shares of the relevant series of the Terminating Corporate Fund that were held by such securityholder.
  - (c) Under current tax laws, the Proposed Merger described above cannot be effected on a tax-deferred basis. However, the Manager anticipates that the transfer of the net assets of the Corporate Fund to the Continuing Fund will not result in a material tax liability for the Corporation.
18. The Circular and proxy in connection with the Proposed Mergers was filed on SEDAR and mailed to investors of record of the Terminating Funds as at March 9, 2017. Each such investor was also mailed the Fund Facts of the Continuing Fund. The Circular includes a summary of the IRC determination, a comparison of certain facts, including the management expense ratios and performance, of each Terminating Fund and the Continuing Fund, as well as disclosure as to the consequences of each Proposed Merger being effected on a taxable basis. Accordingly, investors of the Terminating Funds will have an opportunity to consider this information prior to voting on the Proposed Mergers at the special meetings.
19. Securityholders of the Terminating Funds will continue to have the right to redeem securities of the Terminating Funds up to the close of business on the business day immediately prior to the effective date of the Proposed Mergers.
20. The Manager believes that the Proposed Mergers will be beneficial to securityholders of the Terminating Funds for the following reasons:
- (a) the Continuing Fund has a larger portfolio and broader investment mandate than each Terminating Fund, and therefore has the potential to offer improved portfolio diversification and liquidity to securityholders of the Terminating Funds; and
  - (b) the Continuing Fund, as a result of its increased size, will benefit from a more significant profile in the marketplace.

## Decisions, Orders and Rulings

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21. No sales charges, redemption fees or other fees or commissions will be payable by securityholders in connection with the Proposed Mergers or with respect to any portfolio rebalancing in the Terminating Fund arising in connection with the Proposed Mergers. The costs and expenses specifically associated with the Proposed Mergers will be borne by the Manager.
22. In the case of each Proposed Merger, the investors in a Terminating Fund will receive the same series of securities of the Continuing Fund as such investors hold in the Terminating Fund upon closing of the Proposed Merger.
23. The management fees for the relevant series of the Continuing Fund are, in each case, the same as those of each Terminating Fund.
24. The valuation procedures for the Continuing Fund are the same as those of each Terminating Fund.
25. Investors in the Terminating Funds will have the right to vote on the Proposed Mergers. Due to the redemption rights of securityholders, each securityholder ultimately can make the securityholder's own choice as to whether to remain in the Continuing Fund or not.
26. Subsequent to the completion of the Mergers, the Terminating Funds will be wound up.
27. Investors of each Terminating Fund are expected to benefit from the increased scale and operational efficiencies of the Continuing Fund, enjoying the same management fees.

### 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 Approval is granted.

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

## 2.1.2 Banwell Financial Inc. and Investia Financial Services Inc.

### Headnote

Relief under paragraph 4.1(1)(a) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations a registered firm must not permit an individual to act as a dealing, advising or associate advising representative of the registered firm if the individual acts as an officer, partner or director of another registered firm that is not an affiliate of the first-mentioned firm – The firms require relief for a limited period of time – The individual will have sufficient time to adequately serve both firms – As one firm is winding down its operations, conflicts of interest are unlikely to arise – The firms have policies in place to handle potential conflicts of interest – The firms are exempted from the prohibition.

### Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7.

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 4.1 and 15.1.

April 11, 2017

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

**AND**

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

**AND**

**IN THE MATTER OF  
BANWELL FINANCIAL INC.  
(Banwell)**

**AND**

**IN THE MATTER OF  
INVESTIA FINANCIAL SERVICES INC.  
(Investia)**

(Investia and Banwell are, collectively, the Filers)

**DECISION**

### Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from Investia and Banwell for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for relief from the requirement in paragraph 4.1(1)(a) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), pursuant to section 15.1 of NI 31-103, to permit Michael Banwell, an officer, a director, a shareholder and the ultimate designated person (**UDP**) and chief compliance officer (**CCO**) of Banwell, to be both a registered dealing representative of Investia and the UDP, CCO, an officer, a director and a shareholder of Banwell for a limited period of time to maintain the registration of Banwell to facilitate the transfer of Banwell's client accounts to Investia (the **Exemption Sought**).

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

- (a) the Autorité des marchés financiers (**AMF**) is the principal regulator for this application;
- (b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan, and Yukon; and

- (c) the decision is the decision of the principal regulator and evidences the decision of the regulator in Ontario.

### Interpretation

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

### Representations

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

1. Investia is registered as: (i) a mutual fund dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan and Yukon; (ii) an exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan and Yukon; (iii) a scholarship plan dealer in Québec; and (iv) a restricted dealer in Québec. Investia is a member of the Mutual Fund Dealers Association of Canada (**MFDA**).
2. Investia engages primarily in mutual fund dealing and distribution in Canada. Its head office is located in Québec.
3. The principal regulator of Investia is the AMF.
4. Banwell is registered as: (i) a mutual fund dealer in Ontario and Alberta and (ii) an exempt market dealer in Ontario and Alberta. Banwell is a member of the MFDA.
5. Banwell engages primarily in mutual fund and exempt market dealing and distribution in Ontario and Alberta. Its head office is located in Ontario.
6. The principal regulator of Banwell is the Ontario Securities Commission (the **OSC**).
7. The Filers are not in default of any requirement of securities legislation in any jurisdiction of Canada where they are operating.
8. The Filers are not affiliates.
9. Investia has provided notice pursuant to section 11.9 of NI 31-103 of the proposed transfer of all, or substantially all, of the client accounts of Banwell to Investia (the **Proposed Transaction**). In addition to the Proposed Transaction, the dealing representatives of Banwell will apply for registration with Investia as dealing representatives.
10. The Proposed Transaction is designed to permit Investia to acquire all the client accounts of Banwell and expand its operations in the functional areas of mutual fund and exempt market dealings in Ontario and Alberta in a timely and efficient manner.
11. Michael Banwell is currently a director, an officer, a shareholder and a dealing representative of Banwell and acts as Banwell's UDP and CCO. Following the closing of the Proposed Transaction, it is intended that Michael Banwell will be registered with Investia as a dealing representative, and will continue to be a director, an officer and a shareholder of Banwell and act as the UDP and CCO of Banwell for a limited period of time (the **Dual Registration**).
12. Prior to the closing date of the Proposed Transaction, clients of Banwell will be provided with notice of the Proposed Transaction that includes information about the transfer of client accounts to Investia as well as information that Banwell will no longer offer services to its clients.
13. The timing of the Proposed Transaction has been set in order to ensure a smooth transition of Banwell's clients accounts to Investia. Banwell and Investia agree that clients should receive their 2017 Q1 client statements with their entire portfolio showing under Banwell. The next client statements 2017 Q2 will therefore show the clients entire portfolios under Investia.
14. Michael Banwell's Dual Registration is required so that Michael Banwell can service his clients under the Investia banner after the date of the Proposed Transaction while remaining registered under Banwell to wind-up the Banwell dealership.

## Decisions, Orders and Rulings

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15. After the Proposed Transaction closes, Banwell will cease its registerable activities and will not open any new client accounts. Banwell will apply to surrender its MFDA membership and its securities registrations as soon as all client accounts are transferred to Investia.
16. Banwell has agreed to certain terms and conditions being placed on its registration after the Proposed Transaction closes which include that:
  - (a) Banwell and all its registered individuals shall not trade in securities and will not open any new client accounts; and
  - (b) Michael Banwell, as a director and officer of Banwell, will act in such capacity only to comply with regulatory requirements including, as necessary, to resign the membership of Banwell with the MFDA and surrender the registrations of Banwell under applicable securities legislation.
17. Michael Banwell has agreed to adhere to the terms and conditions imposed.
18. Michael Banwell will have sufficient time and resources to adequately meet his obligations to each of the Filers.
19. The Filers have in place policies and procedures to address any conflicts of interest that may arise as a result of the Dual Registration and the inactive status of Banwell will facilitate this, by largely or entirely avoiding any conflicts of interest.
20. Furthermore, Investia has compliance and supervisory policies and procedures in place to monitor the conduct of its representatives (including Michael Banwell) and to ensure that Investia can deal appropriately with any conflict of interest that may arise.
21. Investia will supervise the activities that Michael Banwell will conduct on behalf of Banwell, including by holding meetings regularly with him and by obtaining regular status reports from him.
22. In the absence of the Exemption Sought, Investia would be prohibited under paragraph 4.1(1)(a) of NI 31-103 from permitting Michael Banwell to act as a dealing representative of Investia while also acting as an officer and a director of Banwell.

### Decision

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

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

1. the circumstances described above remain in place, and
2. the Exemption Sought shall expire on the earlier of the following:
  - (i) one year after the date hereof, and
  - (ii) the date on which the surrender of Banwell's registration is accepted by the OSC.

"Eric Stevenson"  
Superintendent, Client Services and Distribution Oversight



**2.2 Orders**

**2.2.1 Eurex Clearing AG – s. 144**

**Headnote**

Application under section 144 of the Securities Act (Ontario) (Act) to vary an interim order exempting Eurex Clearing AG from the requirement in subsection 21.2(0.1) of the Act to be recognized as a clearing agency.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21.2(0.1), 144.

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

**AND**

**IN THE MATTER OF  
EUREX CLEARING AG  
(EUREX CLEARING)**

**VARIATION TO  
THE INTERIM ORDER  
(Section 144 of the Act)**

**WHEREAS** the Ontario Securities Commission (**Commission**) issued an order (**Interim Order**) dated September 22, 2016 pursuant to section 147 of the Act exempting Eurex Clearing on an interim basis from the requirement to be recognized as a clearing agency under subsection 21.2(0.1) of the Act;

**AND WHEREAS** the Interim Order will terminate on April 20, 2017 unless further extended by order of the Commission;

**AND WHEREAS** the Commission has received an application from Eurex Clearing pursuant to section 144 of the Act requesting that the Commission vary the Interim Order to extend Eurex Clearing's interim exemption from the requirement to be recognized as a clearing agency pursuant to subsection 21.2(0.1) of the Act;

**AND WHEREAS** the Commission has received certain representations from Eurex Clearing in connection with the application to vary the Interim Order, including that Eurex Clearing's model is complex for comparative analysis, and that such extension is not inconsistent with prior interim exemption orders;

**AND WHEREAS** the Commission has considered these representations, Eurex Clearing's application, and other factors;

**AND WHEREAS** the Commission is of the opinion that it is not prejudicial to the public interest to issue this order that varies the Interim Order to extend Eurex

Clearing's interim exemption from the requirement to be recognized as a clearing agency pursuant to subsection 21.2(0.1) of the Act;

**IT IS ORDERED**, pursuant to section 144 of the Act, that the Interim Order be varied by replacing the reference to "April 20, 2017" with a reference to "July 21, 2017."

**DATED** at Toronto, this 10<sup>th</sup> day of April, 2017.

Grant Vingoe  
Vice-Chair

Monica Kowal  
Vice-Chair

**2.2.2 Black Panther Trading Corporation and Charles Robert Goddard – ss. 127, 127.1**

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

**AND**

**IN THE MATTER OF  
BLACK PANTHER TRADING CORPORATION AND  
CHARLES ROBERT GODDARD**

**ORDER  
(Sections 127 and 127.1)**

**WHEREAS:**

1. on October 13, 2015, Staff of the Ontario Securities Commission (“**Staff**”) filed a Statement of Allegations, in which Staff sought an order against Black Panther Trading Corporation (“**Black Panther**”) and Charles Robert Goddard (together, the “**Respondents**”) pursuant to subsection 127(1) and section 127.1 of the *Securities Act* (the “**Act**”);
2. on October 14, 2015, the Ontario Securities Commission (the “**Commission**”) issued a Notice of Hearing in respect of that Statement of Allegations;
3. the Commission held the hearing on the merits, and on January 30, 2017, issued its Reasons and Decision on the merits, in which the Panel concluded there had been contraventions of the Act by the Respondents;
4. the Commission held a hearing in writing on the sanctions and costs to be imposed in this matter, and on April 11, 2017, issued its Reasons and Decisions on Sanctions and Costs; and
5. the Commission is of the opinion that it is in the public interest to make this order;

**IT IS ORDERED** that:

1. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Mr. Goddard or Black Panther cease permanently;
2. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Mr. Goddard or Black Panther cease permanently;

3. pursuant to paragraph 3 of subsection 127(1) of the Act, the exemptions contained in Ontario securities law shall not apply to Mr. Goddard or Black Panther permanently;
4. pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Mr. Goddard shall immediately resign any position that he holds as a director or officer of an issuer, a registrant or an investment fund manager;
5. pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Mr. Goddard is prohibited permanently from becoming or acting as a director or officer of any issuer, a registrant or an investment fund manager;
6. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Mr. Goddard is prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter;
7. pursuant to paragraph 9 of subsection 127(1) of the Act, the respondents shall pay to the Commission an administrative penalty of \$300,000, for which they shall be jointly and severally liable, and which 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;
8. pursuant to paragraph 10 of subsection 127(1) of the Act, the respondents shall disgorge to the Commission \$313,847, for which they shall be jointly and severally liable, and which 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; and
9. pursuant to section 127.1 of the Act, the respondents shall pay \$100,000 to the Commission to reimburse the costs of the investigation and hearing, for which they shall be jointly and severally liable.

**DATED** at Toronto, this 11th day of April, 2017.

“Timothy Moseley”

“Garnet Fenn”

“Judith Robertson”

2.2.3 Crystal Wealth Management System Limited – ss. 127(1), (5)

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

AND

IN THE MATTER OF  
CRYSTAL WEALTH MANAGEMENT SYSTEM LIMITED

TEMPORARY ORDER  
(Subsections 127(1) and 127(5))

WHEREAS:

1. it appears to the Ontario Securities Commission (the “Commission”) that:
  - a. Crystal Wealth Management System Limited (“Crystal Wealth”) is a Burlington-based Ontario corporation, registered in the categories of Exempt Market Dealer (“EMD”), Investment Fund Manager (“IFM”), Portfolio Manager (“PM”) and Commodity Trading Manager;
  - b. Crystal Wealth is the trustee, IFM, PM and promoter, and for some funds is also the commodity trading manager, for the following 15 investment funds, which are structured as open-ended mutual fund trusts:

Crystal Wealth Media Strategy  
Crystal Wealth Mortgage Strategy  
Crystal Enlightened Resource & Precious Metal Fund  
Crystal Wealth Medical Strategy  
Crystal Wealth Enlightened Factoring Strategy  
ACM Growth Fund  
ACM Income Fund  
Crystal Wealth High Yield Mortgage Strategy  
Crystal Enlightened Bullion Fund  
Absolute Sustainable Dividend Fund  
Absolute Sustainable Property Fund  
Crystal Wealth Enlightened Hedge Fund  
Crystal Wealth Infrastructure Strategy  
Crystal Wealth Conscious Capital Strategy  
Crystal Wealth Retirement One Fund

(collectively with any other investment funds managed or advised by Crystal Wealth, the “Crystal Wealth Funds”);
  - c. Clayton Smith (“Smith”) is an Ontario resident and is the sole officer and director of Crystal Wealth. Smith is registered in Ontario as a dealing representative, an advising representative in the category of PM, an advising representative in the category of Commodity Trading Manager, and as Crystal Wealth’s Chief Compliance Officer (“CCO”) and Ultimate Designated Person (“UDP”);
  - d. CLJ Everest Ltd, (“CLJ Everest”) is an Ontario company, with a registered office in Burlington. Smith is the sole officer and director of CLJ Everest. CLJ Everest holds 28.26% of Crystal Wealth’s shares and 100% of the shares of 1150752 Ontario Limited (“115 Limited”);
  - e. 115 Limited holds 63.5% of Crystal Wealth’s outstanding shares;
  - f. Smith and Crystal Wealth (collectively, the “Respondents”) may have participated in a course of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud contrary to subsection 126.1(1)(b) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”); failed to act fairly, honestly and in good faith with clients, contrary to section 2.1 of Rule 31-505 – *Conditions of Registration*; and failed to comply with the standard of care expected of an IFM under section 116 of the Act;

- g. Crystal Wealth may have failed to comply with the Funds' obligations to deliver the Funds' audited financial statements for the calendar year ending December 31, 2016, according to sections 2.1, 2.2 and 2.11 of National Instrument 81-106 – *Investment Fund Continuous Disclosure*;
  - h. Crystal Wealth may have failed to comply with its obligations to file its audited financial statements in compliance with subsection 21.10(3) of the Act and sections 12.10(2), 12.12, 12.13 and 12.14 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registration Obligations*;
  - i. Crystal Wealth and Smith may have acted contrary to the public interest.
  - j. Smith may have authorized, permitted or acquiesced in Crystal Wealth's contraventions of the Act and if so, may be deemed to have failed to comply with Ontario securities law pursuant to section 129.2 of the Act;
  - k. Staff are conducting an investigation into the conduct described above;
- 2. the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest as set out in subsection 127(5) of the Act;
  - 3. the Commission is of the opinion that it is in the public interest to make this Order;
  - 4. by Authorization Order made March 24, 2017, pursuant to subsection 3.5(3) of the Act, each of Maureen Jensen, Monica Kowal, D. Grant Vingoe, Philip Anisman, Robert P. Hutchison, Janet Leiper, Timothy Moseley, and Mark J. Sandler, acting alone, is authorized to make orders under section 127 of the Act.

**IT IS ORDERED** pursuant to section 127 of the Act that:

- 1. pursuant to paragraphs 2 and 2.1 of subsection 127(1), all trading, including redemptions and distributions, or acquisitions of the securities of Crystal Wealth Funds shall cease;
- 2. pursuant to paragraphs 2 and 2.1 of subsection 127(1) all trading in securities held by the Crystal Wealth Funds, or the acquisition of securities by Crystal Wealth on behalf of the Crystal Wealth Funds shall cease;
- 3. pursuant to paragraphs 2 and 2.1 of subsection 127(1), the trading in or the acquisition of any securities or derivatives by Smith, CLJ Everest and 115 Limited shall cease;
- 4. pursuant to subsection 127(2), as an exception to the prohibition on trading securities and derivatives in paragraphs 2 and 3 above, Crystal Wealth in its capacity as portfolio manager for the Funds may, and Clayton Smith in his capacity as advising representative may, if in compliance with Ontario securities law, place orders to sell securities and derivatives already held as of the date of this temporary order by the Crystal Wealth Funds, provided that the sales occur through the facilities of a recognized exchange and all proceeds of such sales remain in the account of the respective Crystal Wealth Fund for which the order was placed until further order of the Commission;
- 5. pursuant to subsection 127(2), as an exception to the prohibition on trading securities and derivatives in paragraphs 2 and 3 above, Smith in his capacity as advising representative may, if in compliance with Ontario securities law, place orders to sell securities and derivatives already held by clients in discretionary accounts for which Crystal Wealth is the portfolio manager (the "Managed Accounts"), provided that the sales occur through the facilities of a recognized exchange;
- 6. pursuant to subsection 127(2), the following terms and conditions apply to the registration of Crystal Wealth as an exempt market dealer:
  - a. Crystal Wealth and any dealing representatives shall not accept any new money for investment from any existing clients, and shall not accept any new clients or open any new client accounts of any kind;
- 7. pursuant to subsection 127(2), the following terms and conditions apply to the registration of Crystal Wealth as a portfolio manager and investment fund manager:
  - a. Crystal Wealth's activities as a portfolio manager and investment fund manager shall be applied exclusively to the Managed Accounts and to the Crystal Wealth Funds, subject to the restrictions on trading set out in paragraph 2 and the exception in paragraph 4;

- b. Crystal Wealth and any advising representatives shall not accept any new money for investment from any existing clients, shall not accept any new clients or open any new client accounts of any kind;
8. pursuant to subsection 127(6) of the Act, this Order shall take effect immediately and shall expire on the 15th day after its making unless extended by the Commission.

**DATED** at Toronto, this 7th day of April, 2017.

“Maureen Jensen”

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2.2.4 Crystal Wealth Management System Limited – ss. 127(1), (5)

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

AND

IN THE MATTER OF  
CRYSTAL WEALTH MANAGEMENT SYSTEM LIMITED

TEMPORARY ORDER  
(Subsections 127(1) and 127(5))

WHEREAS:

1. it appears to the Ontario Securities Commission (the “Commission”) that:
  - a. Crystal Wealth Management System Limited (“Crystal Wealth”) is a Burlington-based Ontario corporation, registered in the categories of Exempt Market Dealer (“EMD”), Investment Fund Manager (“IFM”), Portfolio Manager (“PM”) and Commodity Trading Manager;
  - b. Crystal Wealth is the trustee, IFM, PM and promoter, and for some funds is also the commodity trading manager, for the following 15 investment funds, which are structured as open-ended mutual fund trusts:

Crystal Wealth Media Strategy  
Crystal Wealth Mortgage Strategy  
Crystal Enlightened Resource & Precious Metal Fund  
Crystal Wealth Medical Strategy  
Crystal Wealth Enlightened Factoring Strategy  
ACM Growth Fund  
ACM Income Fund  
Crystal Wealth High Yield Mortgage Strategy  
Crystal Enlightened Bullion Fund  
Absolute Sustainable Dividend Fund  
Absolute Sustainable Property Fund  
Crystal Wealth Enlightened Hedge Fund  
Crystal Wealth Infrastructure Strategy  
Crystal Wealth Conscious Capital Strategy  
Crystal Wealth Retirement One Fund

(collectively the “Crystal Wealth Funds”);

- c. Clayton Smith (“Smith”) is an Ontario resident and is the sole officer and director of Crystal Wealth. Smith is registered in Ontario as a dealing representative, an advising representative in the category of PM, an advising representative in the category of Commodity Trading Manager, and as Crystal Wealth’s Chief Compliance Officer (“CCO”) and Ultimate Designated Person (“UDP”);
- d. CLJ Everest Ltd, (“CLJ Everest”) is an Ontario company, with a registered office in Burlington. Smith is the sole officer and director of CLJ Everest. CLJ Everest holds 28.26% of Crystal Wealth’s shares and 100% of the shares of 1150752 Ontario Limited (“115 Limited”);
- e. 115 Limited holds 63.5% of Crystal Wealth’s outstanding shares;
- f. Smith and Crystal Wealth (collectively, the “Respondents”) may have participated in a course of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud contrary to subsection 126.1(1)(b) of the Securities Act, R.S.O. 1990, c. S.5, as amended (the “Act”); failed to act fairly, honestly and in good faith with clients, contrary to section 2.1 of Rule 31-505 – Conditions of Registration; and failed to comply with the standard of care expected of an IFM under section 116 of the Act;
- g. Crystal Wealth may have failed to comply with the Funds’ obligations to deliver the Funds’ audited financial statements for the calendar year ending December 31, 2016, according to sections 2.1, 2.2 and 2.11 of National Instrument 81-106 – Investment Fund Continuous Disclosure;

- h. Crystal Wealth may have failed to comply with its obligations to file its audited financial statements in compliance with subsection 21.10(3) of the Act and sections 12.10(2), 12.12, 12.13 and 12.14 of National Instrument 31-103 – Registration Requirements, Exemptions and Ongoing Registration Obligations;
  - i. Crystal Wealth and Smith may have acted contrary to the public interest.
  - j. Smith may have authorized, permitted or acquiesced in Crystal Wealth’s contraventions of the Act and if so, may be deemed to have failed to comply with Ontario securities law pursuant to section 129.2 of the Act;
  - k. Staff are conducting an investigation into the conduct described above;
- 2. the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest as set out in subsection 127(5) of the Act;
  - 3. the Commission is of the opinion that it is in the public interest to make this Order;
  - 4. by Authorization Order made March 24, 2017, pursuant to subsection 3.5(3) of the Act, each of Maureen Jensen, Monica Kowal, D. Grant Vingoe, Philip Anisman, Robert P. Hutchison, Janet Leiper, Timothy Moseley, and Mark J. Sandler, acting alone, is authorized to make orders under section 127 of the Act.

**IT IS ORDERED** pursuant to section 127 of the Act that:

- 1. pursuant to paragraphs 2 and 2.1 of subsection 127(1), all trading, including redemptions and distributions, or acquisitions of the securities of Crystal Wealth Funds shall cease;
- 2. pursuant to paragraphs 2 and 2.1 of subsection 127(1) all trading in securities held by the Crystal Wealth Funds, or the acquisition of securities by Crystal Wealth on behalf of the Crystal Wealth Funds shall cease;
- 3. pursuant to paragraphs 2 and 2.1 of subsection 127(1), the trading in or the acquisition of any securities or derivatives by Smith, CLJ Everest and 115 Limited shall cease;
- 4. pursuant to subsection 127(2), as an exception to the prohibition on trading securities and derivatives in paragraph 3 above, Crystal Wealth in its capacity as portfolio manager for the Funds and Smith in his capacity as advising representative may, if in compliance with Ontario securities law, place orders to sell securities and derivatives already held as of the date of this temporary order by the Crystal Wealth Funds, or held by clients in discretionary accounts for which Crystal Wealth is the portfolio manager (the “Managed Accounts”), provided that the sales occur through the facilities of a recognized exchange and all proceeds of such sales remain in the account of the respective Crystal Wealth Fund or Managed Account client for whom the order was placed until further order of the Commission;
- 5. pursuant to subsection 127(2), the following terms and conditions apply to the registration of Crystal Wealth as an exempt market dealer:
  - a. Crystal Wealth and any dealing representatives shall not accept any new money for investment from any existing clients, and shall not accept any new clients or open any new client accounts of any kind;
- 6. pursuant to subsection 127(2), the following terms and conditions apply to the registration of Crystal Wealth as a portfolio manager and investment fund manager:
  - a. Crystal Wealth’s activities as a portfolio manager and investment fund manager shall be applied exclusively to the Managed Accounts and to the Crystal Wealth Funds, subject to the restrictions on trading set out in paragraph 2 and the exception in paragraph 4;
  - b. Crystal Wealth and any advising representatives shall not accept any new money for investment from any existing clients, shall not accept any new clients or open any new client accounts of any kind;
- 7. pursuant to subsection 127(6) of the Act, this Order shall take effect immediately and shall expire on the 15th day after its making unless extended by the Commission.

**DATED** at Toronto, this 6th day of April, 2017.

“Maureen Jensen”

**2.2.5 Crystal Wealth Management System Limited, Clayton Smith, CLJ Everest Ltd and 1150752 Ontario Limited – ss. 127(7), (8)**

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

**AND**

**IN THE MATTER OF  
CRYSTAL WEALTH MANAGEMENT SYSTEM LIMITED,  
CLAYTON SMITH,  
CLJ EVEREST LTD and  
1150752 ONTARIO LIMITED**

**TEMPORARY ORDER  
(Subsections 127(7) and 127(8))**

**WHEREAS:**

1. the Ontario Securities Commission (the “Commission”) issued temporary orders on April 6 and April 7, 2017 pursuant to sections 127(1) and 127(5) of the Securities Act, RSO 1990, c S.5 (the “Act”);
2. the April 7, 2017 temporary order was requested to add clarification to the April 6, 2017 temporary order;
3. the April 7, 2017 temporary order provided that:
  - a. pursuant to paragraphs 2 and 2.1 of subsection 127(1), all trading, including redemptions and distributions, or acquisitions of the securities of the following funds shall cease:  
  
Crystal Wealth Media Strategy  
Crystal Wealth Mortgage Strategy  
Crystal Enlightened Resource & Precious Metal Fund  
Crystal Wealth Medical Strategy  
Crystal Wealth Enlightened Factoring Strategy  
ACM Growth Fund  
ACM Income Fund  
Crystal Wealth High Yield Mortgage Strategy  
Crystal Enlightened Bullion Fund  
Absolute Sustainable Dividend Fund  
Absolute Sustainable Property Fund  
Crystal Wealth Enlightened Hedge Fund  
Crystal Wealth Infrastructure Strategy  
Crystal Wealth Conscious Capital Strategy  
Crystal Wealth Retirement One Fund  
  
(collectively with any other investment funds managed or advised by Crystal Wealth, the “Crystal Wealth Funds”);
  - b. pursuant to paragraphs 2 and 2.1 of subsection 127(1) all trading in securities held by the Crystal Wealth Funds, or the acquisition of securities by Crystal Wealth Management System Limited (“Crystal Wealth”) on behalf of the Crystal Wealth Funds shall cease;
  - c. pursuant to paragraphs 2 and 2.1 of subsection 127(1), the trading in or the acquisition of any securities or derivatives by Clayton Smith (“Smith”), CLJ Everest Ltd and 1150752 Ontario Limited shall cease (collectively, with Crystal Wealth, the “Respondents”);
  - d. pursuant to subsection 127(2), as an exception to the prohibition on trading securities and derivatives in paragraphs 2 and 3 above, Crystal Wealth in its capacity as portfolio manager for the Funds may, and Clayton Smith in his capacity as advising representative may, if in compliance with Ontario securities law, place orders to sell securities and derivatives already held as of the date of this temporary order by the Crystal Wealth Funds, provided that the sales occur through the facilities of a recognized exchange and all proceeds of such



sales remain in the account of the respective Crystal Wealth Fund for which the order was placed until further order of the Commission;

- e. pursuant to subsection 127(2), as an exception to the prohibition on trading securities and derivatives in paragraphs 2 and 3 above, Smith in his capacity as advising representative may, if in compliance with Ontario securities law, place orders to sell securities and derivatives already held by clients in discretionary accounts for which Crystal Wealth is the portfolio manager (the "Managed Accounts"), provided that the sales occur through the facilities of a recognized exchange;
  - f. pursuant to subsection 127(2), the following terms and conditions apply to the registration of Crystal Wealth as an exempt market dealer:
    - i. Crystal Wealth and any dealing representatives shall not accept any new money for investment from any existing clients, and shall not accept any new clients or open any new client accounts of any kind;
  - g. pursuant to subsection 127(2), the following terms and conditions apply to the registration of Crystal Wealth as a portfolio manager and investment fund manager:
    - i. Crystal Wealth's activities as a portfolio manager and investment fund manager shall be applied exclusively to the Managed Accounts and to the Crystal Wealth Funds, subject to the restrictions on trading set out in paragraph 2 and the exception in paragraph 4;
    - ii. Crystal Wealth and any advising representatives shall not accept any new money for investment from any existing clients, shall not accept any new clients or open any new client accounts of any kind;
- (the "Temporary Order")
- h. the Commission further ordered that pursuant to subsection 127(6) of the Act, the Temporary Order shall take effect immediately and shall expire on the 15th day after its making unless extended by the Commission;

- 4. on April 13, 2017, the Commission issued a Notice of Hearing providing notice that it will hold a hearing on April 28, 2017 to consider whether, pursuant to subsections 127(7) and 127(8) of the Act, it is in the public interest for the Commission to extend the Temporary Order until the conclusion of the hearing or until such further time as considered necessary by the Commission, and to make such further orders as the Commission considers appropriate;
- 5. the Respondents, through their counsel, have consented to an extension of the Temporary Order until May 1, 2017, without prejudice to any position that might be advanced by the Respondents in the future with respect to the Temporary Order or the matters raised in the Notice of Hearing;
- 6. Staff and the Respondents, through their counsel, agreed to a schedule for the delivery of materials in connection with the hearing to extend the Temporary Order (the "Hearing"); and
- 7. the Commission is of the opinion that it is in the public interest to make this Order.

**IT IS ORDERED that:**

- 1. the Temporary Order is extended until May 1, 2017, or until further order of the Commission, without prejudice to the right of any of the parties to seek to vary the Temporary Order on application to the Commission; and
- 2. the Hearing regarding the extension of the Temporary Order shall occur on April 28, 2017 at 10:00 a.m.

**DATED** at Toronto, this 13th day of April, 2017.

"Janet Leiper"

2.3 Orders with Related Settlement Agreements

2.3.1 Benedict Cheng et al – s. 127(1)

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

AND

IN THE MATTER OF  
BENEDICT CHENG,  
FRANK SOAVE,  
JOHN DAVID ROTHSTEIN and  
ERIC TREMBLAY

ORDER  
(Subsection 127(1) of the Securities Act)

WHEREAS:

1. on April 12, 2017, the Ontario Securities Commission (the “**Commission**”) issued a Notice of Hearing in relation to the Statement of Allegations filed by Staff of the Commission (“**Staff**”) on April 12, 2017 with respect to Benedict Cheng, Frank Soave, John David Rothstein (“**Rothstein**”), and Eric Tremblay;
2. on April 12, 2017, the Commission also issued a second Notice of Hearing in relation to a settlement agreement between Rothstein and Staff dated April 12, 2017 (the “**Settlement Agreement**”), setting a hearing date of April 18, 2017 to consider whether it is in the public interest for the Commission to approve the Settlement Agreement;
3. pursuant to the Settlement Agreement, Rothstein has undertaken to the Commission in the form attached as Schedule “B” to the Settlement Agreement, to cooperate with Staff in its investigation, including, if required, testifying as a witness for Staff in any proceedings commenced or continued by Staff or the Commission relating to the matters set out in the Settlement Agreement and meeting with Staff in advance of any such proceeding to prepare for that testimony;
4. Rothstein acknowledges that the Settlement Agreement and this Order may form the basis for orders of parallel effect in other jurisdictions in Canada;
5. the Commission reviewed the Settlement Agreement and the Statement of Allegations and heard submissions from counsel for Rothstein and Staff; and
6. the Commission is of the opinion that it is in the public interest to make this Order;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;
2. trading in any securities or derivatives by the Respondent cease for a period of two years commencing on the date of the Order, pursuant to paragraph 2 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the “**Act**”);
3. the acquisition of any securities by the Respondent cease for a period of two years commencing on the date of the Order, pursuant to paragraph 2.1 of subsection 127(1) of the Act;
4. the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
5. the Respondent resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
6. the Respondent be prohibited from becoming or acting as a director or officer of any issuer for a period of two years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act;
7. the Respondent resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;

8. the Respondent be prohibited from becoming or acting as a director or officer of a registrant for a period of two years commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;
9. the Respondent resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;
10. the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of two years commencing on the date of the Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;
11. the Respondent is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter for a period of two years commencing on the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
12. the Respondent pay an administrative penalty in the amount of \$5,500, pursuant to paragraph 9 of subsection 127(1) of the Act, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act;
13. the Respondent disgorge to the Commission the amount of \$5,500, pursuant to paragraph 10 of subsection 127(1) of the Act, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act; and
14. After the payments set out in paragraphs 12 and 13 are made in full, as an exception to the provisions of paragraphs 2 and 3, the Respondent is permitted to trade in or acquire securities in his personal registered retirement savings plan accounts and/or his tax-free savings accounts and/or for any registered education savings plan accounts for which he is a beneficiary or a sponsor.

**DATED** at Toronto, this 18th day of April, 2017.

“Janet Leiper”

“AnneMarie Ryan”

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

**AND**

**IN THE MATTER OF  
BENEDICT CHENG,  
FRANK SOAVE,  
JOHN DAVID ROTHSTEIN AND  
ERIC TREMBLAY**

**SETTLEMENT AGREEMENT**

**PART I - INTRODUCTION**

1. The Ontario Securities Commission (the "Commission") will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), it is in the public interest for the Commission to make certain orders in respect of John David Rothstein (the "Respondent").

**PART II – JOINT SETTLEMENT RECOMMENDATION**

2. Staff of the Commission ("Staff") recommend settlement of the proceeding commenced by the Notice of Hearing dated April 12, 2017 (the "Proceeding") against the Respondent according to the terms and conditions set out in Part VI of this Settlement Agreement (the "Settlement Agreement"). The Respondent agrees to the making of an order in the form attached as Schedule "A" (the "Order") based on the facts set out below.
3. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement and the conclusion in Part IV of this Settlement Agreement.

**PART III – AGREED FACTS**

**A. OVERVIEW**

4. While employed as a Senior Vice President and National Sales Manager at an investment fund manager in Toronto, the Respondent became aware of material facts concerning an issuer which he knew had not been generally disclosed. The Respondent was in a special relationship with the issuer based on his knowledge of his employer's participation in the financing of a transaction involving that issuer. The Respondent traded in the shares of that issuer and tipped another person who also traded in those shares.

**B. BACKGROUND**

5. In 2014, Aston Hill Asset Management Inc. ("AHAM") was a wholly-owned subsidiary of Aston Hill Financial Inc. ("AHF").
6. According to AHF's Annual Information Form for the year ended December 31, 2014, in 2014:
  - a. AHF (through its subsidiaries) was engaged in the management, marketing, distribution and administration of mutual funds, closed-end funds, private equity funds, hedge funds and segregated institutional funds; and
  - b. AHAM was a Toronto-based registered investment fund manager specializing in the development, sales and management of closed-end investment funds, open-end funds and hedge funds.
7. Between April 2013 and September 2016, the Respondent was a Senior Vice President and National Sales Manager at AHAM. The Respondent first became employed in the securities industry in 1996 after taking the Canadian Securities Course.
8. Throughout 2014, Benedict Cheng ("Mr. Cheng") was the President of AHF and the Co-Chief Investment Officer at AHF and AHAM. The Respondent reported to Mr. Cheng and Mr. Cheng was his boss.

9. The Respondent was not aware of it at the time, but on or about April 25, 2014, a representative of Canaccord Genuity Group Inc. (“Canaccord”) invited AHAM to sign a non-disclosure agreement in order to attend a meeting to learn about an investment opportunity which, to pursue, required AHAM to learn material non-public information about an issuer.
10. The Respondent was not aware of it at the time, but Mr. Cheng agreed to have AHF sign the non-disclosure agreement on behalf of AHAM. On April 29, 2014, a representative of AHAM met with representatives of Canaccord and Amaya Gaming Group Inc. (now Amaya Inc.) (“Amaya”) and learned about a proposed transaction whereby Amaya would acquire all of the issued and outstanding shares of Oldford Group Limited, the parent company of the owner and operator of the PokerStars and Full Tilt Poker brands in a transaction valued at over US\$4 billion (the “Acquisition”). The proposed transaction was a material fact in respect of Amaya.
11. The investment opportunity was for funds managed by AHAM to participate in financing the Acquisition (together with significant debt from other lenders and new Amaya shares to be issued at \$20 per share).
12. In 2014, Amaya shares traded on the Toronto Stock Exchange (the “TSX”) under the symbol AYA. The price for Amaya shares closed on the TSX on April 29, 2014 at \$6.82 per share. Amaya’s intention to issue new shares at \$20 per share represented a significant premium over the then market price for those shares, and was also a material fact with respect to Amaya.
13. The Respondent was not aware of it at the time, but two funds managed by Mr. Cheng agreed to participate in financing the Acquisition and, as such, Mr. Cheng knew the material terms of the Acquisition before they were generally disclosed, including the material fact that new Amaya shares would be issued at \$20 per share. Mr. Cheng was also aware of delays to and the final timing of the Amaya press release publicly announcing the Acquisition.
14. The Respondent was not part of the group at AHAM that worked on providing financing for the Acquisition and, until the events described below, he did not know about the Acquisition or its intended announcement on June 12, 2014.

**C. THE RESPONDENT LEARNS ABOUT THE ACQUISITION**

15. On June 11, 2014 at or about 12:12pm, Mr. Cheng sent an email to the Respondent inviting him to come to one of the AHAM boardrooms.
16. The Respondent met Mr. Cheng in the boardroom as instructed. Mr. Cheng proceeded to inform the Respondent about the Acquisition, including that:
  - a. Amaya was about to acquire the PokerStars and Full Tilt Poker brands in a major transaction;
  - b. the Acquisition was confidential and not yet generally disclosed;
  - c. public announcement of the Acquisition was imminent; and
  - d. Mr. Cheng was aware of these facts because AHAM was participating in the Acquisition.
17. The Respondent understood that the Acquisition would cause the price for Amaya shares to increase significantly. Also at that meeting, Mr. Cheng told the Respondent that he should inform others, who had lost money on certain other investments promoted by AHF and/or AHAM, about the Acquisition before it was announced. The Respondent understood that the purpose of providing them with the material, undisclosed information was to make up for these losses.
18. The Respondent agreed to follow Mr. Cheng's instructions.

**D. INSIDER TIPPING – BREACH OF SUBSECTION 76(2) OF THE ACT**

19. Shortly after his boardroom discussion with Mr. Cheng on June 11, 2014, the Respondent tried to contact individuals who had losses on investments that had been promoted by AHF and/or AHAM in order to inform them about the Acquisition before it was announced. The Respondent connected with one individual – Mr. Frank Soave (“Mr. Soave”), then a First Vice President and Investment Advisor at CIBC Wood Gundy (“CIBC”).
20. The Respondent exchanged text messages with Mr. Soave on June 11, 2014. At about 4pm, the Respondent texted to Mr. Soave “AYA”. Mr. Soave texted back “Sorry never owned it should I”. A few minutes later the Respondent texted back “Yes”.

21. When the Respondent called Mr. Soave on June 12, 2014, the Respondent told him about the Acquisition, including that:
  - a. Amaya was about to announce a major transaction that would be significantly positive for its share price;
  - b. the Acquisition was confidential and not yet generally disclosed;
  - c. public announcement of the Acquisition was imminent; and
  - d. the information came from Mr. Cheng who was aware of these facts because AHAM was participating in the Acquisition.
22. Mr. Soave asked the Respondent who else was involved in providing financing for the Acquisition. As the Respondent did not then know the answer to that question, he agreed to make inquiries and get back to Mr. Soave.
23. On June 12, 2014 at about 10:15am, Mr. Soave sent an email to the Respondent stating "Thanks". At about 10:18am, the Respondent replied with "Blackrock, blackstone and another huge one behind it."
24. In 2014, BlackRock Inc. and The Blackstone Group L.P. were very large U.S. based asset managers with trillions of dollars under management. It would later be publicly disclosed that both of these companies provided financing to Amaya to help pay for the Acquisition.
25. On June 12, 2014, at about 10:35am, Mr. Soave placed an order to purchase and that day did purchase 5,000 shares of Amaya at \$12.10 per share at CIBC for a total investment of \$60,755 (including commission).
26. Trading in the shares of Amaya was halted less than two hours later at 12:22pm.
27. On June 12, 2014 at about 1:23pm, Mr. Soave sent a text to the Respondent stating "Wholy Shit" (sic).
28. The Acquisition was announced on June 12, 2014 at or about 9pm. The price for Amaya shares opened on the TSX the next morning at \$19.05 per share, an increase of approximately 57% relative to Mr. Soave's purchase price the day before.
29. Mr. Soave sold all his Amaya shares on June 13, 2014 at an average price of \$19.78 per share for total proceeds of \$98,921 (net of commission) – a profit of \$38,166, or a return of approximately 63% over one day. Mr. Soave had never traded in Amaya shares before.
30. On June 13, 2014, after the bulk of his Amaya shares had been sold, Mr. Soave texted "Thank you" to the Respondent. The Respondent replied "Unbelievable".

**E. INSIDER TRADING – BREACH OF SUBSECTION 76(1) OF THE ACT**

31. On June 11, 2014 at about 2:49pm, approximately 2.5 hours after speaking to Mr. Cheng about Amaya in the boardroom, the Respondent entered an order to purchase and did purchase 700 shares of Amaya at \$11.875 per share in an account in trust for his children at BMO InvestorLine for a total investment of \$8,322 (including commission).
32. Amaya announced the Acquisition the next day. The price for Amaya shares opened on the TSX on June 13, 2014 at \$19.05 per share, an increase of approximately 60% relative to the Respondent's purchase price two days prior.
33. The Respondent sold his Amaya shares on June 13, 2014 at \$19.77 per share for total proceeds of \$13,829 (net of commission) – a profit of \$5,507, or a return of approximately 66% over 2 days. The Respondent had never traded in Amaya shares before.

**PART IV – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW**

34. By engaging in the conduct described above, the Respondent admits and acknowledges that he has breached Ontario securities law by contravening subsections 76(1) and 76(2) of the Act.

## PART V – STAFF AND RESPONDENT’S POSITIONS

35. Staff note that in agreeing to the terms set out below, the Respondent has been granted substantial credit for cooperation, including the undertaking to cooperate in the future set out in Schedule “B” to this Settlement Agreement. Staff do not object to the mitigating circumstances set out by the Respondent below.
36. The Respondent requests that the settlement hearing panel consider the following mitigating circumstances:
- a) **Early cooperation.** The Respondent has agreed to settle this matter. The Commission will not have to expend any further resources on it. Immediately after his interview on June 15, 2016, he sought to cooperate in order to resolve this matter.
  - b) **Dependants.** The Respondent supports his family financially, which includes three school-aged children. His wife is not presently employed.
  - c) **No prior record.** The Respondent has no prior record of breaching Ontario securities law (or criminal offences).
  - d) **Acted on tip from his superior.** The Respondent was given the tip in question by his boss, and told to pass it along to resolve a problem with a client. He should have exercised his own judgment and declined to pass along the tip, but he felt pressure to please his boss and an important firm client.
  - e) **Small profit only on trading.** The Respondent made approximately \$5,500 from the shares that he bought and sold in June 2014.
  - f) **No firm training on insider trading and tipping.** In his three years working at AHAM, the Respondent never received any training in connection with insider trading or tipping. He realizes this is no excuse, but training on the matter would have helped him better understand the severity of his actions. Certainly after this experience he will never again engage in insider trading or tipping.
  - g) **Not registered.** The Respondent is not and has never been a registrant.
  - h) **Career consequences.** As a result of this investigation, the Respondent lost his job. He is struggling to find other work. The publicity that is expected to follow from this Settlement will likely make it even more difficult for him to find work and support his family.

## PART VI – TERMS OF SETTLEMENT

37. The Respondent agrees to the terms of settlement set forth below. The Respondent consents to the Order, pursuant to which it is ordered that:
- (a) the Settlement Agreement is approved;
  - (b) trading in any securities or derivatives by the Respondent cease for a period of two years commencing on the date of the Order, pursuant to paragraph 2 of subsection 127(1) of the Act;
  - (c) the acquisition of any securities by the Respondent cease for a period of two years commencing on the date of the Order, pursuant to paragraph 2.1 of subsection 127(1) of the Act;
  - (d) the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
  - (e) the Respondent resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
  - (f) the Respondent is prohibited from becoming or acting as a director or officer of any issuer for a period of two years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act;
  - (g) the Respondent resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;
  - (h) the Respondent is prohibited from becoming or acting as a director or officer of a registrant for a period of two years commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;

- (i) the Respondent resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;
  - (j) the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of two years commencing on the date of the Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;
  - (k) the Respondent is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter for a period of two years commencing on the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
  - (l) the Respondent pay an administrative penalty in the amount of \$5,500, pursuant to paragraph 9 of subsection 127(1) of the Act, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act;
  - (m) the Respondent disgorge to the Commission the amount of \$5,500, pursuant to paragraph 10 of subsection 127(1) of the Act which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act; and
  - (n) after the payments set out in sub-paragraphs 37 (l) and (m) are made in full, as an exception to the provisions of sub-paragraphs 37 (b) and (c), the Respondent is permitted to trade in or acquire securities in his personal registered retirement savings plan accounts and/or his tax-free savings accounts and/or for any registered education savings plan accounts for which he is a beneficiary or a sponsor.
38. The Respondent has given an undertaking (the "Undertaking") to the Commission in the form attached as Schedule "B" to this Settlement Agreement, which Undertaking includes an undertaking to cooperate with Staff in its investigation, including testifying as a witness for Staff in any proceedings commenced or continued by Staff or the Commission relating to the matters set out herein and meeting with Staff in advance of that proceeding to prepare for that testimony. The Respondent further undertakes to consent to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in sub-paragraphs 37(a) to (n) above. These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.
39. The Respondent agrees to attend in person at the hearing before the Commission to consider the proposed settlement.
40. The Respondent acknowledges that this Settlement Agreement and proposed Order may form the basis for parallel orders in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions may allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondent. The Respondent should contact the securities regulator of any other jurisdiction in which he may intend to engage in any securities related activities, prior to undertaking such activities.

#### **PART VII – FURTHER PROCEEDINGS**

41. If the Commission approves this Settlement Agreement, Staff will not commence any other proceeding under Ontario securities law against the Respondent in relation to the facts set out in Part III of this Settlement Agreement, unless the Respondent fails to comply with any of the terms of the Settlement Agreement or the Undertaking, Staff may continue or bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement. In addition, if this Settlement Agreement is approved by the Commission, and the Respondent fails to comply with the terms of the Settlement Agreement, the Commission is entitled to bring any proceedings necessary to recover the amounts set out in paragraphs 37 (l) and (m) above.

#### **PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT**

43. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for April 18, 2017, or on another date agreed to by Staff and the Respondent, according to the procedures set out in this Settlement Agreement and the Commission's *Rules of Procedure*, (2014), 37 O.S.C.B. 4168.
44. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.
45. If the Commission approves this Settlement Agreement, the Respondent waives all rights to a full hearing, judicial review or appeal of this matter under the Act.



46. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.
47. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

**PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT**

48. If the Commission does not approve this Settlement Agreement or does not make the Order:
- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and
  - (b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.
49. The parties will keep the terms of this Settlement Agreement confidential until the settlement hearing, unless they agree in writing not to do so or unless otherwise required by law.

**PART X – EXECUTION OF SETTLEMENT AGREEMENT**

50. This Settlement Agreement may be signed in one or more counterparts which, together, constitute a binding agreement.
51. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

Dated at Toronto this 12th day of April 2017.

“John David Rothstein”

“Isabella Rogers”  
Witness

“Jeff Kehoe”  
Director, Enforcement Branch

**Schedule "A"**

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

**AND**

**IN THE MATTER OF  
BENEDICT CHENG,  
FRANK SOAVE,  
JOHN DAVID ROTHSTEIN AND  
ERIC TREMBLAY**

**ORDER  
(Subsection 127(1))**

**WHEREAS:**

1. on April XX, 2017, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") in relation to the Statement of Allegations filed by Staff of the Commission ("Staff") on April XX, 2017 with respect to Benedict Cheng, Frank Soave, John David Rothstein ("Rothstein"), and Eric Tremblay (the "Respondents");
2. on April XX, 2017, the Commission issued a second Notice of Hearing (the "Notice of Settlement Hearing") in relation to a settlement agreement between Rothstein and Staff dated April XX, 2017 (the "Settlement Agreement");
3. the Notice of Settlement Hearing gave notice that on April XX, 2017, the Commission would hold a hearing to consider whether it is in the public interest to approve a Settlement Agreement;
4. pursuant to the Settlement Agreement, Rothstein has undertaken to the Commission in the form attached as Schedule "B" to the Settlement Agreement, to cooperate with Staff in its investigation, including, if required, testifying as a witness for Staff in any proceedings commenced or continued by Staff or the Commission relating to the matters set out in the Settlement Agreement and meeting with Staff in advance of any such proceeding to prepare for that testimony;
5. Rothstein acknowledges that the Settlement Agreement and this Order may form the basis for orders of parallel effect in other jurisdictions in Canada.
6. the Commission has reviewed the Settlement Agreement, the Notice of Settlement Hearing and the Statement of Allegations, and heard submissions from counsel for Rothstein and Staff; and
7. the Commission is of the opinion that it is in the public interest to make this Order.

**IT IS ORDERED THAT:**

1. the Settlement Agreement is approved;
2. trading in any securities or derivatives by the Respondent cease for a period of two years commencing on the date of the Order, pursuant to paragraph 2 of subsection 127(1) of the Act;
3. the acquisition of any securities by the Respondent cease for a period of two years commencing on the date of the Order, pursuant to paragraph 2.1 of subsection 127(1) of the Act;
4. the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
5. the Respondent resign any positions that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
6. the Respondent be prohibited from becoming or acting as a director or officer of any issuer for a period of two years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act;
7. the Respondent resign any positions that he holds as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;

## Decisions, Orders and Rulings

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8. the Respondent be prohibited from becoming or acting as a director or officer of a registrant for a period of two years commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act;
9. the Respondent resign any positions that he holds as a director or officer of an investment fund manager, pursuant to paragraph 8.3 of subsection 127(1) of the Act;
10. the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager for a period of two years commencing on the date of the Order, pursuant to paragraph 8.4 of subsection 127(1) of the Act;
11. the Respondent is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter for a period of two years commencing on the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
12. the Respondent pay an administrative penalty in the amount of \$5,500, pursuant to paragraph 9 of subsection 127(1) of the Act, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act,;
13. the Respondent disgorge to the Commission the amount of \$5,500, pursuant to paragraph 10 of subsection 127(1) of the Act, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act,; and
14. After the payments set out in paragraphs 12 and 13 are made in full, as an exception to the provisions of paragraphs 2 and 3, the Respondent is permitted to trade in or acquire securities in his personal registered retirement savings plan accounts and/or his tax-free savings accounts and/or for any registered education savings plan accounts for which he is a beneficiary or a sponsor.

**DATED** at Toronto, this [day] day of [month], 2017.

**Schedule "B"**

I, JOHN DAVID ROTHSTEIN, hereby undertake to cooperate with Staff of the Ontario Securities Commission ("Staff" and "Commission") in its investigation into illegal insider trading and tipping in securities of Amaya Gaming Group Inc. (now Amaya Inc.), including, if required, testifying as a witness for Staff in any proceedings commenced or continued by Staff or the Commission relating to the matters set out in my Settlement Agreement with Staff dated April 12, 2017, and meeting with Staff in advance of any such proceeding to prepare for that testimony.

Dated at Toronto this 12th day of April 2017.

"John David Rothstein"

"Isabella Rogers"  
Witness

## Chapter 3

# Reasons: Decisions, Orders and Rulings

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### 3.1 OSC Decisions

#### 3.1.1 Black Panther Trading Corporation and Charles Robert Goddard – ss. 127, 127.1

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

AND

IN THE MATTER OF  
BLACK PANTHER TRADING CORPORATION and  
CHARLES ROBERT GODDARD

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

**Hearing:** In writing

**Decision:** April 11, 2017

<b>Panel:</b>	Timothy Moseley	Commissioner and Chair of the Panel
	Garnet Fenn	Commissioner
	Judith Robertson	Commissioner

<b>Appearances:</b>	Keir D. Wilmut	For Staff of the Commission
	Charles Robert Goddard	For Black Panther Trading Corporation and himself

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## REASONS AND DECISION

### I. OVERVIEW

- [1] The respondents, Black Panther Trading Corporation (“**Black Panther**”) and Charles Robert Goddard, solicited and received more than \$425,000 from 16 individuals (the “**Note Holders**”), and issued to those Note Holders documents entitled Letters of Understanding that promised repayment of the investment plus an annual return. The respondents improperly used most of the funds to repay other investors or for the personal benefit of Mr. Goddard and his family members.
- [2] In a merits decision dated January 30, 2017 (the “**Merits Decision**”),<sup>1</sup> the Ontario Securities Commission (the “**Commission**”) found that the respondents contravened various provisions of the *Securities Act* (the “**Act**”).<sup>2</sup> Among other things, the respondents perpetrated fraud, engaged in impermissible trading and advising, and conducted an illegal distribution of securities. Mr. Goddard also misled Staff during its investigation.
- [3] Staff of the Commission (“**Staff**”) submits that the respondents should be removed permanently from Ontario’s capital markets, as more particularly described below. Staff also requests that they be required to:
- a. disgorge the sum of \$313,847;
  - b. pay an administrative penalty of \$300,000; and
  - c. pay costs of the investigation and hearing in the amount of \$362,289.82.
- [4] We must determine whether it is in the public interest to impose sanctions against the respondents, and whether they should be required to reimburse the Commission for some or all of the costs associated with the investigation of this matter and with this proceeding. For the reasons that follow, we order the sanctions requested by Staff, and order that the respondents pay costs of the investigation and hearing in the amount of \$100,000.

### II. SANCTIONS AND COSTS HEARING

- [5] At the joint request of the parties, the sanctions and costs hearing proceeded in writing. Staff delivered its written submissions, following which the respondents delivered two documents. One, titled *Response by Charles Goddard to Sanctions Brief* prepared by OSC staff, consists primarily of factual assertions that challenge findings in the Merits Decision. The rest of the document either suggests possible mitigating factors, which we address beginning at paragraph [26] below, or describes the respondents’ position regarding sanctions and costs, which we discuss in our analysis beginning at paragraph [58].
- [6] The other document, titled *Response to: Reasons and Decision in the Matter of Black Panther Trading and Charles Robert Goddard*, also attempts to re-litigate matters that were the subject of the Merits Decision. The document contains extensive factual assertions and disputes many of the factual findings and legal conclusions in the Merits Decision. We reviewed the document carefully, trying to identify anything that might properly be considered a submission on sanctions and costs. Nothing in the document qualifies that is not also contained in the written submissions referred to in paragraph [5] above.

### III. LEGAL FRAMEWORK

- [7] Subsection 127(1) of the Act lists the sanctions that the Commission may impose where it is in the public interest to do so. The Commission must exercise this jurisdiction 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.<sup>3</sup>
- [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 be exercised to prevent future harm to Ontario’s capital markets.<sup>4</sup>
- [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 or aggravating factors, and the likely effect that any sanction would have on the respondent (“specific deterrence”) as well as on others (“general deterrence”). Sanctions must be appropriate and proportionate to the respondent’s conduct in the circumstances of the case.<sup>5</sup>

## IV. ANALYSIS – SANCTIONS

### A. Introduction

[10] We begin our analysis of the appropriate sanctions by reviewing potential aggravating and mitigating factors suggested by Staff and the respondents. We then consider each contravention found in the Merits Decision, followed by a review of the parties' submissions and a determination of the appropriate sanctions.

### B. Aggravating factors

#### 1. Mr. Goddard's knowledge and registration history

[11] Before engaging in the misconduct referred to in the Merits Decision, Mr. Goddard had been registered with the Commission for almost 24 years, including as a Branch Manager. He was, for a short time, authorized to carry on discretionary management of client assets.

[12] As a former long-time registrant, Mr. Goddard's awareness of the requirements of Ontario securities law was significantly higher than average, and he knew or ought to have known the importance of those requirements.<sup>6</sup> The fact that he was no longer a registrant at the time of the misconduct cannot assist him. It would be a perverse result and contrary to the Commission's investor protection mandate if registrants, who are held to a higher standard than non-registrants, had an incentive to relinquish their registration and then engage in misconduct that would draw a less serious response because they were no longer registered.

[13] Mr. Goddard's experience is therefore an aggravating factor with respect to sanctions.

#### 2. Seriousness of misconduct

[14] The misconduct is further aggravated because the respondents' actions were not isolated events; rather, they recurred over an extended period. The respondents used many modes of communication to solicit members of the public, and they were indiscriminate as to who they would allow to put funds at risk. In addition, as found in the Merits Decision, the respondents continued to accept funds well after they had been consistently using the funds for purposes other than those promised to the investors.

[15] As noted above and in the Merits Decision,<sup>7</sup> the misconduct caused some investors to suffer significant losses. The respondents recommended that Note Holders and others "melt down" their Registered Savings Plan, even while the respondents knew that at least some of the investors would be turning over to the respondents funds that the investors could ill afford to lose. This disregard for the financial well-being of vulnerable investors makes the respondents' misconduct particularly egregious.

#### 3. Alleged further misconduct

##### (a) Introduction

[16] Staff submits, and it filed affidavit evidence to suggest, that the respondents continued to engage in "problematic conduct" after this proceeding was commenced. Staff's allegations fall into three categories.

##### (b) United Kingdom corporation

[17] First, Staff notes the Commission's finding in the Merits Decision<sup>8</sup> that in September 2014, Mr. Goddard incorporated Charles Goddard Investments Ltd. in the United Kingdom. Staff submits based on this fact alone that "Goddard may also be operating internationally."

[18] That contention is speculative and is unsupported by any evidence. Incorporation alone does not, on a balance of probabilities, imply operation. In their written submissions, the respondents refer to a Black Panther "stock advice" website that existed in the United Kingdom but which Mr. Goddard says he took down following discussions with Staff. We have no evidence of a connection between that website and Charles Goddard Investments Ltd., and we have no basis upon which to conclude that the website contravened Ontario securities law or should otherwise be an aggravating factor. We decline to adopt Staff's submission.

##### (c) "Compelling Charts" website

[19] Second, in March of 2016, seven months before the merits hearing, Staff became aware that Mr. Goddard was operating a website by the name of "Compelling Charts". On that website, Mr. Goddard described himself as a



"Markets Wizard", and offered, in return for a fee of \$30 per month, a weekly newsletter and periodic advice regarding "the symbol you should buy, where your stop loss should go and at what point you are to take half the investment off the table and move the stop loss." Staff wrote to Mr. Goddard to express concern. Mr. Goddard replied but denied that his conduct was improper.

- [20] In July of 2016 the website still existed. Mr. Goddard had changed the advertised fee to \$99 per year and had added a disclaimer that the advice provided in return for the fee (*i.e.*, regarding which stocks to buy, whether to take a long or short position, and at what price a stop loss should be placed) was "not to be construed as investment advice". Staff again expressed its concern to Mr. Goddard, who once again denied that he was engaging in any improper activity.
- [21] We heard no evidence at the merits hearing regarding this website. We have no evidence as to whether any potential investors viewed that website, whether anyone paid Mr. Goddard any fees, or whether the website continued to exist at the time of the merits hearing or afterward.
- [22] While the Compelling Charts website may have been in breach of the prohibition against holding oneself out as engaging in the business of advising with respect to securities, we are not prepared to reach that conclusion at this stage of the proceeding, based on the limited evidence before us.

**(d) "Laughing Stock Trading" website**

- [23] Third, after the Merits Decision was released, Staff noted that Mr. Goddard had created a new website by the name of "Laughing Stock Trading", which offered to provide people with "instruction" and "support" with respect to their investments, in return for a fee of \$2,000 per year. Again, we have no evidence that anyone viewed the website or paid any fees for the service offered, and we have no basis to find that the website contravened Ontario securities law or was otherwise an aggravating factor.
- [24] We decline to reach Staff's suggested conclusion, for reasons similar to those cited above regarding the Compelling Charts website.

**(e) Conclusion**

- [25] Staff is justifiably concerned that Mr. Goddard has continued to contravene the Act, given the facts referred to in Staff's affidavit and given that, as found in the Merits Decision and confirmed in the respondents' submissions, Black Panther previously offered "trading seminars", which helped attract investors. However, when determining appropriate sanctions against the respondents in this proceeding, we are not prepared to attach any weight to these facts or submissions, for the reasons set out above.

**C. Mitigating factors**

- [26] Erring to the benefit of the respondents, we identify in their written submissions six points that might be interpreted as mitigating factors. Staff submits that there are no mitigating factors.

**(a) Advice**

- [27] First, Mr. Goddard asserts that before starting "a Canadian version of Black Panther" he spoke with a member of Staff who was a lawyer. Mr. Goddard states that he "was given no direction." We have no specific evidence about that conversation, if it did in fact take place, although in his compelled examination during the investigation of this matter, Mr. Goddard testified that when he called an unidentified member of Staff and asked whether his planned activities would be "in violation of anything", the Staff member said that he/she could not give advice. That response from Staff was wise.
- [28] Staff's response to Mr. Goddard's inquiry cannot act as a mitigating factor. Every person or company that participates in the capital markets must ensure that its activities comply with Ontario securities law. Where someone obtains advice from an appropriate source (not Staff), and while relying in good faith on that advice unknowingly contravenes Ontario securities law, the reliance on the advice can be a mitigating factor. Mr. Goddard received no such advice.

**(b) Intervention by Staff**

- [29] Second, the respondents submit that if "the OSC had not become involved in such a ham-handed manner, Black Panther would have completed its business plan to the benefit of all involved." There was no evidence whatsoever in this proceeding to support a conclusion that Staff acted improperly or mishandled the situation at any time.

- [30] We also categorically reject the suggestion that it would have been preferable for Staff to delay its intervention in order to allow the respondents to continue their activity. As is clear from the Merits Decision, the harm to investors only increased over time.

**(c) Respondents' acknowledgment of insufficient disclosure**

- [31] Third, with respect to the respondents' marketing materials and the various misrepresentations they contained,<sup>9</sup> Mr. Goddard states:

I agree now, as I did at my examination, that the marketing materials were worded carelessly. I should have done a more precise job of what I meant by CDIC, CIPF coverage. I should have made sure that the materials that were distributed to the public contained only workshop/seminar information. The materials were offside. As I review them I am more and more aghast that I sent them out. I apologize for the horrible lapse in judgement.

- [32] That is the only subject about which the respondents have purported to acknowledge wrongdoing or to express remorse, at any time during this proceeding. Their position has not been consistent, however. In written closing submissions in the merits hearing, the respondents stated:

Monies deposited into a bank account are covered by CDIC. Not sure what is untrue.

Monies in an investment account are covered by CIPF. Not sure what is untrue.

- [33] We are therefore not persuaded that the respondents truly understand the problem with that disclosure. Even if we were to accept the most recent statement at face value, it misses the main point, in that it utterly fails to go to the heart of the respondents' wrongdoing. Clearer disclosure regarding CDIC and CIPF coverage would have been an improvement, but those who invested would still have been defrauded.

**(d) Commitment to pay Note Holders**

- [34] Fourth, in their written submissions, the respondents promise that "[a]ll Note Holders will be made whole. This would occur whether ordered or not."

- [35] In the right circumstances, that commitment might well count in a respondent's favour. However, given that Mr. Goddard deliberately misled both Note Holders and Staff, we must be highly skeptical of this promise, which would have been far more persuasive had the respondents made any payment to any Note Holder at any time during this proceeding. We have no evidence of any payment. We are therefore unable to give the respondents' statement any weight.

**(e) Alleged harm to Mr. Goddard's reputation**

- [36] Fifth, Mr. Goddard asserts without evidence that there has been "a great deal of damage done to his reputation as a result of this process", and that he has been unable to obtain an insurance licence "as a result of this investigation." Any such reputational damage or regulatory scrutiny flow naturally and inevitably from the respondents' misconduct, and it would be contrary to the public interest for us to give credit for those consequences.<sup>10</sup>

**(f) Impact on Mr. Goddard's earning power**

- [37] Sixth and finally, we recognize that removing from the capital markets someone who spent most of his/her professional life earning income as a registrant, including as a trader and adviser, would often have a significant impact on him/her. In this case, however, Mr. Goddard has provided only his bald assertion that he needs the ability to manage his own accounts for his "personal survival". We find this to be an insufficient basis on which to draw a proper conclusion in his favour, especially given his claimed existence of other accounts, about which he refuses to disclose any information.<sup>11</sup>

**(g) Conclusion**

- [38] For all of those reasons, we conclude that none of the above assertions is a mitigating factor. The respondents offered no other potentially mitigating factors, and we observed none throughout the proceeding, including any expression of remorse. In fact, Mr. Goddard's concern for his own reputation and livelihood contrasts with his lack of concern for the harm he has caused to the Note Holders. There is no obligation on a respondent to express remorse, and a failure to express remorse is not an aggravating factor,<sup>12</sup> but we note its absence in this case and the consequence that we cannot give the respondents credit for any such acknowledgment.

## D. Contraventions of the Act

[39] We turn now to an analysis of each of the contraventions referred to in the Merits Decision.

### 1. Unregistered trading in securities

[40] The respondents, while not registered, engaged in the business of trading in the Letters of Understanding, which are securities, and the respondents held themselves out as being in that business, contrary to subsection 25(1) of the Act.

[41] Registration is a cornerstone of Ontario securities law. It protects investors and promotes confidence in the capital markets by seeking to ensure that those who sell or promote securities are proficient and solvent and that they act with integrity. When an unregistered individual or firm engages in activity that requires registration, the individual or firm defeats some of the necessary legal protections, shields the activity somewhat from regulatory monitoring, puts investors at risk, and undermines the integrity of the capital markets. These harmful effects are serious and should be met with serious sanctions.

### 2. Business of advising

[42] The respondents engaged in the business of advising one client in securities, and they held themselves out as engaging in that business generally, contrary to subsection 25(3) of the Act.

[43] As with unregistered trading, engaging in the business of advising without being registered leads to the consequences described in paragraph [41] above and should attract serious sanctions.

### 3. Illegal distribution of securities

[44] Without filing a prospectus, the respondents traded in the Letters of Understanding where such trades were distributions, contrary to subsection 53(1) of the Act.

[45] The requirement to provide sufficient disclosure to those who are investing in securities is another cornerstone of Ontario securities law. The delivery of a proper prospectus that reviews the risks associated with an investment equips investors to make an informed investment decision about that investment.<sup>13</sup>

[46] The respondents' failure to comply with this requirement denied the Note Holders necessary information and the opportunity to make informed decisions. This failure was exacerbated by the fraudulent representations referred to below.

### 4. Fraud

[47] The respondents perpetrated a fraud contrary to clause 126.1(1)(b) of the Act, by each of:

- a. making false representations about returns generated in Black Panther's portfolio;
- b. using Note Holders' funds in a manner not consistent with promises made to them; and
- c. making false representations about the risk associated with investment in Black Panther.

[48] The circumstances of this case amply demonstrate why the Commission has consistently held that fraud is "one of the most egregious securities regulatory violations". Typically, as here, fraudulent activity causes direct and immediate harm to its victims, many of whom entrust a substantial portion of their savings to those who abuse that trust. Fraud significantly undermines confidence in the capital markets and therefore has wide-ranging negative effects on investor interests and on capital formation.<sup>14</sup>

[49] The respondents' frauds showed callous disregard for the financial security of Note Holders and potential investors.

### 5. False or misleading statements

[50] Contrary to subsection 44(2) of the Act, the respondents made untrue statements that reasonable investors would consider relevant in deciding whether to enter into or maintain a trading or advising relationship, with respect to:

- a. the use of Note Holders' funds; and
- b. the risk associated with investment in Black Panther.

[51] A breach of this section of the Act is serious, since it undermines the protection normally afforded to investors. In the circumstances of this case, however, the statements referred to were also part of the respondent's fraudulent conduct and are therefore already incorporated into our findings regarding fraud. While that same fraudulent conduct also contravened subsection 44(2) of the Act, and a breach of subsection 44(2) would warrant a serious sanction if it stood alone, for the purpose of determining sanctions in this case we do not regard that breach as additive to the others.

## 6. Misleading Staff

[52] Contrary to clause 122(1)(a) of the Act, Mr. Goddard misled Staff in its investigation, with respect to:

- a. the amount of money raised from Note Holders;
  - b. funds held by the respondents;
  - c. the nature of his business relationship with a Note Holder;
  - d. whether his son and daughter had invested in or received money from Black Panther;
  - e. whether anyone had responded to a Black Panther advertisement; and
  - f. whether he held any other positions as director or officer.

[53] Staff submits that in misleading Staff, Mr. Goddard showed disregard for the Commission. As the Court of Appeal for Ontario has held:

The [Commission] is charged with the statutory obligation to do its best to ensure that those involved in the securities industry provide fair and accurate information so that public confidence in the integrity of the capital markets is maintained. It is difficult to imagine anything that could be more important to protecting the integrity of capital markets than ensuring that those involved in those markets, whether as direct participants or as advisers, provide full and accurate information to the [Commission].<sup>15</sup>

[54] We agree with Staff's submission. While Mr. Goddard might be forgiven for minor errors or for a failure to recall certain details, some of the errors in this case were significant in magnitude (e.g., the amount of money received from investors), deceitful in nature (e.g., whether Mr. Goddard's son and daughter had received money from Black Panther), or both. They also made Staff's investigation lengthier and more difficult than it would have been without the misleading statements.

## 7. Disclosing information regarding Staff's investigation

[55] Mr. Goddard breached subsection 16(1) of the Act by disclosing information regarding the investigation being conducted by Staff. Staff submits that in doing so, Mr. Goddard showed disregard for the Commission.

[56] The confidentiality obligation imposed by section 16 of the Act does play an important role in preserving the integrity of investigations by Staff, and breaches of this provision must be taken seriously. An individual who improperly communicates with potential respondents or witnesses may undermine Staff's investigation, particularly if there is an effort to influence testimony in any way.

[57] In this case, however, there is no evidence that Mr. Goddard had that intention, or that these actions compromised Staff's investigation or this proceeding. As we noted in the Merits Decision,<sup>16</sup> Mr. Goddard's unchallenged assertion is that his disclosure of the summons to a third party was solely for the purpose of retaining a lawyer regarding this matter. That does not excuse his conduct, but it means that this breach does not demonstrate disregard for the Commission.

## E. Sanctions sought by Staff

### 1. Introduction

[58] Staff seeks a market ban, disgorgement and an administrative penalty.

[59] We begin by noting the profit made by the respondents through their misconduct. Of the \$425,607 they raised from Note Holders, the respondents have returned \$112,710 as principal and interest, leaving a deficit of at least \$312,897.17 In addition, the respondents received management fees of \$950 from one investor.<sup>18</sup> The respondents'

profit from their misconduct was therefore at least \$313,847, and is no doubt greater, since that amount does not include promised interest that has not been paid.

[60] In their written submissions, the respondents do not specifically address Staff's requested disgorgement order or administrative penalty. Instead, they deal with monetary sanctions and costs in the aggregate and state that they:

...have trouble with the monetary punishment requested by staff. This process could have been stopped in December of 2014 or at worst early 2015. The costs and penalties should not total more than \$50,000.

[61] The respondents offer no basis for the submission that the "process could have been stopped", and we decline to speculate. We see no reason to use those dates to adjust any monetary sanctions we might otherwise impose.

## **2. Market bans**

[62] Staff asks that the Commission:

- a. permanently prohibit the respondents from acquiring or trading in securities or derivatives;
- b. order that the exemptions contained in Ontario securities law shall not apply to the respondents permanently;
- c. require Mr. Goddard to resign any position he holds as a director or officer of an issuer, registrant or investment fund manager, and prohibit him from ever holding any such position; and
- d. permanently prohibit Mr. Goddard from becoming or acting as a registrant, as an investment fund manager or as a promoter.

[63] In their written submissions, the respondents explicitly accept the propriety of "a ban on registration with any regulator as an individual or as the officer of a company." The respondents implicitly anticipate an order prohibiting the trading or acquiring of securities, as is evidenced by Mr. Goddard's request that he be granted "a carve out for managing [his] own accounts", which he needs for "personal survival".

[64] Participation in the capital markets is a privilege, not a right.<sup>19</sup> The order requested by Staff would essentially deny that privilege to the respondents.

[65] The Commission's role is to deny that privilege where it concludes, based on respondents' past conduct, that their continued participation in the capital markets "may well be detrimental to the integrity of [the] capital markets."<sup>20</sup>

[66] The respondents' egregious, manipulative and fraudulent conduct, their disregard for the financial well-being of trusting and vulnerable strangers, their repeatedly misleading Staff, and their refusal to accept full responsibility for their actions combine with Mr. Goddard's long experience in the capital markets to lead us to the conclusion that the respondents cannot be trusted to participate in those markets.

[67] That conclusion is reinforced by the respondents' consistent conduct throughout this matter, from the time that they first engaged in the improper activities, through to their delivery of written submissions for this hearing. The respondents repeatedly demonstrate, at best, an inability to understand the boundaries of permissible participation in the capital markets, as well as reckless disregard for the consequences to themselves and others of breaching the rules. We have no reason to believe that these respondents could or would respect the limitations of a carve-out for personal trading.

[68] As the Commission has found in similar circumstances,<sup>21</sup> only a permanent removal from the capital markets, without an exception such as a carve-out, would be proportionate to the respondents' misconduct, would be sufficient to protect investors from the respondents, and would deliver the necessary deterrent message to others who might contemplate similar misconduct.

[69] For the reasons set out in paragraph [37] above, this conclusion is not overcome in Mr. Goddard's case by his assertion that he needs to be able to manage his own accounts for his "personal survival".

## **3. Disgorgement**

[70] 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."

- [71] 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.<sup>22</sup> When contemplating a disgorgement order, the Commission should consider all the factors relevant to sanctions generally, as well as the following:
- a. whether an amount was obtained by a respondent through 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 through non-compliance with the Act is reasonably ascertainable;
  - d. whether those who suffered losses are likely to be able to obtain compensation; and
  - e. the deterrent effect (both general and specific) of a disgorgement order.<sup>23</sup>
- [72] Staff asks that the Commission order the respondents to disgorge the sum of \$313,847 referred to in paragraph [59] above. The respondents do not address disgorgement specifically in their written submissions.
- [73] Staff's requested amount is easily ascertainable and those funds were obtained by the respondents through their serious misconduct. At least some of the investors were seriously harmed, and it appears from their testimony at the merits hearing that they are unlikely to be compensated. Finally, it is essential that the Commission deter the respondents and other market participants by ensuring, at a minimum, that they do not retain improperly obtained funds.
- [74] We will therefore order that the respondents be jointly and severally liable to disgorge to the Commission the sum of \$313,847.

#### 4. Administrative penalty

- [75] The Commission may impose an administrative penalty of up to \$1 million for each contravention of the Act.<sup>24</sup> In this case, Staff seeks an administrative penalty in the aggregate amount of \$300,000 payable jointly and severally by the respondents.
- [76] As the Commission has previously held, the purpose of an administrative penalty "is to deter the particular respondents from engaging in the same or similar conduct in the future and to send a clear deterrent message to other market participants that the conduct in question will not be tolerated..."<sup>25</sup>
- [77] We reviewed prior decisions of the Commission where administrative penalties were imposed in similar circumstances:
- a. In *Re Lyndz Pharmaceuticals Inc.*, the respondents illegally distributed securities, raising funds of more than \$400,000 from Ontario investors, and an additional \$1.7 million from investors in the United Kingdom. The securities were of a corporation that had no legitimate business. The Commission found that the two individual respondents perpetrated a fraud, ordering one respondent to pay an administrative penalty of \$600,000, and the other to pay \$500,000.<sup>26</sup>
  - b. In *Re Richvale Resource Corporation*, the Commission found that the corporate respondent and one of the individual respondents conducted an illegal distribution, traded in securities without being registered, and perpetrated a fraud, all in support of raising approximately \$750,000 from investors. In addition, the individual respondent made prohibited representations regarding listing of securities. The Commission ordered the individual respondent to pay an administrative penalty of \$300,000.<sup>27</sup>
  - c. In *Re Moncasa Capital Corp.*, the Commission found that the respondents conducted an illegal distribution, traded without being registered, and perpetrated a fraud, through which they raised approximately \$1.2 million. The individual respondent, a former registrant, also made false or misleading statements to the Commission. The respondents did not appear at the sanctions hearing, at which the Commission imposed an administrative penalty of \$400,000, for which the corporate and individual respondents were jointly and severally liable.<sup>28</sup>
  - d. The Commission found that the individual respondent in *Re Doullis*, who had previously been a registrant for ten years, had contravened Ontario securities law in two ways: (i) by engaging in the business of advising without being registered; and (ii) by repeatedly misleading Staff during the investigation. Although this case did not involve fraud, the Commission imposed an administrative penalty of \$200,000 against the individual respondent and an additional penalty of \$100,000 against the corporate respondent, of which the individual

respondent was the directing mind. The Commission noted that the individual respondent's numerous attempts to mislead Staff constituted serious misconduct.<sup>29</sup>

- e. In *Re 2196768 Ontario Ltd.*, the respondents raised approximately \$1.2 million from the public for the purpose of engaging in trading of foreign currencies, and issued promissory notes to the investors. The funds were used other than as promised, and the Commission held the scheme to be fraudulent. The Commission imposed separate administrative penalties of \$250,000 against the individual respondent, who had previously been registered as a scholarship plan dealer, and \$150,000 against the other individual respondent, who had never been registered.<sup>30</sup>

[78] As Staff correctly notes, the amount raised by the respondents in this case is lower than the amounts raised in the above cases, suggesting that a lower administrative penalty may be warranted. However, Mr. Goddard is a former long-time registrant who repeatedly misled Staff during his examination under oath. The seriousness of that conduct has been affirmed by the Court of Appeal, as noted above in para 51. It is also reflected in the Commission's decisions in *Re Doulis* (see above), and in *Re Agueci*,<sup>31</sup> in which the Commission found that the act of misleading Staff warranted an additional administrative penalty of \$100,000.

[79] Considering all the circumstances of this case, and the previous decisions reviewed above, we conclude that the total administrative penalty of \$300,000 sought by Staff is a proportionate and appropriate amount.

#### F. Conclusion as to sanctions

[80] We find that it is in the public interest to order the sanctions requested by Staff. We now turn to Staff's request for costs.

### V. ANALYSIS – COSTS

#### A. Introduction

[81] Given the Commission's finding that the respondents did not comply with Ontario securities law, section 127.1 of the Act empowers the Commission to order the respondents to pay the costs of the investigation and/or hearings in this matter. 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 hearings.

#### B. Relevant factors

[82] Rule 18.2 of the *Ontario Securities Commission Rules of Procedure*<sup>32</sup> sets out a non-exhaustive list of factors that the Commission may consider when exercising its discretion to order that a person or company pay costs. The following are most relevant in this case:

- a. the importance of the issues;
- b. the conduct of Staff during the investigation and during the proceeding, and how Staff's conduct contributed to the costs of the investigation and the proceeding;
- c. whether the respondents contributed to a shorter, more efficient hearing, or whether the conduct of the respondents unnecessarily lengthened the duration of the proceeding; and
- d. whether the respondent co-operated with Staff and disclosed all relevant information.

[83] We discuss each of these in turn.

[84] The issues at stake in this proceeding are important. While there is little about the respondents' conduct that was novel or precedent-setting, the misconduct that occurred was serious and had a significant effect on numerous investors. It was important that there be an appropriate regulatory response.

[85] There was nothing about Staff's conduct that unduly lengthened the proceeding. The Commission found that the respondents contravened the Act in all of the ways alleged by Staff. None of the principal allegations was unfounded. Further, all the witnesses called by Staff at the merits hearing were necessary to prove Staff's case.

[86] Similarly, Mr. Goddard did nothing that unduly lengthened the hearings in this matter. At the merits hearing, the respondents called no evidence, and Mr. Goddard's cross-examination of Staff's witnesses was brief. The respondents

contributed to the efficiency of the proceeding by agreeing that closing submissions at the merits hearing, and submissions at the sanctions and costs hearing, would be in writing.

[87] In contrast, Mr. Goddard's misleading of Staff on his examination under oath during the investigation, and his refusal to provide information about accounts he mentioned, necessarily prolonged the examination and the investigation. Mr. Goddard had a legal obligation to answer Staff's questions completely and truthfully, and his failure to do so contributed to greater costs.

[88] We recall Mr. Goddard's assertion in written submissions, referred to above, that the "process could have been stopped" in December 2014 or early 2015. If that were true, it might reduce the amount of a costs order, depending on the reason for that conclusion. However, as noted above, the respondents offered no basis for the suggestion that any missed opportunity should inure to their benefit. We reject that submission.

### **C. Staff's request**

[89] In support of its claim for costs, Staff submitted detailed evidence that identifies each member of Staff who was involved in the investigation and hearings, with the corresponding number of hours spent by, and hourly rate for, each person. In addition, Staff documented approximately \$6,000 in disbursements.

[90] In formulating its claim, Staff began by excluding time spent:

- a. by Staff in the Enforcement Branch's Case Assessment unit, who do preliminary work leading to an investigation;
- b. on matters that were not included in the Statement of Allegations;
- c. by law clerks, students-at-law and assistants;
- d. by any member of Staff who spent 35 or fewer hours on this matter; and
- e. preparing for and attending the hearing relating to sanctions and costs.

[91] Staff then further reduced the amount of time to be included in its claim, by excluding time spent by an Investigator who recorded a total of more than 1000 hours, including with respect to her role as one of the witnesses during the merits hearing.

[92] With these reductions applied, Staff's claim for time spent is limited to that of Mr. Wilmut, Litigation Counsel, and Ms. Brown, the Senior Forensic Accountant who prepared the source and use of funds analysis referred to in the Merits Decision, and who testified at the merits hearing. Their time taken together accounts for approximately 54% of the total Staff time spent with respect to this matter.

[93] Staff's claim reflects hourly rates that the Commission has previously found to be reasonable, which conclusion we adopt: \$205 per hour for Mr. Wilmut and \$185 per hour for Ms. Brown.<sup>33</sup> Using those rates, Staff seeks costs in the amount of \$362,289.82, which when compared to the time spent by the three members of Staff who were principally involved, plus the disbursements incurred, represents a discount of approximately 36%. The true discount is greater, given the exclusions referred to in paragraphs [90] and [91] above.

### **D. Conclusion as to costs**

[94] We acknowledge the significant discount that Staff has applied, and we have no reason to doubt that the time recorded was indeed spent in good faith, and in pursuit of the investigation and this proceeding.

[95] In all the circumstances of this case, however, it is our view that a costs order in the amount requested by Staff would be excessive. Our conclusion is based on the following factors:

- a. this was not a particularly complex case;
- b. there was essentially only one respondent;
- c. there were only sixteen investors;
- d. the amount at issue, while significant for some of the investors, was not large in the aggregate, compared to the decisions we reviewed;



- e. this was not a document-intensive case;
- f. the funds were not moved through corporate vehicles and/or multiple accounts in an attempt to disguise their flow;
- g. as noted above, the respondents availed themselves of their right to defend this proceeding, and they conducted themselves expeditiously at the hearings; and
- h. the costs requested exceed both the disgorgement amount and the amount of the administrative penalty. While this factor is not determinative by itself, and while it does not necessarily apply in all cases, we find that in this case it provides useful context.

[96] Taking those considerations into account, we find it appropriate to order that the respondents, jointly and severally, pay costs of \$100,000 to the Commission.

## VI. CONCLUSION

[97] For the reasons set out above, we will issue an order providing that:

- a. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Mr. Goddard or Black Panther cease permanently;
- b. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Mr. Goddard or Black Panther cease permanently;
- c. pursuant to paragraph 3 of subsection 127(1) of the Act, the exemptions contained in Ontario securities law shall not apply to Mr. Goddard or Black Panther permanently;
- d. pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Mr. Goddard shall immediately resign any position that he holds as a director or officer of an issuer, a registrant or an investment fund manager;
- e. pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Mr. Goddard is prohibited permanently from becoming or acting as a director or officer of any issuer, a registrant or an investment fund manager;
- f. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Mr. Goddard is prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter;
- g. pursuant to paragraph 9 of subsection 127(1) of the Act, the respondents shall pay to the Commission an administrative penalty of \$300,000, for which they shall be jointly and severally liable, and which 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;
- h. pursuant to paragraph 10 of subsection 127(1) of the Act, the respondents shall disgorge to the Commission \$313,847, for which they shall be jointly and severally liable, and which 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; and
- i. pursuant to section 127.1 of the Act, the respondents shall pay \$100,000 to the Commission to reimburse the costs of the investigation and hearing, for which they shall be jointly and severally liable.

Dated at Toronto this 11th day of April, 2017.

“Timothy Moseley”

“Garnet Fenn”

“Judith Robertson”

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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

THERE IS NOTHING TO REPORT THIS WEEK.

### 4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order

THERE 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
Performance Sports Group Ltd.	19 October 2016	31 October 2016	31 October 2016		

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## Chapter 6

# Request for Comments

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### 6.1.1 Notice and Request for Comments Regarding the Rules of Procedure and Forms and Practice Guideline of the Ontario Securities Commission

#### Notice and Request for Comments Regarding the Rules of Procedure and Forms and Practice Guideline of the Ontario Securities Commission

The Office of the Secretary of the Ontario Securities Commission (Commission) is seeking comments on the proposed *Rules of Procedure and Forms (Rules)* and *Practice Guideline (Guideline)*, which will replace the following documents:

- *Rules of Procedure* (2014);
- *Practice Guideline – Electronic Copies of Written Submissions* (2015);
- *Practice Guideline – Case Management Timeline for Enforcement Proceedings* (2015);
- *Practice Guideline – Ontario Securities Commission Practice Guideline for French Hearings* (2014);
- *Practice Guideline – Commission’s Book of Authorities* (2012); and
- *Practice Guideline – Use and Disclosure of Personal Information in Ontario Securities Commission’s Adjudicative Proceedings* (2012).

The *Rules* and *Guideline* will apply to all proceedings before the Commission where the Commission is required under the *Securities Act*, RSO 1990, c S.5, the *Commodity Futures Act*, RSO 1990, c C.20 or otherwise by law to hold a hearing. Once the new *Rules* and *Guideline* are adopted by the Commission, the existing *Rules of Procedure* and *Practice Guidelines* will be repealed and replaced by the new *Rules* and *Guideline*, which will immediately apply to all proceedings before the Commission, including proceedings commenced by a Notice of Hearing prior to their adoption.

The *Rules* and *Guideline* have been simplified to improve fairness and accessibility, particularly for a broad range of respondents with differing backgrounds and levels of representation.

The *Case Management Timeline for Enforcement Proceedings*, which will be replaced by the *Rules* and *Guideline*, was adopted by the Commission to improve case management through the early identification and resolution of preliminary matters. The *Rules* and *Guideline* will expand this approach to case management to all types of proceedings. The *Rules* and *Guideline* clarify the Commission’s expectations for each step of a proceeding, without limiting the Commission’s discretion to flexibly case manage the proceeding. The steps for each type of proceeding and the timelines for those steps are set out in the *Guideline* rather than the *Rules* to allow the Commission’s case management practices to evolve without requiring frequent changes to the *Rules*.

The *Rules* and *Guideline* are being published for a 60-day comment period. Following the comment period, the *Rules* and *Guideline* will be implemented under the authority of sections 16.2 and 25.1 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (SPPA).

Once the *Rules* and *Guideline* have been adopted, they will be published in English and in French.

The *Rules* and *Guideline* are available on the Commission website at [www.osc.gov.on.ca](http://www.osc.gov.on.ca) under the heading *Rules of Procedure*.

#### Request for Comments

The Office of the Secretary invites interested persons to submit their comments on the proposed *Rules* and *Guideline* in writing. Persons submitting comments should be aware that comments will be made available to the public and will be published on the Commission website unless confidentiality is requested. If you request confidentiality, the Office of the Secretary will not place your comments on the public file, but may be required to make your comments available pursuant to a request made under freedom of information legislation.

**Request for Comments**

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**Please send your comments by 5:00 p.m. on June 19, 2017 to:**

Grace Knakowski  
Secretary to the Commission  
Office of the Secretary  
Ontario Securities Commission  
20 Queen Street West  
22nd Floor  
Toronto, Ontario M5H 3S8  
Fax: (416) 593-2318  
E-mail: gknakowski@osc.gov.on.ca

**For further information, please contact:**

Robert Blair  
Manager, Adjudication Legal Services  
Office of the Secretary  
Ontario Securities Commission  
20 Queen Street West  
22nd Floor  
Toronto, Ontario M5H 3S8  
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E-mail: rblair@osc.gov.on.ca

**ONTARIO SECURITIES COMMISSION RULES OF PROCEDURE AND FORMS**

[(date effective], 2017)

Made under the *Statutory Powers Procedure Act*, RSO 1990, c S.22, s 25.1

GENERAL RULES

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- 3 GENERAL POWERS
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- 6 SERVICE
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- 9 CALCULATION OF TIME

PROCEEDINGS

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- 11 ENFORCEMENT PROCEEDING
- 12 APPLICATION FOR AUTHORIZATION TO DISCLOSE
- 13 APPLICATION FOR EXTENSION OF TEMPORARY ORDER
- 14 APPLICATION FOR HEARING AND REVIEW
- 15 APPLICATION FOR FURTHER DECISION OR REVOCATION OR VARIATION OF A DECISION
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APPENDIX A STATEMENT OF ALLEGATIONS

APPENDIX B MOTION

APPENDIX C *APPLICATION FOR AUTHORIZATION TO DISCLOSE INFORMATION*

APPENDIX D *APPLICATION FOR EXTENSION OF A TEMPORARY ORDER*

APPENDIX E *APPLICATION FOR HEARING AND REVIEW*

APPENDIX F *APPLICATION FOR FURTHER DECISION OR REVOCATION OR VARIATION OF A DECISION*

APPENDIX G *APPLICATION FOR TRANSACTIONAL PROCEEDING*

APPENDIX H *NOTICE OF WITHDRAWAL*

APPENDIX I *SUMMONS*



## GENERAL RULES

- 1 Objective**
- The objective of these Rules is to ensure that Commission proceedings are conducted in a just, expeditious and cost-effective manner.
- 2 Scope**
- These Rules apply only to proceedings before a Panel.
- 3 General Powers**
- A Panel may waive any of these Rules at any time on such terms, if any, as it considers appropriate, to further the objective set out in Rule 1.
- 4 Practice Guideline for Proceeding Management**
- (1) Practice Guideline      The Commission may issue and amend a guideline to assist with the application of these Rules.
- (2) Timelines                Timelines for procedural steps shall be as set out in the guideline issued by the Commission, unless a Panel orders otherwise.
- 5 Definitions**
- In these Rules:
- (a) “Act” means the Securities Act, RSO 1990, c S.5;
  - (b) “Applicant” means a person (including Staff) or company who files an Application under these Rules;
  - (c) “Commissioner” means a Commission member;
  - (d) “holiday” means:
    - (i) every Saturday and Sunday;
    - (ii) New Year’s Day, Family Day, Good Friday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day;
    - (iii) any special holiday proclaimed by the Governor General or the Lieutenant Governor; and
    - (iv) if:
      - 1. New Year’s Day or Canada Day falls on a Saturday or Sunday, the following Monday is a holiday;
      - 2. Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are holidays; and
      - 3. Christmas Day falls on a Friday, the following Monday is a holiday;
  - (e) “Panel” means one or more Commissioners who preside over a hearing or make an order or decision relating to a proceeding;
  - (f) “Practice Guideline” means the guideline issued by the Commission under these Rules;
  - (g) “proceeding” means any matter commenced under these Rules by the issuance of a Notice of Hearing, and includes all hearings in the matter; and
  - (h) “representative” means an individual authorized under the Law Society Act, RSO 1990, c L.8 to represent a person or company in a proceeding before a tribunal, and “represented” has the corresponding meaning.
- 6 Service**
- (1) Service on representatives      Anything required by these Rules to be served on a represented party shall be served on the representative.

- (2) Service on unrepresented persons or companies      Anything required by these Rules to be served on an unrepresented person or company shall be served by one of the following methods:
- (a) electronically to an individual or to an officer, director, agent or partner of a person or company;
  - (b) by personal delivery to an individual;
  - (c) by leaving a copy with an officer, director, agent or partner of a person or company or at a place of business of the person or company with an individual who appears to be in control of the place of business;
  - (d) by courier or mail to the person or company's last known address; or
  - (e) by any other means authorized by a Panel.
- (3) Effective date of service      Service is effective, when delivered:
- (a) electronically, on the day of delivery;
  - (b) by personal delivery, on the day of delivery;
  - (c) by leaving a copy with an officer, director, agent or partner of a person or company or an individual in control of a place of business of the person or the company, on the day of delivery;
  - (d) by mail, on the fifth day after the day of mailing;
  - (e) by courier, on the earlier of the date on the delivery receipt or the fifth day after sending;
  - (f) after 4:30 p.m., one day later than the day specified in this Rule for the applicable method of service; or
  - (g) by any other means authorized by a Panel, on the date specified by the Panel.
- (4) Waiver of service      A Panel may waive service.

**7      *Filing***

- (1) How to file      Anything required by these Rules to be filed shall be filed by sending it to the Registrar in accordance with the Practice Guideline.
- (2) Filing after 4:30 p.m.      Documents filed after 4:30 p.m. shall be considered filed on the next day.
- (3) Filing is not service      Filing a document with the Registrar does not constitute service on any party to a proceeding, including Staff.

**8      *Communicating with a Panel***

All communications with a Panel member by a party, other than in a hearing, shall be sent to the Registrar with a copy to all other parties.

**9      *Calculation of Time***

Time requirements in these Rules, the Practice Guideline or an order of a Panel shall be calculated as follows:

- (a) if the number of days between two events is stated:
  - (i) the date of the first event is not counted; and
  - (ii) the date of the second event is counted;
- (b) if the time is less than seven days, holidays are not counted; and
- (c) if the day by which an act shall be done falls on a holiday, the act shall instead be done by the next day that is not a holiday.

## PROCEEDINGS

### 10 ***Commencement of Proceeding***

A proceeding shall be commenced by the issuance of a Notice of Hearing by the Office of the Secretary after a Statement of Allegations or an Application is filed.

### 11 ***Enforcement Proceeding***

(1) Enforcement proceeding brought by Staff – s. 127(1) A request by Staff for an order under s. 127(1) of the Act shall be made by filing a Statement of Allegations using the form in Appendix A.

(2) Service Staff shall serve the Notice of Hearing and Statement of Allegations on all parties without delay.

### 12 ***Application for Authorization to Disclose***

(1) Authorization to disclose information about an investigation or examination – s. 17 A request for an order under s. 17 of the Act authorizing disclosure of information about an investigation or examination under Part VI of the Act shall be made by filing an Application using the form in Appendix C.

(2) Service The Applicant shall serve without delay the Application and the Notice of Hearing on Enforcement Staff and on any other person or company that a Panel directs.

### 13 ***Application for Extension of Temporary Order***

(1) Extension of a temporary order – ss. 127(7) or (8) An initial request under ss. 127(7) or (8) of the Act to extend a temporary order shall be made by filing:

(a) an Application using the form in Appendix D; and

(b) the temporary order.

(2) Service The Applicant shall serve without delay the Application, the temporary order and the Notice of Hearing on any person or company directly affected by the temporary order.

### 14 ***Application for Hearing and Review***

(1) Hearing and review of a decision of the Director, an exchange, self-regulatory organization, quotation and trade reporting system, clearing agency or trade repository – ss. 8 and 21.7 A request for a review of a Director's decision under s. 8 of the Act or for a review of a decision of a recognized exchange, self-regulatory organization, quotation and trade reporting system or clearing agency or a designated trade repository under s. 21.7 of the Act shall be made by filing an Application using the form in Appendix E.

(2) Service The Applicant shall serve without delay the Application and Notice of Hearing on every other party to the original proceeding and on Enforcement Staff.

(3) Stay of decision The Applicant may, under s. 8(4) of the Act, request a stay of the original decision until the hearing and review is concluded by filing and serving a Motion using the form in Appendix B.

### 15 ***Application for Further Decision or Revocation or Variation of a Decision***

(1) Further decision or revocation or variation of a decision – ss. 9(6) or 144 A request for a further decision under s. 9(6) of the Act or a request for revocation or variation of a decision under s. 144 of the Act shall be made by filing an Application using the form in Appendix F.

(2) Service The Applicant shall serve without delay the Application and Notice of Hearing on every other party to the original proceeding.

**16      *Application for Transactional Proceeding***

- (1) Transactional proceeding – ss. 104 or 127(1)      A request for an order under s. 104 or s. 127(1) of the Act relating to a matter regulated under paragraph 26, 27 or 28 of s. 143(1) of the Act, including a take-over bid, issuer bid, amalgamation, statutory arrangement, other form of merger or acquisition however structured, related party transaction or meeting of security holders, shall be made by filing an Application using the form in Appendix G.
- (2) Service      The Applicant shall serve without delay the Application and Notice of Hearing on every other party, including M&A Staff.

**17      *Other Applications***

- (1) Other applications      A request for an order not specified in these Rules shall be made by filing an Application that states:
  - (a) the order sought;
  - (b) the grounds for the request; and
  - (c) the evidence the Applicant intends to use.
- (2) Service      The Applicant shall serve without delay the Application and Notice of Hearing on every other party, including Enforcement Staff.

**18      *Amendment of Application or Allegations***

- (1) Amending a Statement of Allegations or Application before merits hearing      A party may amend a Statement of Allegations or an Application no later than 10 days before a merits hearing in an enforcement proceeding or the hearing of an Application, without permission from a Panel, by filing and serving an amended version that clearly indicates the amendments.
- (2) Amending a Statement of Allegations or Application with consent or permission      A party may amend a Statement of Allegations or an Application at any time with consent of the parties or with permission from a Panel on a Motion using the form in Appendix B. The motion record shall include an amended version that clearly indicates the amendments.

**19      *Withdrawal of Application or Allegations***

- (1) Notice of Withdrawal      A party may withdraw a Statement of Allegations or an Application, against one or more parties at any time before a final determination by a Panel, by filing and serving every party with a Notice of Withdrawal using the form in Appendix H, and, in the case of withdrawal against some but not all parties, an amended Statement of Allegations or Application that clearly indicates the amendments resulting from the withdrawal.
- (2) Title of the proceeding      If a Statement of Allegations or an Application is withdrawn against some but not all other parties, the title of the proceeding on all subsequent documents shall be as a Panel directs.

**20      *Confidential Conferences***

- (1) Confidential conferences      At any stage of a proceeding, a party may request or a Panel may direct that the parties participate in a confidential conference to consider:
  - (a) the settlement of any or all of the issues;
  - (b) the simplification of the issues;
  - (c) facts that may be agreed upon; and
  - (d) any other matter that may further a just, expeditious and cost-effective disposition of the proceeding.
- (2) Disqualification of confidential conference Commissioner      A Commissioner who presides at a confidential conference at which the parties attempt to settle issues shall not preside at a merits hearing in the proceeding unless the parties consent.

**21 Participation in Proceedings**

- (1) Change in representation A party who is represented may:
- (a) change the party's representative by serving every other party with, and filing, notice of the change, including the name, address, telephone number and e-mail address of the new representative; or
  - (b) elect to appear on the party's own behalf by serving every other party with, and filing, notice of the change, including the party's address, telephone number and e-mail address.
- (2) Removal of representative of record On a motion by a representative or party, a Panel may order the removal of a representative as the representative of record.
- (3) Failure to participate If a Notice of Hearing is served on a party and the party does not attend a hearing, the proceeding may continue in the party's absence and the party is not entitled to any further notice in the proceeding.
- (4) Intervenor participation On motion, a Panel may grant a person or company who is not a party to a proceeding intervenor status to participate in all or part of the proceeding on terms the Panel considers appropriate, and subject to such terms, the intervenor shall be treated as a party.

**CONDUCT OF HEARINGS**

**22 Public Access**

- (1) Open to the public A hearing shall be open to the public, unless a Panel orders otherwise.
- (2) Confidential hearings A Panel may order that a hearing or part of a hearing be held without the public present if it appears that:
- (a) matters involving public security may be disclosed;
  - (b) avoiding disclosure of intimate financial or personal matters or other matters during the hearing outweighs adherence to the principle that hearings should be open to the public; or
  - (c) a confidential hearing is required by law.
- (3) Confidential documents A document or other thing filed in a hearing shall be available to the public upon request unless:
- (a) the document or other thing is filed during a confidential part of a hearing; or
  - (b) a Panel finds that the circumstances described in subsection (2) of this Rule apply to the document or other thing.
- (4) Recordings Visual or audio recording of a hearing is prohibited unless a Panel grants permission. A request for permission to make a visual or audio recording shall be in writing and sent to the Registrar and all parties at least five days before the hearing. A person who obtains permission to make a visual or audio recording shall be subject to the directions of the Panel and shall not engage in any behaviour that disrupts or detracts from the hearing.

**23 Types of Hearings**

- (1) Oral hearings Unless otherwise required by these Rules or ordered by a Panel, all hearings shall be oral hearings, which term includes hearings by telephone, videoconference and other electronic means.
- (2) Written hearings A Panel may order that a hearing be conducted as a written hearing if:
- (a) the only purpose of the hearing is to deal with procedural matters; or
  - (b) the Panel is satisfied that there is good reason to conduct the hearing as a written hearing.

**24 Language of Proceedings**

- (1) French or English or both  
A proceeding shall be conducted in English or in French or in both English and French, as requested by the parties.
- (2) Effect of Practice Guideline  
A hearing in French or in both French and English shall be conducted in accordance with the section of the Practice Guideline regarding language of proceedings.
- (3) Interpreters for English and French  
The Commission shall, upon request, provide an interpreter to translate to English from French, or to French from English, during a hearing.
- (4) Request for interpreter  
If a party or a party's witness requires an interpreter to translate to or from any language other than French or English, the party shall notify the Registrar and the other parties of its request at least 30 days before the hearing.

**25 Accessibility**

If a party, representative or a witness has an accessibility need that will affect the individual's ability to participate in a hearing, the individual shall notify the Registrar at least 30 days before the hearing so that reasonable accommodation can be arranged.

**26 Summonses**

- (1) Residents of Ontario  
At the request of a party, a Panel may issue a Summons using the form in Appendix I to require a person resident in Ontario to:
  - (a) give evidence under oath or affirmation at an oral hearing; and
  - (b) to produce any document or thing specified in the summons at an oral hearing.
- (2) Witnesses outside Ontario  
A party who intends to call a witness who is not resident in Ontario shall inform a Panel as soon as possible before the hearing.

**27 Disclosure**

- (1) Initial disclosure by Staff in an enforcement proceeding  
In an enforcement proceeding under s. 127(1) of the Act, Staff shall:
  - (a) provide to every other party copies of all documents in Staff's possession that are relevant to an allegation;
  - (b) identify to every other party all other things in Staff's possession that are relevant to an allegation; and
  - (c) where inspection of an original document or thing is requested by a party, make the document or thing available for inspection.
- (2) Disclosure of documents to be relied on at the hearing  
A party shall provide every other party to a proceeding with a copy of the documents or other things that the party intends to rely on or enter as evidence at a hearing.
- (3) Witness lists and summaries  
A party shall file and serve a list of the witnesses the party intends to call on every other party to a proceeding and shall serve on every such party a summary of the evidence that each witness is expected to give that includes, unless previously disclosed:
  - (a) the witness's name and address or if the address is not provided, the name and address of a person through whom the witness can be contacted;
  - (b) the substance of the witness's evidence; and
  - (c) the identification of any document or thing to which the witness is expected to refer.

- (4) Expert witnesses A party who intends to call an expert to give evidence at a hearing shall provide every other party to the proceeding with notice of the party's intention to call an expert, including a summary of the issues on which the expert will be giving evidence.
- (5) Expert report A party who intends to introduce expert evidence shall serve the expert's report and qualifications on every other party.
- (6) Expert reports in response and reply A party who is served with an expert's report may serve an expert's report in response, and the party who served the initial expert's report may serve an expert's report in reply.
- (7) Timelines for disclosure A Panel shall set timelines for disclosure and expert reports in accordance with the Practice Guideline.
- (8) Failure to disclose A party who fails to comply with a disclosure obligation in these Rules, the Practice Guideline or an order of a Panel shall not, without a Panel's permission, be permitted to rely on material that was not properly disclosed.
- (9) Particulars At any stage in a proceeding, a Panel may order a party to provide another party with particulars necessary for a full and satisfactory understanding of the subject of the proceeding, including:
  - (a) the grounds on which a remedy or order is being sought or opposed; and
  - (b) a general statement of the facts being relied on.

**28 Motions**

- (1) Motion A party who intends to make a motion shall file the Motion using the form in Appendix B, and shall serve the Motion on every other party.
- (2) Materials in support of the motion A party who makes a motion shall file and serve with the Motion a motion record that includes any affidavits setting out the facts relied on by the party.
- (3) Responding and reply materials A party who is served with a Motion may file materials in response to the Motion, and the party making the motion may file materials in reply.
- (4) Timing for delivery of motion materials Service and filing of a Motion, motion record and responding and reply materials shall comply with the time periods in the Practice Guideline.
- (5) Motion without notice A Panel may permit a party to make a motion without notice if:
  - (a) the nature of the motion or the circumstances make service of the Motion impractical or unnecessary; or
  - (b) the delay necessary to effect service would be likely to have serious consequences.

**29      *Adjournments***

- (1) Exceptional circumstances      Every merits or sanctions hearing in an enforcement proceeding, and every hearing of a motion or application, shall proceed on the scheduled date unless a party satisfies the Panel that there are exceptional circumstances requiring an adjournment.
- (2) How to request an adjournment      A party who requests that a hearing be adjourned shall file and serve a Motion using the form in Appendix B.
- (3) Terms      A Panel may grant a request that a hearing be adjourned on terms the Panel considers appropriate.

**30      *Joint hearings***

- (1) Joint hearings with other securities administrators      A Panel may hold a hearing in or outside Ontario jointly with another body that is authorized by statute to regulate trading in securities, commodities or derivatives.
- (2) Request for a joint hearing      A request for a joint hearing shall be made by motion using the form in Appendix B and shall state the reasons for the request.
- (3) Payment of expenses      A Panel may require as a condition of approving a request from a party to hold a joint hearing outside Ontario that the party pay any additional costs incurred by the Commission.

**31      *Notice of Constitutional Question***

A party who intends to question the constitutional validity or applicability of any legislation, regulation, bylaw, or common law rule shall serve notice of the constitutional question on the Attorneys General of Canada and Ontario and on the other parties and shall file the notice as soon as the circumstances requiring the notice are known and, in any event, at least 15 days before the day on which the question is to be argued.

**SETTLEMENT**

**32      *Confidential Settlement Conference***

- (1) Settlement conference      The parties to a proposed settlement shall attend at least one settlement conference.
- (2) Request for a settlement conference      The parties to a proposed settlement shall file a joint request for the settlement conference no later than five days before the date of the settlement conference, which request shall include:
  - (a) the written consent of the parties to participate in the settlement conference;
  - (b) an agreement that the discussions and any document or thing presented at the settlement conference shall be confidential; and
  - (c) a draft of the proposed settlement agreement or a joint memorandum setting out the terms of the proposed settlement.
- (3) Notice      Notice of a settlement conference shall not be published.
- (4) Confidentiality      A settlement conference shall be confidential and no transcript shall be made.



**33 Public Settlement Hearing**

- (1) Request for a settlement hearing If the parties to a settlement request a hearing to approve the settlement, they shall file a joint request at least two days before the settlement hearing, which request shall include:
- (a) a Statement of Allegations, if one has not previously been filed; and
  - (b) a signed settlement agreement that includes a draft order and each party's consent to the order.
- (2) Notice The Office of the Secretary shall issue a Notice of Hearing after a request that complies with subsection (1) has been filed.
- (3) Settlement hearing Panel A Panel that presides at a hearing to consider a settlement shall include at least one Commissioner from the Panel that presided at the settlement conference relating to the settlement.

**DECISIONS**

**34 Notice of Decision**

- (1) Notice to parties The Office of the Secretary shall send a copy of a Panel's written decision, reasons, and any order to each party's representative and to each unrepresented party.
- (2) Publication All written decisions, reasons, orders and approved settlement agreements shall be published on the Commission's website and in the Commission's Bulletin, unless a Panel orders that the document be kept confidential.

**SANCTIONS AND COSTS**

**35 Sanctions and Costs Hearing**

- (1) Separate hearing for sanctions and costs If a Panel makes a finding in an enforcement proceeding that provides a basis for sanctions and costs, a separate hearing shall be held to consider sanctions and costs, unless the parties agree that all issues may be decided in one hearing.
- (2) Schedule A Panel shall set a schedule for the sanctions and costs hearing.
- (3) Materials in support of a request for costs If Staff claims costs, it shall file materials in support of the claim for costs that include:
- (a) the amount of the costs claimed;
  - (b) the basis of the claim for costs;
  - (c) a summary statement of hours and fees, supported by time records setting out relevant hourly rates;
  - (d) a summary statement of disbursements supported by invoices and receipts, or if they cannot be obtained, by a written record of disbursements and associated dates; and
  - (e) an affidavit declaring that the information contained in the time records and the summary statement of disbursements are true and accurate, and that the disbursements were incurred directly and necessarily as a result of the investigation and/or hearing of the proceeding.

**APPENDIX A  
STATEMENT OF ALLEGATIONS**

**IN THE MATTER OF  
[Name(s) of Respondent(s)]**

**STATEMENT OF ALLEGATIONS**

(Subsection[s] 127(1)[ and 127(10)] and Section 127.1 of the *Securities Act*, RSO 1990, c S.5)

**A. ORDER SOUGHT:**

Staff of the Enforcement Branch of the Ontario Securities Commission ("**Enforcement Staff**") requests that the Commission make the following order(s):

1. *[Set out in separate, consecutively numbered paragraphs the precise order(s) sought, including sanctions and costs]*

**B. FACTS:**

Enforcement Staff makes the following allegations of fact:

1. *[Set out in separate, consecutively numbered paragraphs each allegation of material fact relied on to substantiate the alleged breaches of Ontario securities law and/or conduct contrary to the public interest]*

**C. [BREACHES AND] CONDUCT CONTRARY TO THE PUBLIC INTEREST:**

Enforcement Staff alleges the following breach(es) of Ontario securities law and/or conduct contrary to the public interest:

1. *[Set out in separate, consecutively numbered paragraphs each provision of Ontario securities law alleged to have been breached and/or conduct alleged to be contrary to the public interest]*

**DATED** this [day] day of [month], [year].

[Name, address, email and telephone number of Enforcement Staff]

**APPENDIX B  
MOTION**

**IN THE MATTER OF  
[Name(s) of Respondent(s)]**

**MOTION  
OF [Name(s) of Moving Party (Parties)]**

(For [specify relief sought])

Under [Section [#] of the *Securities Act*, RSO 1990, c S.5 and/or Rule [#]]

**A. ORDER SOUGHT**

The Moving Party(Parties), [name(s) of party(parties)], requests [with or without] notice, that the Ontario Securities Commission make the following order(s):

1. [Set out in separate, consecutively numbered paragraphs the precise order(s) sought]

**B. GROUNDS**

The grounds for the motion are:

1. [Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule]

**C. EVIDENCE**

The Moving Party (Parties) intends to rely on the following evidence for the motion:

1. [Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Moving Party intends to use]

**DATED** this [day] day of [month], [year].

[Name, address, email and telephone number of  
Moving Party or Moving Party's representative]

**APPENDIX C  
APPLICATION FOR AUTHORIZATION TO DISCLOSE INFORMATION**

**IN THE MATTER OF  
[Name(s) of Applicant(s) or, if a proceeding is pre-existing, Respondent(s)]**

**[CONFIDENTIAL] APPLICATION  
OF [Name(s) of Applicant(s)]**

(For Authorization to Disclose Information Under  
Section 17 of the *Securities Act*, RSO 1990, c S.5)

**A. ORDER SOUGHT**

The Applicant(s), [Name(s) of Applicant(s)], request(s) that the Ontario Securities Commission make the following order(s):

1. [Set out in separate, consecutively numbered paragraphs the precise order(s) sought]

**B. GROUNDS**

The grounds for the request are:

1. [Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule]

**C. EVIDENCE**

The Applicant(s) intend(s) to rely on the following evidence at the hearing:

1. [Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Applicant(s) intend(s) to use]

**DATED** this [day] day of [month], [year].

[Name, address, email and telephone number of  
Applicant(s) or representative of Applicant(s)]

**APPENDIX D  
APPLICATION FOR EXTENSION OF A TEMPORARY ORDER**

**IN THE MATTER OF  
[Name(s) in title of the proceeding on the temporary order]**

**APPLICATION  
OF [Name(s) of Applicant(s)]**

(For Extension of a Temporary Order Under  
Subsection 127[(7) **and/or** (8)] of the *Securities Act*, RSO 1990, c S.5)

**A. ORDER SOUGHT**

The Applicant(s), [Name(s) of Applicant(s)], request(s) that the Ontario Securities Commission make the following order(s):

1. [Set out in separate, consecutively numbered paragraphs the precise order(s) sought, identifying the temporary order in respect of which the order(s) is/are sought and the proposed duration of the extension]

**B. GROUNDS**

The grounds for the request are:

1. [Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule]

**C. EVIDENCE**

The Applicant(s) intend(s) to rely on the following evidence at the hearing:

1. [Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Applicant(s) intend(s) to use]

**DATED** this [day] day of [month], [year].

[Name, address, email and telephone number of  
Applicant(s) or representative of Applicant(s)]

**APPENDIX E  
APPLICATION FOR HEARING AND REVIEW**

**IN THE MATTER OF  
[Name(s) of Applicant(s)]**

**APPLICATION  
OF [Name(s) of Applicant(s)]**

(For Hearing and Review of a Decision Under  
Section [8 or 21.7] of the *Securities Act*, RSO 1990, c S.5)

**A. ORDER SOUGHT**

The Applicant(s), [Name(s) of Applicant(s)], request(s) that the Ontario Securities Commission make the following order(s):

1. [Set out in separate, consecutively numbered paragraphs the precise order(s) sought, identifying the specific decision in respect of which the order(s) is/are sought and stating the Applicant(s)' interest in that decision]

**B. GROUNDS**

The grounds for the request and the reasons for seeking a hearing and review are:

1. [Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule, and identifying any alleged errors in the decision in respect of which the order(s) is/are sought]

**C. DOCUMENTS AND EVIDENCE**

The Applicant(s) intend(s) to rely on the following documents and evidence at the hearing:

1. [Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Applicant(s) intend(s) to use, including, where applicable:
  - (a) the decision that is the subject of the request for a hearing and review and the related reasons, if reasons were given;
  - (b) the application or other document by which the original proceeding was commenced;
  - (c) any interim orders made in the original proceeding;
  - (d) any documentary evidence filed in the original proceeding, subject to any limitation expressly imposed by any statute, regulation or rules;
  - (e) any other relevant documents in the original proceeding; and
  - (f) any transcript of the oral evidence given at the original hearing.]

**DATED** this [day] day of [month], [year].

[Name, address, email and telephone number of  
Applicant(s) or representative of Applicant(s)]

**APPENDIX F  
APPLICATION FOR FURTHER DECISION OR  
REVOCATION OR VARIATION OF A DECISION**

**IN THE MATTER OF  
[Name(s) of Respondent(s)]**

**APPLICATION  
OF [Name(s) of Applicant(s)]**

(For [Further Decision or Revocation of a Decision or Variation of a Decision]  
Under Section [9(6) or 144] of the Securities Act, RSO 1990, c S.5)

**A. ORDER SOUGHT**

The Applicant(s), [Name(s) of Applicant(s)], request(s) that the Ontario Securities Commission make the following order(s):

1. [Set out in separate, consecutively numbered paragraphs the precise order sought, identifying the specific decision in respect of which the order(s) is/are sought and stating the Applicant(s)' interest in that decision]

**B. GROUNDS**

The grounds for the request are:

1. [Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule, new material or significant change in circumstances]

**C. EVIDENCE**

The Applicant(s) intend(s) to rely on the following evidence at the hearing:

1. [Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Applicant(s) intend(s) to use, including any new evidence that the Applicant(s) propose(s) to introduce at the hearing]

**DATED** this [day] day of [month], [year].

[Name, address, email and telephone number of  
Applicant(s) or representative of Applicant(s)]

**APPENDIX G  
APPLICATION FOR TRANSACTIONAL PROCEEDING**

**IN THE MATTER OF  
[Name(s) of Applicant(s)]**

**AND**

**IN THE MATTER OF  
[Name(s) of Respondent(s)]**

**APPLICATION  
OF [Name(s) of Applicant(s)]**

(In connection with a transactional proceeding under Rule 16 and Under Section [104 **and/or** 127(1)] of the *Securities Act*, RSO 1990, c S.5)

**A. ORDER SOUGHT**

The Applicant(s), [Name(s) of Applicant(s)], request(s) that the Ontario Securities Commission make the following order(s):

1. [Set out in separate, consecutively numbered paragraphs the precise order(s) sought]

**B. GROUNDS**

The grounds for the request are:

1. [Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule]

**C. EVIDENCE**

The Applicant(s) intend(s) to rely on the following evidence at the hearing:

1. [Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Applicant(s) intend(s) to use]

**DATED** this [day] day of [month], [year].

[Name, address, email and telephone number of Applicant(s) or representative of Applicant(s)]



**APPENDIX H  
NOTICE OF WITHDRAWAL**

**IN THE MATTER OF  
[Name(s) of Respondent(s) or Applicant(s)]**

**NOTICE OF WITHDRAWAL**

[Staff of the Ontario Securities Commission or name(s) of Applicant(s)] withdraw(s) the [Statement of Allegations or Application].

**OR**

[Staff of the Ontario Securities Commission or name(s) of Applicant(s)] withdraw(s) the [Statement of Allegations or Application] against [name(s) of party(parties)] as shown in the Amended [Statement of Allegations or Application] attached hereto.

**DATED** this [day] day of [month], [year].

*[Name, address, email and telephone number of Enforcement Staff,  
Applicant(s) or representative of Applicant(s)]*

**APPENDIX I  
SUMMONS**

**THE SECURITIES ACT, RSO 1990, c S.5**

**IN THE MATTER OF  
[Name(s) of Respondent(s)]**

**SUMMONS TO A WITNESS BEFORE  
THE ONTARIO SECURITIES COMMISSION**

TO: [FULL NAME AND ADDRESS OF WITNESS]

**YOU ARE REQUIRED TO ATTEND TO GIVE EVIDENCE** at the hearing of this proceeding on [DATE] at [TIME], at the offices of the Ontario Securities Commission, 20 Queen Street West, 17th Floor, Toronto, Ontario, and to remain until your attendance is no longer required.

**YOU ARE REQUIRED TO BRING WITH YOU** and produce at the hearing the following documents and things: [*Set out the nature and date of each document and give sufficient particulars to identify each document and thing.*]

**IF YOU FAIL TO ATTEND OR TO REMAIN IN ATTENDANCE AS THIS SUMMONS REQUIRES, THE SUPERIOR COURT OF JUSTICE MAY ORDER THAT A WARRANT FOR YOUR ARREST BE ISSUED, OR THAT YOU BE PUNISHED IN THE SAME WAY AS FOR CONTEMPT OF THAT COURT.**

Date: \_\_\_\_\_

ONTARIO SECURITIES COMMISSION

\_\_\_\_\_  
On behalf of the Ontario Securities Commission

NOTE: You are entitled to be paid the same fees or allowances for attending at or otherwise participating in the hearing as are paid to a person summoned to attend before the Superior Court of Justice. **If you have questions, you should contact the party that requested that the Commission issue this Summons [Name, address, email and telephone number of party requesting that the Commission issue the Summons].**

**ONTARIO SECURITIES COMMISSION PRACTICE GUIDELINE**

**1. APPLICATION AND INTERPRETATION**

- (1) APPLICATION

**2. FILING DOCUMENTS**

- (1) REDACTIONS
- (2) MERITS HEARING FOR AN ENFORCEMENT PROCEEDING
- (3) ALL OTHER HEARINGS
- (4) FORMAT OF ELECTRONIC FILINGS
- (5) AUTHORITIES

**3. USE AND DISCLOSURE OF PERSONAL INFORMATION**

- (1) OBLIGATION TO REDACT
- (2) PERSONAL INFORMATION
- (3) PERSONAL INFORMATION OF RESPONDENTS

**4. LANGUAGE OF PROCEEDINGS**

- (1) CHOICE OF LANGUAGE FOR CONDUCT OF PROCEEDINGS
- (2) LANGUAGE OF APPLICATION
- (3) NOTICE OF HEARING
- (4) COMMUNICATIONS WITH THE COMMISSION
- (5) EVIDENCE AT THE HEARING
- (6) TRANSLATION OF EVIDENCE
- (7) TRANSLATION OF TRANSCRIPTS
- (8) DECISIONS AND REASONS

**5. ENFORCEMENT PROCEEDINGS**

- (1) PROCEEDING MANAGEMENT

**6. HEARING AND REVIEW PROCEEDINGS**

- (1) FIRST ATTENDANCE
- (2) RECORD OF ORIGINAL PROCEEDING

**7. ALL OTHER PROCEEDINGS**

- (1) FIRST ATTENDANCE

**8. MOTIONS**

- (1) TIMING
- (2) CROSS-EXAMINATION
- (3) EVIDENCE

## 1. APPLICATION AND INTERPRETATION

**(1) Application:** This Practice Guideline applies to proceedings before a Panel of the Commission.

## 2. FILING DOCUMENTS

**(1) Redactions:** A party who files a redacted document shall file a confidential clean copy with the redacted copy of the document.

**(2) Merits Hearing for an Enforcement Proceeding:** The merits hearing in an enforcement proceeding, except an inter-jurisdictional enforcement proceeding, shall be an e-hearing. Each party shall file the party's documents electronically and shall follow the *Protocol for E-Filing and E-Hearings* that is attached as Appendix A.

**(3) All Other Hearings:** In a hearing other than an e-hearing pursuant to subsection (2) above, each party shall file the party's documents both electronically and in paper in accordance with the *Rules of Procedure and Forms*. Five copies of a paper filing shall be filed with the Registrar. A party who files a document or thing shall,

- (a) if the document or thing is filed electronically and
  - (i) the file size is 50MB or less, send it by email to the address: registrar@osc.gov.on.ca; or
  - (ii) the file size exceeds 50MB, deliver it on physical media (e.g., DVD, CD, USB flash drive, external hard drive, or other method approved by the Registrar) to the address in (b) below; or
- (b) if the document or thing is filed in paper, deliver it by mail, facsimile transmission (if under 25 pages), courier or personal delivery to:

Ontario Securities Commission  
20 Queen Street West, 22nd Floor  
Toronto, Ontario  
M5H 3S8  
Fax: 416-593-2318  
Attention: Registrar, Office of the Secretary

**(4) Format of Electronic Filings:** A party who files an electronic document (including text and image/picture documents) shall file it in multi-page Portable Document Format (PDF) that allows full text searching.

**(5) Authorities:** Each party shall file copies of Commission decisions, court decisions and other legal authorities referred to in the party's submission, except for authorities included in the Commission's Book of Authorities ([http://www.osc.gov.on.ca/en/Proceedings\\_before-commission\\_book-authorities.htm](http://www.osc.gov.on.ca/en/Proceedings_before-commission_book-authorities.htm)). When relying on an authority from the Commission's Book of Authorities in a written submission, a party shall identify the case name, citation and tab number from the alphabetical index to the Commission's Book of Authorities and shall not append the authority to the party's submission.

## 3. USE AND DISCLOSURE OF PERSONAL INFORMATION

**(1) Obligation to Redact:** Each party shall use reasonable efforts to limit disclosure of personal information of an investor, witness or other third party to information that is necessary for the disposition of a matter and shall redact the party's documents accordingly.

**(2) Personal Information:** In this Practice Guideline, "personal information" means recorded information about an identifiable individual investor, witness or third party, including but not limited to a person's:

- (a) social insurance number, driver's license number, passport number, license plate number, and Ontario Health Insurance Plan number (or other similar health plan number);
- (b) date of birth;
- (c) municipal address, including street name, street number and postal code (but not city or province);
- (d) telephone number;
- (e) bank account number and trading account number (including a joint account); and

- (f) name of spouse and child.

“Personal information” does not include a name, title, contact information or designation of an individual in a business, professional or official capacity.

**(3) Personal Information of Respondents:** It is not expected that personal information of a respondent that is relevant to the disposition of a matter be redacted. A party or participant may bring a motion before the Panel to request that any personal information about a respondent be redacted from any documents in the hearing record.

#### 4. LANGUAGE OF PROCEEDINGS

**(1) Choice of Language for Conduct of Proceedings:** A party may request that a Panel conduct a hearing wholly or partly in French by serving and filing a written notice with the Registrar as soon as possible and, in any event, at least 60 days before the hearing.

**(2) Language of Application:** If a party to a proceeding brought by Staff requests that the proceeding be conducted wholly or partly in French, Staff shall serve and file, as soon as possible, a French translation of the Statement of Allegations or the Application, as the case may be.

**(3) Notice of Hearing:** Parties to a proceeding have the right to receive the Notice of Hearing in either English or French upon request.

**(4) Communications with the Commission:** The Commission will communicate and provide all of its correspondence, orders and decisions in the language of the proceeding as requested by the parties, and the parties may change their language of choice by notifying the Registrar in writing. Where at least one party uses French and at least one party uses English, Commission correspondence will be provided in both languages or will be translated.

**(5) Evidence at the Hearing:** Parties, witnesses and counsel participating in a hearing may submit evidence or written submissions either in English or in French. These documents will form part of the record in the language in which they are submitted.

**(6) Translation of Evidence:** The Commission has no obligation to translate documentary evidence. A party may bring a motion requesting translation into English or French of documentary evidence that is necessary for a fair determination of a matter.

**(7) Translation of Transcripts:** The Commission has no obligation to translate hearing transcripts. However, the Commission may, at its discretion, provide English or French translation of hearing transcripts.

**(8) Decisions and Reasons:** Commission decisions and reasons will be issued in the language of the hearing. If a hearing is conducted in both English and French, Commission decisions and reasons will be issued in both languages.

#### 5. ENFORCEMENT PROCEEDINGS

**(1) Proceeding Management:** A Panel will impose a timeline for attendances and other steps in enforcement proceedings as follows, subject to the discretion of the Panel:

Stage of the Proceeding:	Timeline:
<b>First Attendance</b> A timeline will be set for: <ul style="list-style-type: none"><li>• Disclosure of documents and things and service of witness lists and summaries and notices of intent to call expert witnesses; and</li><li>• Any additional interlocutory matters, including subsequent attendances.</li></ul>	On the date set in the Notice of Hearing, which date should occur within four weeks of the issuance of the Notice of Hearing
<b>Staff's Disclosure of Relevant Documents</b> Staff shall disclose to each respondent relevant documents in the possession or control of Staff.	No later than 30 days after the First Attendance
<b>Disclosure Motion by a Respondent</b> A respondent may serve and file a Motion regarding Staff's disclosure or seeking disclosure of additional documents.	No later than 10 days before the Second Attendance

Stage of the Proceeding:	Timeline:
<p><b>Staff's Witness Lists and Intention to Call Experts</b> Staff shall:</p> <ul style="list-style-type: none"> <li>• Serve a witness list and witness statements on each respondent; and</li> <li>• Indicate any intention to call an expert witness. If Staff intends to call an expert witness, it shall provide the expert's name and state the issues on which the expert will give evidence.</li> </ul>	No later than five days before the Second Attendance
<p><b>Second Attendance</b> A motion by a respondent regarding Staff's disclosure will be heard or scheduled for a subsequent date. Other interlocutory motions, if any, will be scheduled.</p>	No later than 120 days after the First Attendance
<p><b>Respondent's Witness List and Intention to Call Experts</b> Each respondent shall:</p> <ul style="list-style-type: none"> <li>• Serve a witness list and witness statements to Staff; and</li> <li>• Indicate any intention to call an expert witness. If a respondent intends to call an expert witness, the respondent shall provide the expert's name and state the issues on which the expert will give evidence.</li> </ul>	No later than 30 days before the Third Attendance
<p><b>E-hearing Checklist</b> Each party shall file a completed copy of the <i>E-hearing Checklist for the Hearing on the Merits</i> provided in Appendix B.</p>	No later than 10 days before the Third Attendance
<p><b>Third Attendance</b></p> <ul style="list-style-type: none"> <li>• Dates will be set for: <ul style="list-style-type: none"> <li>○ the merits hearing; and</li> <li>○ the provision of expert reports including expert reports in response and in reply.</li> </ul> </li> <li>• Further interlocutory motions may be held or scheduled.</li> </ul>	No later than 60 days after the Second Attendance
<p><b>Delivery of Hearing Briefs</b> Each party shall serve every other party with a hearing brief containing copies of the documents that the party intends to produce or enter as evidence at the merits hearing.</p>	No later than 10 days before the Final Interlocutory Attendance
<p><b>Filing of Hearing Brief Indices</b> Each party shall file a copy of an index to the party's hearing brief.</p>	No later than five days before the Final Interlocutory Attendance
<p><b>Final Interlocutory Attendance</b></p> <ul style="list-style-type: none"> <li>• Each party shall advise the Panel of any issue with respect to authenticity or admissibility of a document in a hearing brief.</li> <li>• Outstanding interlocutory issues will be addressed.</li> </ul>	No later than 30 days before the Merits Hearing
<p><b>Electronic Documents and Index Files</b> Each party shall provide to the Registrar the documents that the party intends to rely on or enter into evidence at the merits hearing, along with an Index File, in accordance with the <i>Protocol for E-Filing and E-Hearings</i> that is attached as Appendix A. An electronic document provided to the Registrar will become part of the hearing record only if the document is tendered into evidence and marked as an exhibit by the Panel in the hearing.</p>	No later than five days before the Merits Hearing

## 6. HEARING AND REVIEW PROCEEDINGS

(1) **First Attendance:** At the first attendance in a hearing and review proceeding, the Panel will impose a timeline for subsequent attendances and, if applicable, for the following:

- (a) service and filing by the applicant of the record of the original proceeding;
- (b) notice of intention to rely on documents or things not included in the record of the original proceeding;
- (c) disclosure of documents or things not included in the record of the original proceeding;
- (d) disclosure of witness lists and summaries;
- (e) notices of intention to call an expert witness;

- (f) any other interlocutory matter, including motions;
- (g) subsequent attendances for proceeding management;
- (h) filing hearing briefs;
- (i) filing written submissions; and
- (j) hearing the application.

**(2) Record of Original Proceeding:** The record referred to in clause (1)(a) above includes:

- (a) the application or other document by which the original matter was commenced;
- (b) any Notice of Hearing;
- (c) interim orders;
- (d) documentary evidence filed in the original proceeding;
- (e) other relevant documents in the original proceeding on which the applicant will rely;
- (f) any transcript of oral evidence; and
- (g) the decision that is the subject of the request for a hearing and review, including any reasons for the decision.

## **7. ALL OTHER PROCEEDINGS**

**(1) First Attendance:** At the first attendance in a proceeding other than an enforcement proceeding and a hearing and review proceeding, the Panel will impose a timeline, if applicable, for the following:

- (a) disclosure of documents and things;
- (b) disclosure of witness lists and summaries;
- (c) notices of intention to call an expert witness;
- (d) any other interlocutory matter, including motions;
- (e) subsequent attendances for proceeding management;
- (f) filing deadlines for written submissions; and
- (g) hearing the application.

## **8. MOTIONS**

**(1) Timing:** The following timelines apply for filing motion materials:

- (a) at least 10 days before a motion date, the moving party shall serve and file the Motion and motion record as prescribed in the Rules of Procedure and Forms;
- (b) at least six days before the motion date, the responding party shall serve and file any responding affidavits;
- (c) at least four days before the motion date, the moving party shall serve and file:
  - (i) any reply affidavits; and
  - (ii) a memorandum of fact and law;
- (d) at least two days before the motion date, the responding party shall serve and file a memorandum of fact and law.

## Request for Comments

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If a party fails to comply with these time limits or other time limits ordered by a Panel, a Panel may dispose of the motion as it considers appropriate.

**(2) Cross-Examination:** A party who files an affidavit shall make the affiant reasonably available for cross-examination by any adverse party before the motion.

**(3) Evidence:** A Panel may by order, before or at a hearing, require or permit oral testimony and cross-examination of an affiant at the hearing of the Motion.



**Appendix A of the  
Ontario Securities Commission Practice Guideline  
Protocol for E-Filing and E-Hearings**

**1. E-Filing and E-Hearings**

It is expected that hearings on the merits of matters commenced by a Notice of Hearing issued in connection with a Statement of Allegations (Enforcement Proceedings) will proceed as e-hearings.

**In an e-hearing, documents that the parties intend to enter into evidence at the hearing are provided by the parties to the Registrar, Office of the Secretary, in an electronic format (searchable PDFs) along with an Index File, and are displayed electronically during the course of the hearing.**

**A document provided by a party to the Registrar will only become part of the hearing record if the document is subsequently tendered into evidence and marked as an exhibit by the Panel during the hearing.**

This document sets out the electronic document requirements for e-filing and e-hearings. Any questions may be sent to the Registrar at registrar@osc.gov.on.ca.

**2. Pre-filing Documents and Sending them to Registrar**

In an e-hearing, each party is required to provide to the Registrar via electronic medium all the documents that the party intends to enter into evidence at the hearing along with an Index File ("pre-filing"). This may be done by the party's representative or by the party.

Pre-filing via electronic medium includes filing by e-mail, DVD, CD, USB flash drive, external hard drive, or other means of electronic transfer as considered appropriate by the Secretary of the Commission, and does not include facsimile.

If a party chooses to pre-file by e-mail, the e-mail shall be sent to the Registrar, Office of the Secretary, at registrar@osc.gov.on.ca. The email and its attachments shall not exceed the size of 50MB. If the total size of the documents the party intends to pre-file exceeds 50MB, then a DVD, CD, USB flash drive, external hard drive, or other means of electronic transfer as considered appropriate by the Secretary, should be used to pre-file.

If a party chooses to pre-file by physical media such as a DVD, CD, USB flash drive or external hard drive, such device shall be sent to the Registrar, Office of the Secretary by registered mail, courier or by hand delivery to the following address:

Attention: Registrar, Office of the Secretary  
Ontario Securities Commission  
20 Queen Street West, 22<sup>nd</sup> Floor  
Toronto, ON, M5H 3S8

When delivering documents to the Registrar, always specify the following: matter name, name of party filing, counsel and law firm for the party (if applicable), and contact info and name for the person responsible for preparing the documents. When sending multiple physical media or emails, always label each chronologically.

**The documents and Index File must be pre-filed with the Registrar no less than five business days before the commencement of the hearing.**

**3. Format for Electronic Documents**

All documents (including text and image/picture documents) are to be filed as multi-page Portable Document Formatted (PDF) or PDF/A documents with embedded underlying Optical Character Recognition (OCR) text. For scanned documents, the PDF document must be processed using OCR software and the PDF must be searchable using full text searching. All submitted PDF files must be PDF version 1.7 or later, with a scanned image resolution of 300 dpi. Documents must be accessible, readable and printable.

All documents must be produced free of computer viruses, malware, Trojan horses or other items of a destructive nature. If any such item is detected, the document will be rejected and deemed not to have been filed. The Registrar will contact the party, person or representative that submitted the document and request that the document be disinfected or recreated and resubmitted.

**4. Alternative Document Formats**

Any issues regarding the preparation of documents in the format described in this Protocol should be raised at an attendance before a Panel. For instance, a document may exist in a format which cannot be converted to a PDF. The Panel will determine what document formats are acceptable for the hearing.

If alternative document formats are permitted, the Registrar must be informed at least 10 business days before the commencement of the hearing to ensure that arrangements can be made to open and view the document in the hearing room.

### 5. Naming Convention for Electronic Documents

Each document will have a unique alphanumeric DocumentID, such as ABC000001, ABC000002, etc. No two documents can have the same name. In instances where disclosure has been made electronically between the parties, the parties may use the DocumentIDs used in that disclosure. During the e-hearing, a document will be referred to by its DocumentID or by its exhibit number if the document is marked as an exhibit by the Panel.

### 6. The Index File

The Index File provides details about the documents pre-filed by a party. The Index File is a document which is a comma delimited text file in “.csv” format (which can be created in Excel or other programs) that lists and describes all the pre-filed documents that the party intends to enter into evidence at the hearing (see Schedule 1 for an example of the Index File).

The party pre-filing the Index File will need to enter the relevant information into all of the mandatory fields in the Index File. In addition to the mandatory fields, optional fields should be completed wherever possible as a matter of best practice.

The Index File contains the following fields:

**Column A – DocumentID – Mandatory field:** The unique identifier used to name the PDF file.

**Column B – Unitized Parent DocID – Mandatory field:** If a document and its attachments are being pre-filed, the DocumentID of the lead document (the parent document) must be entered for the parent document and each of the attachments (the child documents). See “Document Unitization” below.

**Column C – Confidential Parent DocID - Mandatory field:** If there is both a confidential version and redacted version of the same document, unitization is used to show that the documents are related. The DocumentID of the confidential document (the parent document) must be entered for the parent document and redacted document (the child document). See “Confidential and Redacted Documents” below.

**Column D - Date - Optional field:** The date of the document in mm/dd/yyyy format (if available). Note that partial dates are not accepted.

**Column E - Description - Mandatory field:** The Re: Line, title or short description of the document.

**Column F - Type - Optional field:** The type of document (e.g. contract, email, letter, etc.).

**Column G - Author - Optional field:** The name of the author(s). If the author is an individual, the name shall be inputted as “last name, first name”. If there are multiple authors, each author shall be separated by a semi colon.

**Column H - Recipient – Optional field:** The name of the recipient(s). If the recipient is an individual, the name shall be inputted as “last name, first name”. If there are multiple recipients, each recipient shall be separated by a semi colon.

**Column I - Path – Mandatory field:** The path is the DocumentID and followed by the file extension (e.g. ABC00001.pdf, ABC00020.xls).

**Column J - Confidential - Mandatory field:** Enter a “C” in this field if confidential treatment of the document is sought. See “Confidential and Redacted Documents” below.

**Column K - Redacted - Mandatory field:** Enter an “R” in this field if information has been redacted from the document by the filing party. See “Confidential and Redacted Documents” below.

**Column L – Format – Mandatory field:** Enter the extension associated with the file (e.g. pdf, xlsx, mp3, wav).

**Column M – Native Filename – Optional field:** Enter the original filename of the document.

**Column N – Themes – Optional field:** This field can be used to identify a theme related to a document. For example, the theme may indicate a witness, subject or issue related to the document.

### 7. Confidential and Redacted Documents

Some documents will have two versions – a confidential version and a redacted version. If a document contains information that the filing party believes to be confidential, the party must identify the document at the time the document is pre-filed. A “C” suffix must be added to the DocumentID (name of document) in column “A” of the Index File (for example, ABC000104C). A “C” must also be entered in column “J” of the Index File. The redacted version of the document will have the same

DocumentID with an R suffix assigned to it (e.g. ABC000104R). The filing party must also specify that the document is redacted by entering an “R” in column “K” of the Index File.

Redactions must be in accordance with the Commission’s Practice Guideline (see sections 2(1) and 3).

If there is a confidential version and redacted version of the same document, both will be provided with the same exhibit number and are distinguished by the different suffixes in their respective DocumentIDs. Unitization is used to show that the confidential and redacted versions relate to the same document. The DocumentID of the confidential version is the Confidential Parent DocID and is entered in the Confidential Parent DocID Field (Column “C” of the Index File) for the confidential document and redacted document.

Confidentiality and redactions will be considered by the Panel when a party seeks to enter the document into evidence. The Panel may agree or disagree with the party’s position on confidentiality or redactions.

#### **How to Redact a PDF**

When redacting a PDF document, please ensure that the redaction includes **removing the embedded underlying OCR text**. Simply blacking out the text is not sufficient.

Various software products may be used to redact text from documents. Please consult your software’s manual for the specifics regarding how to redact and remove embedded underlying OCR text. As a general guideline:

- Use the software redaction tool to block out the confidential text,
- Finalize/burn-in all redactions,
- Ensure the underlying OCR text is removed,
- Re-OCR the document, and
- Review the document to ensure that the redacted text does not show up in the OCR.

#### **8. Document Unitization**

In some cases, individual documents are part of a family of related documents. For example, an email with its attached documents is referred to as a family. The email is referred to as the “parent” and the attachments are referred to as the “children”. Document unitization is necessary to preserve the relationship between the individual documents in the family and allows the family of documents to be marked together as one exhibit.

A party pre-filing a family of documents must identify each document in the family by entering the DocumentID for the parent document in the Unitized Parent DocID Field (Column “B” of the Index File) of the parent document and each of the children that are part of the family of documents (see Schedule 1 for an example).

In some instances, one or more documents included within a family of documents may be confidential and/or redacted. In this scenario, the Unitized Parent DocID (Column B of the Index File) and the Confidential Parent DocID (Column C of the Index File) must be filled out. (see Schedule 1 for an example).

Schedule 1  
Sample Index File

Please note  
document must be  
saved in ".csv"  
format

DocumentID	Unitized Parent DocID	Confidential Parent DocID	Date	Description	Type	Author	Recipient	Path	Confidential	Redacted	Format	Native Filename	Themes
ABC000001	ABC000001		13/06/2013	Affidavit of Joe Smith	Affidavit	Smith, Joe		ABC000001.pdf			pdf	ABC000001.pdf	Transaction 1
ABC000011	ABC000001		01/06/2013	Tab 1 - Resume of Joe Smith	Resume	Smith, Joe		ABC000011.pdf			pdf	ABC000011.pdf	Transaction 1
ABC000021	ABC000001		01/05/2013	Tab 2 - Share Price Analysis vs TSE Index	Report	Smith, Joe	Jones, Bob; Rose, Sherry	ABC000021.pdf			pdf	ABC000021.pdf	Transaction 1
ABC000051	ABC000001		23/04/2013	Tab 3 - Stock performance in North America 2010	Article	Smith, Joe	Jones, Bob; Rose, Sherry	ABC000051.pdf			pdf	ABC000051.pdf	Transaction 1
ABC000066	ABC000001		01/01/2012	Tab 4 - Email titled "Please review analysis"	Email	Jones, Bob	Smith, Joe; Rose, Sherry	ABC000066.pdf			pdf	ABC000066.pdf	Transaction 1
ABC000081	ABC000001		12/01/2013	Tab 5 - Share Certificates for ABC issued to Fred Flint	Certificates	Smith, Joe	Smith, Joe	ABC000081.pdf			pdf	ABC000081.pdf	Transaction 1
ABC000101	ABC000101		01/06/2013	RE: Offer Price	Memo	Smith, Joe	Smith, Joe	ABC000101.pdf			pdf	Offerprice.pdf	Transaction 1
ABC000102C	ABC000102C		01/06/2013	RE: Share Cap	Presentation	Jones, Bob		ABC000102C.pdf	C		pdf	ABC000102C.pdf	Transaction 1
ABC000104C	ABC000104C	ABC000104C	05/05/2013	List of Shares sold during period Jan to Feb 2013	Report			ABC000104C.pdf	C		pdf	ABC000104C.pdf	Transaction 2
ABC000104R	ABC000104R	ABC000104C	05/05/2013	List of Shares sold during period Feb to March 2013	Report			ABC000104R.pdf		R	pdf	ABC000104R.pdf	Transaction 2
ABC000105	ABC000105			Email from Joe Smith dated February 2, 2013	Email			ABC000105.pdf			pdf	ABC000105.pdf	
ABC000106	ABC000105		26/04/2013	Email attachment offer price docs	Report			ABC000106.pdf			pdf	ABC000106.pdf	
ABC000110C	ABC000105	ABC000110C	01/01/2013	Email attachment Trend Analysis for period 2012-2013	Spreadsheet			ABC100110C.pdf	C		pdf	ABC100110C.pdf	
ABC000110R	ABC000105	ABC000110C	01/01/2013	Email attachment Trend Analysis for period 2012-2013	Spreadsheet			ABC100110R.pdf		R	pdf	ABC100110R.pdf	
ABCvideo1			05/04/2013	Video titled "Investment information for investors"	Video			ABCvideo1.mpg			mpg	ABCvideo1.mpg	
ABCAudio1			05/03/2013	Audio recording "Phone call to investor Bob Smith"	Audio			ABCAudio1.wav			wav	ABCAudio1.wav	

**Appendix B of the  
Ontario Securities Commission Practice Guideline  
E-hearings Checklist for Hearing on the Merits**

<b>MATTER INFORMATION</b>	
<b>Matter Name</b>	
<b>Scheduled Dates for the Hearing on the Merits</b>	
<b>Name:</b> (Staff/Counsel/Respondent)	<b>Address:</b>
	<b>Phone:</b>
	<b>Email:</b>
<p><b>A. PERMANENT I.T. EQUIPMENT SET-UP IN EACH HEARING ROOM</b></p> <p>Each hearing room is equipped with the following:</p> <ul style="list-style-type: none"> <li>• For Staff: <ul style="list-style-type: none"> <li>○ One laptop with internet access at the podium and is connected to the A/V system.</li> <li>○ One laptop with internet access at the litigators' table and is connected to the A/V system.</li> </ul> </li> <li>• For Respondents: One laptop with internet access at the podium and is connected to the A/V system. <b>All respondents will share the laptop at the podium to access the OSC Portal during the hearing.</b></li> <li>• Each Litigators' table and witness stand has a monitor connected to the A/V system to display content.</li> </ul>	
<p><b>B. TELEPHONE AND VIDEO-CONFERENCE SET-UP IN EACH HEARING ROOM</b></p> <p>Each hearing room is equipped to make outgoing calls only on the Telephone Conference System and the Video Conference System.</p>	
<p><b>C. ACCESS TO THE OSC PORTAL</b></p> <p>Software is installed on OSC laptops in the hearing rooms to enable the parties to access the OSC Portal. The OSC Portal is a database on a closed network environment, which holds the hearing documents and parties will retrieve documents from this database, open them and then display them on the A/V system in the hearing room.</p> <p><b><u>The OSC Portal can only be accessed on OSC laptops and is only for in hearing use.</u></b></p> <p>In the event a party requires additional laptops beyond what is provided in the permanent I.T. equipment set-up (please see section A above), a request for an OSC laptop can be made. Please note in section H.</p>	
<p><b>D. PERSONAL LAPTOPS</b></p> <ul style="list-style-type: none"> <li>i. A Respondent may use their own personal laptop with a cellular/mobile internet connection (e.g. rocket stick or mobile phone hotspot). <b>Note that a personal laptop cannot be used to access the OSC Portal.</b></li> <li>ii. In the event a Respondent does not have their own cellular/mobile internet connection, a request for internet access can be made. Please note in section G.</li> </ul>	

**E. ELECTRONIC HEARING BRIEF**

**I. All documents must be formatted pursuant to the Protocol for E-filing and E-hearings (Protocol) in Appendix A of the Practice Guideline** and the Index File and Hearing Brief documents filed with the Registrar 5 business days before the commencement of the Hearing on the Merits.

The **Index File** is a document which is a comma delimited text file in “.csv” format (which can be created in Excel or other programs) that lists and describes all the pre-filed documents that will form part of the hearing brief. An example of the Index file is provided in Schedule I of the Protocol. Documents in the hearing brief shall be provided as separate searchable multi-page PDF (or PDF/A) documents (i.e. with embedded underlying optical character recognition (OCR) text data).

**II. In the event that a party cannot comply with the Protocol, the party shall raise this with a Commissioner at an attendance and the Commissioner will determine if a suitable alternative should be followed.**

In instances where a party cannot provide the Index File as required by the Protocol, they must still provide an Index list of all their documents, specifying the name of the document, description of the document and its format to accompany their hearing brief documents.

**F. E-HEARING DOCUMENT LOGISTICS**

*As set out above, the Protocol sets out the requirements for the format of documents in the hearing brief - separate searchable multi-page PDF (or PDF/A) documents.*

*In some instances, a document may exist in a different format which cannot be converted to a PDF. In such circumstances, the Registrar must be informed at least 10 business days before the commencement of the hearing to ensure that arrangements can be made to open and view the document in the hearing room.*

*The following is the information to provide to the Registrar if an alternative document format is being used:*

**If Documents Cannot be Provided in PDF Format fill out the following information on the right hand side.**

**Alternative document formats (including paper) will be discussed with a Commissioner at an attendance and the Commissioner will determine if a suitable alternative should be followed.**

**(1) In Paper.**

- (a) **Provide an Index List** indicating, Name of the Document; Description of the Document; Date of the Document.
- (b) Total Number of Documents: \_\_\_\_\_
- (c) Total Number of Pages: \_\_\_\_\_

**(2) If Electronic.**

- (a) **Provide an Index List** indicating, Name of the Document; Description of the Document, Document Format; and file size.
- (b) Specify Format (Example: Excel, jpeg, mp3)

**G. I.T. EQUIPMENT SET-UP AND OSC PORTAL TRAINING SESSION**

The Registrar will confirm I.T. equipment set-up and OSC Portal Training Sessions based on the parties' availability and hearing room availability. Please provide a list of dates and times of your availability.

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_

**H. INDIVIDUALS PARTICIPATING IN THE HEARING ON THE MERITS**

For example: Jane Smith, Law Clerk

Name:	OSC Laptop: Yes <input type="checkbox"/> No <input type="checkbox"/>	Your own laptop: Yes <input type="checkbox"/> No <input type="checkbox"/>
Role:	Internet access: Yes <input type="checkbox"/> No <input type="checkbox"/>	Internet access: Yes <input type="checkbox"/> No <input type="checkbox"/>
Name:	OSC Laptop: Yes <input type="checkbox"/> No <input type="checkbox"/>	Your own laptop: Yes <input type="checkbox"/> No <input type="checkbox"/>
Role:	Internet access: Yes <input type="checkbox"/> No <input type="checkbox"/>	Internet access: Yes <input type="checkbox"/> No <input type="checkbox"/>
Name:	OSC Laptop: Yes <input type="checkbox"/> No <input type="checkbox"/>	Your own laptop: Yes <input type="checkbox"/> No <input type="checkbox"/>
Role:	Internet access: Yes <input type="checkbox"/> No <input type="checkbox"/>	Internet access: Yes <input type="checkbox"/> No <input type="checkbox"/>

**I. E-HEARING WITNESS LOGISTICS**

<b>Total Number of Witnesses</b>	
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**1. IN PERSON**

Witness Name:	Date:	Time:	Navigational Control: Yes <input type="checkbox"/> No <input type="checkbox"/>
Witness Name:	Date:	Time:	Navigational Control: Yes <input type="checkbox"/> No <input type="checkbox"/>
Witness Name:	Date:	Time:	Navigational Control: Yes <input type="checkbox"/> No <input type="checkbox"/>
Witness Name:	Date:	Time:	Navigational Control: Yes <input type="checkbox"/> No <input type="checkbox"/>
Witness Name:	Date:	Time:	Navigational Control: Yes <input type="checkbox"/> No <input type="checkbox"/>
Witness Name:	Date:	Time:	Navigational Control: Yes <input type="checkbox"/> No <input type="checkbox"/>

**2. BY VIDEO-CONFERENCE**

*The OSC video system is set up to make outgoing calls only. You must provide the Registrar with the contact name at the video conference facility, the contact phone number and I.P. address. OSC I.T. staff will test in advance of the hearing day and assist with establishing the connection on the day of the testimony.*

*Please indicate if you need to display documents to the remote witness. The method of sharing document display with a remote witness will depend on the technology capabilities of the remote site.*

*In the alternative, the remote witness can be provided with a hard copy of the documents ahead of time.*

Witness Name:	Date: Time:	Location:  Document Sharing: Yes <input type="checkbox"/> No <input type="checkbox"/>	Facility contact name:  Facility phone no.:  Facility I.P address:
Witness Name:	Date: Time:	Location:  Document Sharing: Yes <input type="checkbox"/> No <input type="checkbox"/>	Facility contact name:  Facility phone no.:  Facility I.P address:

**Request for Comments**

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Witness Name:	Date: Time:	Location:  Document Sharing: Yes <input type="checkbox"/> No <input type="checkbox"/>	Facility contact name:  Facility phone no.: Facility I.P address:
Witness Name:	Date: Time:	Location:  Document Sharing: Yes <input type="checkbox"/> No <input type="checkbox"/>	Facility contact name:  Facility phone no.: Facility I.P address:



## Chapter 7

# Insider Reporting

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This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see [www.carswell.com](http://www.carswell.com)).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website ([www.sedi.ca](http://www.sedi.ca)).



## Chapter 11

# IPOs, New Issues and Secondary Financings

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### INVESTMENT FUNDS

**Issuer Name:**

Select International Equity Managed Corporate Class  
Select U.S. Equity Managed Corporate Class  
Signature International Fund  
Signature International Corporate Class  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 to Amended and Restated Final Simplified  
Prospectus dated April 12, 2017  
Received on April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

CI Investments Inc.  
Project #2494270

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**Issuer Name:**

RBC Advisor Canadian Bond Fund  
RBC Canadian Government Bond Index Fund  
RBC Canadian Index Fund  
RBC U.S. Index Fund  
RBC U.S. Index Currency Neutral Fund  
RBC International Index Currency Neutral Fund  
RBC Jantzi Balanced Fund  
RBC Jantzi Canadian Equity Fund  
RBC Jantzi Global Equity Fund  
Principal Regulator - Ontario

**Type and Date:**

Amendment #4 to Final Simplified Prospectus dated April  
12, 2017  
Received on April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

RBC Global Asset Management Inc.  
Royal Mutual Funds Inc.  
Royal Mutual Funds Inc./RBC Direct Investing Inc.  
The Royal Trust Company  
RBC Dominion Securities Inc.

**Promoter(s):**

RBC Global Asset Management Inc.  
Project #2486611

**Issuer Name:**

US Equity Alpha Corporate Class  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 to Final Simplified Prospectus dated April  
12, 2017

Received on April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

Assante Capital Management Ltd.

**Promoter(s):**

-

Project #2493946

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**Issuer Name:**

FÉRIQUE AGGRESSIVE GROWTH Portfolio  
FÉRIQUE AMERICAN Fund  
FÉRIQUE ASIAN Fund  
FÉRIQUE Balanced Portfolio  
FÉRIQUE BOND Fund  
FÉRIQUE CONSERVATIVE Portfolio  
FÉRIQUE Diversified Income Fund  
FÉRIQUE DIVIDEND FUND  
FÉRIQUE Emerging Markets Fund  
FÉRIQUE EQUITY Fund  
FÉRIQUE EUROPEAN Fund  
FÉRIQUE GROWTH Portfolio  
FÉRIQUE MODERATE Portfolio  
FÉRIQUE SHORT-TERM INCOME Fund  
FÉRIQUE WORLD Dividend Fund  
Principal Regulator - Quebec

**Type and Date:**

Combined Preliminary and Pro Forma Simplified  
Prospectus dated April 11, 2017

Received on April 11, 2017

**Offering Price and Description:**

Series A Units

**Underwriter(s) or Distributor(s):**

Services d'investissement FÉRIQUE

**Promoter(s):**

GESTION FÉRIQUE

Project #2610795

**Issuer Name:**

First Asset 1-5 Year Laddered Government Strip Bond Index ETF

First Asset Canadian Convertible Bond ETF

Principal Regulator - Ontario

**Type and Date:**

Amendment #2 to Final Long Form Prospectus dated April 12, 2017

Received on April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #2481075**

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**Issuer Name:**

First Asset Active Canadian Dividend ETF

First Asset Active Utility & Infrastructure ETF

First Asset European Bank ETF

First Asset U.S. & Canada Lifeco Income ETF

Principal Regulator - Ontario

**Type and Date:**

Amendment #2 to Final Long Form Prospectus dated April 12, 2017

Received on April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

First Asset Investment Management Inc.

**Project #2498933**

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**Issuer Name:**

First Asset Active Credit ETF

Principal Regulator - Ontario

**Type and Date:**

Amendment #1 to Final Long Form Prospectus dated April 12, 2017

Received on April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

First Asset Investment Management Inc.

**Project #2566971**

**Issuer Name:**

First Asset Can-Energy Covered Call ETF

First Asset Can-Materials Covered Call ETF

First Asset Energy Giants Covered Call ETF

First Asset Tech Giants Covered Call ETF

Principal Regulator - Ontario

**Type and Date:**

Amendment #1 to Final Long Form Prospectus dated April 12, 2017

Received on April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

First Asset Investment Management Inc.

**Project #2486985**

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**Issuer Name:**

First Asset Canadian REIT ETF

Principal Regulator - Ontario

**Type and Date:**

Amendment #1 to Final Long Form Prospectus dated April 12, 2017

Received on April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

FIRST ASSET INVESTMENT MANAGEMENT INC.

**Project #2496980**

---

**Issuer Name:**

First Asset Core Canadian Equity ETF

First Asset Core U.S. Equity ETF

Principal Regulator - Ontario

**Type and Date:**

Amendment #1 to Final Long Form Prospectus dated April 12, 2017

Received on April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

First Asset Management Inc.

**Project #2566966**

**Issuer Name:**

First Asset Morningstar Canada Dividend Target 30 Index ETF  
First Asset Morningstar Canada Momentum Index ETF  
First Asset Morningstar Canada Value Index ETF  
First Asset Morningstar International Momentum Index ETF  
First Asset Morningstar International Value Index ETF  
First Asset Morningstar National Bank Québec Index ETF  
First Asset Morningstar US Dividend Target 50 Index ETF  
First Asset Morningstar US Momentum Index ETF  
First Asset Morningstar US Value Index ETF  
First Asset MSCI Canada Low Risk Weighted ETF  
First Asset MSCI Europe Low Risk Weighted ETF  
First Asset MSCI USA Low Risk Weighted ETF  
First Asset MSCI World Low Risk Weighted ETF  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 to Final Long Form Prospectus dated April 12, 2017

Received on April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

FIRST ASSET INVESTMENT MANAGEMENT INC.

Project #2515202

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**Issuer Name:**

Franklin ActiveQuant Canadian Corporate Class (formerly, Franklin Bissett All Canadian Focus Corporate Class)  
Franklin ActiveQuant Canadian Fund (formerly, Franklin Bissett All Canadian Focus Fund)  
Franklin ActiveQuant U.S. Corporate Class (formerly, Franklin Bissett U.S. Focus Corporate Class)  
Franklin ActiveQuant U.S. Fund (formerly, Franklin Bissett U.S. Focus Fund)  
Franklin Bissett Canada Plus Equity 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 Government Bond 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 Global Growth Corporate Class (formerly, Franklin World Growth Corporate Class)  
Franklin Global Growth Fund (formerly, Franklin World Growth 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 Fixed 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  
Templeton Asian Growth Corporate Class  
Templeton Asian Growth Fund  
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:**

Combined Preliminary and Pro Forma Simplified Prospectus dated April 10, 2017

NP 11-202 Preliminary Receipt dated April 11, 2017

**Offering Price and Description:**

Series A, F, O and PF Units

**Underwriter(s) or Distributor(s):**

Franklin Templeton Investments Corp.

FTC Investor Services Inc.

Bissett Investment Management, a division of Franklin

Templeton Investments Corp.

Franklin Templeton Investments Corp.

**Promoter(s):**

Franklin Templeton Investments Corp.

**Project #2610360**

---

**Issuer Name:**

Leith Wheeler Balanced Fund  
Leith Wheeler Canadian Dividend Fund  
Leith Wheeler Canadian Equity Fund  
Leith Wheeler Core Bond Fund (formerly Leith Wheeler Fixed Income Fund)

Leith Wheeler Corporate Advantage Fund (formerly Leith Wheeler Corporate Fixed Income Fund)

Leith Wheeler Emerging Markets Equity Fund

Leith Wheeler High Yield Bond Fund

Leith Wheeler Income Advantage Fund

Leith Wheeler International Equity Plus Fund

Leith Wheeler Money Market Fund

Leith Wheeler Multi Credit Fund

Leith Wheeler U.S. Equity Fund

Leith Wheeler U.S. Small/Mid-Cap Equity Fund

Principal Regulator - British Columbia

**Type and Date:**

Combined Preliminary and Pro Forma Simplified

Prospectus dated April 13, 2017

Received on April 13, 2017

**Offering Price and Description:**

Series B and Series F Units

**Underwriter(s) or Distributor(s):**

Leith Wheeler Investment Funds Ltd.

**Promoter(s):**

Leith Wheeler Investment Counsel Ltd.

**Project #2611654**

---

**Issuer Name:**

Marquis Balanced Class Portfolio

Marquis Balanced Growth Class Portfolio

Marquis Balanced Growth Portfolio

Marquis Balanced Income Portfolio

Marquis Balanced Portfolio

Marquis Equity Portfolio

Marquis Growth Portfolio

Marquis Institutional Balanced Growth Portfolio

Marquis Institutional Balanced Portfolio

Marquis Institutional Bond Portfolio

Marquis Institutional Canadian Equity Portfolio

Marquis Institutional Equity Portfolio

Marquis Institutional Global Equity Portfolio

Marquis Institutional Growth Portfolio

Principal Regulator - Ontario

**Type and Date:**

Amendment #1 to Final Simplified Prospectus dated April 10, 2017

Received on April 11, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

1832 Asset Management L.P.

**Promoter(s):**

1832 ASSET MANAGEMENT L.P.

**Project #2542470**

---

**Issuer Name:**

Sentry All Cap Income Fund  
Sentry Canadian Income Class  
Sentry Canadian Income Fund  
Sentry Diversified Equity Class  
Sentry Diversified Equity Fund  
Sentry Global Growth and Income Class  
Sentry Global Growth and Income Fund  
Sentry Global Infrastructure Fund  
Sentry Global Mid Cap Income Fund  
Sentry Growth and Income Fund  
Sentry Small/Mid Cap Income Class  
Sentry Small/Mid Cap Income Fund  
Sentry U.S. Growth and Income Class  
Sentry U.S. Growth and Income Currency Neutral Class  
Sentry U.S. Growth and Income Fund  
Sentry Canadian Resource Class  
Sentry Energy Fund  
Sentry Global REIT Class  
Sentry Global REIT Fund  
Sentry Precious Metals Class  
Sentry Precious Metals Fund  
Sentry Alternative Asset Income Fund  
Sentry Conservative Balanced Income Class  
Sentry Conservative Balanced Income Fund  
Sentry Conservative Monthly Income Fund  
Sentry Global Monthly Income Fund  
Sentry U.S. Monthly Income Fund  
Sentry Canadian Bond Fund  
Sentry Corporate Bond Class  
Sentry Corporate Bond Fund  
Sentry Global High Yield Bond Class  
Sentry Global High Yield Bond Fund  
Sentry Money Market Class  
Sentry Money Market Fund  
Sentry Growth Portfolio  
Sentry Growth and Income Portfolio  
Sentry Balanced Income Portfolio  
Sentry Conservative Income Portfolio  
Sentry Canadian Equity Income Private Pool Class  
Sentry Canadian Equity Income Private Trust  
Sentry Global Equity Income Private Pool Class  
Sentry International Equity Income Private Pool Class  
Sentry International Equity Income Private Trust  
Sentry U.S. Equity Income Private Pool Class  
Sentry U.S. Equity Income Currency Neutral Private Pool Class  
Sentry U.S. Equity Income Private Trust  
Sentry Energy Private Trust  
Sentry Global Infrastructure Private Trust  
Sentry Global Real Estate Private Trust  
Sentry Precious Metals Private Trust  
Sentry Balanced Yield Private Pool Class  
Sentry Global Balanced Yield Private Pool Class  
Sentry Canadian Fixed Income Private Pool  
Sentry Canadian Core Fixed Income Private Trust  
Sentry Global Core Fixed Income Private Trust  
Sentry Global High Yield Fixed Income Private Trust  
Sentry Global Investment Grade Private Pool Class  
Sentry Global Tactical Fixed Income Private Pool  
Sentry Real Growth Pool 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 Real Income1941-45 Class  
Sentry Real Income 1946-50 Class  
Sentry Real Income1951-55 Class  
Principal Regulator - Ontario

**Type and Date:**

Amendment #6 to AIF dated April 12, 2017  
Received on April 12, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

Sentry Investments Inc.

**Promoter(s):**

Sentry Investments Inc.

**Project #2475733**

---

**Issuer Name:**

First Asset CanBanc Income Class ETF  
First Asset Core Canadian Equity Income Class ETF  
First Asset MSCI Canada Quality Index Class ETF  
First Asset Short Term Government Bond Index Class ETF  
Principal Regulator - Ontario

**Type and Date:**

Final Long Form Prospectus dated April 10, 2017  
NP 11-202 Receipt dated April 11, 2017

**Offering Price and Description:**

Class J Shares

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #2589065**

---

**Issuer Name:**

Franklin Target Return Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Long Form Prospectus dated April 12, 2017  
NP 11-202 Receipt dated April 13, 2017

**Offering Price and Description:**

Series A Units, Series F Units, Series PF Units and Series O Units

**Underwriter(s) or Distributor(s):**

Franklin Templeton Investments Corp.

**Promoter(s):**

FRANKLIN TEMPLETON INVESTMENTS CORP.

**Project #2583151**

---

**Issuer Name:**

Global Iman Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus dated April 7, 2017  
NP 11-202 Receipt dated April 12, 2017

**Offering Price and Description:**

SERIES A AND F UNITS

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #2595439**

---

**Issuer Name:**

Horizons Enhanced Income Energy ETF  
Horizons Enhanced Income Equity ETF  
Horizons Enhanced Income Financials ETF  
Horizons Enhanced Income Gold Producers ETF  
Horizons Enhanced Income International Equity ETF  
Horizons Enhanced Income US Equity (USD) ETF  
Principal Regulator - Ontario

**Type and Date:**

Final Long Form Prospectus dated April 12, 2017  
NP 11-202 Receipt dated April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #2593563**

---

**Issuer Name:**

Mackenzie Global Credit Opportunities Fund  
Mackenzie US Strategic Income Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus dated April 13, 2017  
NP 11-202 Receipt dated April 17, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Mackenzie Financial Corporation

**Project #2585274**

---

**Issuer Name:**

North American Financial 15 Split Corp.  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus (NI 44-101) dated April 13, 2017

NP 11-202 Receipt dated April 13, 2017

**Offering Price and Description:**

2,833,000 Preferred Shares @ \$10/ sh. and 2,833,000  
Class A Shares @ \$9.10/sh.

**Underwriter(s) or Distributor(s):**

National Bank Financial Inc.  
CIBC World Markets Inc.  
Scotia Capital Inc.  
RBC Dominion Securities Inc.

BMO Nesbitt Burns Inc.

GMP Securities L.P.

Canaccord Genuity Corp.

Raymond James Ltd.

Desjardins Securities Inc.

Echelon Wealth Partners Inc.

Industrial Alliance Securities Inc.

Mackie Research Capital Corporation

Manulife Securities Incorporated

**Promoter(s):**

-

**Project #2608822**

---

**Issuer Name:**

Scotia Private Canadian Mid Cap Pool  
Principal Regulator - Ontario

**Type and Date:**

Amendment #2 to Final Simplified Prospectus dated April 10, 2017

NP 11-202 Receipt dated April 13, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

Scotia Capital Inc.

Scotia Securities Inc.

Scotia Capital Inc.(for Pinnacle Class and Class F units only)

Scotia Capital Inc. (for Pinnacle Class only)

1832 Asset Management L.P.

Scotia Capital Inc. (for Class A and F units only)

Scotia Securities Inc.

**Promoter(s):**

1832 Asset Management L.P

**Project #2540087**

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NON-INVESTMENT FUNDS

**Issuer Name:**

BOS Solutions Holdings Inc.  
Principal Regulator - Alberta

**Type and Date:**

Amended and Restated Preliminary Long Form Prospectus dated April 13, 2017  
NP 11-202 Preliminary Receipt dated April 13, 2017

**Offering Price and Description:**

\$90,000,000.00 - \* Common Shares  
Price: \$\* per Common Share

**Underwriter(s) or Distributor(s):**

CIBC World Markets Inc.  
BMO Nesbitt Burns Inc.  
National Bank Financial Inc.  
TD Securities Inc.  
AltaCorp Capital Inc.  
HSBC Securities (Canada) Inc.  
Peters & Co. Limited  
Raymond James Ltd.

**Promoter(s):**

-

**Project #2595169**

---

**Issuer Name:**

Cautivo Mining Inc.  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary Long Form Prospectus dated April 13, 2017 to Preliminary Long Form Prospectus dated January 11, 2017  
NP 11-202 Preliminary Receipt dated April 13, 2017

**Offering Price and Description:**

Distribution of \* Common Shares of Cautivo Mining Inc. as a Return of Capital and Distribution of Rights to Subscribe for up to \* Common Shares of Cautivo Mining Inc.

Price: \$\* Per Share

**Underwriter(s) or Distributor(s):**

Eight Capital

**Promoter(s):**

Sierra Metals Inc.

**Project #2573488**

**Issuer Name:**

Chemtrade Logistics Income Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated April 17, 2017  
NP 11-202 Preliminary Receipt dated April 17, 2017

**Offering Price and Description:**

\$175,000,000.00 - 4.75% Convertible Unsecured Subordinated Debentures  
Price: \$1,000 per Debenture

**Underwriter(s) or Distributor(s):**

BMO Nesbitt Burns Inc.  
Scotia Capital Inc.  
RBC Dominion Securities Inc.  
CIBC World Markets Inc.  
National Bank Financial Inc.  
TD Securities Inc.  
Raymond James Ltd.  
GMP Securities L.P.

**Promoter(s):**

-

**Project #2610329**

---

**Issuer Name:**

Element Fleet Management Corp. (formerly Element Financial Corporation)  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Shelf Prospectus dated April 12, 2017  
NP 11-202 Preliminary Receipt dated April 12, 2017

**Offering Price and Description:**

\$3,750,000,000.00 - Debt Securities, Preferred Shares, Common Shares, Subscription Receipts, Warrants, Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #2611080**

---

**Issuer Name:**

Gibraltar Growth Corporation  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated April 17, 2017  
NP 11-202 Preliminary Receipt dated April 17, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Gibraltar Opportunity, Inc.  
Fred Mannella  
Kei Izawa

**Project #2612002**

**Issuer Name:**

Leucrotta Exploration Inc.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated April 11, 2017  
NP 11-202 Preliminary Receipt dated April 11, 2017

**Offering Price and Description:**

\$80,000,550.00 - 33,333,400 Common Shares; Price -  
\$2.25 per Common Share  
1,852,000 CEE Flow-Through Shares; Price - \$2.70 per  
CEE Flow-Through Share

**Underwriter(s) or Distributor(s):**

Haywood Securities Inc.  
National Bank Financial Inc.  
Acumen Capital Finance Partners Limited  
Clarus Securities Inc.  
Desjardins Securities Inc.  
Macquarie Capital Markets Canada Ltd.  
Altacorp Capital Inc.  
Cormark Securities Inc.  
Paradigm Capital Inc.  
RBC Dominion Securities Inc.  
GMP Securities L.P.  
Beacon Securities Limited  
Canaccord Genuity Corp.  
Raymond James Ltd.

**Promoter(s):**

-

**Project #2608984**

---

**Issuer Name:**

Orletto Capital Inc.  
Principal Regulator - Quebec

**Type and Date:**

Amendment dated April 13, 2017 to Final Long Form  
Prospectus dated October 27, 2016  
Received on April 17, 2017

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

Richardson GMP Limited

**Promoter(s):**

Andre P. Boulet

**Project #2519014**

---

**Issuer Name:**

Real Matters Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated April 10, 2017  
NP 11-202 Preliminary Receipt dated April 11, 2017

**Offering Price and Description:**

C\$\* - \* Common Shares

Price: C\$ \* per Share`

**Underwriter(s) or Distributor(s):**

BMO Nesbitt Burns, Inc.  
INFOR Financial Inc.

**Promoter(s):**

-

**Project #2610439**

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**Issuer Name:**

STEP Energy Services Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Second Amended and Restated Preliminary Long Form  
Prospectus dated April 13, 2017, Amending and Restating  
the Amended and Restated Preliminary Long Form  
Prospectus dated February 27, 2017, which amended and  
Restated Preliminary Long Form Prospectus dated  
February 9, 2017

NP 11-202 Preliminary Receipt dated April 13, 2017

**Offering Price and Description:**

\$\* - \* Common Shares

Price: \$\* per Common Share

**Underwriter(s) or Distributor(s):**

CIBC World Markets Inc.  
Raymond James Ltd.  
BMO Nesbitt Burns Inc.  
Peters & Co. Limited  
RBC Dominion Securities Inc.  
GMP Securities L.P.  
National Bank Financial Inc.  
Scotia Capital Inc.  
AltaCorp Capital Inc.

**Promoter(s):**

-

**Project #2582636**

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**Issuer Name:**

Titan Medical Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Shelf Prospectus dated April 13, 2017  
NP 11-202 Preliminary Receipt dated April 13, 2017

**Offering Price and Description:**

U.S. \$80,000,000.00 - Common Shares, Warrants, Units,  
Preferred Shares, Debt Securities

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #2611481**

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**Issuer Name:**

Toronto Hydro Corporation  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Shelf Prospectus dated April 13, 2017  
NP 11-202 Preliminary Receipt dated April 17, 2017

**Offering Price and Description:**

\$1,000,000,000.00 Debentures - (unsecured)

**Underwriter(s) or Distributor(s):**

CIBC World Markets Inc.  
TD Securities Inc.  
BMO Nesbitt Burns Inc.  
RBC Dominion Securities Inc.  
National Bank Financial Inc.  
Scotia Capital Inc.

**Promoter(s):**

-

**Project #2611617**

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**Issuer Name:**

Seabridge Gold Inc.  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated April 10, 2017  
NP 11-202 Receipt dated April 11, 2017

**Offering Price and Description:**

Common Shares

**Underwriter(s) or Distributor(s):**

Canaccord Genuity Corp.  
Cantor Fitzgerald Canada Corporation  
Paradigm Capital Inc.

**Promoter(s):**

-

**Project #2602559**

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**Issuer Name:**

Silver Wheaton Corp.  
Principal Regulator - British Columbia

**Type and Date:**

Final Shelf Prospectus dated April 13, 2017  
NP 11-202 Receipt dated April 13, 2017

**Offering Price and Description:**

US\$2,000,000,000.00 - Common Shares, Preferred Shares, Debt Securities, Subscription Receipts, Units, Warrants

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #2609377**

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**Issuer Name:**

TerrAscend Corp.  
Principal Regulator - Ontario

**Type and Date:**

Final Long Form Prospectus dated April 7, 2017  
NP 11-202 Receipt dated April 11, 2017

**Offering Price and Description:**

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**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Basem Hanna  
Vijay Sappani  
Michael Nashat  
**Project #2594704**

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## Chapter 12

# Registrations

### 12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change in Registration Category	Virtual Brokers Wealth Management Inc.	From: Portfolio Manager To: Restricted Portfolio Manager	April 11, 2017
Voluntary Surrender	FIAM LLC	Commodity Trading Manager	April 11, 2017

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## Chapter 13

# SROs, Marketplaces, Clearing Agencies and Trade Repositories

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### 13.1 SROs

#### 13.1.1 IIROC – Proposed Amendments to Dealer Member Rule 200.2(L)(X)(B) on Trade-Confirmation Suppression Requirements

#### REQUEST FOR COMMENT

#### INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

#### PROPOSED AMENDMENTS TO DEALER MEMBER RULE 200.2(l)(x)(B) ON TRADE-CONFIRMATION SUPPRESSION REQUIREMENTS

IIROC is publishing for public comment proposed amendments to IIROC's Dealer Member Rule (DMR) 200.2(l)(x)(B) on trade-confirmation suppression requirements (the "Proposed Amendments"). The primary objective of the Proposed Amendments is to make the trade-confirmation suppression requirements more practical for Dealer Members whose quarterly compliant trade percentage is typically 90% or higher, but who may have one or two quarters over the last four quarters in which their quarterly compliant trade percentage is below 90%, but not less than 85%. A copy of the IIROC Notice including the amended documents is also published on our website at <http://www.osc.gov.on.ca>. The comment period ends on June 19, 2017.

13.3 Clearing Agencies

13.3.1 Eurex Clearing AG

**EUREX CLEARING AG (EUREX CLEARING)**  
**VARIATION TO THE INTERIM EXEMPTION ORDER**  
**(SECTION 144 OF THE SECURITIES ACT (Ontario))**

**NOTICE OF COMMISSION ORDER**

On April 10, 2017 the Commission granted an order (**Variation Order**) pursuant to section 144 of the *Securities Act* (Ontario) (Act) to Eurex Clearing varying an interim exemption order (**Interim Exemption Order**) for Eurex Clearing dated September 22, 2016.

The Interim Exemption Order exempts Eurex Clearing for an interim period from the requirement in subsection 21.2(0.1) of the Act to be recognized as a clearing agency. The Variation Order amends the Interim Exemption Order by extending Eurex Clearing's Interim Exemption Order until the earlier of (i) July 21, 2017 and (ii) the effective date of a subsequent order.

A copy of the Variation Order is published in Chapter 2 of this Bulletin.



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