

The Ontario Securities Commission

# OSC Bulletin

October 10, 2013

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

**The Ontario Securities Commission**

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# Chapter 1

## Notices / News Releases

### 1.1 Notices

#### 1.1.1 Current Proceedings Before The Ontario Securities Commission

October 10, 2013

#### CURRENT PROCEEDINGS

BEFORE

#### ONTARIO SECURITIES COMMISSION

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Unless otherwise indicated in the date column, all hearings will take place at the following location:

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Judith N. Robertson	—	JNR
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Charles Wesley Moore (Wes) Scott	—	CWMS

### SCHEDULED OSC HEARINGS

October 15-18, October 23 – November 4, November 6-12, November 14- 18, November 20 – December 2, December 4- 16 and December 18- 20, 2013	10:00 a.m.	<b>Eda Marie Agueci, Dennis Wing, Santo Iacono, Josephine Raponi, Kimberley Stephany, Henry Fiorillo, Giuseppe (Joseph) Fiorini, John Serpa, Ian Telfer, Jacob Gornitzki and Pollen Services Limited</b>  s. 127  C. Price in attendance for Staff  Panel: EPK/DL/AMR
October 18, 2013	10:00 a.m.	<b>Heritage Education Funds Inc.</b>  s. 127  D. Ferris in attendance for Staff  Panel: JEAT
October 21, 2013	2:00 p.m.	<b>Children's Education Funds Inc.</b>  s. 127  D. Ferris in attendance for Staff  Panel: JEAT
October 22, 2013	3:00 p.m.	<b>Knowledge First Financial Inc.</b>  s. 127  D. Ferris in attendance for Staff  Panel: JEAT
October 23, 2013	10:00 a.m.	<b>Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt</b>  s. 127  M. Vaillancourt in attendance for Staff  Panel: JEAT

<p>October 24, 2013  10:00 a.m.</p>	<p><b>Energy Syndications Inc., Green Syndications Inc., Syndications Canada Inc., Daniel Strumos, Michael Baum and Douglas William Chaddock</b></p> <p>s. 127</p> <p>C. Johnson in attendance for Staff</p> <p>Panel: AJL</p>	<p>November 12, 2013  10:00 a.m.</p>	<p><b>Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjaiants Select American Transfer Co., Leasesmart, Inc., Advanced Growing Systems, Inc., International Energy Ltd., Nutrione Corporation, Pocketop Corporation, Asia Telecom Ltd., Pharm Control Ltd., Cambridge Resources Corporation, Compushare Transfer Corporation, Federated Purchaser, Inc., TCC Industries, Inc., First National Entertainment Corporation, WGI Holdings, Inc. and Enerbrite Technologies Group</b></p> <p>s. 127 and 127.1</p> <p>D. Campbell in attendance for Staff</p> <p>Panel: VK</p>
<p>October 25, 2013  10:00 a.m.</p>	<p><b>Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)</b></p> <p>s.127 and 127.1</p> <p>D. Ferris in attendance for Staff</p> <p>Panel: VK</p>	<p>November 13, 2013  10:00 a.m.</p>	<p><b>Weizhen Tang</b></p> <p>s. 127</p> <p>C. Rossi in attendance for Staff</p> <p>Panel: TBA</p>
<p>October 28, 2013  10:00 a.m.</p>	<p><b>Andrea Lee Mccarthy, BFM Industries Inc. and Liquid Gold International Corp. (aka Liquid Gold International Inc.)</b></p> <p>s. 127</p> <p>J. Feasby/C. Watson in attendance for Staff</p> <p>Panel: JDC</p>	<p>November 21, 2013  10:00 a.m.</p>	<p><b>Oversea Chinese Fund Limited Partnership, Weizhen Tang and Associates Inc., Weizhen Tang Corp., and Weizhen Tang</b></p> <p>s. 127 and 127.1</p> <p>H. Craig in attendance for Staff</p> <p>Panel: JEAT</p>
<p>November 4 and November 6-18, 2013  10:00 a.m.</p>	<p><b>Systematech Solutions Inc., April Vuong and Hao Quach</b></p> <p>s. 127</p> <p>D. Ferris in attendance for Staff</p> <p>Panel: JDC</p>	<p>November 28- 29, 2013  10:00 a.m.</p>	<p><b>MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric</b></p> <p>s. 127 and 127(1)</p> <p>D. Ferris in attendance for Staff</p> <p>Panel: MGC/CP</p>
<p>November 4 and November 6-11, 2013  10:00 a.m.</p>	<p><b>Portfolio Capital Inc., David Rogerson and Amy Hanna- Rogerson</b></p> <p>s.127</p> <p>J. Lynch in attendance for Staff</p> <p>Panel: JEAT</p>		

December 4, 2013 10:00 a.m.	<b>New Hudson Television Corporation, New Hudson Television L.L.C. &amp; James Dmitry Salganov</b>  s. 127  C. Watson in attendance for Staff  Panel: TBA	January 27, 2014 10:00 a.m.	<b>Welcome Place Inc., Daniel Maxsood also known as Muhammad M. Khan, Tao Zhang, and Talat Ashraf</b>  s. 127  G. Smyth in attendance for Staff  Panel: TBA
December 5, 2013 10:00 a.m.	<b>Quadrex Asset Management Inc., Quadrex Secured Assets Inc., Offshore Oil Vessel Supply Services LP, Quibik Income Fund and Quibik Opportunities Fund</b>  s. 127  D. Ferris in attendance for Staff  Panel: JEAT	February 3, 2014 10:00 a.m.	<b>Tricoastal Capital Partners LLC, Tricoastal Capital Management Ltd. and Keith Macdonald Summers</b>  s.127  C Johnson/G. Smyth in attendance for Staff  Panel: TBA
December 17, 2013 3:30 p.m.	<b>Global Energy Group, Ltd., New Gold Limited Partnerships, Christina Harper, Howard Rash, Michael Schaumer, Elliot Feder, Vadim Tsatskin, Oded Pasternak, Alan Silverstein, Herbert Groberman, Allan Walker, Peter Robinson, Vyacheslav Brikman, Nikola Bajovski, Bruce Cohen and Andrew Shiff</b>  s. 127  C. Watson in attendance for Staff  Panel: EPK	March 17-24 & March 26, 2014 10:00 a.m.	<b>Newer Technologies Limited, Ryan Pickering and Rodger Frey</b>  s. 127 and 127.1  B. Shulman in attendance for staff  Panel: TBA
January 13, January 15-27, January 29 – February 10, February 12-14 and February 18-21, 2014 10:00 a.m.	<b>International Strategic Investments, International Strategic Investments Inc., Somin Holdings Inc., Nazim Gillani and Ryan J. Driscoll.</b>  s. 127  C. Watson in attendance for Staff  Panel: TBA	March 27, 2014 10:00 a.m.	<b>AMTE Services Inc., Osler Energy Corporation, Ranjit Grewal, Phillip Colbert and Edward Ozga</b>  s. 127  C. Rossi in attendance for Staff  Panel: JEAT
		March 31 – April 7, April 9-17, April 21 and April 23-30, 2014 10:00 a.m.	<b>Issam El-Bouji, Global RESP Corporation, Global Growth Assets Inc., Global Educational Trust Foundation and Margaret Singh</b>  s. 127 and 127.1  M. Vaillancourt in attendance for Staff  Panel: TBA

March 31 – April 7 and April 9-11, 2014 10:00 a.m.	<b>Ronald James Ovenden, New Solutions Capital Inc., New Solutions Financial Corporation and New Solutions Financial (II) Corporation</b>  s. 127  Y. Chisholm in attendance for Staff  Panel: TBA	May 1, 2015 10:00 a.m.	<b>Ernst &amp; Young LLP (Audits of Zungui Haixi Corporation)</b>  s. 127 and 127.1  J. Friedman in attendance for Staff  Panel: TBA
June 2, 4-6, 10-16, 18-20, 24-30, July 3-4, 8-14, 16-18, 22-25, August 11, 13-15, 19-25, 27-29, September 2-8, 10-15, October 15-20, 22-24, 28-31, November 3, 5-7, 11, 19-21, 25-28, December 1, 3-5, 9-15, 17-19, 2014, January 7-12, 14-16, 20-26, 28-30, and February 3-9, 11-13, 2015	<b>Sino-Forest Corporation, Allen Chan, Albert Ip, Alfred C.T. Hung, George Ho, Simon Yeung and David Horsley</b>  s.127  H. Craig in attendance for Staff  Panel: TBA	In writing	<b>Morgan Dragon Development Corp., John Cheong (aka Kim Meng Cheong), Herman Tse, Devon Ricketts and Mark Griffiths</b>  s. 127  J. Feasby in attendance for Staff  Panel: EPK
September 15-22, September 24, September 29 – October 6, October 8-10, October 14-October 20, October 22-November 3 and November 5-7, 2014  10:00 a.m.	<b>Paul Azeff, Korin Bobrow, Mitchell Finkelstein, Howard Jeffrey Miller and Man Kin Cheng (a.k.a. Francis Cheng)</b>  s. 127  T. Center/D. Campbell in attendance for Staff  Panel: TBA	In writing	<b>Blackwood &amp; Rose Inc., Steven Zetchus and Justin Kreller (also known as Justin Kay)</b>  s. 37, 127 and 127.1  C. Rossi in attendance for Staff  Panel: JEAT
September 15-22, September 24, September 29 – October 6, October 8-10, October 14-October 20, October 22-November 3 and November 5-7, 2014  10:00 a.m.	<b>Paul Azeff, Korin Bobrow, Mitchell Finkelstein, Howard Jeffrey Miller and Man Kin Cheng (a.k.a. Francis Cheng)</b>  s. 127  T. Center/D. Campbell in attendance for Staff  Panel: TBA	In writing	<b>Bunting &amp; Waddington Inc., Arvind Sanmugam and Julie Winget</b>  s. 127 and 127.1  M. Britton/A. Pelletier in attendance for Staff  Panel: EPK
November 11-17, 19-21, November 25 – December 1, December 3-5, 9-15, 17-19, 2014, January 14-16, 20-26, 28-30, February 3-9, 11-13, 17-23, 25-27 and March 3-6, 2015	<b>Ernst &amp; Young LLP</b>  s. 127 and 127.1  H. Craig in attendance for Staff  Panel: TBA	In writing	<b>Global Consulting and Financial Services, Global Capital Group, Crown Capital Management Corp., Michael Chomica, Jan Chomica and Lorne Banks</b>  s. 127  C. Rossi in attendance for Staff  Panel: AJL



TBA	<p><b>Yama Abdullah Yaqeen</b></p> <p>s. 8(2)</p> <p>J. Superina in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>David M. O'Brien</b></p> <p>s. 37, 127 and 127.1</p> <p>B. Shulman in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><b>Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell</b></p> <p>s. 127</p> <p>Panel: TBA</p>	TBA	<p><b>Crown Hill Capital Corporation and Wayne Lawrence Pushka</b></p> <p>s. 127</p> <p>A. Perschy/A. Pelletier in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><b>Frank Dunn, Douglas Beatty, Michael Gollogly</b></p> <p>s. 127</p> <p>Panel: TBA</p>	TBA	<p><b>Portus Alternative Asset Management Inc., Portus Asset Management Inc., Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg</b></p> <p>s. 127</p> <p>H. Craig in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><b>Gold-Quest International and Sandra Gale</b></p> <p>s. 127</p> <p>C. Johnson in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>Fawad UI Haq Khan and Khan Trading Associates Inc. carrying on business as Money Plus</b></p> <p>s. 60 and 60.1 of the <i>Commodity Futures Act</i></p> <p>T. Center in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><b>Brilliante Brasilcan Resources Corp., York Rio Resources Inc., Brian W. Aidelman, Jason Georgiadis, Richard Taylor and Victor York</b></p> <p>s. 127</p> <p>H. Craig in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>Global RESP Corporation and Global Growth Assets Inc.</b></p> <p>s. 127</p> <p>D. Ferris in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><b>Uranium308 Resources Inc., Michael Friedman, George Schwartz, Peter Robinson, and Shafi Khan</b></p> <p>s. 127</p> <p>H. Craig/C. Rossi in attendance for Staff</p> <p>Panel: TBA</p>		

TBA	<p><b>Garth H. Drabinsky, Myron I. Gottlieb and Gordon Eckstein</b></p> <p>s. 127</p> <p>J. Friedman in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>Kevin Warren Zietsoff</b></p> <p>s. 127</p> <p>J. Feasby in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><b>New Hudson Television LLC &amp; Dmitry James Salganov</b></p> <p>s. 127</p> <p>C. Watson in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>North American Financial Group Inc., North American Capital Inc., Alexander Flavio Arconti, and Luigino Arconti</b></p> <p>s. 127</p> <p>M. Vaillancourt in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><b>Jowdat Waheed and Bruce Walter</b></p> <p>s. 127</p> <p>J. Lynch in attendance for Staff</p>	TBA	<p><b>David Charles Phillips and John Russell Wilson</b></p> <p>s. 127</p> <p>Y. Chisholm/B. Shulman in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><b>Alexander Christ Doulis (aka Alexander Christos Doulis, aka Alexandros Christodoulidis) and Liberty Consulting Ltd.</b></p> <p>s. 127</p> <p>J. Feasby in attendance for Staff</p> <p>Panel: TBA</p> <p><b>Conrad M. Black, John A Boulton and Peter Y. Atkinson</b></p> <p>s. 127 and 127.1</p> <p>J. Friedman in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>Global Consulting and Financial Services, Crown Capital Management Corporation, Canadian Private Audit Service, Executive Asset Management, Michael Chomica, Peter Siklos (also known as Peter Kuti), Jan Chomica, and Lorne Banks</b></p> <p>s. 127</p> <p>C. Rossi in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><b>2196768 Ontario Ltd carrying on business as Rare Investments, Ramadhar Dookhie, Adil Sunderji and Evgueni Todorov</b></p> <p>s. 127</p> <p>D. Campbell in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>Pro-Financial Asset Management Inc.</b></p> <p>s. 127</p> <p>D. Ferris in attendance for Staff</p> <p>Panel: TBA</p>

TBA                    **Ground Wealth Inc., Michelle Dunk, Adrion Smith, Joel Webster, Douglas DeBoer, Armadillo Energy Inc., Armadillo Energy, Inc., and Armadillo Energy LLC**

s. 127

J. Feasby in attendance for Staff

Panel: TBA

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**Global Privacy Management Trust and Robert Cranston**

**LandBankers International MX, S.A. De C.V.; Sierra Madre Holdings MX, S.A. De C.V.; L&B LandBanking Trust S.A. De C.V.; Brian J. Wolf Zacarias; Roger Fernando Ayuso Loyo, Alan Hemingway, Kelly Friesen, Sonja A. McAdam, Ed Moore, Kim Moore, Jason Rogers and Dave Urrutia**

**1.1.2 OSC Staff Notice 21-707 – Swap Execution Facilities – Exemption from Requirement to be Recognized as an Exchange**

**OSC STAFF NOTICE 21-707 – SWAP EXECUTION FACILITIES –  
EXEMPTION FROM REQUIREMENT TO BE RECOGNIZED AS AN EXCHANGE**

Swap execution facilities (SEFs) are a new type of marketplace for trading swaps in the United States. They are governed by the Dodd-Frank Act and rules of the United States Commodity Futures Trading Commission.

Because SEFs have self-regulatory responsibilities, they are considered “exchanges” under Ontario securities law. If a SEF provides access to participants in Ontario, it is considered to be doing business in Ontario and must be recognized as an exchange or obtain an exemption from recognition.

The Commission has exempted certain SEFs from the requirement to be recognized as an exchange, subject to the terms and conditions set out in each order. Copies of the exemption orders are in Chapter 2 of this Bulletin and on the OSC website.

Please refer any questions to

Timothy Baikie  
Senior Legal Counsel, Market Regulation  
Ontario Securities Commission  
416-593-8136  
[tbaikie@osc.gov.on.ca](mailto:tbaikie@osc.gov.on.ca)

Alex Petro  
Oversight Analyst, Market Regulation  
Ontario Securities Commission  
416-263-3796  
[apetro@osc.gov.on.ca](mailto:apetro@osc.gov.on.ca)

1.1.3 CSA Staff Notice 13-320 Regarding Implementation of Multilateral Instrument 13-102 System Fees for SEDAR and NRD and Related Consequential Amendments to CSA National Systems Rules



**CSA Staff Notice 13-320  
Regarding Implementation of  
Multilateral Instrument 13-102 System Fees for SEDAR and NRD and  
Related Consequential Amendments to CSA National Systems Rules**

October 8, 2013

This notice provides an update on the transition of the operation of SEDAR, SEDI and NRD (the CSA National Systems) from CDS INC. to CGI Information Systems and Management Consultants Inc. (CGI) and the implementation of Multilateral Instrument 13-102 *System Fees for SEDAR and NRD* (MI 13-102) and related amendments to:

- National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* (NI 13-101),
- National Instrument 31-102 *National Registration Database* (NI 31-102), and
- National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)* (NI 55-102),

(the Related Consequential Amendments).

In April the Canadian Securities Administrators (CSA) announced that a new service agreement had been signed with CGI pursuant to which CGI will assume responsibility for hosting, operating and maintaining the CSA National Systems when the agreements with the current service provider expire. CSA staff previously announced that CGI would assume responsibility for SEDAR, SEDI and NRD related services on October 12, 2013. This implementation cutover has now been rescheduled to December 2, 2013.

The system fees that are described in MI 13-102 will still be implemented on October 12. However, the CSA will delay implementing the Related Consequential Amendments until December 2. CSA members, other than the Ontario Securities Commission (OSC), have either amended the effective date of the Related Consequential Amendments to December 2, 2013 or intend to issue blanket orders to delay the effective date of the Related Consequential Amendments.

While the OSC cannot delay the effective date of the amendments, OSC staff request that, until December 2, 2013, Ontario market participants continue to treat CDS INC. as the SEDAR filing service contractor under NI 13-101, the SEDI operator under NI 55-102 and the NRD administrator under NI 31-102 and OSC Rule 31-509 *National Registration Database (Commodity Futures Act)*, as if the Related Consequential Amendments were not in force.

**Questions**

Please refer your questions to any of the following:

*Autorité des marchés financiers*  
Mathieu Laberge  
Legal Counsel  
Legal Affairs  
514-395-0337 ext.2537  
1-877-525-0337 ext. 2537  
[mathieu.laberge@lautorite.qc.ca](mailto:mathieu.laberge@lautorite.qc.ca)

*Alberta Securities Commission*  
Samir Sabharwal  
Associate General Counsel  
403-297-7389  
[samir.sabharwal@asc.ca](mailto:samir.sabharwal@asc.ca)

*British Columbia Securities Commission*

David M. Thompson  
General Counsel  
604-899-6537  
[dthompson@bcsc.bc.ca](mailto:dthompson@bcsc.bc.ca)

*Manitoba Securities Commission*

Chris Besko  
Legal Counsel – Deputy Director  
204-945-2561  
[Chris.Besko@gov.mb.ca](mailto:Chris.Besko@gov.mb.ca)

*Ontario Securities Commission*

Robert Galea  
Legal Counsel  
General Counsel's Office  
416-593-2321  
[rgalea@osc.gov.on.ca](mailto:rgalea@osc.gov.on.ca)

1.2 Notices of Hearing

1.2.1 Weizhen Tang – ss. 127(1), 127(10)

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

**AND**

**IN THE MATTER OF  
WEIZHEN TANG**

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

**TAKE NOTICE THAT** the Ontario Securities Commission (the “Commission”) will hold a hearing pursuant to subsections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), at the offices of the Commission, 20 Queen Street West, 17th Floor Hearing Room, Toronto, Ontario, commencing on November 13, 2013 at 10:00 a.m.

**TO CONSIDER** whether, in the opinion of the Commission, it is in the public interest, pursuant to subsections 127(1) and 127(10) of the Act, to order that:

- a. pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Tang cease permanently or for such period as is specified by the Commission;
- b. pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Tang is prohibited permanently or for such other period as is specified by the Commission;
- c. pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Tang permanently or for such period as is specified by the Commission;
- d. pursuant to clause 6 of subsection 127(1) of the Act, Tang be reprimanded;
- e. pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the Act, Tang resign all positions that he may hold as an officer or director of any issuer, registrant or investment fund manager;
- f. pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act, Tang be prohibited permanently or for such other period as is specified by the Commission from becoming or acting as an officer or director of any issuer, registrant or investment fund manager;
- g. pursuant to clause 8.5 of subsection 127(1) of the Act, Tang be prohibited permanently or for such other period as is specified by the Commission from becoming or acting as a registrant, an investment fund manager or a promoter; and
- h. to make such other order or orders as the Commission considers appropriate.

**BY REASON** of the allegations set out in the Statement of Allegations of Staff of the Commission dated September 30, 2013 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 counsel at the hearing;

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

**DATED** at Toronto this 30th day of September 2013.

“John Stevenson”  
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  
WEIZHEN TANG**

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

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

**I. OVERVIEW**

1. On October 30, 2012, following a trial in the Ontario Superior Court of Justice before a judge and jury, Weizhen Tang ("Tang") was found guilty of one count of fraud over \$5,000 contrary to section 380(1) of the *Criminal Code*, R.S.C. 1985, c. C-46, as amended (the "Criminal Code").
2. A sentencing hearing was subsequently held before Justice O'Marra who issued oral reasons on February 1, 2013 (the "Reasons for Sentence") and sentenced Tang to, *inter alia*, a term of imprisonment of six years.
3. The offence for which Tang was convicted arose from a transaction, business or course of conduct related to securities and/or derivatives.
4. Staff are seeking an inter-jurisdictional enforcement order reciprocating Tang's conviction, pursuant to paragraph 1 of subsection 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act").
5. The conduct for which Tang was convicted took place between January 2006 and March 2009 (the "Material Time").

**II. THE RESPONDENT**

6. Tang is resident of Ontario. From January 22, 2008 to March 17, 2009 Tang was registered with the Ontario Securities Commission (the "Commission") as a Trading Officer of Weizhen Tang Corp., a dealer registered in the category of limited market dealer.

**III. THE SUPERIOR COURT OF JUSTICE PROCEEDINGS**

**The Conviction**

7. The offence with which Tang was charged was set forth in the indictment, on which he was tried and convicted, as follows:

WEIZHEN TANG stands charged that he, during the period from and including the 1st day of March in the year 1999, to and including the 31st day of March in the year 2009, at the City of Toronto, in the Toronto Region, by deceit, falsehood or other fraudulent means, did defraud members of the public of monies of a value exceeding five thousand dollars, contrary to section 380(1) (a) of the *Criminal Code*, as amended.

**The Sentencing Findings**

8. In the Reasons for Sentence, Justice O'Marra found, among other things, that:
  - a. [t]he nature of [Tang's] offence involved defrauding investors from Canada, [the] United States and China in an investment fund he managed;
  - b. [Tang] raised over \$50 million from January 2006 to March 2009;
  - c. by February 27, 2009, there was little more than \$1,400 left in the fund; and
  - d. there was overwhelming evidence presented at the trial that Mr. Tang committed fraud:



- i. by making false representations to potential investors as to the nature of the investments he would make for them;
- ii. by providing false account statement about the earned returns on the investors' investment contributions;
- iii. by using money of recent investors to redeem the accounts of earlier investors, a fraudulent practice referred to as a "Ponzi" scheme; and
- iv. the unwarranted collection of service and commission fees, contrary to representations made to his investors of his "no profit, no fees" policy.

#### **The Sentence**

9. Justice O'Marra sentenced Tang to six years in the penitentiary and ordered Tang to pay a fine in lieu of forfeiture of \$2,849,459.50 within five years after he completes his sentence. Justice O'Marra further ordered that in default of payment of the fine, Tang be imprisoned for an additional five years.

#### **IV. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION**

10. Pursuant to paragraph 1 of subsection 127(10) of the Act, Tang's conviction for an offence arising from a transaction, business or course of conduct related to securities or derivatives may form the basis for an order in the public interest made under subsection 127(1) of the Act.
11. Staff submit that it is in the public interest to make orders against Tang.
12. Staff reserve the right to amend these allegations and to make such further and other allegations as Staff deem fit and the Commission may permit.

**DATED** at Toronto, this 30th day of September 2013.

1.2.2 Normand Gauthier et al. – s. 127 of the Act and Rule 12 of the OSC Rules of Procedure

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

AND

IN THE MATTER OF  
NORMAND GAUTHIER,  
GENTREE ASSET MANAGEMENT INC.,  
R.E.A.L. GROUP FUND III (CANADA) LP, and  
CANPRO INCOME FUND I, LP

AND

IN THE MATTER OF  
A SETTLEMENT AGREEMENT BETWEEN STAFF  
OF THE ONTARIO SECURITIES COMMISSION AND  
NORMAND GAUTHIER, GENTREE ASSET  
MANAGEMENT INC., R.E.A.L. GROUP FUND III  
(CANADA) LP, and CANPRO INCOME FUND I, LP

NOTICE OF HEARING  
(Section 127 of the Act and Rule 12 of the  
Commission's Rules of Procedure)

**TAKE NOTICE THAT** the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to section 127 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission, at 20 Queen Street West, 17th Floor, Toronto, Ontario, M5H 3S8, on October 8, 2013 at 3:30 p.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 between Staff of the Commission and Normand Gauthier, Gentree Asset Management Inc., R.E.A.L. Group Fund III (Canada) LP, and CanPro Income Fund I, LP;

**BY REASON OF** the allegations set out in the Statement of Allegations of Staff of the Commission dated March 27, 2012, and such additional allegations as counsel may advise and the Commission may permit;

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

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

**DATED** at Toronto this 2nd day of October, 2013.

"Daisy G. Aranha"  
Per: John Stevenson  
Secretary to the Commission

1.3 News Releases

1.3.1 September 20, 2013 Meeting of the Principals of the OTC Derivative Regulators Group

FOR IMMEDIATE RELEASE  
October 3, 2013

**SEPTEMBER 20, 2013 MEETING OF THE PRINCIPALS  
OF THE OTC DERIVATIVE REGULATORS GROUP**

**TORONTO** – Principals and senior representatives of authorities responsible for the regulation of the over-the-counter (OTC) derivatives markets in Australia, Brazil, the European Union, Hong Kong, Japan, Ontario, Québec, Singapore, Switzerland and the United States met on 20 September 2013 at the headquarters of the European Securities and Markets Authority (ESMA) in Paris.

The Principals and representatives include:

- Steven Maijoor, Chair of the European Securities and Markets Authority (ESMA);
- Greg Medcraft, Chairman of the Australian Securities and Investments Commission;
- Leonardo Pereira, Chairman of the Comissão de Valores Mobiliários (Brazil);
- Patrick Pearson, Acting Director at the European Commission;
- Ashley Alder, Chief Executive Officer of the Hong Kong Securities and Futures Commission;
- Masamichi Kono, Vice-Commissioner of the Japan Financial Services Agency;
- Howard Wetston, Chair of the Ontario Securities Commission;
- Anne Héritier Lachat, Chair of the Swiss Financial Market Supervisory Authority;
- Gary Gensler, Chairman of the United States Commodity Futures Trading Commission;
- Mary Jo White, Chair of the United States Securities and Exchange Commission;
- Chuan Teck Lee, Assistant Managing Director at the Monetary Authority of Singapore;
- Louis Morisset, President and CEO, l'Autorité des marchés financiers du Québec.

The Principals discussed generally:

1. The application of clearing requirements to foreign branches and affiliates;
2. Risk mitigation techniques for non-centrally cleared derivatives transactions, such as timely confirmation, portfolio reconciliation, portfolio compression, valuation and dispute resolution;
3. The need to cooperate in the implementation of internationally agreed standards on margin for non-centrally cleared derivatives transactions;
4. Cooperation on equivalence and substituted compliance assessments among the relevant authorities;
5. Cooperation between authorities in the supervision of registered foreign entities;

The Principals agreed to meet again in February to continue the discussion of the above points.

**For Media Inquiries:**  
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Manager, Public Affairs  
416-593-2361

Aly Vitunski  
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Alison Ford  
Media Relations Specialist  
416-593-8307

Follow us on Twitter: [OSC\\_News](#)

**For Investor Inquiries:**

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

**1.3.2 CSA Announces Change in Cutover Date for Information Management Services**

**FOR IMMEDIATE RELEASE**  
**October 7, 2013**

**CSA ANNOUNCES CHANGE IN CUTOVER DATE  
FOR INFORMATION MANAGEMENT SERVICES**

**Toronto** – The Canadian Securities Administrators (CSA) announced in April 2013, the signing of a new service agreement with CGI Information Systems and Management Consultants Inc. Under the agreement CGI will assume responsibility for the hosting, operation and maintenance of the System for Electronic Document Analysis and Retrieval (SEDAR), the System for Electronic Disclosure by Insiders (SEDI) and the National Registration Database (NRD) (collectively, the “CSA National Systems”) later this year.

The implementation date for the cutover of all SEDAR, SEDI and NRD related services from the previous service provider to CGI was originally scheduled for October 12, 2013, to coincide with the new fee schedule. The implementation cutover date will now take place on Monday, December 2, 2013. More details will be provided as the date approaches.

The revised fees for SEDAR and NRD described in Multilateral Instrument 13-102 System Fees for SEDAR and NRD will be implemented on October 12, 2013 as previously announced. Consequently, SEDAR filers and filing agents who currently have the SEDAR desktop software installed on their workstations will be required to download an update as of that date to account for the new fees.

In addition, on December 2, 2013 new SEDAR desktop software will be provided. Installation of this new software is required to continue to have access to the SEDAR system. Additional information on this installation requirement will follow on the SEDAR website and in a separate communique in November.

Note that users of the SEDI and NRD systems do not need to do anything in preparation for the transition.

Questions concerning the information provided in this release or relating to the transition in general may be directed to [CSAsystransition@csa-acvm.ca](mailto:CSAsystransition@csa-acvm.ca).

The CSA, the council of the securities regulators of Canada’s provinces and territories, co-ordinates and harmonizes regulation for the Canadian capital markets.

**For more information:**

Carolyn Shaw-Rimmington  
Ontario Securities Commission  
416-593-2361

Mark Dickey  
Alberta Securities Commission  
403-297-4481

Sylvain Th  berge  
Autorit   des march  s financiers  
514-940-2176

Richard Gilhooley  
British Columbia Securities Commission  
604-899-6713

### 1.3.3 CSA Encourages All Canadians to Take Time to “Check Before You Invest”

FOR IMMEDIATE RELEASE  
October 8, 2013

#### CSA ENCOURAGES ALL CANADIANS TO TAKE TIME TO “CHECK BEFORE YOU INVEST”

**Vancouver** – October is Investor Education Month and the Canadian Securities Administrators (CSA) is encouraging investors to make use of free online investor education tools that can help with finding and working with a registered financial adviser.

This month, the CSA added two new resources to its [website](#) to assist investors complete a background check and registration search – *Check Before You Invest* and *Understanding Registration*. The CSA has also refreshed its *Working with a Financial Adviser* brochure.

“Before investors work with a financial adviser, it is essential that they do some homework on the adviser’s background and registration status,” said Bill Rice, Chair of the CSA and Chair and CEO of the Alberta Securities Commission. “Investors must do their due diligence whenever they are considering making an investment with a new financial adviser, and the CSA resources can help.”

The CSA provides a ‘check registration’ webpage ([www.aretheyregistered.ca](http://www.aretheyregistered.ca)) where investors can find:

- the National Registration Search – an online tool that makes checking your financial adviser’s registration quick and easy;
- *Understanding Registration* – a resource that helps investors understand the results of their search;
- *Check Before You Invest* – a workbook that people can use to record results of their background research; and
- *Working with a Financial Adviser* – an updated brochure that walks investors through the steps they should take when considering and working with a financial adviser.

Canadians should also watch for investor education tweets throughout October on [@CSA\\_News](#) for helpful tips and information.

Other brochures and additional information is available on the CSA’s website, [www.securities-administrators.ca](http://www.securities-administrators.ca), in the *Investor Tools* section.

The CSA, the council of securities regulators of Canada’s provinces and territories, coordinates and harmonizes regulation for the Canadian capital markets. Their mandate is to protect investors from unfair or fraudulent practices through regulation of the securities industry. Part of this protection is educating investors about the risk, responsibilities and rewards of investing.

#### For more information:

Richard Gilhooley  
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604-899-6713

Carolyn Shaw-Rimmington  
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416-593-2361

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514-940-2176

Mark Dickey  
Alberta Securities Commission  
403-297-2665

**Notices / News Releases**

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Ainsley Cunningham  
Manitoba Securities Commission  
204-945-4733

Wendy Connors-Beckett  
Financial and Consumer Services Commission  
New Brunswick  
506-643-7745

Tanya Wiltshire  
Nova Scotia Securities Commission  
902-424-8586

Daniela Machuca  
Financial and Consumer Affairs  
Authority of Saskatchewan  
306-787-5842

Janice Callbeck  
The Office of the Superintendent of Securities, P.E.I.  
902-368-6288

Craig Whalen  
Office of the Superintendent of Securities  
Government of Newfoundland and Labrador  
709-729-5661

Rhonda Horte  
Office of the Yukon Superintendent of Securities  
867-667-5466

Louis Arki  
Nunavut Securities Office  
867-975-6587

Donn MacDougall  
Northwest Territories Securities Office  
867-920-8984

**1.4 Notices from the Office of the Secretary**

**1.4.1 David M. O'Brien**

**FOR IMMEDIATE RELEASE  
October 1, 2013**

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

**AND**

**IN THE MATTER OF  
DAVID M. O'BRIEN**

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

1. a confidential pre-hearing conference shall take place on December 11, 2013 at 10:00 a.m.;
2. O'Brien shall file and serve any materials on which he intends to rely at the pre-hearing conference by December 2, 2013; and
3. the records from the September 30, 2013 and December 11, 2013 confidential pre-hearing conferences shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the Rules of Procedure.

The pre-hearing conference will be *in camera*.

A copy of the Order dated September 30, 2013 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

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Alison Ford  
Media Relations Specialist  
416-593-8307

For investor inquiries:

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

**1.4.2 Oversea Chinese Fund Limited Partnership et al.**

**FOR IMMEDIATE RELEASE  
October 2, 2013**

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

**AND**

**IN THE MATTER OF  
OVERSEA CHINESE FUND LIMITED PARTNERSHIP,  
WEIZHEN TANG AND ASSOCIATES INC.,  
WEIZHEN TANG CORP. AND WEIZHEN TANG**

**TORONTO** – The Commission issued a Temporary Order in the above named which provides that the Temporary Order is extended until November 25, 2013 and the hearing of this matter is adjourned to November 21, 2013 at 10:00 a.m. without prejudice to the Respondents to bring an application to vary the Temporary Order pursuant to section 144 of the Act.

A copy of the Temporary Order dated September 30, 2013 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

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1-877-785-1555 (Toll Free)



**1.4.3 Weizhen Tang**

**FOR IMMEDIATE RELEASE  
October 2, 2013**

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

**AND**

**IN THE MATTER OF  
WEIZHEN TANG**

**TORONTO** – The Office of the Secretary issued a Notice of Hearing pursuant to subsections 127(1) and 127(10) setting the matter down to be heard on November 13, 2013 at 10:00 a.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Notice of Hearing dated September 30, 2013 and Statement of Allegations of Staff of the Ontario Securities Commission dated September 30, 2013 are available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

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**1.4.4 Normand Gauthier et al.**

**FOR IMMEDIATE RELEASE  
October 3, 2013**

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

**AND**

**IN THE MATTER OF  
NORMAND GAUTHIER,  
GENTREE ASSET MANAGEMENT INC.,  
R.E.A.L. GROUP FUND III (CANADA) LP, and  
CANPRO INCOME FUND I, LP**

**AND**

**IN THE MATTER OF  
A SETTLEMENT AGREEMENT BETWEEN STAFF  
OF THE ONTARIO SECURITIES COMMISSION AND  
NORMAND GAUTHIER, GENTREE ASSET  
MANAGEMENT INC., R.E.A.L. GROUP FUND III  
(CANADA) LP, and CANPRO INCOME FUND I, LP**

**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 Normand Gauthier, Gentree Asset Management Inc., R.E.A.L. Group Fund III (Canada) LP, and CanPro Income Fund I, LP. The hearing will be held on October 8, 2013 at 3:30 p.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 October 2, 2013 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

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1-877-785-1555 (Toll Free)

**1.4.5 Ernst & Young LLP (Audits of Zungui Haixi Corporation)**

**FOR IMMEDIATE RELEASE  
October 4, 2013**

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

**AND**

**IN THE MATTER OF  
ERNST & YOUNG LLP  
(AUDITS OF ZUNGUI HAIXI CORPORATION)**

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

1. the Merits Hearing shall commence on May 1, 2015 and continue as directed by Order of the Commission; and
2. A further confidential pre-hearing shall be held on December 11, 2013 at 11:00 a.m., or such other date as is agreed by the parties and set by the Office of the Secretary.

The pre-hearing conference will be held *in camera*.

A copy of the Order dated September 30, 2013 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

For media inquiries:  
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**1.4.6 Global Consulting and Financial Services et al.**

**FOR IMMEDIATE RELEASE  
October 4, 2013**

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

**AND**

**IN THE MATTER OF  
GLOBAL CONSULTING AND FINANCIAL SERVICES,  
GLOBAL CAPITAL GROUP,  
CROWN CAPITAL MANAGEMENT CORP.,  
MICHAEL CHOMICA, JAN CHOMICA and  
LORNE BANKS**

**TORONTO** – The Commission issued an Order on October 2, 2013 pursuant to Sections 37, 127(1) and 127(10) of the *Securities Act*. The Commission also issued its Reasons For Sanctions dated October 2, 2013 in the above named matter.

A copy of the Reasons For Sanctions and the Order dated October 2, 2013 are available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

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## Chapter 2

# Decisions, Orders and Rulings

## 2.1 Decisions

### 2.1.1 Robert W. Baird & Co. Incorporated

#### Headnote

US broker-dealer registered as portfolio manager in Ontario – Relief granted to filer permitting it to file SEC Form X-17a-5 (FOCUS Report) in lieu of Form 31-103F1 – Representation that the filer will, in the event that it provides a guarantee of any debt of a third party, deduct the total amount of the guarantee from its excess net capital on the FOCUS Report, consistent with the requirements of SEC Rule 15c3-1 – Exemption granted from requirement to prepare financial statements on an audited unconsolidated basis – Exemption granted from requirements to provide annual financial statements on a comparative basis and that at least one director sign the statement of financial position – Filer to deliver the annual financial statements that it files with the SEC and FINRA – Filer must append audited supplemental information to annual audited financial statements that corresponds with line 3480 through to and including line 3910 “Computation of Net Capital” in the FOCUS Report and the auditor’s report relating to the Filer’s financial statements expresses an unmodified opinion on the supplemental information – Exemption Sought shall expire on December 31, 2014.

#### Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 12.1, 12.13, 15.1.

National Instrument 52-107 Acceptable Accounting Principles and Accounting Standards, ss. 3.15, 5.1.

October 1, 2013

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

**AND**

**IN THE MATTER OF  
ROBERT W. BAIRD & CO. INCORPORATED  
(the Filer)**

**DECISION**

#### Background

The Ontario Securities Commission (the **Commission**) has received an application from the Filer (the **Application**) for

a decision under the securities legislation of Ontario (the **Legislation**) exempting the Filer from

(i) the requirements of section 12.1 *Capital Requirements (Section 12.1)* of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* that the Filer maintain excess working capital calculated using Form 31-103F1 *Calculation of Excess Working Capital (Form 31-103F1)*; and

(ii) the requirements of section 12.13 *Delivering financial information – adviser* of NI 31-103, that the Filer deliver a completed Form 31-103F1 showing the calculation of its excess working capital as at the end of the financial year and as at the end of the immediately preceding financial year;

so long as the Filer calculates its excess net capital using the U.S. Securities and Exchange Commission (**SEC**) Form X-17a-5 (the **FOCUS Report**) and delivers the FOCUS Report in lieu of delivering Form 31-103F1 as required by NI 31-103 (the **FOCUS Report Relief**) and for so long as the Filer is subject to SEC Rule 15c3-1 *Net Capital Requirements for Brokers or Dealers (Rule 15c3-1)* and SEC Rule 17a-5 *Reports to be Made by Certain Brokers and Dealers (Rule 17a-5)*; and

(iii) the requirements of subsection 3.15(b) *Acceptable Accounting Principles for Foreign Registrants* of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards (NI 52-107)* that financial statements be prepared in accordance with U.S. GAAP, except that any investments in subsidiaries, jointly controlled entities and associates must be accounted for as specified for separate financial statements in International Accounting Standard 27 *Consolidated and Separate Financial Statements (IAS 27)*; and

(iv) the requirements of section 12.10 *Annual financial statements* of NI 31-103 that the Filer prepare a statement of comprehensive income, a statement of changes in equity, a statement of cash flows and a statement of financial position for the financial year immediately preceding the most recently completed financial year and that at least one director of the Filer sign the Filer’s statement of financial position;

so long as the Filer delivers to the regulator the annual audited financial statements that it files with the SEC and FINRA (the **Financial Statements Relief**, and, together with the Focus Report Relief, the **Exemption Sought**).

**Interpretation**

Terms defined in National Instrument 14-101 *Definitions* and NI 52-107 have the same meaning if used in this decision, unless otherwise defined.

**Representations**

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

1. The Filer is a corporation formed under the laws of the State of Wisconsin. The head office of the Filer is located in Milwaukee, Wisconsin.
2. The Filer provides wealth management, capital markets, private equity, and asset management services to individuals, corporations, institutional investors, and municipalities in the United States.
3. The Filer is registered as a broker-dealer and an investment adviser with the SEC and is a member of the Financial Industry Regulatory Authority (**FINRA**). The Filer is a member of the NASDAQ Stock Market, NYSE MKT LLC, BATS Z-Exchange, Inc., BATS Y-Exchange Inc. and the New York Stock Exchange.
4. The Filer is registered as a portfolio manager in Ontario. The Filer is not currently registered in any other capacity in any Canadian jurisdiction. The Filer does not currently rely on its registration as a Portfolio Manager for any activities in Canada.
5. The Filer relies on the international dealer exemption under section 8.18 of NI 31-103 in Ontario, Alberta, British Columbia, Quebec and Manitoba. The Filer is in compliance with the conditions of the international dealer exemption in NI 31-103 and the fee requirement for entities relying on the international dealer exemption under OSC Rule 13-502 *Fees*.
6. With the decision of the Director under the Legislation to grant the Exemption Sought the Filer will not be in default of the requirements of the Legislation.
7. Under NI 31-103, the Filer is required to calculate its excess working capital using Form 31-103F1.
8. The Filer is subject to regulatory capital requirements under the *Securities Exchange Act of 1934*, specifically Rule 15c3-1, that are designed to provide regulatory protections that are substantially similar to the protections provided by the regulations regarding excess working capital to which dealer members of the Investment Industry Regulatory Organization of Canada (**IIROC**) are subject. The Filer is in compliance in all material respects with Rule 15c3-1. The SEC and FINRA have the responsibility for ensuring

that the Filer operates in compliance with SEC Rule 15c3-1.

9. The Filer is required to prepare and file a FOCUS Report with United States regulators, which is the financial and operational report containing a net capital calculation.
10. The FOCUS Report provides a more comprehensive description of the business activities of the Filer, and more accurately reflects those activities including client lending activity, than would be provided by Form 31-103F1, and the minimum SEC Rule 15c3-1 requirements applicable to the Filer are a substantially greater amount than the minimum requirement of NI 31-103.
11. The Filer will, in the event that it provides a guarantee of any debt of a third party, deduct the total amount of the guarantee from its excess net capital on the FOCUS Report, consistent with the required treatment of such a guarantee under Form 31-103F1.
12. The Filer is subject to certain U.S. reporting requirements under Rule 17a-5 *Reports to Be Made by Certain Brokers and Dealers of the Securities and Exchange Act, 1934 (SEA Rule 17a-5)*, including the requirement to prepare and file annual audited financial statements. SEA Rule 17a-5 requires that the annual audited financial statements of the Filer be filed with the SEC and FINRA.
13. The SEC currently permits the Filer to file audited consolidated annual financial statements that are prepared in accordance with U.S. GAAP, whereas subsection 3.15(b) of NI 52-107 would require the Filer to prepare non-consolidated financial statements.
14. Section 12.10 of NI 31-103 provides that annual financial statements delivered to the regulator must include a statement of comprehensive income, a statement of changes in equity, a statement of cash flows and a statement of financial position for the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, along with notes thereto. Further, section 12.10 of NI 31-103 also requires that the statement of financial position be signed by at least one director of the registered firm.
15. The annual audited financial statements that the Filer prepares and files with the SEC and FINRA include the statement of comprehensive income, the statement of changes in equity, the statement of cash flows and the statement of financial position for the financial year immediately preceding the most recently completed financial year. However, the signature of a director of the

- Filer for the statement of financial position is not required by the SEC or FINRA and is not included. These are requirements under section 12.10 of NI 31-103.
16. The accounting principles and methods used to prepare the FOCUS Reports that the Filer deliver in lieu of Form 31-103F1 are consistent with the accounting principles and methods used to prepare the annual audited financial statements that each Filer files with the SEC and FINRA.
17. Audited supplemental information to the Filer's annual audited financial statements, as required by SEA Rule 17a-5, which includes supplemental information that correspond with line 3480 through to and including line 3910 "Computation of Net Capital" in the FOCUS Report, along with the auditor's report which expresses an unmodified opinion on this supplemental information, would allow the regulator to assess the capital position of the Filer and, therefore, achieve the same regulatory outcomes as the requirements for annual audited financial statements prepared in accordance with subsection 3.15(b) of NI 52-107 and section 12.10 of NI 31-103. Accordingly, it would be burdensome and costly for the Filer, if it was required to prepare and file unconsolidated annual audited financial statements.
- (c) the Filer delivers to the Commission no later than the 90th day after the end of its respective financial year its FOCUS Report as filed with the SEC and FINRA and its annual financial statements prepared in accordance with U.S. GAAP as permitted by SEA Rule 17a-5;
- (d) the Filer prepares the FOCUS Report on an unconsolidated basis;
- (e) the Filer will, in the event that it provides a guarantee of any debt of a third party, deduct the total amount of the guarantee from its excess net capital on the FOCUS Report, consistent with the requirements of SEC Rule 15c3-1;
- (f) the Filer notifies the Commission as soon as possible if at any time its excess net capital as reported in box 3920 of its most recently filed FOCUS Report, declines to or is less than zero, and ensures that such capital is not less than zero for 2 consecutive days;
- (g) the Filer gives prompt written notice to the Commission of any significant issues arising from analysis by U.S. securities regulators of the FOCUS Report filed by the Filer pursuant to SEC and FINRA requirements;

**Decision**

The Director is satisfied that the decision meets the test set out in the Legislation for the Ontario Securities Commission to make the decision.

The decision of the Director under the Legislation is that the Exemption Sought is granted so long as:

- (a) the Filer is registered, and in good standing, under the securities legislation of the United States in a category of registration that permits it to carry on the activities in the United States that registration as an investment dealer would permit it to carry on in Ontario;
- (b) by virtue of the registration referred to in paragraph (a), including required membership in one or more self-regulatory organizations, the Filer is subject to SEC Rule 15c3-1 and SEC Rule 17a-5; and that the protections provided by SEC Rule 15c3-1 and SEC Rule 17a-5 in respect of maintaining excess net capital are substantially similar to the protections provided by the capital requirements of IIROC that would be applicable to the Filer respectively if they were registered under the Legislation as an investment dealer and were a member of IIROC;
- (h) the Filer gives prompt written notice to the Commission if the Filer has received written notice from the SEC or FINRA of any material non-compliance in the preparation and filing of its annual financial statements pursuant to the requirements of SEA Rule 17a-5;
- (i) the Filer provides the Commission with at least five days written notice prior to any repayment of subordinated intercompany debt or termination of a subordination agreement with respect to intercompany debt;
- (j) the Filer appends audited supplemental information to its annual audited financial statements, as required by SEA Rule 17a-5, which includes supplemental information that corresponds with line 3480 through to and including line 3910 "Computation of Net Capital" in the FOCUS Report; and
- (k) the auditor's report relating to the Filer's financial statements expresses an unmodified opinion on the supplemental information referred to in (j).

**Decisions, Orders and Rulings**

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It is further the decision of the Director that the Exemption Sought shall expire on December 31, 2014.

“Marriane Bridge”  
Deputy Director, Compliance & Registrant Regulation  
Ontario Securities Commission

## 2.1.2 Canadian Lamb Producers Cooperative Inc.

### Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for relief from the prospectus requirement in connection with the issuance, from time to time, of membership and investment shares of a federally incorporated cooperative. The purpose of the cooperative is to assist members in the marketing and distribution of lamb products through a company incorporated under the Canada Business Corporations Act. Relief granted subject to conditions.

### Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am.

May 9, 2013

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

AND

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

AND

IN THE MATTER OF  
CANADIAN LAMB PRODUCERS COOPERATIVE INC.  
(the Filer or Cooperative)

DECISION

### Background

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the prospectus requirement contained in the Legislation of the Jurisdictions (the Prospectus Requirement) shall not apply to the issuance, from time to time, of Membership Shares and Investment Shares of the Filer to Prospective Members (as defined below) or to the first trade of such shares by a Member (as defined below) to another Member or the Filer (the Exemption Sought).

Furthermore, the Decision Maker have received a request from the Filer for a decision under the Legislation that the application for this decision, the supporting materials and this decision (the Decision, and collectively, the Confidential Material) be kept confidential until the earlier of (i) the date that the Filer advises the Decision Maker that there is no longer any need for the Confidential Material to remain confidential; and (ii) the date that is 90 days after the date of this Decision.

Under National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* (for a dual application):

- (a) the Financial and Consumers Affairs Authority of Saskatchewan is the principal regulator for this Application;
- (b) the Filer has provided notice that Section 4.7(1) of Multilateral Instrument 11-102 – *Passport System* (MI 11-102) is intended to be relied upon in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Quebec and Yukon (collectively, Other Jurisdictions); and
- (c) this Decision is the Decision of the principal regulator and evidences the Decision of the securities regulatory authority or regulator in Ontario.

### Interpretation

Terms defined in NI 14-101 – *Definitions* and MI 11-102 have the same meanings if used in this Decision, unless otherwise defined.

## Representations

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

### The Filer

1. The Filer is incorporated under the *Canada Cooperatives Act* and will extend membership solely to lamb producers meeting its eligibility requirements (discussed below) in each of the Jurisdictions and Other Jurisdictions in order to facilitate the production, processing and marketing of lamb products on a national basis for both the domestic and export markets.
2. The Filer will incorporate a subsidiary, tentatively to be called the Canadian Lamb Company Inc. (the Company), under the *Canada Business Corporations Act* to conduct the day-to-day business activities of the Filer, as discussed further below. The Filer will remain the controlling shareholder of the Company as the articles of incorporation of the Company will contain a restriction on the transfer of shares of the Company or any interest therein that would result in the Filer ceasing to directly or indirectly own less than 75 per cent of the voting rights attached to all outstanding securities of the Company. As a result of the aforesaid restriction, the Filer will have ownership of sufficient voting rights to enable the election of a majority of the members of the board of directors of the Company.
3. The Chair of the board of directors of the Filer will also be the Chair of the board of directors of the Company, and three individual lamb producers are to be appointed to the Company's board of directors.
4. The Filer's ownership interest in the Company is intended to facilitate the business objectives of the Filer and is not for investment purposes.
5. The securities of the Company to which voting rights are attached that are not owned directly or indirectly by the Filer may be owned by not more than 12 investors who are not Members and are at arm's length at the time of investment to each of the Filer and the Company and their respective directors or officers, and in each case are either participants in, or otherwise knowledgeable about, the lamb industry.
6. The articles of incorporation of the Company will contain a restriction limiting the percentage of shares of all classes of the Company that may be issued to any person or company other than the Filer to no more than 25 per cent.
7. In accordance with the requirements of the *Canada Cooperatives Act*, the Filer will have a fixed place of business in more than one province and will thus establish offices in two jurisdictions, namely, in Guelph, Ontario and in Saskatoon, Saskatchewan. The registered and head office of the Filer is located in Saskatoon.
8. In compliance with the applicable provisions of the *Canada Cooperatives Act*, the Filer will hold annual meetings of Members.
9. The Filer is not a reporting issuer under applicable Canadian securities laws of any jurisdiction and has no present intention of becoming a reporting issuer in Saskatchewan or any of the other Jurisdictions.
10. There is currently no market for the shares in the capital stock of the Filer. The Filer has no present intention of listing its shares on any stock exchange or market.

### Business of the Filer and the Company

11. The business of the Filer is restricted in its articles of incorporation to the purchase of lamb for processing and the subsequent marketing and sale thereof. The Filer's principal activities (as distinct from those of the Company, discussed below) will be to recruit members of the Filer (Members), and to purchase lamb from Members and, if required to meet the Filer's needs, non-Member lamb producers and approved feedlots.
12. To be eligible for membership in the Cooperative, lamb producers will be required to execute a producer agreement with the Filer pursuant to which the lamb producer will provide its commitment to deliver to the Filer, and the Filer will undertake to purchase from the lamb producer, a specified number of lambs per calendar year that is not less than 25 (the Producer Agreement). The price to be paid by the Filer under the Producer Agreement will be at a premium of \$0.05 per pound live weight to an amount equal to the average of three specified lamb price standards (namely, Ontario Stockyards at Cookstown, Ontario, the Ontario Livestock Exchange at Kitchener, Ontario and the Brussels Livestock Exchange at Brussels, Ontario, or in each case any successor stockyard chosen by the Filer) as of the date that title to the lamb is transferred to the Filer.



13. The commitment of the Filer to purchase the producer's lambs under the Producer Agreement at this premium price is the principal benefit that Members will receive from membership in the Cooperative, providing them with a reliable source of income. This level of certainty is not currently attainable in the market, as it is common practice for purchasers to vary a previously discussed purchase price at the time of sale, or to defer the time of purchase by several weeks.
14. Over time, Members will be provided with exclusive access to extension and business services designed to help increase productivity and improve profitability. As minor improvements in productivity may be expected to have a significant impact on the profitability of a Member's operation, such services represent a potentially significant business benefit to Members.
15. The lamb purchased by the Filer will be sold by the Filer to the Company at a price equal to the purchase price paid by the Filer plus an administrative fee, which initially will be 3%. Such fees will represent a principal source of funding for the Filer's activities.
16. Generally, the Company will undertake to conduct the business and marketing activities of the Filer. Key areas of responsibility for the Company will include transportation, processing, product development, marketing, distribution and sale of lamb purchased from the Filer.
17. The Company will be involved in transporting the purchased lamb from various designated collection points. It is also planned that the Company will be responsible for the establishment and operation of processing facilities in various jurisdictions in order to reduce transportation costs. Processing facilities will be utilized to develop and manufacture a range of value-added lamb-based products on a regular basis. The Company will be responsible for the storage of fresh or frozen lamb products as well as for the marketing, distribution and sale of such products to customers.
18. The Company will make its sale arrangements of lamb and lamb products directly and without the employment of third party brokers, thereby avoiding broker and related fees otherwise customarily paid by producers to the extent that they sell their lamb and lamb products directly. The associated savings will enhance the Company's ability to pay a premium price to the Filer that in turn enhances its ability to pay the premium price to producers pursuant to the Producer Agreement.
19. The board of directors and management of the Filer is comprised of individuals with extensive and diverse experience in the lamb industry, representing a number of geographic regions in Canada. The Filer and the Company will have separate boards of directors and management teams, recognizing the need for operational expertise and experience in the functional areas to be performed by the Company. The board of directors of the Company will include individuals with the marketing and business expertise relevant to the Company's contemplated operations.
20. The Company will raise capital from sources independent of Members pursuant to debt arrangements and/or the issuance of securities pursuant to available exemptions from the Prospectus Requirement.
21. Any profits earned by the Company from the sale of lamb products will initially be used to fund its operations. Such profits may ultimately result in the payment of dividends to the shareholders of the Company, including the Filer, to the extent the Company has positive net income and available cash after payment of any required dividends to preferred shareholders of the Company. Such dividends will, in turn, be used by the Filer to fund its activities and operations. The Filer may also distribute dividends to its shareholders, to the extent the Filer has positive net income and available cash.
22. As Members will be required to purchase a number of Investment Shares (defined in paragraph 25 below) equal to the number of lambs that each Member agrees to sell to the Filer pursuant to the Producer Agreement, any distribution of dividends to Members will be proportionate to the dollar value of each Member's net sales of lambs to the Filer.

**The Offering of Shares by the Filer**

23. As a condition of membership in the Filer: (i) a Prospective Member will be required to enter into a Producer Agreement with the Filer; and (ii) membership in the Filer will be restricted to active lamb producers in all Canadian jurisdictions (collectively the Eligibility Criteria, and any person or company meeting the Eligibility Criteria, a Prospective Member). Active lamb producers include individuals, partnerships, business corporations and cooperative associations engaged in the production of lamb. To be considered an active lamb producer and qualify for membership in the Filer, the Producer Agreement requires that a Member must have a sufficient number of ewes such that the producer is able to commit to deliver a minimum of 25 lambs to the Filer per calendar year for market. To the extent that a lamb producer is commencing its operations, it may as an exception to the foregoing be permitted to become a Member if it is able to acquire lambs that, together with its own, enable it to meet the minimum requirement to deliver 25 lambs in its first

calendar year of operations. It is anticipated that the number of lamb producers that will be interested in membership under this exception and that will be accepted for membership will be very limited.

24. In addition, as a condition of membership to be reflected in the Producer Agreement, during the first year of membership, the number of lambs that a Member may commit to sell to the Filer will be limited to the number that is equivalent to 25% of the Member's ewe flock.
25. The Filer will be authorized to issue an unlimited number of membership shares (Membership Shares) and an unlimited number of Class 1 and Class 2 investment shares (Investment Shares).
26. Members will be required to purchase a number of Investment Shares equal to the number of lambs that the producer agrees to sell to the Filer pursuant to the Producer Agreement. Members will not be required to purchase additional shares, but will be permitted to do so to the extent they determine to do so in order to sell additional lambs to the Filer in accordance with the terms of the Producer Agreement, which requires ownership by a Member of a number of Investment Shares equal to the number of lambs to be sold by such Member to the Filer in each calendar year.
27. In general terms, Investment Shares will be non-voting (unless afforded voting rights under the *Canada Cooperatives Act*), will bear non-cumulative dividends declared at the discretion of the board of directors of the Filer (the Board), and will be redeemable at any time for a price equal to their fair market value as determined by the Board. In the event of the dissolution of the Cooperative, the holders of Investment Shares will be entitled to receive, on a pro rata basis with the holders of other classes of Investment Shares but before any distribution of assets among the holders of Membership Shares, the applicable redemption price, including any declared and unpaid dividends thereon, with Class 1 Investment Shares having a limited dissolution preference over the Class 2 Investment Shares of an aggregate of \$1.00.
28. Class 1 Investment Shares will be offered to Prospective Members producing lamb for sale within Canada, while Class 2 Investment Shares will be offered to lamb producers entering into an agreement with the Filer to sell lambs for export to foreign jurisdictions.
29. Investment Shares will be offered at an initial purchase price of \$30.00 per share, and the purchase price may be varied by the Filer in the future up to a maximum price of \$100.00 per share as a function of fluctuations in the market price of lamb and potential changes to the premiums offered by the Filer.
30. The number of lambs to be delivered to the Filer by each Member for domestic sale will be limited to a maximum of 1,000 lambs per calendar year, resulting in a maximum investment in Class 1 Investment Shares at \$30.00 per share of \$30,000.00. The number of lambs to be delivered to the Filer by each Member for export will be limited to a maximum of 3,000 lambs per calendar year, resulting in a maximum investment in Class 2 Investment Shares at \$30.00 per share of \$90,000.00. This higher limit is designed to meet the objectives of lamb producers that have made significant capital investments in their operations for the purpose of selling to the export market, which offers prices at a premium to that received for domestic sales.
31. As a condition of acquiring Investment Shares, each Member must subscribe for or hold one Membership Share.
32. Membership Shares will have voting rights and will entitle the holders of such shares to a right to share in the distribution of assets of the Filer upon its dissolution. Membership Shares will have an initial purchase price of \$500.00 per share, and the offering price may be varied by the Filer in the future up to a maximum price of \$2,500.00 per share as a function of fluctuations in the market price of lamb and potential changes to the premiums offered by the Filer.
33. The initial purchase price of the Investment Shares and the Membership Shares was determined by the Board with the input of an advisory group of active lamb producers from 6 provinces after consultation with other non-advisory group lamb producers. The purchase price of the Investment Shares and Membership Shares and their respective redemption prices will be determined by the Board on an ongoing basis, having regard to the input of lamb producers, supporting provincial lamb marketing agencies and the Filer's management, and consideration of the Filer's business, financial condition and operating results, and other factors determined relevant from time to time.
34. Members to which the Filer issues Membership Shares or Investment Shares will be provided with a contractual right of action against the Filer with respect to any misrepresentation contained in the disclosure provided in the Disclosure Document (defined below) equivalent to the statutory right provided by section 130.1 of the *Securities Act* (Ontario) (the Contractual Right of Action), in addition to any other right or remedy available at law to the Member. The Disclosure Document will contain a description of the Contractual Right of Action and a statement that the Contractual Right of Action is in addition to any other right or remedy available at law to the Member.

35. Prospective Members also will be provided with the Contractual Right of Action upon entry into the subscription agreement to acquire shares of the Filer and with the right to withdraw from their subscription commitment within two business days of signing their subscription agreement (the Right of Withdrawal).
36. Each lamb producer approached for membership in the Cooperative will receive a disclosure document (a Disclosure Document) containing a certificate signed by the Chief Executive Officer, the Chief Financial Officer, and two directors of the Filer stating that the Disclosure Document contains no untrue statement of a material fact and does not omit to state a material fact that is required to be stated or omit to state a material fact that is necessary to make a statement not misleading in light of the circumstances in which it was made. The Disclosure Document will include disclosure respecting:
- (a) the proposed business operations of the Filer;
  - (b) an overview of the industry and market for lamb products;
  - (c) the objectives and operations of the Filer and the Company;
  - (d) the marketing to be conducted;
  - (e) the initial working capital requirements;
  - (f) the basis for determination of the purchase price and the redemption price of the Investment Shares and Membership Shares by the Board referred to in paragraph 33;
  - (g) the membership solicitation to be undertaken;
  - (h) the ownership structure of the Company and limits on that ownership;
  - (i) description of officers and directors of the Filer and Company;
  - (j) compensation of officers and directors of the Filer and Company on an aggregate basis;
  - (k) conflicts of interest between the Filer and Company and any of their respective officers and directors;
  - (l) restrictions on transfer of shares and the terms of the two classes of shares;
  - (m) description of the Contractual Right of Action and Right of Withdrawal;
  - (n) a description of any exemptive relief granted in respect of the securities of the Filer; and
  - (o) risks associated with membership, including risk factors for a start-up indicating that the operations of the Filer and the Company have not yet been established and that there can be no assurance of their profitability or of the ability of the Filer and the Company to perform their obligations under the Producer Agreement.

The Disclosure Document will have appended thereto the following: the articles of incorporation and by-laws of the Filer; a copy of the Producer Agreement; a form of subscription agreement; and, to the extent that the Filer has been in operation for a period in excess of 90 days or more after its first fiscal year end, its most recent audited annual financial statements referred to in paragraph 40.

37. Concurrently with or prior to the receipt of the Disclosure Document, Prospective Members will be provided with a risk acknowledgement form, substantially similar to Form 45-106F4 (the Risk Acknowledgement Form), which Prospective Members will be required to sign.
38. In addition to sending copies of updated Disclosure Documents to Members on an annual basis, the Filer will provide Members with reports of any material change in the business of the Filer or the Company in a timely manner and an updated version of the Disclosure Document to Members on an annual basis.
39. Shares in the Filer will only be issued to Prospective Members that the Filer reasonably determines will be in a position to evaluate whether the business benefit of membership in the Filer supports the cost of the shares to be purchased from the Filer.

## **Decisions, Orders and Rulings**

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40. The Filer will send Members copies of its audited annual financial statements in accordance with section 247 of the *Canada Cooperatives Act*, and a proxy circular and form of proxy in respect of the annual meeting of Members in accordance with section 166 of the *Canada Cooperatives Act*.
41. In addition, the Filer intends to provide the Members with voluntary monthly financial and operating reports on the activities of the organization. Financial information, including financial statements of the Company and any other subsidiary of the Filer, will be made available to any Member upon request and may be viewed at either the Saskatoon Saskatchewan head office or the marketing office in Guelph Ontario, in accordance with section 249 of the *Canada Cooperatives Act*.
42. The Filer does not currently intend to issue any securities other than the Membership Shares and the Investment Shares.

### **Restrictions on the Transfer of Shares**

43. Any transfer of Membership Shares or Investment Shares will be subject to a restriction requiring that the transfer shall be approved by resolution of the Board or a person authorized by such resolution to approve such transfers. As referred to in paragraph 23, and pursuant to the Articles of the Filer as a condition of membership in the Filer, a Prospective Member will be required to enter into a Producer Agreement with the Filer. The transferee of such shares shall be required to meet the Eligibility Criteria for admission to membership in the Filer prior to the transfer. Approval of the transfer of Investment Shares will be conditional upon the transferee's commitment to sell the requisite number of lambs in accordance with the terms of the Producer Agreement.

### **Termination of Membership**

44. A Member's membership in the Filer shall be terminated: on the date of receipt by the Filer of such Member's written request to terminate membership, or the date specified in such notice, whichever is the later, provided that the Member will agree not to withdraw prior to expiry of the initial three year term of the Producer Agreement; by resolution of the Board to terminate such Member's membership; or by delivery to such Member of the written decision of a person authorized by Board resolution to make such determination at his/her reasonable discretion. Membership Shares and Investment Shares held by such Member shall be redeemed at a redemption price determined in accordance with paragraph 33.
45. Upon death of a Member, Membership Shares and Investment Shares held by such Member shall be redeemed in accordance with paragraph 33 and shall form part of the deceased Member's estate, provided that if one or more of the deceased Member's heirs meet the Eligibility Criteria and enters into a Producer Agreement with the Filer, the deceased Member's shares may be transferred to such heir(s) subject to the transfer restriction referred to in paragraph 43 and to the following requirements: Such deceased Member's heir(s) may acquire the deceased Member's shares and become the registered holder of such shares (or designate a registered holder) provided that the heir(s), in accordance with the *Canada Cooperatives Act*, deposits the following information with the Filer, together with any reasonable assurances that the Filer may require: (i) the share certificate representing the shares appropriately endorsed or, in the alternative, a document proving that the deceased Member was the shareholder; (ii) a document proving the death of the deceased Member; and (iii) a document proving that the heir has the right under the law of the place in which the deceased Member was domiciled immediately before their death to deal with the shares.

### **Decision**

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

### ***Relief from the Prospectus Requirement***

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

- (a) the Filer is in compliance with the provisions of the *Canada Cooperatives Act*.
- (b) the only shares to be issued by the Filer are Membership Shares and Investment Shares.
- (c) neither the Filer nor the Company is a reporting issuer in any of the Jurisdictions.
- (d) no securities of the Filer or the Company are listed on a securities exchange or other marketplace.

- (e) the articles of incorporation of the Company contain a restriction limiting the percentage of shares of all classes of the Company that may be issued to any person or company other than the Filer to no more than 25 per cent.
- (f) the Filer maintains ownership of securities of the Company to which are attached not less than 75 per cent of the voting rights attached to all outstanding securities of the Company so as to enable the Filer to elect a majority of the board of directors of the Company.
- (g) shares in the Filer are only issued to Members and to Prospective Members that the Filer reasonably determines will be in a position to evaluate whether the business benefit of membership in the Cooperative supports the cost of the shares to be purchased from the Filer.
- (h) the Filer does not make any written or oral representations to Prospective Members regarding potential future profits from membership in the Filer or regarding any profits arising from the Filer's interest in the Company.
- (i) at the time of entry into the subscription agreement to acquire Membership Shares and Investment Shares, Prospective Members are provided with the Contractual Right of Action and the Right of Withdrawal.
- (j) solicitations for membership in the Filer are conducted solely by the Filer, and there are no finder's fees or commission paid in connection with the issuance or transfer of shares of the Filer.
- (k) the Filer restricts the issuance and transfer of shares of the Filer to Prospective Members that meet the Eligibility Criteria.
- (l) prior to the initial trade of any shares by the Filer to a lamb producer meeting the Eligibility Criteria for membership in the Filer, the Filer delivers to such lamb producer a copy of:
  - (i) the articles of incorporation of the Filer;
  - (ii) the by-laws of the Filer;
  - (iii) the Producer Agreement;
  - (iv) this Decision;
  - (v) a form of subscription agreement;
  - (vi) the Disclosure Document containing all of the disclosure specified in paragraph 36 above;
  - (vii) the Risk Acknowledgement Form; and
  - (viii) to the extent that the Filer has been in operation for a period of 90 days or more after its first fiscal year end, its most recent audited annual financial statements.
- (m) the Filer will provide ongoing disclosure to Members in accordance with the requirements of the *Canada Cooperatives Act*, including certain disclosure as to the affairs of the Company, as described in paragraphs 37 and 40 above.
- (n) the exemptions contained in this Decision cease to be effective if any of the provisions of the articles of incorporation of the Filer relevant to the exemptions granted herein are amended in any material respect without prior written notice to, and consent of, the Decision Maker.
- (o) the first trade in any Membership Share or Investment Share by a Member to a person or company other than another Member or the Filer is deemed to be a distribution.

Furthermore, the Decision of the Decision Maker is that the confidentiality sought is granted.

"Dean Murrison"  
Director, Securities Division  
Financial and Consumer Affairs  
Authority of Saskatchewan

### 2.1.3 CMC Markets UK Plc and CMC Markets Canada Inc.

#### Headnote

Application by UK-based filer (Filer) and Canadian dealer affiliate (Dealer) (collectively, Applicants) for relief from prospectus requirement in connection with distribution by Filer through Dealer of "contracts for difference" and foreign exchange contracts (collectively CFDs) to investors resident in Applicable Jurisdictions subject to four-year sunset clause and other terms and conditions – Filer regulated by the United Kingdom Financial Conduct Authority (FCA) – Dealer is registered in Ontario as investment dealer and a member of the Investment Industry Regulatory Organization of Canada (IIROC) – Applicants seeking relief to permit Applicants to offer CFDs to investors in Applicable Jurisdictions on a similar basis as in Québec, including relief permitting Applicants to distribute CFDs on the basis of clear and plain language risk disclosure document rather than a prospectus – risk disclosure document contains disclosure substantially similar to risk disclosure document required for recognized options in OSC Rule 91-502 Trades in Recognized Options and the regime for OTC derivatives contemplated by former proposed OSC Rule 91-504 OTC Derivatives (which was not adopted) – Relief granted subject to conditions

#### Legislation Cited

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

NI 45-106 Prospectus and Registration Exemptions, s. 2.3.

OSC Rule 91-502 Trades in Recognized Options.

OSC Rule 91-503 Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario .

Proposed OSC Rule 91-504 OTC Derivatives (not adopted).

October 1, 2013

**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  
CMC MARKETS UK PLC AND  
CMC MARKETS CANADA INC.  
(the Filers)**

**DECISION**

#### Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from CMC Markets UK Plc (**CMC UK**) and CMC Markets Canada Inc. (**CMC Canada**) (CMC UK and CMC Canada, together the **Filers**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the Filers and its respective officers, directors and representatives be exempt from the prospectus requirement in respect of the distribution of contracts for difference and over-the-counter (**OTC**) foreign exchange contracts (collectively, **CFDs**) to investors resident in Canada (the **Requested Relief**) subject to the terms and conditions below.

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

- (a) the Ontario Securities Commission is the principal regulator for this application (the **Principal Regulator**); 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, other than the provinces of Québec and Alberta, (the **Non-Principal Jurisdictions**, and, together with the Jurisdiction, the **Applicable Jurisdictions**).

## Interpretation

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

## Representations

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

### *The Filers*

1. CMC UK is a company organized under the laws of England and Wales with its principal office in London, United Kingdom. Founded in 1989, CMC UK is an established international on-line trading company which, with its affiliates, offers CFDs to a broad range of clients in many countries.
2. CMC UK is a privately held company, controlled indirectly by its principal founder, Mr. Peter Cruddas. CMC Markets Plc, the ultimate parent company of both CMC UK and CMC Canada, is a privately held company controlled directly by its principal founder, Mr. Peter Cruddas.
3. CMC UK is authorized and regulated by the United Kingdom Financial Conduct Authority (the **FCA**) in the United Kingdom. CMC UK is currently regulated as full scope BIPRU investment firm by the FCA. CMC UK is licensed in the U.K., among other things, to act as principal to its clients in the products it offers and may deal with all categories of clients, including directly with retail clients. Furthermore, CMC UK is regulated on a consolidated basis in the UK by the FCA.
4. CMC UK is a "regulated entity" as defined in the rules and regulations (the **IIROC Rules**) of the Investment Industry Regulatory Organization of Canada (**IIROC**).
5. CMC UK has established a Canadian dealer affiliate, CMC Canada, to act as a dealer for CFDs offered by CMC UK to Canadian clients.
6. CMC Canada is a corporation amalgamated under the laws of Canada with its principal office in Toronto, Ontario. CMC Canada is an affiliate of CMC UK. CMC Markets plc is the ultimate parent company of both CMC UK and CMC Canada.
7. CMC Canada is registered as a dealer in the category of investment dealer in each of the provinces and territories of Canada, and is a member of IIROC.
8. Neither of the Filers has any securities listed or quoted on an exchange or marketplace in any jurisdiction inside or outside of Canada.
9. Neither of the Filer are, to the best of its knowledge, in default of any requirements of securities legislation in Canada or IIROC Rules or IIROC Acceptable Practices (as defined below) or similar legislation in the United Kingdom.
10. The Filers currently offer OTC derivatives in which the underlying interests consist entirely of currencies (**OTC foreign exchange contracts**) to "accredited investors" (as defined in National Instrument 45-106 *Prospectus and Registration Exemptions*) in the province of Alberta (**NI 45-106**), to retail investors resident in Ontario pursuant to *In the Matter of CMC Markets UK Plc and CMC Markets Canada Inc.* dated October 8, 2009 (the **October 8, 2009 order**), to retail investors resident in British Columbia pursuant to *In the Matter of CMC Markets UK Plc and CMC Markets Canada Inc.* dated May 14, 2010 (the **May 14, 2010 order**) and notice filed on July 27, 2011 under section 4.7 of MI 11-102 *Passport System* of the Filers' intent to rely on the October 8, 2009 order for comparable relief in the Non-Principal Jurisdictions other than British Columbia (the **July 27, 2011 notice**).
11. The Filers wish to offer OTC foreign exchange contracts and other types of CFDs to investors in the Applicable Jurisdictions on the terms and conditions described in this Decision. For the Interim Period (as defined below), the Filers are seeking the Requested Relief in connection with this proposed offering of CFDs in Ontario and intends to rely on this Decision and the *Passport System* described in MI 11-102 to offer CFDs in the Non-Principal Jurisdictions.
12. In Québec, the Filers have applied for qualification under section 82 of the *Derivatives Act* (Québec) (the **QDA**) and authorization referred to in the second paragraph of section 82 or in section 83 of the QDA from the *Autorité des marchés financiers* (the **AMF**) to offer CFDs to both accredited and retail investors pursuant to the provisions of the QDA.

13. As a member of IIROC, CMC Canada is only permitted to enter into CFDs pursuant to the rules and regulations of IIROC (the **IIROC Rules**).
14. In addition, IIROC has communicated to its members certain additional expectations as to acceptable business practices (**IIROC Acceptable Practices**) as articulated in IIROC's "Regulatory Analysis of Contracts for Differences (CFDs)" published by IIROC on June 6, 2007, as amended on September 12, 2007, for any IIROC member proposing to offer OTC foreign exchange contracts or other types of CFDs to investors. To the best of its knowledge, each of the Filers is in compliance with IIROC Acceptable Practices in offering CFDs. The Filers will continue to offer CFDs in accordance with IIROC Acceptable Practices as may be established from time to time.
15. CMC Canada is required by IIROC to maintain a certain level of capital to address the business risks associated with its activities. The capital reporting required by IIROC (as per the calculation in the Joint Regulatory Financial Questionnaire (the **JRFQ**) and the Monthly Financial Reports to IIROC) is based predominantly on the generation of financial statements and calculations as to ensure capital adequacy. CMC Canada, as an IIROC member, is required to have a specified minimum capital which includes having any additional capital required with regards to margin requirements and other risks. This risk calculation is summarized as a risk adjusted capital calculation which is submitted in the firm's JRFQ and required to be kept positive at all times.
16. CMC UK is authorized and regulated by the FCA in the United Kingdom. CMC UK is currently regulated as a full scope BIPRU firm with the FCA. CMC UK is licensed, among other things, to act as principal to its clients in the products offered and may deal with all categories of clients, including directly with retail investors.
17. In order for a firm to be authorized and regulated by the FCA, the FCA must be satisfied that the firm meets certain threshold conditions prescribed by the *Financial Services and Markets Act 2000* and under the FCA's Handbook of Rules and Guidance. In similar fashion to reviews conducted by IIROC and the Principal Regulator, the FCA reviews, among other things, the firm's legal status, location of offices, adequacy of resources and suitability. In order to remain authorized, a registered firm must demonstrate its continuing compliance with these conditions.
18. As an FCA-regulated firm, CMC UK is required to comply with certain rules of the FCA (the **FCA Rules**). The FCA Rules seek to ensure, among other things, that regulated firms satisfy certain minimum standards. These minimum standards include the requirement that CMC UK maintain adequate financial resources at all times, so that CMC UK is able to meet its liabilities as they fall due. The FCA requires CMC UK to maintain capital resources equal to or in excess of its base capital requirement plus a firm specific variable capital requirement to address market, capital and operational risks. CMC UK monitors its regulatory capital on a daily basis (or more frequently depending on market conditions).
19. The FCA also requires CMC UK to
  - (a) file financial reports on a monthly basis with the FCA;
  - (b) immediately notify the FCA of any breach of the capital adequacy requirement; and
  - (c) submit its audited financial statements within three months of the financial year end together with an annual return and reconciliation of the annual return to the audited financial statements.

#### *Online Trading Platform*

20. The Filers' **Marketmaker®** platform (the **Trading Platform**) is a proprietary and fully automated internet-based trading platform which allows clients to trade CFDs on an execution-only basis.
21. The Trading Platform is a key component in a comprehensive risk management strategy which will help the Filers' clients and the Filers to manage the risk associated with leveraged products. This risk management system has evolved over many years with the objective of meeting the mutual interests of all relevant parties (including, in particular, clients). These attributes and services are described in more detail below:
  - a) *Real-time client reporting.* Clients are provided with a real-time view of their account status. This includes how tick-by-tick price movements affect their account balances and required margins. Clients can view this information at any time by logging into their account.
  - b) *Fully automated risk management system.* Clients are instructed that they must maintain the required margin against their position(s). The risk management functionality of the Trading Platform ensures that client positions are closed out when the client no longer maintains sufficient margin in their account to support the position, thereby preventing the client from being placed in a margin call situation or losing more than their



stated risk capital or cumulative loss limit. This functionality also ensures that the Filers will not incur any credit risk vis-à-vis its customers in respect of CFD transactions.

- c) *Wide range of order types.* The Trading Platform also provides risk management tools such as stop loss orders, limit orders, contingent orders and upper and lower bounds on market orders. These tools are designed to help clients reduce the risk of loss.
22. The Trading Platform is similar to those developed for on-line brokerages in that the client trades without other communication with, or advice from, the dealer. The Trading Platform is not a "marketplace" as defined in National Instrument 21-101 *Marketplace Operation* since a marketplace is any facility that brings together multiple buyers and sellers by matching orders in fungible contracts in a nondiscretionary manner.
23. CMC UK is the counterparty to its clients' CFD trades; it will not act as an intermediary, broker or trustee in respect of the CFD transactions. Neither of the Filers manage any discretionary accounts, nor do they provide any trading advice or recommendations regarding CFD transactions.
24. The CFDs are OTC contracts and are not transferable.
25. The ability to lever an investment is one of the principal features of CFDs. Leverage allows clients to magnify investment returns (or losses) by reducing the initial capital outlay required to achieve the same market exposure that would be obtained by investing directly in the underlying currency or instrument.
26. IIROC Rules and IIROC Acceptable Practices set out detailed requirements and expectations relating to leverage and margin for offerings of CFDs. The degree of leverage may be amended in accordance with IIROC Rules and IIROC Acceptable Practices as may be established from time to time.
27. Pursuant to section 13.12 *Restriction on lending to clients* of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, only those firms that are registered as investment dealers (a condition of which is to be a member of IIROC) may lend money, extend credit or provide margin to a client.

#### *Structure of CFDs*

28. A CFD is a derivative product that allows clients to obtain economic exposure to the price movement of an underlying instrument, such as a share, index, market sector, currency pair, treasury or commodity, without the need for ownership and physical settlement of the underlying instrument. Unlike certain OTC derivatives, such as forward contracts, CFDs do not require or oblige either the principal counterparty (being CMC UK for the purposes of the Requested Relief) nor any agent (being CMC Canada for the purposes of the Requested Relief) to deliver the underlying instrument.
29. CFDs to be offered by the Filers will not confer the right or obligation to acquire or deliver the underlying security or instrument itself, and will not confer any other rights of shareholders of the underlying security or instrument, such as voting rights. Rather, a CFD is a derivative instrument which is represented by an agreement between a counterparty and a client to exchange the difference between the opening price of a CFD position and the price of the CFD at the closing of the position. The value of the CFD is generally reflective of the movement in prices at which the underlying instrument is traded at the time of opening and closing the position in the CFD.
30. CFDs allow clients to take a long or short position on an underlying instrument, but unlike futures contracts they have no fixed expiry date or standard contract size or an obligation for physical delivery of the underlying instrument.
31. CFDs allow clients to obtain exposure to markets and instruments that may not be available directly, or may not be available in a cost-effective manner.

#### *CFDs Distributed in the Applicable Jurisdictions*

32. Certain types of CFDs, such as CFDs where the underlying instrument is a security, may be considered to be "securities" under the securities legislation of the Applicable Jurisdictions.
33. Investors wishing to purchase CFDs must open an account with CMC Canada and complete a principal contract with CMC UK
34. Prior to a client's first CFD transaction and as part of the account opening process, the Filers will provide the client with a separate risk disclosure document that clearly explains, in plain language, the transaction and the risks associated with the transaction (the **risk disclosure document**). The risk disclosure document includes the required risk

disclosure set forth in Schedule A to the Regulations to the QDA and leverage risk disclosure required under IIROC Rules. The risk disclosure document contains disclosure that is substantially similar to the risk disclosure statement required for recognized options in OSC Rule 91-502 *Trades in Recognized Options* (which provides both registration and prospectus exemptions) (**OSC Rule 91-502**) and the regime for OTC derivatives contemplated by OSC SN 91-702 (as defined below) and proposed OSC Rule 91-504 *OTC Derivatives* (which was not adopted) (**Proposed Rule 91-504**). The Filers will ensure that, prior to a client's first trade in a CFD transaction, a complete copy of the risk disclosure document provided to that client has been delivered, or has previously been delivered, to the Principal Regulator.

35. Prior to the client's first CFD transaction and as part of the account opening process, CMC Canada will obtain a written or electronic acknowledgement from the client confirming that the client has received, read and understood the risk disclosure document. Such acknowledgement will be separate and prominent from other acknowledgements provided by the client as part of the account opening process.
36. As customary in the industry, and due to the fact that this information is subject to factors beyond the control of the Filers (such as changes in IIROC Rules), information such as the underlying instrument listing and associated margin rates would not be disclosed in the risk disclosure document but will be available on CMC Canada's website and the Trading Platform.

*Satisfaction of the Registration Requirement*

37. The role of CMC Canada as it relates to the CFD offering will be limited to acting as an execution-only dealer. In this role, CMC Canada will, among other things, be responsible to approve all marketing, for holding of clients funds, and for client approval (including the review of know-your-client (KYC) due diligence and account opening suitability assessments).
38. IIROC Rules exempt member firms that provide execution-only services such as discount brokerage from the obligation to determine whether each trade is suitable for the client. However, IIROC has exercised its discretion to impose additional requirements on members proposing to trade in CFDs and requires, among other things, that:
  - (a) applicable risk disclosure documents and client suitability waivers provided be in a form acceptable to IIROC;
  - (b) the firm's policies and procedures, amongst other things, require CMC Canada to assess whether CFD trading is appropriate for a client before an account is approved to be opened. This account opening suitability process includes an assessment of the client's investment knowledge and trading experience, client identification, screening applicants and customers against lists of prohibited/blocked persons, and detecting and reporting suspicious trading and potential terrorist financing and money laundering activities to applicable enforcement authorities ;
  - (c) CMC Canada's registered supervisors who conduct the KYC and initial product suitability analysis will meet, or be exempted from, the proficiency requirements for futures trading and shall maintain appropriate IIROC registration; and
  - (d) cumulative loss limits for each client's account be established (this is a measure normally used by IIROC in connection with futures trading accounts).
39. The CFDs offered in Canada will be offered in compliance with applicable IIROC Rules and other IIROC Acceptable Practices.
40. IIROC limits the underlying instruments in respect which member firm may offer CFDs since only certain securities are eligible for reduced margin rates. For example, underlying equity securities must be listed or quoted on certain "recognized exchanges" (as that term is defined in IIROC Rules) such as the Toronto Stock Exchange or the New York Stock Exchange. The purpose of these limits is to ensure that CFDs offered in Canada will only be available in respect of underlying instruments that are traded in well-regulated markets, in significant enough volumes and with adequate publicly available information, so that clients can form a sufficient understanding of the exposure represented by a given CFD.
41. IIROC Rules prohibit the margining of CFDs where the underlying instrument is a synthetic product (single U.S. sector or "mini-indices"). For example, Sector CFDs (i.e., basket of equities for the financial institutions industry) may be offered to non-Canadian clients; however, this is not permissible under IIROC Rules.
42. IIROC members seeking to trade CFDs are generally precluded, by virtue of the nature of the contracts, from distributing CFDs that confer the right or obligation to acquire or deliver the underlying security or instrument itself

(convertible CFDs), or that confer any other rights of shareholders of the underlying security or instrument, such as voting rights.

43. The Requested Relief, if granted, would substantially harmonize the position of the regulators in the Applicable Jurisdictions on the offering of CFDs to investors in the Applicable Jurisdictions with how those products are offered to investors in Québec under the QDA. The QDA provides a legislative framework to govern derivatives activities within the province. Among other things, the QDA requires such products to be offered to investors through an IIROC member and the distribution of a standardized risk disclosure document rather than a prospectus in order to distribute such contracts to investors resident in Québec.
44. The Requested Relief, if granted, would be consistent with the guidelines articulated by Staff of the Principal Regulator in OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts to Investors (OSC SN 91-702)*. OSC SN 91-702 provides guidance with regards to the distributions of CFDs, foreign exchange contracts and similar OTC derivative products to investors in the Jurisdiction.
45. The Principal Regulator has previously recognized that the prospectus requirement may not be well suited for the distribution of certain derivative products to investors in the Jurisdiction, and that alternative requirements, including requirements based on clear and plain language risk disclosure, may be better suited for certain derivatives.
46. In Ontario, both OSC Rule 91-502 and OSC Rule 91-503 *Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario (OSC Rule 91-503)* provide for a prospectus exemption for the trading of derivative products to clients. The Requested Relief is consistent with the principles and requirements of OSC Rule 91-502, OSC Rule 91-503 and Proposed Rule 91-504.
47. The Filers have also submitted that the Requested Relief, if granted, would harmonize the Principal Regulator's position on the offering of CFDs with certain other foreign jurisdictions that have concluded that a clear, plain language risk disclosure document is appropriate for retail clients seeking to trade in foreign exchange contracts.
48. The Filers are of the view that requiring compliance with the prospectus requirement in order to enter into CFDs with retail clients would not be appropriate since the disclosure of a great deal of the information required under a prospectus and under the reporting issuer regime is not material to a client seeking to enter into a CFD transaction. The information to be given to such a client should principally focus on enhancing the client's appreciation of product risk including counterparty risk. In addition, most CFD transactions are of short duration (positions are generally opened and closed on the same day).
49. CMC UK is regulated by the FCA which has a robust compliance regime including specific requirements to address market, capital and operational risks. CMC Canada is regulated by IIROC, which has a robust compliance regime including specific requirements to address market, capital and operational risks.
50. The Filers have submitted that the regulatory regimes developed by the FCA, AMF and IIROC for CFDs adequately address issues relating to the potential risk to the clients of CMC UK acting as counterparty. In view of these regulatory regimes, investors would receive little or no additional benefit from requiring the Filers to also comply with the prospectus requirement.
51. The Requested Relief in respect of each Applicable Jurisdiction is conditional on the CMC Canada being registered as an investment dealer with the securities regulator in such Applicable Jurisdiction and maintaining its membership with IIROC and that all CFD transactions be conducted pursuant to IIROC Rules and in accordance with IIROC Acceptable Practices.

### Decision

The Principal Regulator is satisfied that the test set out in the Legislation to make the Decision is met.

The Decision of the Principal Regulator is that the Requested Relief is granted provided that:

- (a) the Filers shall not rely on any of: (i) the October 8, 2009 order; (ii) the May 14, 2010 order; and (iii) the July 27, 2011 notice.
- (b) all CFDs traded with residents in the Applicable Jurisdictions shall be executed through CMC Canada;
- (c) CMC UK remains registered with the FCA and in compliance with FCA Rules;

- (d) with respect to residents of an Applicable Jurisdiction, CMC Canada remains registered as a dealer in the category of investment dealer with the Principal Regulator and the Commission in such Applicable Jurisdiction and a member of IIROC;
- (e) all CFD transactions with clients resident in the Applicable Jurisdictions shall be conducted pursuant to IIROC Rules imposed on members seeking to trade in CFDs and in accordance with IIROC Acceptable Practices, as amended from time to time;
- (f) if the Filers continue to offer CFDs to residents of Québec, all CFD transactions with clients resident in the Applicable Jurisdictions be conducted pursuant to the rules and regulations of the QDA and the AMF, as amended from time to time, unless and to the extent there is a conflict between i) the rules and regulations of the QDA and the AMF, and ii) the requirements of the securities laws of the Applicable Jurisdictions, the IIROC Rules and IIROC Acceptable Practices, in which case the latter shall prevail;
- (g) prior to a client first entering into a CFD transaction, the Filers has provided to the client the risk disclosure document described in paragraph 34 and have delivered, or have previously delivered, a copy of the risk disclosure document provided to that client to the Principal Regulator;
- (h) prior to the client's first CFD transaction and as part of the account opening process, the Filers has obtained a written or electronic acknowledgement from the client, as described in paragraph 35, confirming that the client has received, read and understood the risk disclosure document;
- (i) the Filers has furnished to the Principal Regulator the name and principal occupation of its officers or directors, together with either the personal information form and authorization of indirect collection, use and disclosure of personal information provided for in National Instrument 41-101 *General Prospectus Requirements* or the registration information form for an individual provided for in Form 33-109F4 of National Instrument 33-109 *Registration Information Requirements* completed by any officer or director;
- (j) the Filers shall promptly inform the Principal Regulator in writing of any material change affecting the Filers, being any change in the business, activities, operations or financial results or condition of the Filers that may reasonably be perceived by a counterparty to a derivative to be material;
- (k) the Filers shall promptly inform the Principal Regulator in writing if a self-regulatory organization or any other regulatory authority or organization initiates proceedings or renders a judgment related to disciplinary matters against the Filers concerning the conduct of activities with respect to CFDs;
- (l) within 90 days following the end of its financial year, CMC UK shall submit to the Principal Regulator the audited annual financial statements of CMC UK; and
- (m) the Requested Relief shall immediately expire upon the earliest of:
  - (i) four years from the date that this Decision is issued;
  - (ii) in respect of a subject Applicable Jurisdiction or Québec, the issuance of an order or decision by a court, the Commission in such Applicable Jurisdiction, the AMF (in respect of Québec) or other similar regulatory body that suspends or terminates the ability of the Filers to offer CFDs to clients in such Applicable Jurisdiction or Québec; and
  - (iii) with respect to an Applicable Jurisdiction, the coming into force of legislation or a rule by its Commission regarding the distribution of OTC derivatives to investors in such Applicable Jurisdiction

(the **Interim Period**).

“Wesley M. Scott”  
Commissioner  
Ontario Securities Commission

“Alan Lenczner”  
Commissioner  
Ontario Securities Commission

## 2.1.4 Timbercreek Mortgage Investment Corporation

### Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from requirement to file interim financial statements and management report of fund performance in accordance with NI 81-106 based on the fact that the issuer filed an interim financial report and management’s discussion & analysis in accordance with NI 51-102 – relief granted in connection with the issuer’s transition from the regulatory regime for reporting issuers that are investment funds to the regulatory regime for reporting issuers that are not investment funds – upon completion of the transition, issuer will be subject to NI 51-102 – National Instrument 81-106 Investment Fund Continuous Disclosure.

### Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, Parts 2 and 3 and sections 4.2, 5.1, 5.4, 5.5, 17.1.

August 26, 2013

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  
TIMBERCREEK MORTGAGE  
INVESTMENT CORPORATION  
(the “Filer”)

DECISION

### Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the “Legislation”) pursuant to section 17.1 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (“NI 81-106”) exempting the Filer from the following provisions of NI 81-106:

- i) Parts 2 and 3, such that the Filer will not be required to prepare its interim financial statements in respect of the period ended June 30, 2013 (the “2013 81-106 Interim Financial Statements”) in accordance with Canadian GAAP as applicable to public enterprises;

- ii) section 4.2, such that the Filer will not be required to prepare and file its interim management report of fund performance in respect of the period ended June 30, 2013 (the “2013 Interim MRFP”); and
- iii) the delivery obligations in respect of the 2013 81-106 Interim Financial Statements and 2013 Interim MRFP contained in sections 5.1, 5.4 and 5.5;

(collectively, the “Exemptive Relief Sought”).

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

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

### Interpretation

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

### Representations

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

- (a) The Filer is currently an investment fund and the manager of the Filer is Timbercreek Asset Management Ltd. (the “Manager”). The head office of the Manager is located in Toronto, Ontario.
- (b) The Filer is a corporation incorporated on April 30, 2008 under the *Business Corporations Act* (Ontario). Its head office and registered office is at 1000 Yonge Street, Suite 500, Toronto, Ontario M4W 2K2.
- (c) The Filer’s Class A shares are listed on the Toronto Stock Exchange under the symbol “TMC” and it is a reporting issuer in all provinces and territories of Canada other than Québec.
- (d) The Filer is not in default of any securities legislation in any province or territory of Canada.
- (e) As an investment fund, the Filer is subject to the continuous disclosure requirements of NI 81-106.
- (f) The Filer’s financial year-end is December 31.

- (g) Pursuant to sections 2.4 and 2.6 of NI 81-106, the Filer is required to file the 2013 Interim 81-106 Financial Statements on or before the 60th day after June 30, 2013 and the 2013 Interim 81-106 Financial Statements must be prepared in accordance with Canadian GAAP as applicable to public enterprises.
- (h) Pursuant to sections 4.2 and 4.4 of NI 81-106, the Filer is required to file the 2013 Interim MRFP at the same time that it files the 2013 81-106 Interim Financial Statements, and the 2013 Interim MRFP must be prepared in accordance with Part C of Form 81-106F1 Contents of Annual and Interim Management Report of Fund Performance.
- (i) The Filer is currently contemplating a transition (the “**Proposed Transition**”) from its status as an investment fund that is subject to the Canadian securities regulatory regime for investment funds that are reporting issuers to a public company that is subject to the Canadian securities regulatory regime for reporting issuers that are not investment funds, and intends to hold a shareholders’ meeting on September 12, 2013 to approve, among other resolutions, the Proposed Transition (the “**Shareholders’ Meeting**”).
- (j) The Filer filed a management information circular (the “**Circular**”) in respect of the Shareholders’ Meeting on August 19, 2013 which contains a description of the Proposed Transition.
- (k) If the Proposed Transition is approved at the Shareholders’ Meeting and the directors of the Filer decide to proceed with the Proposed Transition, the Filer will become subject to National Instrument 51-102 *Continuous Disclosure Obligations* (“**NI 51-102**”) and, pursuant to NI 51-102, the Filer will be required to file its interim financial reports and MD&A (as defined in NI 51-102) on or before the 45th day after the first quarter ended after the Proposed Transition has been effected (currently anticipated to be the quarter ending September 30, 2013) and thereafter on a quarterly basis, and such interim financial reports must be prepared in accordance with IFRS.
- (l) The Filer prepared and included in the Circular comparative annual financial statements and MD&A for the years ended December 31, 2012 and 2011, interim financial report and MD&A for the interim period ended March 31, 2013 and interim financial report and MD&A for the interim period ended June 30, 2013 (together, the “**Financial Disclosure**”), all prepared in accordance with the requirements of NI 51-102.
- (m) Given that the Financial Disclosure has been prepared in accordance with IFRS and has been made available to the public together with the Circular on August 19, 2013, the Filer wishes to

avoid any confusion to the public arising from any inconsistency between (i) the Financial Disclosure and (ii) the 2013 81-106 Interim Financial Statements and the 2013 Interim MRFP, and is seeking the Exemptive Relief Sought.

**Decision**

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

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

1. In addition to filing the Circular, the Filer also files the interim financial report and MD&A for the interim period ended June 30, 2013 that were prepared in accordance with the requirements of NI 51-102 on SEDAR on or before August 29, 2013; and
2. in the event that the Proposed Transition is not approved at the Shareholders’ Meeting or is, for any other reason, not implemented, the Filer prepares the 2013 81-106 Interim Financial Statements and the 2013 Interim MRFP in accordance with NI 81-106, such 2013 81-106 Interim Financial Statements and 2013 Interim MRFP to be filed no later than the date falling 60 days after the date of the Shareholders’ Meeting.

“Vera Nunes”  
Manager, Investment Funds Branch  
Ontario Securities Commission

2.1.5 Stuart Investment Management Limited et al.

Headnote

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 largely inactive, 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

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

October 2, 2013

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  
STUART INVESTMENT MANAGEMENT LIMITED  
(STUART)

AND

CORNERSTONE ASSET MANAGEMENT L.P.  
(CORNERSTONE)

AND

JAMES THOMAS KIERNAN  
(KIERNAN) (STUART, CORNERSTONE and KIERNAN  
are, collectively, THE FILERS)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for relief from the requirement in paragraph 4.1(1)(a) of National Instrument 31-103 *Regis-*

*tration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)*, pursuant to section 15.1 of NI 31-103, to permit James Thomas Kiernan, a director, officer, ultimate designated person (**UDP**), chief compliance officer (**CCO**), dealing representative and advising representative of Cornerstone, to be registered as a director, officer, UDP, CCO and dealing representative of Stuart, for a period of six months to facilitate the purchase of Stuart by Sunnyside Investments Inc. (**Sunnyside**) (the **Exemption Sought**).

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

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon in Alberta and British Columbia (with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

1. Stuart is registered as an investment dealer in Alberta, British Columbia, Ontario and Quebec; as a derivatives dealer in Quebec and as a futures commission merchant in Ontario. It is in the process of surrendering its registrations as a derivatives dealer in Quebec and as a futures commission merchant in Ontario. Stuart is also a dealer member of the Investment Industry Regulatory Organization of Canada (**IIROC**). Stuart's head office is in Toronto, Ontario.
2. Stuart provides advisory and discretionary investment management services to retail clients and investment banking services to issuers and other corporate clients.
3. Cornerstone is registered as a commodity trading manager, exempt market dealer and portfolio manager in Ontario and as an exempt market dealer in Alberta and British Columbia. It is in the process of surrendering its registrations as a commodity trading manager and portfolio manager in Ontario. Cornerstone's head office is in Toronto, Ontario.
4. While Cornerstone has previously conducted exempt distributions, at present its only business is providing merger and acquisition advice to private companies for a fee. Cornerstone has no

- clients to whom it provides portfolio management services.
5. Kiernan is registered in Alberta, British Columbia, Ontario and Quebec as a director, officer, UDP, CCO, dealing representative and advising representative of Cornerstone and he is also registered as a director, officer, UDP, CCO and dealing representative of Stuart (the **Dual Registration**).
  6. Kiernan is the controlling shareholder of Cornerstone Capital Partners L.P., which is the controlling shareholder of both Stuart and Cornerstone; therefore Stuart and Cornerstone are affiliates.
  7. Kiernan and Cornerstone Capital Partners L.P. have entered into an agreement to sell all of the shares of Stuart to Sunnyside (the **Proposed Acquisition**).
  8. On completion of the Proposed Acquisition, Cornerstone and Stuart will no longer be affiliates. In the absence of the Exemption Sought, Kiernan would be prohibited under paragraph 4.1(1)(a) of NI 31-103 from acting as a director, officer, UDP, CCO, dealing representative and advising representative of Cornerstone, while also acting as a director, officer, UDP, CCO and dealing representative of Stuart.
  9. Kiernan has agreed to remain as a director, officer, UDP, CCO and dealing representative of Stuart for a period of six months after the Proposed Acquisition closes, after which Sunnyside and Kiernan will determine whether he will continue to be employed with Stuart. He may relinquish some of those positions on agreement with Sunnyside.
  10. Cornerstone has agreed to terms and conditions being placed on its registration which include that:
    - (i) Cornerstone and all its registered individuals shall not engage in any registerable activities under securities law on Cornerstone's behalf.
    - (ii) Cornerstone must not open any new accounts.
    - (iii) Cornerstone must inform its clients in writing of the terms and conditions placed on the firm.
11. There is a valid business reason for the Dual Registration. By the end of the six-month contractual period, Kiernan will know whether he will remain longer with Stuart or will leave Stuart, in which case he will carry on with Cornerstone's business. The temporary exemption will also give him an opportunity to seek other solutions to the prohibition in paragraph 4.1(1)(a) of NI 31-103.
12. Kiernan will have sufficient time to adequately meet his obligations to both Stuart and Cornerstone.
13. Stuart and Cornerstone have in place policies and procedures to address any conflicts of interest that may arise as a result of the Dual Registration and the fact that Cornerstone will not engage in any registerable activities will facilitate this, by largely or entirely avoiding any conflicts of interest. Specifically, Kiernan is prohibited from contacting any client of Stuart regarding any transactions being conducted through Cornerstone and, therefore, Cornerstone deals will not be sold to Stuart clients.
14. Moreover, while the proposed purchasers will not be actively engaged in Stuart's business until they have attained the requisite proficiency and become registered, as a practical matter, they will have veto power over any major transactions undertaken by Stuart.
15. All new and existing clients of Stuart will receive conflicts of interest and shared premises disclosure.
16. Cornerstone will inform its clients in writing of the terms and conditions placed on the firm.

#### Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted. The Exemption Sought shall expire six months from the date hereof.

"Marriane Bridge"  
Deputy Director, Compliance and Registrant Regulation  
Ontario Securities Commission

These terms and conditions will be in place until such time as Kiernan's registration status has been made compliant with paragraph 4.1(1)(a) of NI 31-103, whether through a permanent exemption or a change in his positions with Stuart or Cornerstone.



**2.1.6 Counsel Portfolio Services Inc. and IPC Securities Corporation**

**Headnote**

Under paragraph 4.1(1)(b) 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 is registered as a dealing, advising or associate advising representative of another registered firm. The Filers are affiliated entities and have valid business reasons for the individuals to be registered with both firms. The Filers have policies in place to handle potential conflicts of interest. The Filers are exempted from the prohibition.

**Applicable Legislative Provisions**

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

**October 4, 2013**

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

**AND**

**IN THE MATTER OF  
COUNSEL PORTFOLIO SERVICES INC.  
(COUNSEL)**

**AND**

**IPC SECURITIES CORPORATION  
(IPC) (collectively, the Filers)**

**DECISION**

**Background**

The regulator in the Jurisdiction (the **Decision Maker**) has received an application from the Filers for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for relief from the restriction under paragraph 4.1(1)(b) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* to permit Geoffrey Gordon Taylor (**Taylor**), who is currently registered as a dealing representative of IPC, to be registered as an advising representative of Counsel (the **Dual Registration** or **Requested Relief**).

**Interpretation**

Terms defined in National Instrument 14-101 *Definitions* have the same meaning in this decision unless otherwise defined.

**Representations**

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

1. Counsel is registered as an investment fund manager in Ontario and Newfoundland and Labrador, and as an adviser in the category of portfolio manager in Ontario. The head office of Counsel is located in Ontario. Counsel manages 24 mutual funds offered by simplified prospectus.
2. IPC is registered as a dealer in the category of investment dealer in each of Ontario, British Columbia, Alberta, Manitoba, Saskatchewan, New Brunswick, Nova Scotia, Prince Edward Island, Québec and Newfoundland and Labrador. IPC is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**). The head office of IPC is located in Ontario. IPC has a Private Wealth program with managed model portfolios.
3. Each of Counsel and IPC is a direct wholly-owned subsidiary of Investment Planning Counsel Inc.
4. The Filers are not, to the best of their knowledge, in default of any requirements of securities legislation in any jurisdiction of Canada.
5. Taylor is registered as a dealing representative of IPC. He is authorized by IIROC to manage investment portfolios on a discretionary basis and acts as a Portfolio Manager for the IPC Private Wealth program. He is resident in Ontario.
6. Taylor is familiar with the business model of the IPC group of companies, including that of Counsel.
7. IPC has engaged Counsel to monitor its sub-advisers' adherence to their mandates and to evaluate changes within their corporate structure or their investment management teams to determine if any such change(s) might impact their ability to meet stated investment objectives. As part of its service offering, Counsel also works closely with IPC dealing representatives to construct portfolios and conduct asset allocation analysis.
8. Taylor's role as an advising representative at Counsel would not involve advising clients directly but would be to:
  - (a) assist IPC dealing representatives with portfolio construction and asset allocation analysis;
  - (b) participate in Counsel's due diligence, selection and oversight of sub-advisers; and

- (c) conduct asset allocation analysis and rebalancing in respect of portfolio services offered by Counsel.
- 9. The valid business reasons for Taylor to be registered with both Filers are for business logistics and succession planning.
- 10. Taylor will have sufficient time to adequately serve both Filers.
- 11. The Filers are each wholly-owned subsidiaries of Investment Planning Counsel Inc. and accordingly, the Dual Registration will not give rise to the conflicts of interest present in a similar arrangement involving unrelated, arm's length firms. The interests of Counsel and IPC are aligned, and as Taylor's role at Counsel would be to support the business activities and interest of both IPC and Counsel, the potential for conflicts of interest arising from the Dual Registration is remote.
- 12. Counsel and IPCs have in place written policies and procedures to address any potential conflicts of interest that may arise as a result of the Dual Registration, and believe that they will be able to appropriately deal with these conflicts.
- 13. The Dual Registration will be disclosed to clients of IPC. Counsel's unitholders are provided disclosure of its affiliated registrant relationship with IPC in its annual information form and in the simplified prospectus for its mutual funds.
- 14. In the absence of the Requested Relief, the Filers would be prohibited under paragraph 4.1(1)(b) of NI 31-103 from permitting Taylor to act as an advising representative of Counsel while he is registered as a dealing representative of IPC, even though Counsel and IPC are affiliated.

**Decision**

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

The decision of the Decision Maker under the Legislation is that the Requested Relief is granted.

"Marriane Bridge"  
Deputy Director,  
Compliance and Registrant Regulation  
Ontario Securities Commission

**2.1.7 Desjardins Investments Inc. et al.**

**Headnote**

Policy Statement 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from subsection 2.1(1) of Regulation 81-102 respecting Mutual Funds to permit global bond mutual funds to invest more than 10 percent of net assets issued by a foreign government or permitted supranational agency, subject to certain conditions.

**Applicable Legislative Provisions**

Regulation 81-102 respecting Mutual Funds, ss. 2.1(1), 19.1.

[Translation]

September 24, 2013

**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  
DESJARDINS INVESTMENTS INC.  
(the Filer)**

**AND**

**THE DESJARDINS GLOBAL TACTICAL BOND FUND  
(the Global Bond Fund)**

**AND**

**THE DESJARDINS EMERGING MARKETS BOND FUND  
(the Emerging Markets Bond Fund and,  
collectively with the Global Bond Fund, the Funds)**

**DECISION**

**Background**

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption under section 19.1 of *Regulation 81-102 respecting Mutual Funds* (c. V-1.1, r. 39) (**Regulation 81-102**) from the concentration restriction in subsection 2.1(1) of Regulation 81-102 in order to permit the Funds to invest more than 10% of their asset net value,

immediately after a transaction, in Foreign Government Securities (as defined below) (the **Exemption Sought**).

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

- (a) the Autorité des marchés financiers is the principal regulator for this application,
- (b) the Filer has provided notice that section 4.7(1) of *Regulation 11-102 respecting Passport System* (c. V-1.1, r. 1) (**Regulation 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador, Nunavut, Northwest Territories and Yukon Territory, and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

### Interpretation

Terms defined in *Regulation 14-101 respecting Definitions* (c. V-1.1, r. 3), *Regulation 25-101 respecting Designated Rating Organizations* (c. V-1.1, r. 8.1), *Regulation 11-102* and *Regulation 81-102* have the same meaning if used in this decision, unless otherwise defined.

### Representations

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

#### The Filer

- 1. The Filer is a corporation incorporated under the *Business Corporation Act* (RSQ, c. S-31.1) of Québec.
- 2. The Filer's head office is located at 1 Complexe Desjardins, CP 7, 36th South Tower, Montréal, Québec, Canada, H5B 1B2.
- 3. The Filer, or an affiliate of the Filer, will be the investment fund manager, promoter, registrar and transfer agent of the Funds.
- 4. The Filer is duly registered as an investment fund manager in Québec, Ontario and Newfoundland and Labrador.
- 5. The Filer is not in default of securities legislation in any of the jurisdictions of Canada.

#### The Funds

- 6. The Funds are open-ended investment trusts established under the laws of Québec pursuant to an amended and restated declaration of trust

dated January 5, 2009, as amended. Desjardins Trust Inc. acts as trustee.

- 7. On June 27, 2013, each of the Funds filed with each jurisdiction of Canada a preliminary prospectus and a preliminary annual information form governed by *Regulation 81-101 respecting Mutual Fund Prospectus Disclosure* (c. V-1.1, r.38) in order to proceed with an initial public offering. It is expected that each of the Funds will become reporting issuers in all jurisdictions of Canada upon the issuance of a receipt for their final prospectus (the **Final Prospectus**).
- 8. The Funds are mutual funds and upon issuance of a receipt for their Final Prospectus, they will be subject to Regulation 81-102.
- 9. Desjardins Global Asset Management Inc. (**DGAM**) acts as portfolio manager of the Funds and is also responsible for retaining portfolio sub-advisers for the Funds. DGAM is duly registered in Alberta, Manitoba, Nova Scotia, Ontario and Québec as an adviser in the category of portfolio manager. DGAM is also duly registered in Québec as a derivatives portfolio manager pursuant to the *Derivatives Act* (RSQ, c. I-14.01) (the **Derivatives Act**) and in Ontario as a commodity trading manager pursuant to the *Commodity Futures Act* (RSO 1990, c. C.20) (the **Commodity Futures Act**).
- 10. The Global Bond Fund's investment objectives are to provide a high income return and some long-term capital appreciation by investing primarily in fixed-income securities of issuers throughout the world.
- 11. PIMCO Canada Corp. (**PIMCO**) acts as sub-adviser for the Global Bond Fund. PIMCO is duly registered as adviser in the category of portfolio manager in Alberta, British-Columbia, Manitoba, Saskatchewan, Nova Scotia, Québec and Ontario. PIMCO is also duly registered in Québec as derivatives portfolio manager pursuant to the *Derivatives Act* and in Ontario as commodity trading manager pursuant to the *Commodity Act*.
- 12. The Global Bond Fund invests primarily in global credit markets including, without limitation, good quality corporate bonds, high-yield corporate bonds and emerging market bonds. The good quality corporate bonds have a DBRS credit rating of "BBB" or better, or any equivalent credit rating set by another designated rating organization. The high-yield corporate bonds, for their part, have a DBRS credit rating of less than "BBB", or any equivalent credit rating set by another designated rating organization.
- 13. The Emerging Markets Bond Fund's investment objectives are to provide a high income return and some long-term capital appreciation by investing

primarily in fixed-income securities of emerging markets issuers.

one or more other designated rating organizations or their DRO affiliates.

14. Aberdeen Asset Management Inc. (**Aberdeen**) acts as sub-adviser for the Emerging Markets Bond Fund. Aberdeen is a non-resident of Canada and provides advice to the Emerging Markets Bond Fund in reliance on the international adviser statutory exemption from registration provided under subsection 8.26(3) of *Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations* (c. V-1.1, r. 10).

(such evidences of indebtedness are collectively referred to as **Foreign Government Securities**).

15. The Emerging Markets Bond Fund invests primarily in government bonds in emerging markets denominated in U.S. dollars or local currencies. The Emerging Markets Bond Fund may also invest in emerging markets corporate bonds. Aberdeen's investment process hinges on a detailed analysis of the countries in light of global economic trends. Constantly updated, this analysis is used to create a prospective analysis of the countries' credit profile and evolution of the capital markets. A country's macro-economic profile, the nature of its political institutions and the robustness of its micro-economic stakeholders all play a central role in the analysis of its solvency.

18. Subsection 2.1(1) of Regulation 81-102 prohibits the Funds from purchasing a security of an issuer if, immediately after the transaction, more than 10% of the net asset value of a Fund, taken at market value at the time of the transaction, would be invested in securities of any issuer (the **Concentration Restriction**).

16. Each of the Funds is not in default of securities legislation in any of the jurisdictions of Canada.

19. The Concentration Restriction does not apply to a purchase of, among other things, a government security as defined in section of Regulation 81-102, which means an evidence of indebtedness that is issued, or fully and unconditionally guaranteed as to principal and interest, by any of the government of Canada, the government of a jurisdiction or the government of the United States of America.

20. Foreign Government Securities do not meet the definition of government security, as defined in Regulation 81-102.

21. The Exemption Sought, which relaxes the limitations in the Concentration Restriction, will enhance the ability of the Funds to pursue and achieve their investment objectives.

Reasons for the Exemption Sought

17. The Filer would like the Funds to have the flexibility to invest up to:

(a) 20% of their net asset value, immediately after a transaction, in evidences of indebtedness of any one issuer if those evidences of indebtedness are (i) issued, or guaranteed fully as to principal and interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction or the government of the United States of America and (ii) rated "AA" by Standard & Poor's Rating Services (Canada) or its DRO affiliate, or have an equivalent rating by one or more designated rating organizations or their DRO affiliates; and

22. Standard & Poor's uses two general categories to derive a credit rating for government debt, namely economic risk and political risk. The first category is a quantitative assessment of a government's ability to meet its debt obligations. The second is the government's preparedness to meet its obligations, for a government may be able to pay, but be unwilling to do so for policy reasons. Standard & Poor's rates issuers on a scale from the highest credit rating of AAA to a lowest rating of D. Other designated rating organizations have similar practices. The Exemption Sought contemplates only investing in the two highest rating levels of investment grade debt.

(b) 35% of their net asset value, immediately after a transaction, in evidences of indebtedness of any one issuer, if those securities are (i) issued by issuers described in subparagraph (a) above and (ii) rated "AAA" by Standard & Poor's Rating Services (Canada) or its DRO affiliate, or have an equivalent rating by

23. Higher concentration limits may allow the Funds to benefit from investment efficiencies and reduced transaction costs as certain foreign government treasury offerings are more readily available for investment and trades can be completed faster in certain markets that are more readily accessible to foreign investment.

24. The credit risk and liquidity characteristics of the Foreign Government Securities are similar to the credit risk and liquidity characteristics of the types of securities that fall within the meaning of government security in Regulation 81-102. As such, a limited increase in the maximum percentage of the net asset value of the Funds

that can be invested in the Foreign Government Securities will not result in a material increase of the credit risk and the concentration risk of the Funds.

25. The Filer believes that the Exemption Sought is not contrary to the public interest, is in the best interest of the Funds and represents the business judgement of responsible persons uninfluenced by considerations other than the best interests of the Funds.

**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. each of the Funds may only invest up to:
  - (a) 20% of its net asset value, immediately after a transaction, in evidences of indebtedness of any one issuer if those evidences of indebtedness are issued, or guaranteed fully as to principal and interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction or the government of the United States of America and rated "AA" by Standard & Poor's Rating Services (Canada) or its DRO affiliate, or have an equivalent rating by one or more designated rating organizations or their DRO affiliates;
  - (b) 35% of its net asset value, immediately after a transaction, in evidences of indebtedness of any one issuer, if those securities are issued by issuers described in subparagraph (a) above and rated "AAA" by Standard & Poor's Rating Services (Canada) or its DRO affiliate, or have an equivalent rating by one or more other designated rating organizations or their DRO affiliates;
2. subparagraphs (a) and (b) above cannot be combined for any one issuer;
3. the securities that are purchased pursuant to the Exemption Sought are traded on a mature and liquid market;
4. the acquisition of the evidences of indebtedness pursuant to the Exemption Sought is consistent with the fundamental investment objectives of each of the Funds;

5. the prospectus of the Funds will disclose any additional risks associated with the concentration of net assets of the Funds in securities of fewer issuers, such as the potential additional exposure to the risk of default of the issuer in which the Funds have so invested and the risks, including foreign exchange risks, of investing in the country in which that issuer is located; and
6. the prospectus of the Funds will disclose, in the investment strategies section, the details of the exemption granted along with the conditions imposed and the type of securities covered by the Exemption Sought.

"Josée Deslauriers"  
Senior Director,  
Investment Funds and Continuous Disclosure  
Autorité des marchés financiers

**2.1.8 Timbercreek Senior Mortgage Investment Corporation**

**Headnote**

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from requirement to file interim financial statements and management report of fund performance in accordance with NI 81-106 based on the fact that the issuer file an interim financial report and management’s discussion & analysis in accordance with NI 51-102 – relief granted in connection with the issuer’s transition from the regulatory regime for reporting issuers that are investment funds to the regulatory regime for reporting issuers that are not investment funds – upon completion of the transition, issuer will be subject to NI 51-102 – National Instrument 81-106 Investment Fund Continuous Disclosure.

**Applicable Legislative Provisions**

National Instrument 81-106 Investment Fund Continuous Disclosure, Parts 2 and 3 and ss. 4.2, 5.1, 5.4, 5.5, 17.1.

**August 26, 2013**

**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  
TIMBERCREEK SENIOR MORTGAGE  
INVESTMENT CORPORATION  
(the “Filer”)**

**DECISION**

**Background**

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the “**Legislation**”) pursuant to section 17.1 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (“**NI 81-106**”) exempting the Filer from the following provisions of NI 81-106:

- i) Parts 2 and 3, such that the Filer will not be required to prepare its interim financial statements in respect of the period ended June 30, 2013 (the “**2013 81-106 Interim Financial Statements**”) in accordance with Canadian GAAP as applicable to public enterprises;

- ii) section 4.2, such that the Filer will not be required to prepare and file its interim management report of fund performance in respect of the period ended June 30, 2013 (the “**2013 Interim MRFP**”); and
- iii) the delivery obligations in respect of the 2013 81-106 Interim Financial Statements and 2013 Interim MRFP contained in sections 5.1, 5.4 and 5.5;

(collectively, the “**Exemptive Relief Sought**”).

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

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (“**MI 11-102**”) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Nunavut and Yukon.

**Interpretation**

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

**Representations**

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

- (a) The Filer is currently an investment fund and the manager of the Filer is Timbercreek Asset Management Ltd. (the “**Manager**”). The head office of the Manager is located in Toronto, Ontario.
- (b) The Filer is a federal corporation incorporated on December 1, 2011 under the *Canada Business Corporations Act*. Its head office and registered office is at 1000 Yonge Street, Suite 500, Toronto, Ontario M4W 2K2.
- (c) The Filer’s Class A shares are listed on the Toronto Stock Exchange under the symbol “MTG” and it is a reporting issuer in all provinces and territories of Canada.
- (d) The Filer is not in default of any securities legislation in any province or territory of Canada.
- (e) As an investment fund, the Filer is subject to the continuous disclosure requirements of NI 81-106.
- (f) The Filer’s financial year-end is December 31.

- (g) Pursuant to sections 2.4 and 2.6 of NI 81-106, the Filer is required to file the 2013 Interim 81-106 Financial Statements on or before the 60th day after June 30, 2013 and the 2013 Interim 81-106 Financial Statements must be prepared in accordance with Canadian GAAP as applicable to public enterprises.
- (h) Pursuant to sections 4.2 and 4.4 of NI 81-106, the Filer is required to file the 2013 Interim MRFP at the same time that it files the 2013 81-106 Interim Financial Statements, and the 2013 Interim MRFP must be prepared in accordance with Part C of Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance*.
- (i) The Filer is currently contemplating a transition (the “**Proposed Transition**”) from its status as an investment fund that is subject to the Canadian securities regulatory regime for investment funds that are reporting issuers to a public company that is subject to the Canadian securities regulatory regime for reporting issuers that are not investment funds, and intends to hold a shareholders’ meeting on September 12, 2013 to approve, among other resolutions, the Proposed Transition (the “**Shareholders’ Meeting**”).
- (j) The Filer filed a management information circular (the “**Circular**”) in respect of the Shareholders’ Meeting on August 19, 2013 which contains a description of the Proposed Transition.
- (k) If the Proposed Transition is approved at the Shareholders’ Meeting and the directors of the Filer decide to proceed with the Proposed Transition, the Filer will become subject to National Instrument 51-102 *Continuous Disclosure Obligations* (“**NI 51-102**”) and, pursuant to NI 51-102, the Filer will be required to file its interim financial reports and MD&A (as defined in NI 51-102) on or before the 45th day after the first quarter ended after the Proposed Transition has been effected (currently anticipated to be the quarter ending September 30, 2013) and thereafter on a quarterly basis, and such interim financial reports must be prepared in accordance with IFRS.
- (l) The Filer prepared and included in the Circular comparative annual financial statements and MD&A for the years ended December 31, 2012 and 2011, interim financial report and MD&A for the interim period ended March 31, 2013, and interim financial report and MD&A for the interim period ended June 30, 2013 (together, the “**Financial Disclosure**”), all prepared in accordance with the requirements of NI 51-102.
- (m) Given that the Financial Disclosure has been prepared in accordance with IFRS and has been made available to the public together with the Circular on August 19, 2013, the Filer wishes to

avoid any confusion to the public arising from any inconsistency between (i) the Financial Disclosure and (ii) the 2013 81-106 Interim Financial Statements and the 2013 Interim MRFP, and is seeking the Exemptive Relief Sought.

#### Decision

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

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

1. In addition to filing the Circular, the Filer also files the interim financial report and MD&A for the interim period ended June 30, 2013 that were prepared in accordance with the requirements of NI 51-102 on SEDAR on or before August 29, 2013; and
2. in the event that the Proposed Transition is not approved at the Shareholders’ Meeting or is, for any other reason, not implemented, the Filer prepares the 2013 81-106 Interim Financial Statements and the 2013 Interim MRFP in accordance with NI 81-106, such 2013 81-106 Interim Financial Statements and 2013 Interim MRFP to be filed no later than the date falling 60 days after the date of the Shareholders’ Meeting.

“Vera Nunes”  
Manager, Investment Funds Branch  
Ontario Securities Commission

## 2.1.9 Guardian Capital LP et al.

### Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from section 4.4 of National Instrument 81-106 Investment Fund Continuous Disclosure for the purposes of the relief requested from Form 81-106F1, Items 3.1(7), 4.1(1), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-106F1, and Items 3(1) and 4 of Part C of Form 81-106F1, to permit mutual funds to include in annual and interim management reports of fund performance the financial highlights and past performance of the funds that are derived from the funds' annual financial statements that pertain to time periods when the funds were not a reporting issuer – the funds distributed their securities under prospectus exemptions prior to becoming reporting issuers – the funds have complied with the investment restrictions and practices in NI 81-102 since inception – the funds are managed substantially similarly since commencing to distribute securities under a simplified prospectus – the funds have prepared annual financial statements since inception and in accordance with NI 81-106– the financial highlights and performance data of the funds for the time periods before they became reporting issuers is relevant and useful information for investors.

### Applicable Legislative Provisions

National Instrument 81-106 Mutual Fund Continuous Disclosure, ss. 4.4 and 17.1.  
Items 3.1(7), 4.1(1), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-106F1 and Items 3(1) and 4 of Part C of Form 81-106F1.

September 30, 2013

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

AND

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

AND

IN THE MATTER OF  
GUARDIAN CAPITAL LP  
(the Filer)

AND

GUARDIAN BALANCED FUND, GUARDIAN BALANCED INCOME FUND, GUARDIAN CANADIAN BOND FUND,  
GUARDIAN CANADIAN EQUITY FUND, GUARDIAN CANADIAN GROWTH EQUITY FUND,  
GUARDIAN CANADIAN PLUS EQUITY FUND, GUARDIAN CANADIAN SHORT-TERM INVESTMENT FUND,  
GUARDIAN CANADIAN SMALL/MID CAP EQUITY FUND, GUARDIAN EQUITY INCOME FUND,  
GUARDIAN GLOBAL DIVIDEND GROWTH FUND, GUARDIAN GLOBAL EQUITY FUND,  
GUARDIAN GROWTH & INCOME FUND, GUARDIAN HIGH YIELD BOND FUND,  
GUARDIAN INTERNATIONAL EQUITY FUND AND GUARDIAN U.S. EQUITY FUND  
(individually, a Fund and collectively, the Funds)

DECISION

### Background

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

- (a) Section 4.4 of NI 81-106 for the purposes of relief requested herein from Form 81-106F1 – *Contents of Annual and Interim Management Report of Fund Performance (Form 81-106F1)*; and



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- (b) Items 3.1(7), 4.1(1), 4.1(2), 4.2(1), 4.3(1) and 4.3(2) of Part B of Form 81-106F1 and Items 3(1) and 4 of Part C of Form 81-106F1 to permit each Fund, with respect to its Series I Units, to include in its annual and interim management reports of fund performance the past performance data of the Fund notwithstanding that such performance data relates to a period prior to the Fund offering its securities under a prospectus,

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

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

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

### Interpretation

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

### Representations

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

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

Fund Name	Date of Inception
Guardian Canadian Equity Fund	December 1, 1985
Guardian Canadian Growth Equity Fund	July 31, 1986
Guardian Balanced Fund	July 31, 1995
Guardian U.S. Equity Fund	November 28, 1995
Guardian Canadian Bond Fund	January 3, 1997
Guardian Canadian Small/Mid Cap Equity Fund	January 3, 1997
Guardian International Equity Fund	January 3, 1997
Guardian Global Equity Fund	July 10, 1998
Guardian High Yield Bond Fund	May 1, 1999
Guardian Equity Income Fund	February 14, 2003
Guardian Canadian Plus Equity Fund	January 1, 2006
Guardian Canadian Short-Term Investment Fund	February 2, 2009
Guardian Global Dividend Growth Fund	May 31, 2010
Guardian Growth & Income Fund	September 30, 2012
Guardian Balanced Income Fund	October 22, 2012

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

2. Each Fund is governed by an amended and restated master declaration of trust dated March 14, 2011, as amended.
3. The Filer is the investment fund manager of the Funds. The head office of the Filer is located in Ontario.

4. Since the respective Inception Dates until March 30, 2011, Series I units (the **Series I Units**) of each Fund, other than Guardian Balanced Income Fund and Guardian Growth & Income Fund (individually, a **2013 New Fund** and collectively, the **2013 New Funds**), were distributed to investors on a prospectus-exempt basis in accordance with National Instrument 45-106 – *Prospectus and Registration Exemptions (NI 45-106)* and its predecessor legislation in each Jurisdiction. Since the respective Inception Dates of the 2013 New Funds until April 8, 2013, Series I Units of each 2013 New Fund were distributed to investors on a prospectus-exempt basis in accordance with NI 45-106 in each Jurisdiction.
5. Since the issuance of the receipt for the simplified prospectus and annual information form on March 30, 2011, each Fund, other than the 2013 New Funds, has distributed Series I Units to the public and each Fund, other than the 2013 New Funds, also became a reporting issuer under the securities legislation of each province and territory of Canada, other than Québec (collectively, the “**Jurisdictions**”). In addition, each Fund, other than the 2013 New Funds, became subject to the requirements of National Instrument 81-102 – *Mutual Funds (NI 81-102)* and National Instrument 81-106 – *Investment Fund Continuous Disclosure (NI 81-106)* that apply only to investment funds that are reporting issuers.
6. Each 2013 New Fund commenced distributing its Series I Units pursuant to a simplified prospectus dated April 5, 2013 (the **Prospectus**). Since the issuance of the receipt for the Prospectus and annual information form of the Funds on April 8, 2013, each 2013 New Fund became a reporting issuer in each of the Jurisdictions and became subject to the requirements of NI 81-102. Each 2013 New Fund also became subject to the requirements of NI 81-106 that apply only to investment funds that are reporting issuers.
7. The Filer and the Funds are not in default of securities legislation in any province or territory of Canada.
8. Since its Inception Date, as a “mutual fund in Ontario”, each Fund has prepared and sent annual and interim financial statements to all holders of its securities in accordance with NI 81-106.
9. Since its Inception Date, each Fund has complied with the investment restrictions and practices contained in NI 81-102, including not using leverage in the management of its portfolio.
10. Each Fund has been managed substantially similarly after it became a reporting issuer as it was prior to becoming a reporting issuer. As a result of each Fund becoming a reporting issuer:
  - i. the Fund’s investment objectives have not changed, other than to provide additional detail as required by National Instrument 81-101 – *Mutual Fund Prospectus Disclosure (NI 81-101)*;
  - ii. the management fee charged to the Fund in respect of its Series I Units has not changed;
  - iii. the day-to-day administration of the Fund has not changed, other than to comply with the additional regulatory requirements associated with being a reporting issuer (none of which would have impacted the portfolio management of the Fund) and to provide additional features that are available to investors of mutual funds managed by the Filer, as described in the Prospectus; and
  - iv. the management expense ratio of the Series I Units of each Fund has not increased by more than 0.10%, which the Filer considers to be an immaterial amount.
11. As a reporting issuer, each Fund is required under NI 81-106 to prepare and send annual and interim management reports of fund performance (individually, an **MRFP** and collectively, the **MRFPs**) in accordance with NI 81-106.
12. Without the Requested Relief, the MRFPs of each Fund cannot include financial highlights and performance data of the Fund that relate to a period prior to its becoming a reporting issuer.
13. The Filer also proposes to present the performance data of the Series I Units of each Fund for the time period since its inception in sales communications and fund facts of each Fund. The Filer has filed a separate application for exemptive relief from certain provisions of NI 81-102 and Form 81-101F3 – *Contents of Fund Facts Document* to permit each Fund, with respect to its Series I Units, to include its performance data since its inception in sales communications and fund facts (the **NI 81-102 and NI 81-101 Relief**).
14. The performance data and other financial data of each Fund for the time period before it became a reporting issuer is significant and meaningful information for existing and prospective investors of the Series I Units of the Fund.

**Decision**

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

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

- (a) any MRFP that includes performance data of Series I Units of each Fund relating to a period prior to when each Fund was a reporting issuer discloses:
  - (i) that the Fund was not a reporting issuer during such period;
  - (ii) that the expenses of the Fund would have been higher during such period had the Fund been subject to the additional regulatory requirements applicable to a reporting issuer; and
  - (iii) that the financial statements of the Fund for such period are posted on the Fund's website and are available to investors upon request;
- (b) the Filer posts the financial statements of each Fund for the past 10 years or since the Fund's inception, whichever period is lesser, on the Fund's website and makes those financial statements available to investors upon request; and
- (c) the Funds prepare the Prospectus, sales communications and fund facts in accordance with the NI 81-102 and NI 81-101 Relief.

"Vera Nunes"  
Manager, Investment Funds  
Ontario Securities Commission

**2.1.10 Guardian Capital LP et al.**

**Headnote**

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from sections 15.3(2), 15.3(4)(c), 15.6(a)(i), 15.6(d), 15.8(2)(a) and 15.8(3)(a) of National Instrument 81-102 Mutual Funds to permit mutual funds, including mutual funds that have not distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months, to include in their sales communications performance data for the period when the funds were not reporting issuers – relief also granted from section 2.1 of National Instrument 81-101 Mutual Fund Prospectus Disclosure for the purposes of the relief requested from Item 4 of Part 1 of Form 81-101F3 Contents of Fund Facts Document, to permit the Funds to include in their respective fund facts for Class I units, the past performance data for the period when the funds were not reporting issuers – funds distributed their securities under prospectus exemptions prior to becoming reporting issuers – the funds have complied with the investment restrictions and practices in NI 81-102 since inception – the funds are managed substantially similarly since commencing to distribute securities under a simplified prospectus – the funds have prepared annual audited financial statements since inception – the performance data of the funds for the time period before it became a reporting issuer is relevant and useful information for investors.

**Applicable Legislative Provisions**

National Instrument 81-102 Mutual Funds, ss. 15.3(2), 15.3(4)(c), 15.6(a)(i), 15.6(d), 15.8(2)(a), 15.8(3)(a), 19.1.  
National Instrument 81-101 Mutual Fund Prospectus Disclosure, s. 2.1.  
Item 4 of Part I of Form 81-101F3 Contents of Fund Facts Document.

September 30, 2013

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

**AND**

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

**AND**

**IN THE MATTER OF  
GUARDIAN CAPITAL LP  
(the Filer)**

**AND**

**GUARDIAN BALANCED FUND, GUARDIAN BALANCED INCOME FUND, GUARDIAN CANADIAN BOND FUND,  
GUARDIAN CANADIAN EQUITY FUND, GUARDIAN CANADIAN GROWTH EQUITY FUND,  
GUARDIAN CANADIAN PLUS EQUITY FUND, GUARDIAN CANADIAN SHORT-TERM INVESTMENT FUND,  
GUARDIAN CANADIAN SMALL/MID CAP EQUITY FUND, GUARDIAN EQUITY INCOME FUND,  
GUARDIAN GLOBAL DIVIDEND GROWTH FUND, GUARDIAN GLOBAL EQUITY FUND,  
GUARDIAN GROWTH & INCOME FUND, GUARDIAN HIGH YIELD BOND FUND,  
GUARDIAN INTERNATIONAL EQUITY FUND AND GUARDIAN U.S. EQUITY FUND  
(individually, a Fund and collectively, the Funds)**

**DECISION**

**Background**

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

- (a) Sections 15.3(2), 15.3(4)(c), 15.6(a)(i), 15.6(d), 15.8(2)(a) and 15.8(3)(a) of NI 81-102 to permit each Fund to include, with respect to its Series I Units, performance data in sales communications notwithstanding that:

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- (i) the performance data will relate to a period prior to the Fund offering its securities under a prospectus; and
  - (ii) in the case of Guardian Balanced Income Fund and Guardian Growth & Income Fund, the Fund has not distributed its securities under a prospectus for 12 consecutive months,
- (b) Section 2.1 of NI 81-101 for the purposes of relief requested herein from Form 81-101F3 – *Contents of Fund Facts Document (Form 81-101F3)*, and
- (c) Item 4(3) and Instructions (1) and (5) of Form 81-101F3 to permit each Fund to include in its fund facts the past performance data of the Series I Units of the Fund notwithstanding that such performance data relates to a period prior to the Fund offering its securities under a prospectus,

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

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

- (a) the Ontario Securities Commission is the principal regulator for the Application; and
- (b) the Filer has provided notice that Section 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon and Nunavut.

### Interpretation

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

### Representations

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

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

Fund Name	Date of Inception
Guardian Canadian Equity Fund	December 1, 1985
Guardian Canadian Growth Equity Fund	July 31, 1986
Guardian Balanced Fund	July 31, 1995
Guardian U.S. Equity Fund	November 28, 1995
Guardian Canadian Bond Fund	January 3, 1997
Guardian Canadian Small/Mid Cap Equity Fund	January 3, 1997
Guardian International Equity Fund	January 3, 1997
Guardian Global Equity Fund	July 10, 1998
Guardian High Yield Bond Fund	May 1, 1999
Guardian Equity Income Fund	February 14, 2003
Guardian Canadian Plus Equity Fund	January 1, 2006
Guardian Canadian Short-Term Investment Fund	February 2, 2009
Guardian Global Dividend Growth Fund	May 31, 2010
Guardian Growth & Income Fund	September 30, 2012
Guardian Balanced Income Fund	October 22, 2012

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

2. Each Fund is governed by an amended and restated master declaration of trust dated March 14, 2011, as amended.
3. The Filer is the investment fund manager of the Funds. The head office of the Filer is located in Ontario.
4. Since the respective Inception Dates until March 30, 2011, Series I units (the **Series I Units**) of each Fund, other than Guardian Balanced Income Fund and Guardian Growth & Income Fund (individually, a **2013 New Fund** and collectively, the **2013 New Funds**), were distributed to investors on a prospectus-exempt basis in accordance with National Instrument 45-106 – *Prospectus and Registration Exemptions (NI 45-106)* and its predecessor legislation in each Jurisdiction. Since the respective Inception Dates of the 2013 New Funds until April 8, 2013, Series I Units of each 2013 New Fund were distributed to investors on a prospectus-exempt basis in accordance with NI 45-106 in each Jurisdiction.
5. Since the issuance of the receipt for the simplified prospectus and annual information form on March 30, 2011, each Fund, other than the 2013 New Funds, has distributed Series I Units to the public and each Fund, other than the 2013 New Funds, also became a reporting issuer under the securities legislation of each province and territory of Canada, other than Québec (collectively, the **“Jurisdictions”**). In addition, each Fund, other than the 2013 New Funds, became subject to the requirements of National Instrument 81-102 – *Mutual Funds (NI 81-102)* and National Instrument 81-106 – *Investment Fund Continuous Disclosure (NI 81-106)* that apply only to investment funds that are reporting issuers.
6. Each 2013 New Fund commenced distributing its Series I Units pursuant to a simplified prospectus dated April 5, 2013 (the **Prospectus**). Since the issuance of the receipt for the Prospectus and annual information form of the Funds on April 8, 2013, each 2013 New Fund became a reporting issuer in each of the Jurisdictions and became subject to the requirements of NI 81-102. Each 2013 New Fund also became subject to the requirements of NI 81-106 that apply only to investment funds that are reporting issuers.
7. The Filer and the Funds are not in default of securities legislation in any province or territory of Canada.
8. Since its Inception Date, as a “mutual fund in Ontario”, each Fund has prepared and sent annual and interim financial statements to all holders of its securities in accordance with NI 81-106.
9. Since its Inception Date, each Fund has complied with the investment restrictions and practices contained in NI 81-102, including not using leverage in the management of its portfolio.
10. Each Fund has been managed substantially similarly after it became a reporting issuer as it was prior to becoming a reporting issuer. As a result of each Fund becoming a reporting issuer:
  - i. the Fund’s investment objectives have not changed, other than to provide additional detail as required by National Instrument 81-101 – *Mutual Fund Prospectus Disclosure (NI 81-101)*;
  - ii. the management fee charged to the Fund in respect of its Series I Units has not changed;
  - iii. the day-to-day administration of the Fund has not changed, other than to comply with the additional regulatory requirements associated with being a reporting issuer (none of which would have impacted the portfolio management of the Fund) and to provide additional features that are available to investors of mutual funds managed by the Filer, as described in the Prospectus; and
  - iv. the management expense ratio of the Series I Units of each Fund has not increased by more than 0.10%, which the Filer considers to be an immaterial amount.
11. The Filer proposes to present the performance data of the Series I Units of each Fund for the time period since its inception, or for the last ten years, as applicable, in sales communications pertaining to each Fund.
12. Without the Requested Relief, the sales communications pertaining to each Fund cannot include performance data of the Fund that relate to a period prior to its becoming a reporting issuer.
13. Without the Requested Relief, sales communications pertaining to each 2013 New Fund would not be permitted to include performance data until the 2013 New Fund has distributed securities under a prospectus in a jurisdiction for 12 consecutive months and sales communications pertaining to each 2013 New Fund would only be permitted to include performance data for the period commencing after the date on which the 2013 New Fund commences distributing securities under a prospectus.

## Decisions, Orders and Rulings

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14. As a reporting issuer, each Fund is required under NI 81-101 to prepare and file fund facts.
15. The Filer proposes to include in the fund facts for the Series I Units of each Fund past performance data in the bar chart required by Item 4(3) of Form 81-101F3 under the sub-heading "Year-by-year returns" related to a period prior to the Fund being a reporting issuer.
16. Without the Requested Relief, the fund facts of each Fund cannot include performance data of the Fund that relate to a period prior to its becoming a reporting issuer.
17. As a reporting issuer, each Fund is required under NI 81-106 to prepare and send annual and interim management reports of fund performance (individually, an **MRFP** and collectively, the **MRFPs**) in accordance with NI 81-106.
18. The Filer has filed a separate application for exemptive relief from certain provisions of NI 81-106 (the **NI 81-106 Relief**) to enable each Fund to include in its MRFPs the performance data of the Series I Units of the Fund that relate to a period prior to its becoming a reporting issuer.
19. The performance data of each Fund for the time period before it became a reporting issuer is significant and meaningful information for existing and prospective investors of Series I Units of the Fund.

### Decision

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

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

- (a) any sales communication and any fund facts that contains performance data of Series I Units of a Fund relating to a period prior to when that Fund was a reporting issuer discloses:
  - (i) that the Fund was not a reporting issuer during such period; and
  - (ii) that the expenses of the Fund would have been higher during such period had the Fund been subject to the additional regulatory requirements applicable to a reporting issuer;
- (b) a Fund will only include performance data relating to a period prior to when the Fund was a reporting issuer in any sales communication and fund facts of the Fund once the Fund has been in existence for at least one year;
- (c) the information provided under the heading "Fund Expenses Indirectly Borne by Investors" in Part B of the simplified prospectus of the 2013 New Funds based on the management expense ratio for the Series I Units for the 2013 New Funds' financial year ended December 31, 2013 be accompanied by disclosure that:
  - (i) the information is based on the MER of each 2013 New Fund for its last completed financial year when its Series I Units were offered privately during a period of time in such financial year; and
  - (ii) the MER of each 2013 New Fund may increase as a result of each 2013 New Fund offering its Series I Units under the simplified prospectus; and
- (d) the Funds prepare their MRFPs in accordance with the NI 81-106 Relief.

"Vera Nunes"  
Manager, Investment Funds  
Ontario Securities Commission

2.1.11 Galvanic Applied Sciences Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – application for an order that the issuer is not a reporting issuer under securities legislation – issuer has less than 15 securityholders in each jurisdiction and less than 51 securityholders worldwide – requested relief granted.

Applicable Legislative Provisions

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

Citation: Galvanic Applied Sciences Inc., Re, 2013 ABASC 461

October 4, 2013

IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
BRITISH COLUMBIA, ALBERTA AND ONTARIO  
(THE JURISDICTIONS)

AND

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

AND

IN THE MATTER OF  
GALVANIC APPLIED SCIENCES INC.  
(THE FILER)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer be deemed to have ceased to be a reporting issuer under the Legislation (the **Exemptive Relief Sought**).

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

- (a) the Alberta Securities Commission is the principal regulator for this application; and
- (b) this decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

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

Representations

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

1. Galvanic Applied Sciences Inc. (**Galvanic**) was incorporated under the *Business Corporations Act* (Alberta) (**ABCA**) on June 30, 1997. Pursuant to an amalgamation (the **Amalgamation**) under the ABCA completed on September 19, 2013 (the **Effective Date**), Galvanic and 1756349 Alberta Ltd. (**1756349**) amalgamated and continued as one entity. The Filer is the company resulting from the Amalgamation.
2. The Filer's head office is located at 7000 Fisher Road SE, Calgary, Alberta T2H 0W3. Its registered office is located at 2500, 450-1st Street SW, Calgary, Alberta T2P 5H1.
3. The Filer is a reporting issuer in each of the Jurisdictions.
4. The Amalgamation was approved by the shareholders (the **Shareholders**) of Galvanic at a special meeting of Shareholders held on September, 19 2013.
5. Pursuant to the Amalgamation, among other things, (i) each issued and outstanding share of Galvanic (the **Galvanic Common Shares**), other than those held by 1756349 and dissenting shareholders, was exchanged for one redeemable preferred share of the Filer, which shares were redeemed by Filer immediately after completion of the Amalgamation, at a price of \$1.70, (ii) each issued and outstanding Galvanic Common Share held by 1756349 was cancelled, (iii) each issued and outstanding common share in the capital of 1756349 was exchanged for one common share of the Filer and (iv) each issued and outstanding Galvanic Common Share held by a dissenting shareholder was cancelled (such former shareholder being entitled to be paid by the Filer the fair value of such Galvanic Common Share in accordance with the ABCA).
6. The Galvanic Common Shares were delisted from the TSX Venture Exchange at the close of business on September 20, 2013.
7. The Filer's share capital consists of common shares that are entirely owned by GAV Holdings, S.à r.l., a corporation incorporated pursuant to the laws of the Grand Duchy of Luxembourg.
8. The Filer is authorized to issue an unlimited number of common shares and an unlimited number of preferred shares, issuable in series.
9. No securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-



101 *Market Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publically reported.

10. The outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions in Canada and fewer than 51 securityholders in total worldwide.
11. The Filer is not in default of any of its obligations under the Legislation as a reporting issuer other than its obligation to file and deliver, on or before September 30, 2013, interim financial statements and management's discussion and analysis for the three month period ended July 31, 2013, as required under National Instrument 51-102 *Continuous Disclosure Obligations* and the related certificates as required under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*.
12. The Filer did not surrender its status as a reporting issuer in British Columbia pursuant to BC Instrument 11-502 – *Voluntary Surrender of Reporting Issuer Status* (the **BC Instrument**) in order to avoid the 10 day waiting period under the BC instrument.
13. The Filer has no current intention to seek public financing by way of an offering of securities in Canada or to list securities on any marketplace in Canada.
14. The Filer is not eligible to use the simplified procedure (the **Simplified Procedure**) under CSA Staff Notice 12-307 *Application for a Decision that an Issuer is not a Reporting Issuer* in order to apply for the decision sought because it is a reporting issuer in British Columbia and is in default of certain filing obligations under the Legislation as described in paragraph 11 above.
15. The Filer seeks an order deeming the Filer to have ceased to be a reporting issuer in the Jurisdictions.
16. Upon grant of the relief requested, the Filer will not be a reporting issuer or the equivalent in any jurisdiction in Canada.

#### 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 Exemptive Relief Sought is granted.

“Denise Weeres”  
Manager, Legal  
Corporate Finance  
Alberta Securities Commission

#### 2.1.12 Medicago Inc. – s. 1(10)

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

#### Ontario Statutes

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

October 7, 2013

McCarthy Tétrault LLP  
Complexe St-Amable  
1150, De Claire-Fontaine Street, 7th floor  
Québec (QC) G1R 5G\$  
Canada

Attention: Myreille Gilbert

Dear Mrs. Gilbert:

**Re: Medicago Inc. (the “Applicant”)**

**Application for a decision under the securities legislation of Alberta, Saskatchewan, Ontario and Québec (the “Jurisdictions”) that the Applicant is not a reporting issuer**

The Applicant has applied to the local securities regulatory authority or regulator (the “Decision Maker”) in each of the Jurisdictions for a decision under the securities legislation (the “Legislation”) of the Jurisdictions that the Applicant is not a reporting issuer.

In this decision, “securityholder” means, for a security, the beneficial owner of the security.

The Applicant has represented to the Decision Makers that:

- (a) the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
- (b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in *Regulation 21-101 respecting Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
- (c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions of Canada in which it is currently a reporting issuer; and

- (d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer.

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant's status as a reporting issuer is revoked.

"Josée Deslauriers"  
Director, Investment Funds and Continuous Disclosure  
Autorité des marchés financiers

## 2.2 Orders

### 2.2.1 David M. O'Brien – s. 9(1) of the SPPA and Rules 5.2(1), 8.1 of the OSC Rules of Procedure

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

**AND**

**IN THE MATTER OF  
DAVID M. O'BRIEN**

**ORDER**

**(Subsection 9(1) of the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, as amended and Rule 8.1 and subrule 5.2(1) of the Commission's Rules of Procedure (2012), 35 O.S.C.B. 10071)**

**WHEREAS** on December 8, 2010, the Secretary of the Ontario Securities Commission (the "Commission") issued a Notice of Hearing, pursuant to sections 37, 127 and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), for a hearing to commence at the offices of the Commission on December 20, 2010 at 10:30 a.m., or as soon thereafter as the hearing could be held;

**AND WHEREAS** on December 9, 2010, the Respondent David O'Brien ("O'Brien") was served with the Notice of Hearing and Statement of Allegations dated December 7, 2010;

**AND WHEREAS** the Notice of Hearing provided for the Commission to consider, among other things, whether, in the opinion of the Commission, it is in the public interest, pursuant to section 127 of the Act, to issue temporary orders against O'Brien, as follows:

- (a) O'Brien shall cease trading in any securities for a prescribed period or until the conclusion of the hearing on the merits in this matter;
- (b) O'Brien is prohibited from acquiring securities for a prescribed period or until the conclusion of the hearing on the merits in this matter; and
- (c) Any exemptions contained in Ontario securities law do not apply to O'Brien for a prescribed period or until the conclusion of the hearing on the merits in this matter;

**AND WHEREAS** on December 20, 2010, Staff of the Commission ("Staff") and O'Brien appeared before the Commission and made submissions and O'Brien advised the Commission that he was opposed to Staff's request that temporary orders be issued against him and that he

wished to cross-examine Lori Toledano, a member of Staff, on her affidavit;

**AND WHEREAS** on December 20, 2010, the hearing with respect to the issuance of the temporary orders was adjourned until December 23, 2010 at 12:30 p.m.;

**AND WHEREAS** on December 23, 2010, a hearing with respect to the issuance of the temporary orders was held and the panel of the Commission considered the affidavit of Toledano, the cross-examination of Toledano and the submissions made by Staff and O'Brien;

**AND WHEREAS** on December 23, 2010, the Commission issued a temporary cease trade order pursuant to section 127 of the Act ordering that:

- (a) O'Brien shall cease trading in securities;
- (b) O'Brien is prohibited from acquiring securities; and
- (c) Any exemptions contained in Ontario securities law do not apply to O'Brien (the "Temporary Cease Trade Order");

**AND WHEREAS** on December 23, 2010, the Commission ordered that the Temporary Cease Trade Order shall expire on April 1, 2011;

**AND WHEREAS** on December 23, 2010, the Commission ordered that Staff and O'Brien shall consult with the Office of the Secretary and schedule a confidential pre-hearing conference for this matter;

**AND WHEREAS** a confidential pre-hearing conference was scheduled for February 24, 2011;

**AND WHEREAS** at the confidential pre-hearing conference on February 24, 2011, Staff and O'Brien appeared and made submissions regarding the disclosure made by Staff, and Staff requested an extension of the Temporary Cease Trade Order;

**AND WHEREAS** on February 24, 2011, the Commission ordered that:

- a) a hearing to extend the Temporary Cease Trade Order shall take place on March 30, 2011 at 11:30 a.m.;
- b) a motion regarding disclosure shall take place on April 21, 2011 at 10:00 a.m., and in accordance with rule 3.2 of the Commission *Rules of Procedure* (2010), 33 OSCB 8017 (the "*Rules of Procedure*"), O'Brien shall serve and file a motion record, including any affidavits to be relied upon, by April 11, 2011 at 4:30 p.m.; and

- c) a further confidential pre-hearing conference shall take place on May 30, 2011 at 10:00 a.m.;

**AND WHEREAS** on March 30, 2011, a hearing with respect to the extension of the Temporary Cease Trade Order was held, and the panel of the Commission considered the evidence filed and the submissions made by Staff and O'Brien;

**AND WHEREAS** on March 30, 2011, the Commission ordered that:

- a) the Temporary Cease Trade Order shall be extended to April 26, 2011; and
- b) a further hearing to extend the Temporary Cease Trade Order shall take place on April 21, 2011 at 10:00 a.m.;

**AND WHEREAS** on April 21, 2011, a hearing with respect to the extension of the Temporary Cease Trade Order was held, and the panel of the Commission considered the evidence filed and the submissions made by Staff and O'Brien;

**AND WHEREAS** on April 21, 2011, the Commission ordered that:

- a) the Temporary Cease Trade Order shall be extended until the conclusion of the hearing of the merits of this matter; and
- b) O'Brien may, if he wishes to do so, apply to the Commission for an order revoking or varying this Order pursuant to section 144 of the Act;

**AND WHEREAS** also on April 21, 2011, O'Brien brought a motion regarding disclosure, wherein he sought an order from the Commission requiring Staff to provide him with all additional disclosure materials without requiring him to execute a further undertaking, and the panel of the Commission considered the evidence filed and the submissions made by Staff and O'Brien;

**AND WHEREAS** on April 21, 2011, the Commission ordered that Staff shall provide further disclosure materials to O'Brien without requiring the signing by him of an undertaking as to the confidentiality of that disclosure. The Commission further ordered that:

- 1) all disclosure materials provided to O'Brien are confidential and may be used by him only for the purpose of making full answer and defence in this proceeding. The use of disclosure materials for any other purpose is strictly prohibited. All disclosure materials provided to O'Brien are subject to the strict confidentiality restrictions imposed by section 16 of the Act;

- 2) O'Brien is also subject to the implied undertaking that all disclosure materials provided to him are subject to the restrictions on use referred to in paragraph (1);
- 3) the Previous Undertaking signed by O'Brien is binding upon him and applies by its terms to all of the disclosure materials provided by Staff to O'Brien, including all disclosure materials provided by Staff to O'Brien in the future; if O'Brien wishes to challenge the validity of the Previous Undertaking he is entitled to bring a motion before the Commission to do so; and
- 4) if O'Brien wishes to use the disclosure materials provided by Staff to him for any purpose other than as provided in paragraph (1), he must make an application to the Commission under section 17 of the Act for an order of the Commission consenting to that use;

**AND WHEREAS** at the confidential pre-hearing conference on May 30, 2011, Staff and O'Brien appeared and Staff sought to set dates for a hearing on the merits, while O'Brien advised the Commission that he was opposed to Staff's request. The Commission adjourned the hearing to June 20, 2011 at 10:00 a.m., for the purpose of setting the dates for the hearing on the merits;

**AND WHEREAS** at the confidential pre-hearing conference on June 20, 2011, Staff and O'Brien appeared and scheduling of the hearing on the merits was discussed and the Commission ordered that:

1. the hearing on the merits is to commence on March 12, 2012 at 10:00 a.m. at the offices of the Commission, and shall continue on March 14, 15, 16, 19, 20, 21, 22, 23, 26, and 28, 2012, or such further or other dates as may be agreed upon by the parties and fixed by the Office of the Secretary; and
2. a further confidential pre-hearing conference shall take place on January 11, 2012 at 10:00 a.m.;

**AND WHEREAS** at the confidential pre-hearing conference on January 11, 2012, Staff appeared and Counsel on behalf of O'Brien appeared, who advised the Commission that he had just been appointed to represent O'Brien in this matter;

**AND WHEREAS** Counsel for O'Brien requested that the pre-hearing conference be continued in a few weeks time to permit him to address certain matters that had just been brought to his attention. The Commission ordered that a further confidential pre-hearing conference take place on January 31, 2012 at 3:30 p.m.;

**AND WHEREAS** at the confidential pre-hearing conference on January 31, 2012, Staff and Counsel for O'Brien appeared and Counsel for O'Brien requested an adjournment of the hearing on the merits to permit interim issues to be raised before the Commission. Counsel for O'Brien also requested that the records from both the January 11 and 31, 2012 confidential pre-hearing conferences be sealed and treated as confidential. The Commission ordered that the hearing dates of March 12, 14, 15, 16, 19, 20, 21, 22, 23, 26 and 28, 2012 be vacated, a further confidential pre-hearing conference take place on March 12, 2012 at 10:00 a.m., and that the records from both the January 11 and 31, 2012 confidential pre-hearing conferences be sealed and treated as confidential pursuant to subsection 9(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended (the "SPPA") and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

**AND WHEREAS** at the confidential pre-hearing conference on March 12, 2012, Staff and Counsel for O'Brien appeared and Counsel for O'Brien requested a confidential motion be scheduled to seek an adjournment of the hearing dates. The Commission ordered that a confidential motion take place on April 18, 2012 at 10:00 a.m., for which O'Brien shall serve and file a motion record, including any affidavits to be relied upon, by April 5, 2012 at 4:30 p.m., Staff shall serve and file any responding materials by April 12, 2012, O'Brien shall serve and file a factum by April 13, 2012, and Staff shall file its factum by April 16, 2012, and that the records from the March 12, 2012 confidential pre-hearing conference and from the April 18, 2012 confidential motion shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

**AND WHEREAS** at the confidential motion on April 18, 2012, Staff and Counsel for O'Brien appeared and Counsel for O'Brien presented evidence and requested an adjournment of any hearing dates and that a further confidential pre-hearing conference be scheduled. Staff did not oppose the adjournment request and agreed to the scheduling of a further pre-hearing conference. The Commission ordered that a confidential pre-hearing conference shall take place on July 19, 2012 at 10:00 a.m., for which O'Brien shall deliver any materials relevant to the pre-hearing conference by July 9, 2012, and that the records from the July 19, 2012 confidential pre-hearing conference shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

**AND WHEREAS** at the confidential pre-hearing conference on July 19, 2012, Staff and Counsel for O'Brien appeared and presented evidence and requested that a further confidential pre-hearing conference be scheduled. The Commission ordered that a confidential pre-hearing conference shall take place on September 28, 2012 at 11:00 a.m., for which O'Brien shall deliver any materials relevant to the pre-hearing conference by September 18, 2012, and that the records from the September 28, 2012 confidential pre-hearing conference shall be sealed and treated as confidential pursuant to subsection 9(1) of the

SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

**AND WHEREAS** at the confidential pre-hearing conference on September 28, 2012, Staff and Counsel for O'Brien appeared and presented evidence as contemplated at the earlier pre-hearing conference. Staff sought to set dates for a hearing on the merits, while counsel for O'Brien requested a further confidential pre-hearing conference before hearing dates are set. The Commission ordered that a confidential pre-hearing conference shall take place on October 25, 2012 at 3:00 p.m., for which O'Brien shall deliver any materials relevant to the pre-hearing conference by October 22, 2012, and that the records from the September 28, 2012 and October 25, 2012 confidential pre-hearing conferences shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

**AND WHEREAS** at the confidential pre-hearing conference on October 25, 2012, Staff and Counsel for O'Brien appeared and presented evidence and Staff did not object to Counsel for O'Brien requesting a further confidential pre-hearing conference. The Commission ordered that a confidential pre-hearing conference shall take place on March 7, 2013 at 10:00 a.m., for which O'Brien shall deliver any materials relevant to the pre-hearing conference by March 1, 2013 and that the records from the October 25, 2012 and March 7, 2013 confidential pre-hearing conferences shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

**AND WHEREAS** Staff requested an adjournment until March 11, 2013 and Counsel for O'Brien confirmed his availability for March 11, 2013 as an alternate date for the pre-hearing conference. The Commission ordered that the pre-hearing date of March 7, 2013 is vacated, a confidential pre-hearing conference shall take place on March 11, 2013 at 11:00 a.m., and the records of the March 11, 2013 confidential pre-hearing conference shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*, (2012), 35 OSCB 10071;

**AND WHEREAS** at the confidential pre-hearing conference on March 11, 2013, Staff and Counsel for O'Brien appeared and presented evidence and requested that a further confidential pre-hearing conference be scheduled. The Commission ordered that a confidential pre-hearing conference shall take place on July 18, 2013 at 10:00 a.m., for which O'Brien shall deliver any materials relevant to the pre-hearing conference by July 8, 2013 and that the records from the March 11, 2013 and July 18, 2013 confidential pre-hearing conferences shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

**AND WHEREAS** at the confidential pre-hearing conference on July 18, 2013, Staff and Counsel for O'Brien appeared and made submissions and requested that a

further confidential pre-hearing conference be scheduled. The Commission ordered that a confidential pre-hearing conference shall take place on September 30, 2013 at 10:00 a.m., for which O'Brien shall file and serve any materials on which he intends to rely at the pre-hearing conference by September 23, 2013, and that the records from the July 18, 2013 and September 30, 2013 confidential pre-hearing conferences shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*;

**AND WHEREAS** at the confidential pre-hearing conference on September 30, 2013, Staff and Counsel for O'Brien appeared and made submissions and requested that a further confidential pre-hearing conference be scheduled;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this order;

**IT IS HEREBY ORDERED THAT:**

1. a confidential pre-hearing conference shall take place on December 11, 2013 at 10:00 a.m.;
2. O'Brien shall file and serve any materials on which he intends to rely at the pre-hearing conference by December 2, 2013; and
3. the records from the September 30, 2013 and December 11, 2013 confidential pre-hearing conferences shall be sealed and treated as confidential pursuant to subsection 9(1) of the SPPA and rule 8.1 and subrule 5.2(1) of the *Rules of Procedure*.

**DATED** at Toronto this 30th September, 2013.

"Mary G. Condon"

**2.2.2 Oversea Chinese Fund Limited Partnership et al. – ss. 127(7) and (8)**

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

**AND**

**IN THE MATTER OF  
OVERSEA CHINESE FUND LIMITED PARTNERSHIP,  
WEIZHEN TANG AND ASSOCIATES INC.,  
WEIZHEN TANG CORP. AND WEIZHEN TANG**

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

**WHEREAS** on March 17, 2009, pursuant to subsections 127(1) and (5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), the Ontario Securities Commission (the "Commission") made the following temporary orders (the "Temporary Order") against Oversea Chinese Fund Limited Partnership ("Oversea"), Weizhen Tang and Associates Inc. ("Associates"), Weizhen Tang Corp. ("Corp.") and Weizhen Tang, (collectively, the "Respondents"):

1. that all trading in securities of Oversea, Associates and Corp. shall cease;
2. that all trading by the Respondents shall cease; and
3. that the exemptions contained in Ontario securities law do not apply to the Respondents;

**AND WHEREAS** on March 17, 2009, pursuant to subsection 127(6) of the Act, the Commission ordered that the Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

**AND WHEREAS** on March 18, 2009, the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, to be held on April 1, 2009 at 2:00 p.m.;

**AND WHEREAS** on April 1, 2009, the Commission ordered that the Temporary Order be extended, pursuant to subsection 127(8) of the Act, to September 10, 2009 and the hearing be adjourned to September 9, 2009;

**AND WHEREAS** on September 8, 2009, the Commission ordered, on consent, that the Temporary Order be extended until September 26, 2009 and the hearing be adjourned until September 25, 2009 at 10:00 a.m.;

**AND WHEREAS** on September 24, 2009, the Commission ordered, on consent, that the Temporary Order be extended until October 23, 2009 and the hearing be adjourned until October 22, 2009 at 10:00 a.m.;

**AND WHEREAS** on October 22, 2009, the Commission ordered, on consent, that the Temporary Order be extended until November 16, 2009 and the hearing be adjourned until November 13, 2009 at 10:00 a.m.;

**AND WHEREAS** on November 13, 2009, the Respondents brought a motion before the Commission to have the Temporary Order varied to allow Weizhen Tang to trade (the "Tang Motion") and Staff opposed this motion;

**AND WHEREAS** on November 13, 2009, Staff sought an extension of the Temporary Order until after the conclusion of the charges before the Ontario Court of Justice against Oversea, Associates and Weizhen Tang;

**AND WHEREAS** on November 13, 2009, the Commission was of the opinion that, pursuant to subsection 127(8) of the Act, satisfactory information had not been provided to the Commission by any of the Respondents; it was in the public interest to order that the Tang Motion be denied; the Temporary Order be extended until June 30, 2010; and the hearing be adjourned to June 29, 2010 at 10:00 a.m.;

**AND WHEREAS** on June 29, 2010, the Commission ordered that the Temporary Order be extended until March 31, 2011, and the hearing be adjourned to March 30, 2011, at 10:00 a.m.;

**AND WHEREAS** on March 30, 2011, the Commission ordered that the Temporary Order was extended until May 17, 2011, and the hearing was adjourned to May 16, 2011 at 10:00 a.m.;

**AND WHEREAS** on May 16, 2011, Staff made submissions and sought an extension of the Temporary Order and the Respondent Weizhen Tang appeared on behalf of all Respondents and made submissions opposing the extension of the Temporary Order;

**AND WHEREAS** on May 16, 2011, the Commission concluded pursuant to subsection 127(8) of the Act that satisfactory information had not been provided to the Commission by any of the Respondents and ordered that the Temporary Order be extended until November 1, 2011 and the hearing be adjourned to October 31, 2011 at 10:00 a.m.;

**AND WHEREAS** on October 31, 2011, the Commission concluded pursuant to subsection 127(8) of the Act that satisfactory information had not been provided to the Commission by any of the Respondents; the Commission advised Weizhen Tang that the Respondents could bring a motion under section 144 of the Act to vary the Temporary Order prior to the next hearing date and ordered that the Temporary Order be extended to September 24, 2012 and that the hearing be adjourned to September 21, 2012, at 10:00 a.m.;

**AND WHEREAS** on September 21, 2012, the Commission ordered that the Temporary Order be

extended to January 21, 2013 and that the hearing be adjourned to January 18, 2013 at 10:00 a.m.;

**AND WHEREAS** on January 18, 2013, the Commission ordered that the Temporary Order be extended until February 4, 2013 and the hearing of this matter be adjourned to February 1, 2013 at 2:00 p.m.;

**AND WHEREAS** on February 1, 2013, the Commission ordered that the Temporary Order be extended until February 6, 2013 and the hearing of this matter be adjourned to February 5, 2013 at 9:30 a.m.;

**AND WHEREAS** on February 5, 2013, the Commission ordered that the Temporary Order be extended until August 1, 2013 and the hearing of this matter be adjourned to July 31, 2013 at 10:00 a.m. without prejudice to the Respondents to bring an application to vary the Temporary Order pursuant to section 144 of the Act;

**AND WHEREAS** on July 31, 2013, the Commission ordered that the Temporary Order be extended until August 23, 2013 and the hearing of this matter be adjourned to August 21, 2013 at 10:00 a.m. without prejudice to the Respondents to bring an application to vary the Temporary Order pursuant to section 144 of the Act;

**AND WHEREAS** on August 21, 2013, the Commission ordered that the Temporary Order be extended until October 2, 2013 and the hearing of this matter be adjourned to September 30, 2013 at 1:00 p.m. without prejudice to the Respondents to bring an application to vary the Temporary Order pursuant to section 144 of the Act;

**AND WHEREAS** on September 30, 2013, Staff appeared before the Commission to request an extension of the Temporary Order and no one appeared on behalf of the Respondents;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this order;

**IT IS ORDERED THAT** the Temporary Order is extended until November 25, 2013 and the hearing of this matter is adjourned to November 21, 2013 at 10:00 a.m. without prejudice to the Respondents to bring an application to vary the Temporary Order pursuant to section 144 of the Act.

**DATED** at Toronto this 30th day of September, 2013.

“James E. A. Turner”

**2.2.3 Ernst & Young LLP (Audits of Zungui Haixi Corporation) – ss. 127, 127.1**

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

**AND**

**IN THE MATTER OF  
ERNST & YOUNG LLP  
(AUDITS OF ZUNGUI HAIXI CORPORATION)**

**ORDER  
(Sections 127 and 127.1)**

**WHEREAS** on June 24, 2013 the Ontario Securities Commission (the “**Commission**”) issued a Notice of Hearing in relation to a Statement of Allegations filed by Staff of the Commission (“**Staff**”) pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “**Act**”) with respect to Ernst & Young LLP (the “**Respondent**”);

**AND WHEREAS** the Notice of Hearing stated that an initial hearing before the Commission would be held on July 15, 2013;

**AND WHEREAS** the Commission convened a hearing on July 15, 2013 and the matter was adjourned to a confidential pre-hearing conference to be held on September 30, 2013;

**AND WHEREAS** a confidential pre-hearing conference was held on September 30, 2013 and counsel for Staff and counsel for the Respondent both made submissions regarding the scheduling of the hearing on the merits (the “**Merits Hearing**”);

**AND WHEREAS** the Commission is of the view that it is in the public interest to make this order;

**IT IS HEREBY ORDERED THAT:**

1. the Merits Hearing shall commence on May 1, 2015 and continue as directed by Order of the Commission; and
2. A further confidential pre-hearing shall be held on December 11, 2013 at 11:00 a.m., or such other date as is agreed by the parties and set by the Office of the Secretary.

**DATED** at Toronto this 30th day of September, 2013.

“Mary G. Condon”

**2.2.4 Global Consulting and Financial Services et al.  
– ss. 27, 127(1), 127(10)**

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

**AND**

**IN THE MATTER OF  
GLOBAL CONSULTING AND FINANCIAL SERVICES,  
GLOBAL CAPITAL GROUP,  
CROWN CAPITAL MANAGEMENT CORP.,  
MICHAEL CHOMICA, JAN CHOMICA and  
LORNE BANKS**

**ORDER**

**(Sections 37, 127(1) and 127(10) of the Securities Act)**

**WHEREAS** on March 27, 2013, the Ontario Securities Commission (the “**Commission**”) issued a Notice of Hearing pursuant to sections 37, 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “**Act**”) accompanied by a Statement of Allegations of Staff of the Commission (“**Staff**”) dated March 27, 2013 with respect to Global Consulting and Financial Services (“**Global Consulting**”), Global Capital Group (“**Global Capital**”), Crown Capital Management Corp. (“**Crown Capital**”), Michael Chomica (“**Chomica**”), Jan Chomica and Lorne Banks (“**Banks**”);

**AND WHEREAS** on July 17, 2013, the Commission approved a settlement agreement between Staff and Banks;

**AND WHEREAS** on August 6, 2013, the Commission approved a settlement agreement between Staff and Global Consulting and Jan Chomica;

**AND WHEREAS** by Notice of Motion, Motion Record and Written Submissions dated August 14, 2013, Staff brought a motion for an order to convert the oral hearing on the merits as it relates to Chomica, Crown Capital and Global Capital to a written hearing (the “**Motion**”);

**AND WHEREAS** on September 4, 2013, Staff appeared at the Motion hearing and Chomica did not appear but had communicated to Staff that he did not oppose the Motion;

**AND WHEREAS** on September 4, 2013, the Commission granted the Motion and set a schedule for the filing of documents in connection with the written hearing;

**AND WHEREAS** on September 13, 2013, Staff filed an Amended Statement of Allegations with the Commission;

**AND WHEREAS** Staff and Chomica jointly requested a hearing to be held on October 2, 2013 at 9:30 a.m., pursuant to subsections 127(1) and 127(10) of the Act, to consider an agreed statement of facts (the “**Agreed**

**Statement of Facts**”) and joint submission on sanctions (the “**Joint Submission on Sanctions**”) in respect of Chomica;

**AND WHEREAS** on October 1, 2013, the Commission ordered that an oral hearing, which shall commence *in camera* and may continue as a public hearing, be held on October 2, 2013 at 9:30 a.m. to consider:

- (a) the Agreed Statement of Facts and Joint Submission on Sanctions entered into by Staff and Chomica; and
- (b) the next steps in the proceeding with respect to Crown Capital and Global Capital;

**AND WHEREAS** on October 2, 2013, Staff attended in person and Chomica participated by telephone conference;

**AND WHEREAS** Staff and Chomica made submissions in connection with the Agreed Statement of Facts and the Joint Submission on Sanctions;

**AND WHEREAS** Chomica agrees to forfeit to the Commission \$2,000 in cash that was seized by Staff during the execution of a search warrant on his residence and to have that amount applied towards any disgorgement order made by the Commission;

**AND WHEREAS** the Commission found that pursuant to paragraph 1 of subsection 127(10) of the Act, Chomica’s convictions by the Ontario Court of Justice on March 14, 2013 for contraventions of sections 122 and 126.1(b) of the Act may form the basis of an order in the public interest under subsection 127(1) of the Act;

**AND WHEREAS** Staff did not pursue its allegation against Chomica in relation to section 25 of the Act, as set out in the Amended Statement of Allegations, and therefore the Commission makes no finding in relation thereto;

**AND WHEREAS** the Commission has considered the Agreed Statement of Facts, the Joint Submission on Sanctions and the submissions of Staff and Chomica and is of the opinion that it is in the public interest to make this Order;

**IT IS HEREBY ORDERED THAT:**

- (a) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Chomica shall cease permanently from the date of this Order;
- (b) pursuant to clause 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Chomica is prohibited permanently from the date of this Order;



- (c) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Chomica permanently from the date of this Order;
- (d) pursuant to clause 6 of subsection 127(1) of the Act, Chomica was reprimanded orally at the hearing held on October 2, 2013;
- (e) pursuant to clauses 8, 8.2, and 8.4 of subsection 127(1) of the Act, Chomica is prohibited permanently from the date of this Order from becoming or acting as a director or officer of any issuer, registrant, or investment fund manager;
- (f) pursuant to clause 8.5 of subsection 127(1) of the Act, Chomica is prohibited permanently from the date of this Order from becoming or acting as a registrant, as an investment fund manager or as a promoter;
- (g) pursuant to clause 10 of subsection 127(1) of the Act, Chomica shall disgorge to the Commission the amount of \$550,000 obtained as a result of his non-compliance with Ontario securities law, such amount shall be designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b)(i) or (ii) of the Act;
- (h) pursuant to subsection 37(1) of the Act, Chomica is prohibited permanently, from the date of this Order, from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or in any class of securities; and
- (i) notwithstanding the provisions of this Order, once Chomica has fully satisfied the terms of the disgorgement order in paragraph (g) above, Chomica shall be permitted to acquire and/or trade securities for the account of his registered retirement savings plan (“RRSP”) as defined in the *Income Tax Act*, R.S.C., 1985, c. 1, as amended.

**DATED** at Toronto this 2nd day of October, 2013.

“Alan Lenczner”

## 2.2.5 First Quadrant, L.P. – s. 80 of the CFA

### Headnote

Section 80 of the Commodity Futures Act (Ontario) – Foreign adviser exempted from the adviser registration requirement in section 22(1)(b) of the CFA where such adviser acts as an adviser in respect of commodity futures contracts or commodity futures options (commodities) for certain individual and institutional investors in Ontario who meet the definition of “permitted client” in NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Commodities are primarily traded on commodity futures exchanges outside of Canada and primarily cleared outside of Canada.

Terms and conditions on exemption correspond to the relevant terms and conditions on the comparable exemption from the adviser registration requirement available to international advisers in respect of securities set out in section 8.26 of NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Exemption also subject to a “sunset clause” condition.

### Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am.

Commodity Futures Act, R.S.O. 1990, c. C.20. as am., ss. 1(1), 22(1)(b), 80.

### Instruments Cited

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 1.1, 8.26.

**IN THE MATTER OF  
THE COMMODITY FUTURES ACT,  
R.S.O. 1990, CHAPTER C.20, AS AMENDED  
(the CFA)**

**AND**

**IN THE MATTER OF  
FIRST QUADRANT, L.P.**

**ORDER  
(Section 80 of the CFA)**

**UPON** the application (the **Application**) of First Quadrant, L.P. (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 80 of the CFA that the Applicant and any individuals engaging in, or holding themselves out as engaging in, the business of advising others as to trading in Contracts (as defined below) on the Applicant's behalf (the **Representatives**) be exempt, for a period of five years, from the adviser registration requirement in paragraph 22(1)(b) of the CFA, subject to certain terms and conditions;

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

**AND WHEREAS** for the purposes of this Order;

“**CFA Adviser Registration Requirement**” means the requirement in the CFA that prohibits a person or company from acting as an adviser unless the person or company is registered in the appropriate category of registration under the CFA;

“**CFTC**” means the United States Commodity Futures Trading Commission;

“**Contract**” has the meaning ascribed to that term in subsection 1(1) of the CFA;

“**Foreign Contract**” means a Contract that is primarily traded on one or more organized exchanges that are located outside of Canada and primarily cleared through one or more clearing corporations that are located outside of Canada;

“**International Adviser Exemption**” means the exemption set out in section 8.26 of NI 31-103 from the OSA Adviser Registration Requirement;

“**NI 31-103**” means National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

“**OSA**” means the *Securities Act* (Ontario);

“**OSA Adviser Registration Requirement**” means the requirement in the OSA that prohibits a person or company from acting as an adviser unless the person or company is registered in the appropriate category of registration under the OSA;

“**Permitted Client**” means a client in Ontario that is a “permitted client”, as that term is defined in section 1.1 of NI 31-103, except that for the purposes of the Order such definition shall exclude a person or company registered under the securities or commodities legislation of a jurisdiction of Canada as an adviser or dealer;

“**SEC**” means the United States Securities and Exchange Commission;

“**specified affiliate**” has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 Registration Information; and

“**U.S. Advisers Act**” means the United States *Investment Advisers Act* of 1940.

**AND UPON** the Applicant having represented to the Commission that:

1. The Applicant is a limited partnership established in 1988 and organized under the laws of the State of Delaware, United States. The Applicant's principal place of business is located in Pasadena, California.
2. The Applicant is registered in the United States with the SEC as an investment adviser under the U. S. Advisers Act. The Applicant is registered with the CFTC as a commodity trading advisor and commodity pool operator.
3. The Applicant engages in the business of an adviser with respect to securities and with respect to Contracts in California and its other offices in the United States.
4. The Applicant provides its advisory services in a broad array of asset allocation, equity and other investment strategies, including in the broad categories of global and international, value, growth and core, real assets, quantitative/enhanced, index, and non-traditional strategies. Depending on the particular strategy, the Applicant may invest in a variety of securities and other investments, including in certain cases derivatives, and employ various methods of analysis and investment techniques. In the United States, the Applicant trades both fixed income, equity and commodity futures for a variety of strategies. Among other trades, the Applicant has substantial experience trading US Treasury futures, FX futures, and S&P EMini futures on the CME (Chicago Mercantile Exchange) as well as physical commodity futures such as aluminum futures on the London Metal Exchange. The advisor also trades OTC but standardized swaps such as the iBOXX High Yield Index Total Return Swap.
5. The Applicant advises Ontario clients that are Permitted Clients with respect to foreign securities in reliance on the International Adviser Exemption and therefore is not registered under the OSA.
6. The Applicant is not registered in any capacity under the CFA.
7. Permitted Clients seek to access certain specialized portfolio management services provided by the Applicant, including advice as to trading in Foreign Contracts.
8. In addition to providing advice in respect of securities as described in paragraph 4 above, the Applicant proposes to act also as an adviser to Permitted Clients in Ontario in respect of Foreign Contracts in connection principally with respect to foreign currency and interest futures, options and forwards. It will provide its advice on a fully discretionary basis.
9. There is currently no exemption from the CFA Adviser Registration Requirement that is equivalent to the International Adviser Exemption. Consequently, in order to advise Permitted Clients as to trading in Foreign Contracts, in the absence of this Order, the Applicant would be required to satisfy the CFA Adviser Registration Requirement and would have to apply for, and obtain, registration in Ontario as an adviser under the CFA in the category of commodity trading manager.
10. To the best of the Applicant's knowledge, the Applicant confirms that there are currently no regulatory actions of the type contemplated by the Notice of Regulatory Action attached as Appendix “B”, in respect of the Applicant or any predecessors or specified affiliates of the Applicant.

**AND UPON** being satisfied that it would not be prejudicial to the public interest for the Commission to make this Order,

**IT IS ORDERED** pursuant to section 80 of the CFA that the Applicant and its Representatives are exempt, for a period of five years, from the adviser registration requirement in paragraph 22(1)(b) of the CFA in respect of providing advice to Permitted Clients as to the trading of Foreign Contracts provided that:

- (a) the Applicant provides advice to Permitted Clients only as to trading in Foreign Contracts and does not advise any Permitted Client as to trading in Contracts that are not Foreign Contracts, unless providing such advice is incidental to its providing advice on Foreign Contracts;
- (b) the Applicant's head office or principal place of business remains in the United States;
- (c) the Applicant is registered or operates under an exemption from registration, under the applicable securities or commodity futures legislation in the United States, in a category of registration that permits it to carry on the activities in the United States that registration under the CFA as an adviser in the category of commodity trading manager would permit it to carry on in Ontario;
- (d) the Applicant continues to engage in the business of an adviser, as defined in the CFA, in the United States;
- (e) as at the end of the Applicant's most recently completed financial year, not more than 10% of the aggregate consolidated gross revenue of the Applicant, its affiliates and its affiliated partnerships (excluding the gross revenue of an affiliate or affiliated partnership of the Applicant if the affiliate or affiliated partnership is registered under securities legislation, commodities legislation or derivatives legislation in a jurisdiction of Canada) is derived from the portfolio management activities of the Applicant, its affiliates and its affiliated partnerships in Canada (which, for greater certainty, includes both securities-related and commodity-futures-related activities);
- (f) before advising a Permitted Client with respect to Foreign Contracts, the Applicant notifies the Permitted Client of all of the following:
  - (i) the Applicant is not registered in the local jurisdiction to provide the advice described under paragraph (a) of this Order;
  - (ii) the foreign jurisdiction in which the Applicant's head office or principal place of business is located;
  - (iii) all or substantially all of the Applicant's assets may be situated outside of Canada;
  - (iv) there may be difficulty enforcing legal rights against the Applicant because of the above; and
  - (v) name and address of the Applicant's agent for service of process in Ontario;
- (g) the Applicant has submitted to the Commission a completed submission to jurisdiction and appointment of agent for service in the form attached as Appendix "A";
- (h) the Applicant notifies the Commission of any regulatory action initiated after the date of this Order with respect to the Applicant or any predecessors or specified affiliates of the Applicant by completing and filing Appendix "B" within 10 days of the commencement of each such action; and
- (i) the Applicant complies with the filing and fee payment requirements applicable to an unregistered exempt international firm under Ontario Securities Commission Rule 13-502 Fees.

October 4, 2013

"Judith Robertson"  
Commissioner  
Ontario Securities Commission

"Deborah Leckman"  
Commissioner  
Ontario Securities Commission

APPENDIX "A"

SUBMISSION TO JURISDICTION AND  
APPOINTMENT OF AGENT FOR SERVICE

INTERNATIONAL DEALER OR INTERNATIONAL ADVISER EXEMPTED FROM  
REGISTRATION UNDER THE COMMODITY FUTURES ACT, ONTARIO

1. Name of person or company ("International Firm"):
2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm:
3. Jurisdiction of incorporation of the International Firm:
4. Head office address of the International Firm:
5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.  
  
Name:  
  
E-mail address:  
  
Phone:  
  
Fax:
6. The International Firm is relying on an exemption order under section 38 or section 80 of the *Commodity Futures Act* (Ontario) that is similar to the following exemption in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the "Relief Order"):  
  
 Section 8.18 [*international dealer*]  
  
 Section 8.26 [*international adviser*]  
  
 Other [specify]:
7. Name of agent for service of process (the "Agent for Service"):
8. Address for service of process on the Agent for Service:
9. The International Firm designates and appoints the Agent for Service at the address stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (a "Proceeding") arising out of or relating to or concerning the International Firm's activities in the local jurisdiction and irrevocably waives any right to raise as a defence in any such proceeding any alleged lack of jurisdiction to bring such Proceeding.
10. The International Firm irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of the local jurisdiction in any Proceeding arising out of or related to or concerning the International Firm's activities in the local jurisdiction.
11. Until 6 years after the International Firm ceases to rely on the Relief Order, the International Firm must submit to the regulator
  - a. a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated; and
  - b. an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent for Service.
12. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

**Decisions, Orders and Rulings**

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Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of the International Firm or authorized signatory)

\_\_\_\_\_  
(Name of signatory)

\_\_\_\_\_  
(Title of signatory)

**Acceptance**

The undersigned accepts the appointment as Agent for Service of \_\_\_\_\_ [Insert name of International Firm] under the terms and conditions of the foregoing Submission to Jurisdiction and Appointment of Agent for Service.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of the Agent for Service or authorized signatory)

\_\_\_\_\_  
(Name of signatory)

\_\_\_\_\_  
(Title of signatory)

This form is to be submitted to the following address:

Ontario Securities Commission  
Suite 1903, Box 55  
20 Queen Street West  
Toronto, ON M5H 3S8  
Attention: Senior Registration Supervisor, Portfolio Manager Team  
Telephone: (416) 593-8164  
email: [amcbain@osc.gov.on.ca](mailto:amcbain@osc.gov.on.ca)

**APPENDIX B  
NOTICE OF REGULATORY ACTION**

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

Yes \_\_\_\_\_ No \_\_\_\_\_

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

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

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

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

<sup>1</sup> In this Appendix, the term "specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 – *Registration Information*.

**Decisions, Orders and Rulings**

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If yes, provide the following information for each action:

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

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

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, provide the following information for each investigation:

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

Name of firm
Name of firm's authorized signing officer or partner
Title of firm's authorized signing officer or partner
Signature

Date (yyyy/mm/dd)
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**Witness**

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

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

This form is to be submitted to the following address:

Ontario Securities Commission  
Suite 1903, Box 55  
20 Queen Street West  
Toronto, ON M5H 3S8  
Attention: Senior Registration Supervisor, Portfolio Manager Team  
Telephone: (416) 593-8164  
email: [amcbain@osc.gov.on.ca](mailto:amcbain@osc.gov.on.ca)

**2.2.6 Alpha Trading Systems Limited Partnership et al. – s. 15.1 of NI 21-101 Marketplace Operation**

**Headnote**

Section 15.1 of National Instrument 21-101 Marketplace Operation (NI 21-101) – exemption from the requirement in section 5.10 of NI 21-101 that a marketplace not release a marketplace participant's order and trade information to a person or company other than a marketplace participant, a securities regulatory authority or a regulation services provider unless (i) the marketplace participant has consented in writing, (ii) the release of the order and trade information is required by applicable law or NI 21-101, or (iii) the order and trade information was disclosed by another person or company, and the disclosure was lawful. The exemption will allow marketplaces to provide order and trade data for bona fide capital markets research, subject to terms and conditions.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am.  
National Instrument 21-101 Marketplace Operation, s. 15.1.

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

**AND**

**NATIONAL INSTRUMENT 21-101 MARKETPLACE OPERATION  
("NI 21-101")**

**AND**

**IN THE MATTER OF  
ALPHA TRADING SYSTEMS LIMITED PARTNERSHIP,  
ALPHA TRADING SYSTEMS INC.,  
ALPHA MARKET SERVICES INC.,  
ALPHA EXCHANGE INC.,  
BLOOMBERG TRADEBOOK CANADA COMPANY,  
CANDEAL.CA INC,  
CHI-X CANADA ATS LIMITED,  
CNSX MARKETS INC.,  
EQUILEND CANADA CORP.,  
INSTINET CANADA CROSS LIMITED,  
LIQUIDNET CANADA INC.,  
MARKETAXESS CANADA LIMITED,  
OMEGA SECURITIES INC.,  
PERIMETER MARKETS INC.,  
TMX GROUP INC.,  
TSX INC.,  
TMX SELECT INC.,  
AND  
TRIACT CANADA MARKETPLACE LP  
(each a "Marketplace" and together the "Marketplaces")**

**ORDER  
(Section 15.1 of NI 21-101)**

**WHEREAS** an application has been made for an order pursuant to section 15.1 of NI 21-101 exempting the Marketplaces from section 5.10 of NI 21-101;

**AND WHEREAS** section 5.10 of NI 21-101 was amended as of July 1, 2012 ("**2012 amendment**") to require that a marketplace not release a marketplace participant's order and trade information ("**order and trade information**") to a person or company other than the marketplace participant, a securities regulatory authority or a regulation services provider unless (i) the marketplace participant has consented in writing, (ii) the release of the order and trade information is required by applicable law or NI 21-101, or (iii) the order and trade information was disclosed by another person or company, and the disclosure was lawful;

**AND WHEREAS** the 2012 amendment was not intended to prohibit any marketplace from providing order and trade information for the purposes of *bona fide* capital markets research;

**AND WHEREAS** the Director considers it to be in the public interest that capital markets research be conducted, subject to terms and conditions to ensure that the order and trade information is only used for the purpose for which it is provided and to protect the confidentiality of such order and trade information;

**AND WHEREAS** this order does not override any existing agreement with respect to providing a marketplace participant's order and trade information between a Marketplace and:

- (a) a marketplace participant; or
- (b) a researcher where the terms of such agreement are consistent with the terms and conditions in this Order;

**AND WHEREAS** this order does not impose any obligation on a marketplace to disclose information on the request of a researcher,

**IT IS HEREBY ORDERED** by the Director that subsection 5.10(1) of NI 21-101 shall not apply to a Marketplace

**PROVIDED THAT** the Marketplace is in compliance with the following terms and conditions:

- (a) the order and trade information is or has been provided to a person or company ("**recipient**") solely for the purpose of *bona fide* capital markets research ("**permitted purpose**"), whether commissioned by the Marketplace or by any other person or entity;
- (b) no information identifying a particular marketplace participant or its customers is provided directly or by inference, other than broker number and trader ID;
- (c) the Marketplace has executed one or more agreements with each recipient and / or their employer(s) (each or together, the "**Recipient**") that provides that:
  - (i) the Recipient must not disclose any information that could directly or by inference identify marketplace participants or their customers to any other person or company without the Marketplace's consent;
  - (ii) despite paragraph (i), the Recipient may disclose order and trade information used in connection with research submitted to a journal or an academic publication provided that:
    - (A) the information disclosed is used for verification purposes only, and
    - (B) the journal or publication or any person involved in the verification of the research agrees to maintain the confidentiality of the information;
  - (iii) the Recipient may only publish or otherwise disseminate aggregated data or aggregated information that does not disclose directly or by inference information identifying a marketplace participant or any of its customers, or the business transactions, trading strategies or market positions of the marketplace participant or its customers;
  - (iv) the Recipient must not use the order and trade information or provide it to any person or company for any purpose other than the permitted purpose, including for the purposes of trading, advising others to trade, or reverse engineering trading strategies;
  - (v) the Recipient must keep the order and trade information securely stored at all times, including by encrypting files, logging access, and imposing restrictions on downloading, transferring or saving the order and trade information;
  - (vi) the order and trade information is only maintained for a reasonable period of time after the completion of the research and publication process;
  - (vii) the Recipient must immediately inform the Marketplace of any breach or potential breach of the agreement; and
  - (viii) the Marketplace must have appropriate remedies from the Recipient in the event of a breach of the agreement; and

- (d) the Marketplace must promptly inform the Commission and seek such remedies as it may determine are appropriate against the party or parties to the agreement referred to in paragraph (c) if it becomes aware of any breach or potential breach of the agreement.

**DATED** this 3<sup>rd</sup> day of October, 2013

“Susan Greenglass”  
Director, Market Regulation  
Ontario Securities Commission

2.2.7 360 Trading Networks Inc. – s. 147

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
360 TRADING NETWORKS INC.**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** 360 Trading Networks Inc. (“**360T**”) has filed an application dated September 27, 2013 (**Application**) with the Ontario Securities Commission (**Commission**) requesting an interim order pursuant to section 147 of the Act exempting 360T from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Exchange Relief**);

**AND WHEREAS** 360T has represented to the Commission that:

- 1.1 360T is a limited liability company organized under the laws of the State of Delaware and is a wholly-owned subsidiary of 360 Treasury Systems AG, a joint stock corporation established under the laws of the Federal Republic of Germany;
- 1.2 360T operates a swap execution facility that will initially trade non-deliverable forward contracts and options on approximately 140 currencies and that may trade other financial instruments in future;
- 1.3 360T’s swap execution facility is a fully automated trading system which provides a complete audit trail of requests for quotes, any responses to such requests and any resulting transactions, as well as a central limit order book through which participants may accept bids and offers made by other participants;
- 1.4 In the United States, 360T operates under the jurisdiction of the Commodity Futures Trading Commission (**CFTC**) and has obtained temporary registration with the CFTC to operate a swap execution facility;
- 1.5 360T is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace;
- 1.6 360T has retained the National Futures Association as a regulatory services provider;
- 1.7 Because 360T regulates the conduct of its participants, it is considered by the Commission to be an exchange;
- 1.8 Because 360T has participants located in Ontario, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
- 1.9 360T has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above; and
- 1.10 360T intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange pursuant to section 147 of the Act (**Subsequent Order**);

**AND WHEREAS** the products traded on 360T are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and 360T is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and 360T activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule “A” to this order;

**AND WHEREAS** 360T has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule “A” to this order may change as a result of the Commission’s monitoring of developments in international and domestic capital markets or 360T activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of 360T to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, 360T is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order terminates on the earlier of (i) October 2, 2014 and (ii) the effective date of the Subsequent Order;
2. 360T complies with the terms and conditions contained in Schedule “A.”; and
3. 360T shall file a full application to the Commission for the Subsequent Order by January 31, 2014.

**DATED** October 1<sup>st</sup>, 2013.

“Mary G. Condon”

“James E. A. Turner”

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of 360T**

1. 360T will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
2. 360T will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. 360T will notify the Commission if its registration as a SEF has been revoked, suspended, or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. 360T must do everything within its control, which includes cooperating with the Commission as needed, to cause 360T to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. 360T will not provide direct access to a participant in Ontario (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States *Commodity Exchange Act*, as amended (**CEA**).
6. 360T may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, 360T will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
8. 360T will require Ontario Users to notify 360T if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, 360T will promptly restrict the Ontario User's access to 360T if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. 360T must make available to Ontario Users appropriate training for each person who has access to trade on 360T's facilities.

**Trading by Ontario Users**

10. 360T will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of 360T in Ontario, 360T will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. 360T will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of 360T activities in Ontario.

**Disclosure**

13. 360T will provide to its Ontario Users disclosure that states that:
  - (a) rights and remedies against 360T may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;

- (b) the rules applicable to trading on 360T may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) 360T is regulated by the CFTC, rather than the Commission.

**Filings with the CFTC**

- 14. 360T will promptly provide staff of the Commission copies of all rules of 360T, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 15. 360T will promptly provide staff of the Commission copies of all amendments to 360T's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. 360T will promptly provide to the Commission copies of all product specifications and amended product specification specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 17. 360T will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of 360T;
  - (c) details of any material legal proceeding instituted against 360T;
  - (d) notification that 360T has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate 360T or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

**Prompt Notice or Filing**

- 18. 360T will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of 360T;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for 360T;
  - (b) any change in 360T regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby 360T is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the *Commodity Exchange Act* or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, 360T by the CFTC or any other regulatory authority to which it is subject;
  - (e) any matter known to 360T that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and
  - (f) any default, insolvency, or bankruptcy of 360T participant known to 360T or its representatives that may have a material, adverse impact upon 360T, a clearing agency or any Ontario Participant.



19. 360T will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding 360T once issued as final by the CFTC.

**Quarterly Reporting**

20. 360T will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by 360T, or, to the best of 360T knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on 360T;
  - (c) a list of all investigations by 360T relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to 360T during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on 360T conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

**Annual Reporting**

21. 360T will arrange to have the annual report and annual audited financial statements of 360T filed with the Commission promptly after their issuance.
22. 360T will arrange to have the annual "Service Organization Controls 1" report prepared for 360T filed with the Commission promptly after the report is issued as final by its independent auditor.

**Information Sharing**

23. 360T will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

2.2.8 BGC Derivative Markets, L.P. – s. 147

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
BGC DERIVATIVE MARKETS, L.P.  
("BGCDM")**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** BGC Derivative Markets, L.P. ("**BGCDM**") has filed an application dated September 26, 2013 (**Application**) with the Ontario Securities Commission (**Commission**) requesting an interim order pursuant to section 147 of the Act exempting BGCDM from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Exchange Relief**);

**AND WHEREAS** BGCDM has represented to the Commission that:

- 1.1 BGCDM is a subsidiary of BGC Partners, Inc. ("**BGC**"), a leading global brokerage company servicing the wholesale financial and real estate markets. On September 20, 2013, BGCDM received a temporary registration approval from the U.S. Commodity Futures Trading Commission ("**CFTC**") to operate a Swap Execution Facility ("**SEF**"). BGCDM intends to offer trading of regulated swaps starting on October 2, 2013, consistent with the derivatives trading regulations under the Dodd-Frank Act.
- 1.2 BGCDM's swap execution facility includes execution methodologies such as an anonymous Central Limit Order Book, a name-disclosed Request for Quote system, intra-day electronic auctions indications of interest and voice-managed orders for blocks and non-blocks;
- 1.3 In the United States, BGCDM operates under the jurisdiction of the Commodity Futures Trading Commission (**CFTC**) and has obtained (temporary) registration with the CFTC to operate a swap execution facility (**SEF**);
- 1.4 BGCDM is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace;
- 1.5 BGCDM has retained the National Futures Association as regulation services provider;
- 1.6 Because BGCDM regulates the conduct of its participants, it is considered by the Commission to be an exchange;
- 1.7 Because BGCDM has participants located in Ontario, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
- 1.8 BGCDM has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above; and
- 1.9 BGCDM intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange pursuant to section 147 of the Act (**Subsequent Order**);

**AND WHEREAS** the products traded on BGCDM are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and BGCDM is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and BGCDM's activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

**AND WHEREAS BGCDM** has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or BGCDM's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of BGCDM to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, BGCDM is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order terminates on the earlier of (i) October 2, 2014 and (ii) the effective date of the Subsequent Order;
2. BGCDM complies with the terms and conditions contained in Schedule "A."; and
3. BGCDM shall file a full application to the Commission for the Subsequent Order by January 31, 2014.

**DATED** October 1st, 2013.

"Mary G. Condon"

"James E. A. Turner"

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of BGCDM**

1. BGCDM will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
2. BGCDM will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. BGCDM will notify the Commission if its registration as a SEF has been revoked, suspended, or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. BGCDM must do everything within its control, which includes cooperating with the Commission as needed, to cause BGCDM to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. BGCDM will not provide direct access to a participant in Ontario (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States *Commodity Exchange Act*, as amended (**CEA**).
6. BGCDM may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, BGCDM will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or exempt from those requirements.
8. BGCDM will require Ontario Users to notify BGCDM if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, BGCDM will promptly restrict the Ontario User's access to BGCDM if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. BGCDM must make available to Ontario Users appropriate training for each person who has access to trade on BGCDM's facilities.

**Trading by Ontario Users**

10. BGCDM will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the United States CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of BGCDM in Ontario, BGCDM will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. BGCDM will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of BGCDM's activities in Ontario.

**Disclosure**

13. BGCDM will provide to its Ontario Users disclosure that states that:

## Decisions, Orders and Rulings

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- (a) rights and remedies against BGCDM may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;
- (b) the rules applicable to trading on BGCDM may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) BGCDM is regulated by the CFTC, rather than the Commission.

### Filings with the CFTC

- 14. BGCDM will promptly provide staff of the Commission copies of all rules of BGCDM, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 15. BGCDM will promptly provide staff of the Commission copies of all amendments to BGCDM's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. BGCDM will promptly provide to the Commission copies of all product specifications and amended product specification specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 17. BGCDM will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of BGCDM;
  - (c) details of any material legal proceeding instituted against BGCDM;
  - (d) notification that BGCDM has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate BGCDM or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

### Prompt Notice or Filing

- 18. BGCDM will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of BGCDM;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for BGCDM;
  - (b) any change in BGCDM regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby BGCDM is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the *Commodity Exchange Act* or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, BGCDM by the CFTC or any other regulatory authority to which it is subject;

## Decisions, Orders and Rulings

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- (e) any matter known to BGCDM that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and
  - (f) any default, insolvency, or bankruptcy of BGCDM participant known to BGCDM or its representatives that may have a material, adverse impact upon BGCDM, a clearing agency or any Ontario Participant.
19. BGCDM will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding BGCDM once issued as final by the CFTC.

### Quarterly Reporting

20. BGCDM will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by BGCDM, or, to the best of BGCDM's knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on BGCDM;
  - (c) a list of all investigations by BGCDM relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to BGCDM during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on BGCDM conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

### Annual Reporting

21. BGCDM will arrange to have the annual report and annual audited financial statements of BGCDM filed with the Commission promptly after their issuance.
22. BGCDM will arrange to have the annual "Service Organization Controls 1" report prepared for BGCDM filed with the Commission promptly after the report is issued as final by its independent auditor.

### Information Sharing

23. BGCDM will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

2.2.9 INFX SEF, Inc. – s. 147

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
INFX SEF, INC.**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** INFX SEF, Inc. (INFX SEF) has filed an application dated September 27, 2013, 2013 (**Application**) with the Ontario Securities Commission (**Commission**) requesting an interim order pursuant to section 147 of the Act exempting **INFX SEF** from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Exchange Relief**);

**AND WHEREAS INFX SEF** has represented to the Commission that:

- 1.1 INFX SEF, Inc. is a Delaware corporation that is a wholly owned subsidiary of Integral Development Corporation. INFX SEF offers non-deliverable forwards (**NDFs**) in the FX asset class that are classified as swaps under the *Commodity Exchange Act* (**CEA**). The INFX SEF trading platform is an RFQ system with an integrated order book functionality;
- 1.2 In the United States, INFX SEF operates under the jurisdiction of the Commodity Futures Trading Commission (**CFTC**) and has obtained temporary registration with the CFTC to operate a swap execution facility (**SEF**);
- 1.3 INFX SEF is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace;
- 1.4 INFX SEF has retained National Futures Association as a regulatory services provider;
- 1.5 Because INFX SEF regulates the conduct of its participants, it is considered by the Commission to be an exchange;
- 1.6 Because INFX SEF has participants located in Ontario, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
- 1.7 INFX SEF has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above; and
- 1.8 INFX SEF intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange pursuant to section 147 of the Act (**Subsequent Order**);

**AND WHEREAS** the products traded on INFX SEF are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and INFX SEF is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and INFX SEF's activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule 'A' to this order;

**AND WHEREAS** INFX SEF has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule 'A' to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or INFX SEF's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of INFX SEF to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, INFX SEF is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order terminates on the earlier of (i) October 2, 2014 and (ii) the effective date of the Subsequent Order;
2. INFX SEF complies with the terms and conditions contained in Schedule "A."; and
3. INFX SEF shall file a full application to the Commission for the Subsequent Order by January 31, 2014.

**DATED** October 1<sup>st</sup>, 2013.

"Mary G. Condon"

"James E. A. Turner"



**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of INFX SEF**

1. INFX SEF will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
2. INFX SEF will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. INFX SEF will notify the Commission if its registration as a SEF has been revoked, suspended, or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. INFX SEF must do everything within its control, which includes cooperating with the Commission as needed, to cause INFX SEF to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. INFX SEF will not provide direct access to a participant in Ontario (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States *Commodity Exchange Act*, as amended (**CEA**).
6. INFX SEF may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, INFX SEF will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
8. INFX SEF will require Ontario Users to notify INFX SEF if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, INFX SEF will promptly restrict the Ontario User's access to INFX SEF if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. INFX SEF must make available to Ontario Users appropriate training for each person who has access to trade on INFX SEF's facilities.

**Trading by Ontario Users**

10. INFX SEF will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of INFX SEF in Ontario, INFX SEF will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. INFX SEF will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of INFX SEF activities in Ontario.

**Disclosure**

13. INFX SEF will provide to its Ontario Users disclosure that states that:

- (a) rights and remedies against INFX SEF may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;
- (b) the rules applicable to trading on INFX SEF may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) INFX SEF is regulated by the CFTC, rather than the Commission.

**Filings with the CFTC**

- 14. INFX SEF will promptly provide staff of the Commission copies of all rules of INFX SEF, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 15. INFX SEF will promptly provide staff of the Commission copies of all amendments to INFX SEF's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. INFX SEF will promptly provide to the Commission copies of all product specifications and amended product specification specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 17. INFX SEF will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of INFX SEF;
  - (c) details of any material legal proceeding instituted against INFX SEF;
  - (d) notification that INFX SEF has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate INFX SEF or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

**Prompt Notice or Filing**

- 18. **INFX SEF** will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of INFX SEF;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for INFX SEF;
  - (b) any change in INFX SEF regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby INFX SEF is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the *Commodity Exchange Act* or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, INFX SEF by the CFTC or any other regulatory authority to which it is subject;

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- (e) any matter known to INFX SEF that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and
  - (f) any default, insolvency, or bankruptcy of INFX SEF participant known to INFX SEF or its representatives that may have a material, adverse impact upon INFX SEF, a clearing agency or any Ontario Participant.
19. INFX SEF will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding INFX SEF once issued as final by the CFTC.

### Quarterly Reporting

20. INFX SEF will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by INFX SEF, or, to the best of INFX SEF knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on INFX SEF;
  - (c) a list of all investigations by INFX SEF relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to INFX SEF during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on INFX SEF conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

### Annual Reporting

21. INFX SEF will arrange to have the annual report and annual audited financial statements of INFX SEF filed with the Commission promptly after their issuance.
22. INFX SEF will arrange to have the annual "Service Organization Controls 1" report prepared for INFX SEF filed with the Commission promptly after the report is issued as final by its independent auditor.

### Information Sharing

23. INFX SEF will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

**2.2.10 Javelin SEF, LLC – s. 147**

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
JAVELIN SEF, LLC**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** Javelin SEF, LLC has filed an application dated September 26<sup>th</sup>, 2013 (**Application**) with the Ontario Securities Commission (**Commission**) requesting an interim order pursuant to section 147 of the Act exempting Javelin SEF, LLC from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Exchange Relief**);

**AND WHEREAS** Javelin SEF, LLC has represented to the Commission that:

- 1.1 Javelin SEF, LLC is organized under the laws of the state of Delaware;
- 1.2 Javelin SEF, LLC is a swap trading platform offering Interest Rate swap transactions as a Swap Execution Facility;
- 1.3 Javelin's swap trading platform offers both an anonymous limit order book and both anonymous and disclosed request-for-quote execution;
- 1.4 In the United States, Javelin SEF, LLC operates under the jurisdiction of the Commodity Futures Trading Commission (**CFTC**) and has obtained (temporary) registration with the CFTC to operate a swap execution facility (**SEF**);
- 1.5 Javelin SEF, LLC is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace, and Javelin SEF, LLC will perform its own market surveillance using internal resources and third-party software;
- 1.6 Because Javelin SEF, LLC regulates the conduct of its participants, it is considered by the Commission to be an exchange;
- 1.7 Because Javelin SEF, LLC has participants located in Ontario, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
- 1.8 Javelin SEF, LLC has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above; and
- 1.9 Javelin SEF, LLC intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange pursuant to section 147 of the Act (**Subsequent Order**);

**AND WHEREAS** the products traded on Javelin SEF, LLC are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and Javelin SEF, LLC is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and Javelin SEF, LLC's activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

**AND WHEREAS** Javelin SEF, LLC has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or Javelin SEF, LLC's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of Javelin SEF, LLC to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, Javelin SEF, LLC is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order terminates on the earlier of (i) October 2, 2014 and (ii) the effective date of the Subsequent Order;
2. Javelin SEF, LLC complies with the terms and conditions contained in Schedule "A."; and
3. Javelin SEF, LLC shall file a full application to the Commission for the Subsequent Order by January 31, 2014.

**DATED** October 1<sup>st</sup>, 2013

"Mary G. Condon"

"James E. A. Turner"

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of Javelin SEF, LLC**

1. Javelin SEF, LLC will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
2. Javelin SEF, LLC will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. Javelin SEF, LLC will notify the Commission if its registration as a SEF has been revoked, suspended, or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. Javelin SEF, LLC must do everything within its control, which includes cooperating with the Commission as needed, to cause Javelin SEF, LLC to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. Javelin SEF, LLC will not provide direct access to a participant in Ontario (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States *Commodity Exchange Act*, as amended (**CEA**).
6. Javelin SEF, LLC may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, Javelin SEF, LLC will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
8. Javelin SEF, LLC will require Ontario Users to notify Javelin SEF, LLC if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, Javelin SEF, LLC will promptly restrict the Ontario User's access to Javelin SEF, LLC if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. Javelin SEF, LLC must make available to Ontario Users appropriate training for each person who has access to trade on Javelin SEF, LLC's facilities.

**Trading by Ontario Users**

10. Javelin SEF, LLC will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of Javelin SEF, LLC in Ontario, Javelin SEF, LLC will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. Javelin SEF, LLC will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of Javelin SEF, LLC's activities in Ontario.

**Disclosure**

13. Javelin SEF, LLC will provide to its Ontario Users disclosure that states that:

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- (a) rights and remedies against Javelin SEF, LLC may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;
- (b) the rules applicable to trading on Javelin SEF, LLC may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) Javelin SEF, LLC is regulated by the CFTC, rather than the Commission.

### Filings with the CFTC

- 14. Javelin SEF, LLC will promptly provide staff of the Commission copies of all rules of Javelin SEF, LLC, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 15. Javelin SEF, LLC will promptly provide staff of the Commission copies of all amendments to Javelin SEF, LLC's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. Javelin SEF, LLC will promptly provide to the Commission copies of all product specifications and amended product specification specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 17. Javelin SEF, LLC will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of Javelin SEF, LLC;
  - (c) details of any material legal proceeding instituted against Javelin SEF, LLC;
  - (d) notification that Javelin SEF, LLC has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate Javelin SEF, LLC or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

### Prompt Notice or Filing

- 18. Javelin SEF, LLC will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of Javelin SEF, LLC;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for Javelin SEF, LLC;
  - (b) any change in Javelin SEF, LLC regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby Javelin SEF, LLC is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the *Commodity Exchange Act* or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, Javelin SEF, LLC by the CFTC or any other regulatory authority to which it is subject;

## Decisions, Orders and Rulings

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- (e) any matter known to Javelin SEF, LLC that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and
  - (f) any default, insolvency, or bankruptcy of Javelin SEF, LLC participant known to Javelin SEF, LLC or its representatives that may have a material, adverse impact upon Javelin SEF, LLC, a clearing agency or any Ontario Participant.
19. Javelin SEF, LLC will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding Javelin SEF, LLC once issued as final by the CFTC.

### Quarterly Reporting

20. Javelin SEF, LLC will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by Javelin SEF, LLC, or, to the best of Javelin SEF, LLC's knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on Javelin SEF, LLC;
  - (c) a list of all investigations by Javelin SEF, LLC relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to Javelin SEF, LLC during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on Javelin SEF, LLC conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

### Annual Reporting

21. Javelin SEF, LLC will arrange to have the annual report and annual audited financial statements of Javelin SEF, LLC filed with the Commission promptly after their issuance.
22. Javelin SEF, LLC will arrange to have the annual "Service Organization Controls 1" report prepared for Javelin SEF, LLC filed with the Commission promptly after the report is issued as final by its independent auditor.

### Information Sharing

23. Javelin SEF, LLC will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.



2.2.11 Bloomberg SEF LLC – s. 147

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
BLOOMBERG SEF LLC**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** Bloomberg SEF LLC (the **Applicant**) has filed an application dated August 29, 2013 (**Application**) with the Ontario Securities Commission (**Commission**) pursuant to section 147 of the Act requesting an interim order exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Order**);

**AND WHEREAS** the Applicant has represented to the Commission that:

1. The Applicant is a limited liability company organized under the laws of the State of Delaware in the United States (US) and is a wholly owned subsidiary of Bloomberg L.P., a Delaware limited partnership;
2. On July 30, 2013, the U.S. Commodity Futures Trading Commission (the **CFTC**), a U.S. federal regulatory agency, granted the Applicant temporary registration to operate a swap execution facility (**SEF**). The Applicant intends to launch its SEF on October 2, 2013, the mandatory compliance date under the relevant CFTC regulation;
3. The Applicant will be a marketplace for trading swaps. The Applicant's SEF will support request-for-quote and order book functionality for interest rate, credit default, foreign exchange and commodity swaps trading;
4. The Applicant is subject to regulatory supervision by the CFTC; the U.S. *Commodity Exchange Act* (the **CEA**) requires a SEF to register with the CFTC and to comply with applicable CFTC regulations, including the CFTC's SEF Core Principles. SEFs are required to have a rulebook and a compliance program, including a Chief Compliance Officer and a compliance manual. A SEF's participant access criteria must be impartial and transparent and must be applied in a fair and non-discriminatory manner. The CFTC requires each SEF to have certain required trading protocols. A SEF must publish on its website certain daily trading data for each swap contract listed on the SEF and must report all transactions executed on the SEF to a swap data repository. The CFTC reviews, assesses and enforces a SEF's adherence to CFTC regulations on an ongoing basis;
5. A SEF is a self-regulatory organization under CFTC rules. A SEF is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace. The Applicant has contracted with the U.S. National Futures Association (the **NFA**) for the NFA to conduct market surveillance of its SEF trades;
6. Fees for SEF services must be equitable and established in a uniform and non-discriminatory manner. A SEF must submit audited financial statements to the CFTC and maintain adequate financial resources to cover its operating costs;
7. A SEF must submit all trades in swaps that are required to be cleared to a clearing house for clearing. The Applicant will provide direct connectivity to the following clearing houses: CME Clearing, Ice Clear Credit and LCH.Clearnet, each of which has obtained an exemption or interim exemption from recognition as a clearing agency in Ontario;

8. The Applicant requires that its participants be “eligible contract participants,” as defined in section 1a(18) of the CEA (**ECPs**), be either a clearing member of a clearing house or have a relationship with a clearing member for swaps traded via the order book functionality and required to be cleared; of good reputation and business integrity; and have execution agreements with all prospective counterparties for swaps traded via the request-for-quote functionality, or for swaps that are not cleared, among other requirements designed to ensure the financial integrity of the Applicant. Participants are required to notify the Applicant when there are material changes to the participant’s finances or in an instance of bankruptcy or insolvency;
9. The Applicant proposes to offer direct electronic access to trading on its SEF to prospective participants that are located in Ontario (**Ontario Participants**) and that satisfy the criteria in paragraph 8 above;
10. The Applicant expects that Ontario Participants will include Canadian financial institutions, registered dealers and advisers, government entities, pension funds and other well capitalized non-regulated entities that satisfy the criteria for an ECP;
11. Because the SEF regulates the conduct of its participants, it is considered by the Commission to be an exchange;
12. Since the Applicant seeks to provide Ontario Participants with direct, electronic access to trading swaps, it is considered by the Commission to be “carrying on business as an exchange” in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
13. The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein;
14. The Applicant intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange under section 147 of the Act (**Subsequent Order**).

**AND WHEREAS** the products traded on the Applicant’s SEF are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and the Applicant’s activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule “A” to this order;

**AND WHEREAS** the Applicant has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule “A” to this order may change as a result of the Commission’s monitoring of developments in international and domestic capital markets or the Applicant’s activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of the Applicant to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, the Applicant is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order shall terminate on the earlier of (i) October 2, 2014 and (ii) the effective date of the Subsequent Order;
2. The Applicant complies with the terms and conditions contained in Schedule “A”; and
3. The Applicant shall file a full application to the Commission for the Subsequent Order by January 31, 2014.

**DATED** October 1, 2013

“Mary G. Condon”

“James E. A. Turner”

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of the Applicant**

1. the Applicant will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
2. the Applicant will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. the Applicant will notify the Commission if its registration as a SEF has been revoked, suspended, or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. the Applicant must do everything within its control, which includes cooperating with the Commission as needed, to cause the Applicant to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. the Applicant will not provide direct access to a participant in Ontario (Ontario User) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States *Commodity Exchange Act*, as amended (**CEA**).
6. the Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, the Applicant will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
8. the Applicant will require Ontario Users to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User's access to the Applicant if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. the Applicant must make available to Ontario Users appropriate training for each person who has access to trade on the Applicant's facilities.

**Trading by Ontario Users**

10. the Applicant will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. the Applicant will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of the Applicant's activities in Ontario.

**Disclosure**

13. the Applicant will provide to its Ontario Users disclosure that states that:

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- (a) rights and remedies against the Applicant may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;
- (b) the rules applicable to trading on the Applicant may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) the Applicant is regulated by the CFTC, rather than the Commission.

### Filings with the CFTC

- 14. the Applicant will promptly provide staff of the Commission copies of all rules of the Applicant, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 15. the Applicant will promptly provide staff of the Commission copies of all amendments to Applicant's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. the Applicant will promptly provide to the Commission copies of all product specifications and amended product specification specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 17. the Applicant will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of the Applicant;
  - (c) details of any material legal proceeding instituted against the Applicant;
  - (d) notification that the Applicant has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

### Prompt Notice or Filing

- 18. the Applicant will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of the Applicant;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for the Applicant;
  - (b) any change in the Applicant regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby the Applicant is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the *Commodity Exchange Act* or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, the Applicant by the CFTC or any other regulatory authority to which it is subject;

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- (e) any matter known to the Applicant that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and
  - (f) any default, insolvency, or bankruptcy of the Applicant participant known to the Applicant or its representatives that may have a material, adverse impact upon the Applicant, a clearing agency or any Ontario Participant.
19. the Applicant will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding the Applicant once issued as final by the CFTC.

### Quarterly Reporting

20. the Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by the Applicant, or, to the best of Applicant's knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on the Applicant;
  - (c) a list of all investigations by the Applicant relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on the Applicant conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

### Annual Reporting

21. the Applicant will arrange to have the annual report and annual audited financial statements of the Applicant filed with the Commission promptly after their issuance.
22. the Applicant will arrange to have the annual "Service Organization Controls 1" report prepared for the Applicant filed with the Commission promptly after the report is issued as final by its independent auditor.

### Information Sharing

23. the Applicant will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

2.2.12 GFI Swaps Exchange LLC – s. 147

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
GFI SWAPS EXCHANGE LLC**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** GFI Swaps Exchange LLC (“**GFI**”) has filed an application dated September 25, 2013 (**Application**) with the Ontario Securities Commission (**Commission**) requesting an interim order pursuant to section 147 of the Act exempting GFI from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Exchange Relief**);

**AND WHEREAS** GFI has represented to the Commission that:

- 1.1 GFI is a limited liability company organized under the laws of the State of Delaware and is an indirect wholly-owned subsidiary of GFI Group Inc., a Delaware corporation;
- 1.2 GFI operates a swap execution facility that initially will trade interest rate swaps, energy swaps, credit default swaps and foreign exchange swaps and options and that may trade additional financial instruments in the future;
- 1.3 GFI's swap execution facility offers a central limit order book where orders are executed on price/time priority and a request for quote functionality pursuant to which participants may transmit a request for a quote to buy or sell a specific swap to other participants;
- 1.4 In the United States, GFI operates under the jurisdiction of the Commodity Futures Trading Commission (**CFTC**) and has obtained temporary registration with the CFTC to operate a swap execution facility;
- 1.5 GFI is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace;
- 1.6 GFI has retained the National Futures Association to be a regulation services provider;
- 1.7 Because GFI regulates the conduct of its participants, it is considered by the Commission to be an exchange;
- 1.8 Because GFI has participants located in Ontario, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
- 1.9 GFI has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above; and
- 1.10 GFI intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange pursuant to section 147 of the Act (**Subsequent Order**);

**AND WHEREAS** the products traded on GFI are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and GFI is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and GFI activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

**AND WHEREAS** GFI has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or GFI activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of **GFI** to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, GFI is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order terminates on the earlier of (i) October 2, 2014 and (ii) the effective date of the Subsequent Order;
2. GFI complies with the terms and conditions contained in Schedule "A."; and
3. GFI shall file a full application to the Commission for the Subsequent Order by January 31, 2014.

**DATED** October 1<sup>st</sup>, 2013.

"James E. A. Turner"

"Mary G. Condon"

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of GFI**

1. GFI will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
2. GFI will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. GFI will notify the Commission if its registration as a SEF has been revoked, suspended, or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. GFI must do everything within its control, which includes cooperating with the Commission as needed, to cause **GFI** to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. GFI will not provide direct access to a participant in Ontario (Ontario User) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States *Commodity Exchange Act*, as amended (**CEA**).
6. GFI may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, GFI will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
8. GFI will require Ontario Users to notify GFI if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, GFI will promptly restrict the Ontario User's access to GFI if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. GFI must make available to Ontario Users appropriate training for each person who has access to trade on GFI's facilities.

**Trading by Ontario Users**

10. GFI will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of GFI in Ontario, GFI will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. GFI will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of GFI activities in Ontario.

**Disclosure**

13. GFI will provide to its Ontario Users disclosure that states that:



## Decisions, Orders and Rulings

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- (a) rights and remedies against GFI may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;
- (b) the rules applicable to trading on GFI may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) GFI is regulated by the CFTC, rather than the Commission.

### Filings with the CFTC

- 14. GFI will promptly provide staff of the Commission copies of all rules of GFI, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 15. GFI will promptly provide staff of the Commission copies of all amendments to GFI's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. GFI will promptly provide to the Commission copies of all product specifications and amended product specification specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 17. GFI will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of GFI;
  - (c) details of any material legal proceeding instituted against GFI;
  - (d) notification that GFI has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate GFI or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

### Prompt Notice or Filing

- 18. GFI will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of GFI;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for GFI;
  - (b) any change in GFI regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby GFI is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the *Commodity Exchange Act* or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, GFI by the CFTC or any other regulatory authority to which it is subject;
  - (e) any matter known to GFI that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and

- (f) any default, insolvency, or bankruptcy of GFI participant known to GFI or its representatives that may have a material, adverse impact upon GFI, a clearing agency or any Ontario Participant.
19. GFI will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding GFI once issued as final by the CFTC.

**Quarterly Reporting**

20. GFI will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by GFI, or, to the best of GFI knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on GFI;
  - (c) a list of all investigations by GFI relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to GFI during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on GFI conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

**Annual Reporting**

21. GFI will arrange to have the annual report and annual audited financial statements of GFI filed with the Commission promptly after their issuance.
22. GFI will arrange to have the annual "Service Organization Controls 1" report prepared for GFI filed with the Commission promptly after the report is issued as final by its independent auditor.

**Information Sharing**

23. GFI will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

2.2.13 ICAP SEF (US) LLC – s. 147

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
ICAP SEF (US) LLC**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** ICAP SEF (US) LLC (the **Applicant**) has filed an application dated September 16, 2013 (**Application**) with the Ontario Securities Commission (**Commission**) pursuant to section 147 of the Act requesting an interim order exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Order**);

**AND WHEREAS** the Applicant has represented to the Commission that:

1. The Applicant is a limited liability company organized under the laws of the State of Delaware in the United States (**U.S.**) and is a wholly owned subsidiary of ICAP Broking Holdings North America LLC. The ultimate parent company of the Applicant is ICAP plc, a company listed on the London Stock Exchange;
2. On September 27, 2013, the U.S. Commodity Futures Trading Commission (the **CFTC**), a U.S. federal regulatory agency, granted the Applicant temporary registration to operate a swap execution facility (**SEF**) in the U.S. The Applicant intends to launch its SEF on October 2, 2013, the mandatory compliance date under the relevant CFTC regulation;
3. The Applicant will be a marketplace for trading swaps that are regulated by the CFTC. The Applicant currently intends to be a multi-asset SEF offering trading in interest rate swaps, credit indices, non-deliverable forward FX, commodities and equity derivatives. It is expected that swaps that require clearing will be cleared at the Chicago Mercantile Exchange, Ice Clear Credit US and UK and LCH.Clearnet US and UK;
4. The Applicant will require its participants, including any participants located in Ontario, to qualify as “eligible contract participants” (**ECP**), as defined in section 1a(18) of the U.S. *Commodity Exchange Act* (the **CEA**). Also, participants must either be a clearing member of one of the clearing houses mentioned in paragraph 3 above or have a relationship with a registered futures commission merchant who is a clearing member of one those clearing houses. At the time of launch, it is expected that most SEF participants will be banks, registered dealers and advisers and other large financial institutions. However, a SEF must offer impartial access; for example, a pension fund or hedge fund that meets the ECP definition and has an acceptable clearing arrangement in place could be a member of the SEF;
5. The Applicant is subject to regulatory supervision by the CFTC. The CEA requires a SEF to register with the CFTC and to comply with applicable CFTC regulations, including the CFTC's SEF Core Principles. SEFs are required to have a rulebook and a compliance program, including a Chief Compliance Officer and a compliance manual. A SEF's participant access criteria must be impartial and transparent and must be applied in a fair and non-discriminatory manner. The CFTC requires each SEF to have certain required trading protocols. A SEF must publish on its website certain daily trading data for each swap contract listed on the SEF and must report all transactions executed on the SEF to a swap data repository. The CFTC reviews, assesses and enforces a SEF's adherence to CFTC regulations on an ongoing basis;

6. A SEF is a self-regulatory organization under CFTC rules. A SEF is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace. The Applicant has contracted with the U.S. National Futures Association (the **NFA**) for the NFA to conduct market surveillance of its SEF trades pursuant to a Regulatory Services Agreement;
7. Fees for SEF services must be equitable and established in a uniform and non-discriminatory manner. A SEF must submit audited financial statements to the CFTC and maintain adequate financial resources to cover its operating costs for a period of at least one year, calculated on a rolling basis;
8. The Applicant proposes to offer direct access to trading on its SEF to prospective participants that are located in Ontario (**Ontario Participants**) and that satisfy the criteria in paragraph 4 above;
9. The Applicant expects that Ontario Participants will include Canadian financial institutions, registered dealers and advisers, government entities, pension funds and other well capitalized non-regulated entities that satisfy the criteria for an ECP;
10. Because the SEF regulates the conduct of its participants, it is considered by the Commission to be an exchange;
11. Since the Applicant seeks to provide Ontario Participants with direct access to trading derivatives, it is considered by the Commission to be "carrying on business as an exchange" in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
12. The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein;
13. The Applicant intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange under section 147 of the Act (**Subsequent Order**).

**AND WHEREAS** the products traded on the Applicant's SEF are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and the Applicant's activities on an ongoing basis to determine whether it is appropriate for the Order to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

**AND WHEREAS** the Applicant has acknowledged to the Commission that the scope of the Order and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the Applicant's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of the Applicant to the Commission, the Commission has determined that the granting of the Order would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, the Applicant is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order shall terminate on the earlier of (i) October 2, 2014 and (ii) the effective date of the Subsequent Order;
2. The Applicant complies with the terms and conditions contained in Schedule "A"; and
3. The Applicant shall file a full application to the Commission for the Subsequent Order by January 31, 2014.

**DATED** October 1<sup>st</sup>, 2013

"Mary G. Condon"

"James E. A. Turner"

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of the Applicant**

1. the Applicant will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
2. the Applicant will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. the Applicant will notify the Commission if its registration as a SEF has been revoked, suspended, or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. the Applicant must do everything within its control, which includes cooperating with the Commission as needed, to cause the Applicant to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. the Applicant will not provide direct access to a participant in Ontario (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States *Commodity Exchange Act*, as amended (**CEA**).
6. the Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, the Applicant will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
8. the Applicant will require Ontario Users to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User's access to the Applicant if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. the Applicant must make available to Ontario Users appropriate training for each person who has access to trade on the Applicant's facilities.

**Trading by Ontario Users**

10. the Applicant will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. the Applicant will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of the Applicant's activities in Ontario.

**Disclosure**

13. the Applicant will provide to its Ontario Users disclosure that states that:

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- (a) rights and remedies against the Applicant may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;
- (b) the rules applicable to trading on the Applicant may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) the Applicant is regulated by the CFTC, rather than the Commission.

**Filings with the CFTC**

- 14. the Applicant will promptly provide staff of the Commission copies of all rules of the Applicant, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 15. the Applicant will promptly provide staff of the Commission copies of all amendments to Applicant's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. the Applicant will promptly provide to the Commission copies of all product specifications and amended product specification specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 17. the Applicant will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of the Applicant;
  - (c) details of any material legal proceeding instituted against the Applicant;
  - (d) notification that the Applicant has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

**Prompt Notice or Filing**

- 18. the Applicant will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of the Applicant;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for the Applicant;
  - (b) any change in the Applicant regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby the Applicant is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the Commodity Exchange Act or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, the Applicant by the CFTC or any other regulatory authority to which it is subject;

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- (e) any matter known to the Applicant that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and
  - (f) any default, insolvency, or bankruptcy of the Applicant participant known to the Applicant or its representatives that may have a material, adverse impact upon the Applicant, a clearing agency or any Ontario Participant.
19. the Applicant will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding the Applicant once issued as final by the CFTC.

### Quarterly Reporting

20. the Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by the Applicant, or, to the best of Applicant's knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on the Applicant;
  - (c) a list of all investigations by the Applicant relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on the Applicant conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

### Annual Reporting

21. the Applicant will arrange to have the annual report and annual audited financial statements of the Applicant filed with the Commission promptly after their issuance.
22. the Applicant will arrange to have the annual "Service Organization Controls 1" report prepared for the Applicant filed with the Commission promptly after the report is issued as final by its independent auditor.

### Information Sharing

23. the Applicant will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

2.2.14 TeraExchange, LLC – s. 147

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
TERAEXCHANGE, LLC**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** TeraExchange, LLC (**Applicant**) has filed an application dated September 20, 2013 (**Application**) with the Ontario Securities Commission (**Commission**) requesting an interim order pursuant to section 147 of the Act exempting **Applicant** from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Exchange Relief**);

**AND WHEREAS** Applicant has represented to the Commission that:

- 1.1 Applicant is organized as a limited liability company under the laws of the State of Delaware and is a wholly-owned subsidiary of Tera Group Inc., a corporation organized under the laws of the State of Delaware;
- 1.2 Applicant operates an electronic trading facility for swaps and certain other clearable derivatives, including interest rate swaps, credit default swap indices and foreign exchange derivatives consisting of cash-settled forward and non-deliverable forwards;
- 1.3 Applicant's core electronic trading facility consists of a central limit order book for participants to enter live, executable orders on an anonymous basis;
- 1.4 In the United States, Applicant operates under the jurisdiction of the Commodity Futures Trading Commission (**CFTC**) and has obtained temporary registration with the CFTC to operate a swap execution facility (**SEF**);
- 1.5 Applicant is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace;
- 1.6 Applicant has retained the National Futures Association as regulatory services provider;
- 1.7 Because Applicant regulates the conduct of its participants, it is considered by the Commission to be an exchange;
- 1.8 If Applicant has participants located in Ontario, it will be considered by the Commission to be carrying on business as an exchange in Ontario and will be required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
- 1.9 Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above; and
- 1.10 Applicant intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange pursuant to section 147 of the Act (**Subsequent Order**);



**AND WHEREAS** the products traded on Applicant are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and Applicant's activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

**AND WHEREAS** Applicant has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or Applicant's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of Applicant to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, Applicant is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order terminates on the earlier of (i) October 2, 2014 and (ii) the effective date of the Subsequent Order;
2. Applicant complies with the terms and conditions contained in Schedule "A" and
3. Applicant files a full application to the Commission for the Subsequent Order by January 31, 2014

**DATED** October 1<sup>st</sup>, 2013.

"James E. A. Turner"

"Mary G. Condon"

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of Applicant**

1. Applicant will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
2. Applicant will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. Applicant will notify the Commission if its registration as a SEF has been revoked, suspended, or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. Applicant must do everything within its control, which includes cooperating with the Commission as needed, to cause Applicant to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. Applicant will not provide direct access to a participant in Ontario (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States *Commodity Exchange Act*, as amended (**CEA**).
6. Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, Applicant will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
8. Applicant will require Ontario Users to notify Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, Applicant will promptly restrict the Ontario User's access to Applicant if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. Applicant must make available to Ontario Users appropriate training for each person who has access to trade on Applicant's facilities.

**Trading by Ontario Users**

10. Applicant will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of Applicant in Ontario, Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. Applicant will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of Applicant's activities in Ontario.

**Disclosure**

13. Applicant will provide to its Ontario Users disclosure that states that:

## Decisions, Orders and Rulings

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- (a) rights and remedies against Applicant may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;
- (b) the rules applicable to trading on Applicant may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) Applicant is regulated by the CFTC, rather than the Commission.

### Filings with the CFTC

- 14. Applicant will promptly provide staff of the Commission copies of all rules of Applicant, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 15. Applicant will promptly provide staff of the Commission copies of all amendments to Applicant's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. Applicant will promptly provide to the Commission copies of all product specifications and amended product specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 17. Applicant will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of Applicant;
  - (c) details of any material legal proceeding instituted against Applicant;
  - (d) notification that Applicant has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate Applicant or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

### Prompt Notice or Filing

- 18. Applicant will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of Applicant;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for Applicant;
  - (b) any change in Applicant regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby Applicant is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the Commodity Exchange Act or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, Applicant by the CFTC or any other regulatory authority to which it is subject;
  - (e) any matter known to Applicant that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and

- (f) any default, insolvency, or bankruptcy of Applicant participant known to Applicant or its representatives that may have a material, adverse impact upon Applicant, a clearing agency or any Ontario Participant.
19. Applicant will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding Applicant once issued as final by the CFTC.

**Quarterly Reporting**

20. Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by Applicant, or, to the best of Applicant's knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on Applicant;
  - (c) a list of all investigations by Applicant relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to Applicant during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on Applicant conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

**Annual Reporting**

21. Applicant will arrange to have the annual report and annual audited financial statements of Applicant filed with the Commission promptly after their issuance.
22. Applicant will arrange to have the annual "Service Organization Controls 1" report prepared for Applicant filed with the Commission promptly after the report is issued as final by its independent auditor.

**Information Sharing**

23. Applicant will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

2.2.15 ICE SWAP TRADE, LLC – s. 147

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
ICE SWAP TRADE, LLC**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** ICE SWAP TRADE LLC (the **Applicant**) has filed an application dated September 19, 2013 (**Application**) with the Ontario Securities Commission (**Commission**) pursuant to section 147 of the Act requesting an interim order exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Order**);

**AND WHEREAS** the Applicant has represented to the Commission that:

1. The Applicant is a limited liability company organized under the laws of the State of Delaware in the United States (**U.S.**) and is a wholly owned subsidiary of IntercontinentalExchange Inc., a company listed on the New York Stock Exchange;
2. On September 20, 2013, the U.S. Commodity Futures Trading Commission (the **CFTC**), a U.S. federal regulatory agency, granted the Applicant temporary registration to operate a swap execution facility (**SEF**) in the U.S. The Applicant intends to launch its SEF on September 30, 2013;
3. The Applicant's SEF will be a marketplace for trading swaps that are regulated by the CFTC. The Applicant currently intends to offer trading in commodity swaps and in index and single name credit default swaps. The Applicant's SEF will enable participants to engage in swap transactions through an order book and will also enable participants to engage in swap transactions through a request for quote system.
4. Swaps that require clearing will initially be cleared at ICE Clear Credit, LLC or ICE Clear Europe Limited. Both clearing houses are registered as derivatives clearing organizations with the CFTC. ICE Clear Credit, LLC operates under an exemption from recognition as a clearing agency in Ontario and ICE Clear Europe Limited is a recognized clearing house under the U.K. Financial Services and Markets Act 2000 and is regulated by the Bank of England;
5. The Applicant will require its participants, including any participants located in Ontario, to qualify as "eligible contract participants" (**ECP**), as defined in section 1a(18) of the U.S. *Commodity Exchange Act* (the **CEA**). Also, participants must either be a clearing member of one of the clearing houses mentioned in paragraph 4 above or have a relationship with a registered futures commission merchant who is a clearing member of one those clearing houses. At the time of launch, it is expected that most SEF participants will be banks, registered dealers and advisers and other large financial institutions. However, any entity that meets the ECP definition and has an acceptable clearing arrangement in place could be a member of the SEF;
6. The Applicant is subject to regulatory supervision by the CFTC. The CEA requires a SEF to register with the CFTC and to comply with fifteen "Core Principles". The CFTC has adopted comprehensive regulations addressing specific requirements for compliance with the fifteen Core Principles. Among other things, the Core Principles and CFTC Regulations require SEFs to have a rulebook and a compliance program, including a Chief Compliance Officer and a compliance manual. A SEF's participant access criteria must be impartial and transparent and must be applied in a fair and non-discriminatory manner. The CFTC requires each SEF to have certain required trading protocols. A SEF must

publish on its website certain daily trading data for each swap contract listed on the SEF and must report all transactions executed on the SEF to a swap data repository. The CFTC reviews, assesses and enforces a SEF's adherence to CFTC regulations on an ongoing basis;

7. A SEF is a self-regulatory organization under CFTC rules. A SEF is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace. The Applicant has contracted with ICE Futures U.S. to provide market surveillance and regulatory services for trades in commodity swaps pursuant to a Regulatory Services Agreement;
8. Fees for SEF services must be equitable and established in a uniform and non-discriminatory manner. A SEF must submit audited financial statements to the CFTC and maintain adequate financial resources to cover its operating costs for a period of at least one year, calculated on a rolling basis;
9. The Applicant proposes to offer direct access to trading on its SEF to prospective participants that are located in Ontario (**Ontario Participants**) and that satisfy the Applicant's participant criteria, as described in paragraph 5 above;
10. The Applicant expects that Ontario Participants will include Canadian financial institutions, registered dealers and advisers, government entities, pension funds and other well capitalized non-regulated entities that satisfy the criteria for an ECP;
11. Because the SEF regulates the conduct of its participants, it is considered by the Commission to be an exchange;
12. The Applicant seeks to provide Ontario Participants with direct access to trading derivatives. Therefore, it is considered by the Commission to be "carrying on business as an exchange" in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
13. The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein;
14. The Applicant intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange under section 147 of the Act (**Subsequent Order**).

**AND WHEREAS** the products traded on the Applicant's SEF are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and the Applicant's activities on an ongoing basis to determine whether it is appropriate for the Order to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

**AND WHEREAS** the Applicant has acknowledged to the Commission that the scope of the Order and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the Applicant's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of the Applicant to the Commission, the Commission has determined that the granting of the Order would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, the Applicant is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order shall terminate on the earlier of (i) September 30, 2014 and (ii) the effective date of the Subsequent Order;
2. The Applicant complies with the terms and conditions contained in Schedule "A"; and
3. The Applicant shall file a full application to the Commission for the Subsequent Order by January 31, 2014.

**DATED** October 1<sup>st</sup>, 2013

“Mary G. Condon”

“James E. A. Turner”

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of the Applicant**

1. the Applicant will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
2. the Applicant will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. the Applicant will notify the Commission if its registration as a SEF has been revoked, suspended, or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. the Applicant must do everything within its control, which includes cooperating with the Commission as needed, to cause the Applicant to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. the Applicant will not provide direct access to a participant in Ontario (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States *Commodity Exchange Act*, as amended (**CEA**).
6. the Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, the Applicant will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
8. the Applicant will require Ontario Users to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User's access to the Applicant if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. the Applicant must make available to Ontario Users appropriate training for each person who has access to trade on the Applicant's facilities.

**Trading by Ontario Users**

10. the Applicant will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. the Applicant will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of the Applicant's activities in Ontario.

**Disclosure**

13. the Applicant will provide to its Ontario Users disclosure that states that:



## Decisions, Orders and Rulings

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- (a) rights and remedies against the Applicant may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;
- (b) the rules applicable to trading on the Applicant may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) the Applicant is regulated by the CFTC, rather than the Commission.

### Filings with the CFTC

- 14. the Applicant will promptly provide staff of the Commission copies of all rules of the Applicant, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval of rules.
- 15. the Applicant will promptly provide staff of the Commission copies of all amendments to Applicant's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. the Applicant will promptly provide to the Commission copies of all product specifications and amended product specification specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval of product specifications.
- 17. the Applicant will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Chief Compliance Officer report regarding the Applicant's compliance with the CEA and CFTC regulations adopted thereunder;
  - (b) the annual unaudited financial statements of the Applicant;
  - (c) details of any material legal proceeding instituted against the Applicant;
  - (d) notification that the Applicant has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

### Prompt Notice or Filing

- 18. the Applicant will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of the Applicant;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for the Applicant;
  - (b) any change in the Applicant regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby the Applicant is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the *Commodity Exchange Act* or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, the Applicant by the CFTC or any other regulatory authority to which it is subject;

## Decisions, Orders and Rulings

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- (e) any matter known to the Applicant that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and
  - (f) any default, insolvency, or bankruptcy of the Applicant participant known to the Applicant or its representatives that may have a material, adverse impact upon the Applicant, a clearing agency or any Ontario Participant.
19. the Applicant will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding the Applicant once issued as final by the CFTC.

### Quarterly Reporting

20. the Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by the Applicant, or, to the best of Applicant's knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on the Applicant;
  - (c) a list of all investigations by the Applicant relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on the Applicant conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

### Annual Reporting

21. the Applicant will arrange to have the annual report and annual audited financial statements of the Applicant filed with the Commission promptly after their issuance.
22. the Applicant will arrange to have the annual "Service Organization Controls 1" report prepared for the Applicant filed with the Commission promptly after the report is issued as final by its independent auditor.

### Information Sharing

23. the Applicant will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

2.2.16 Thomson Reuters (SEF) LLC – s. 147

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
THOMSON REUTERS (SEF) LLC**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** Thomson Reuters (SEF) LLC (**TR SEF**) has filed an application dated September 16, 2013 (**Application**) with the Ontario Securities Commission (**Commission**) requesting an interim order pursuant to section 147 of the Act exempting TR SEF from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Exchange Relief**);

**AND WHEREAS** TR SEF has represented to the Commission that:

- 1.1 TR SEF is an indirect wholly-owned subsidiary of Thomson Reuters Corporation. TR SEF was established to provide an appropriate SEF platform for the execution of foreign exchange non-deliverable forwards (“**NDFs**”) and foreign exchange options, two kinds of instruments that are classified as swaps under Title VII of the *Dodd-Frank Act* (the “**DFA**”), and are subject to the requirement of trading on a registered SEF.
- 1.2 TR SEF’s trading platform contains an SEF Central Limit Order Book, an SEF Request for Quote Platform and an SEF Request for Stream Platform.
- 1.3 Assuming the requested relief is granted, TR SEF will be available to Ontario participants on October 2, 2013, the date on which TR SEF will become a recognized SEF with respect to foreign exchange NDF trades and foreign exchange option trades that are executed by eligible contract participants (“**Participants**”) covered by the DFA. TR SEF will offer both order book and RFQ/RFS functionality for these instruments by using the FX Alliance (“**FXall**”) system. FXall and TR SEF are sister companies.
- 1.4 In the United States, TR SEF operates under the jurisdiction of the Commodity Futures Trading Commission (**CFTC**) and has obtained temporary registration with the CFTC to operate a swap execution facility (**SEF**);
- 1.5 TR SEF is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace and has retained the National Futures Association as a regulation services provider;
- 1.6 TR SEF has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above; and
- 1.7 TR SEF intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange pursuant to section 147 of the Act (**Subsequent Order**);

**AND WHEREAS** because TR SEF regulates the conduct of its participants, it is considered by the Commission to be an exchange;

**AND WHEREAS** because TR SEF has participants located in Ontario, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;

**AND WHEREAS** the products traded on TR SEF are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and TR SEF is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and TR SEF's activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

**AND WHEREAS** TR SEF has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or TR SEF's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of TR SEF to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, TR SEF is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order terminates on the earlier of (i) October 2, 2014 and (ii) the effective date of the Subsequent Order;
2. TR SEF complies with the terms and conditions contained in Schedule "A"; and
3. TR SEF shall file a full application to the Commission for the Subsequent Order by January 31, 2014.

**DATED** October 1<sup>st</sup>, 2013.

"Mary G. Condon"

"James E. A. Turner"

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of TR SEF**

1. TR SEF will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
2. TR SEF will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. TR SEF will notify the Commission if its registration as a SEF has been revoked, suspended or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. TR SEF will do everything within its control, including cooperating with the Commission as needed, to carry out in compliance with Ontario Securities laws, its activities as an exchange exempted by order from recognition under subsection 21(1) of the Act.

**Access**

5. TR SEF will not provide direct access to a participant in Ontario ("**Ontario User**") unless the Ontario User is appropriately registered as applicable under Ontario securities law or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States *Commodity Exchange Act*, as amended ("**CEA**").
6. TR SEF may rely, acting reasonably, on a written representation from the Ontario User that specifies that it is appropriately registered as applicable under Ontario securities law or is exempt from or not subject to those requirements and qualifies as an eligible contract participant under the CEA.
7. For each Ontario User provided direct access to its SEF, TR SEF will require as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities law or is exempt from or not subject to those requirements and qualifies as an eligible contract participant under the CEA.
8. TR SEF will require Ontario Users to notify TR SEF if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, TR SEF will promptly restrict the Ontario User's access to TR SEF if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. TR SEF must make available to Ontario Users appropriate training for each person who has access to trade on TR SEF's facilities.

**Trading by Ontario Users**

10. TR SEF will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of TR SEF in Ontario, TR SEF will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. TR SEF will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of TR SEF's activities in Ontario.

**Disclosure**

13. TR SEF will provide to its Ontario Users disclosure that states that:

## Decisions, Orders and Rulings

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- (a) rights and remedies against TR SEF may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;
- (b) the rules applicable to trading on TR SEF may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) TR SEF is regulated by the CFTC, rather than the Commission.

### Filings with the CFTC

- 14. TR SEF will promptly provide staff of the Commission copies of all rules of TR SEF, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 15. TR SEF will promptly provide staff of the Commission copies of all amendments to TR SEF's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. TR SEF will promptly provide to the Commission copies of all product specifications and amended product specification specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 17. TR SEF will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of TR SEF;
  - (c) details of any material legal proceeding instituted against TR SEF;
  - (d) notification that TR SEF has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate TR SEF or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

### Prompt Notice or Filing

- 18. TR SEF will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of TR SEF;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for TR SEF;
  - (b) any change in TR SEF regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby TR SEF is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the *Commodity Exchange Act* or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, TR SEF by the CFTC or any other regulatory authority to which it is subject;
  - (e) any matter known to TR SEF that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and

- (f) any default, insolvency, or bankruptcy of TR SEF participant known to TR SEF or its representatives that may have a material, adverse impact upon TR SEF, a clearing agency or any Ontario Participant.
19. TR SEF will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding TR SEF once issued as final by the CFTC.

**Quarterly Reporting**

20. TR SEF will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by TR SEF, or, to the best of TR SEF's knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on TR SEF;
  - (c) a list of all investigations by TR SEF relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to TR SEF during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on TR SEF conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

**Annual Reporting**

21. TR SEF will arrange to have the annual report and annual audited financial statements of TR SEF filed with the Commission promptly after their issuance.
22. TR SEF will arrange to have the annual "Service Organization Controls 1" report prepared for TR SEF filed with the Commission promptly after the report is issued as final by its independent auditor.

**Information Sharing**

23. TR SEF will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

2.2.17 tpSEF Inc. – s. 147

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
tpSEF Inc.**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** tpSEF Inc. (“**tpSEF**”) has filed an application dated September 30, 2013 (**Application**) with the Ontario Securities Commission (**Commission**) requesting an interim order pursuant to section 147 of the Act exempting tpSEF from the requirement to be recognized as an exchange under subsection 21(1) of the Act (**Exchange Relief**);

**AND WHEREAS** tpSEF has represented to the Commission that:

- 1.1 tpSEF is a corporation organized and existing under and by virtue of the provisions of the General Corporate Law of the State of Delaware with a principal place of business located 101 Hudson Street, Jersey City, NJ 07302; and tpSEF will provide execution services for swap transactions, including interest rate swaps, credit swaps, foreign exchange swaps, commodity swaps and equity swaps;
- 1.2 tpSEF is a wholly-owned subsidiary of Tullett Prebon Americas Corp. (“**TPAC**”). TPAC is a 75% owned subsidiary of Tullett Prebon (No. 1) (“**TP No. 1**”) and a 25% owned subsidiary of Tullett Prebon (Americas) Holdings Inc. (“**TPAHI**”). TP No. 1 is a 100% owned subsidiary of TPAHI, which is a 100% wholly-owned indirect subsidiary of Tullett Prebon plc, the ultimate parent company and a United Kingdom public company;
- 1.3 In the United States, tpSEF operates under the jurisdiction of the Commodity Futures Trading Commission (**CFTC**) (add any other regulator having jurisdiction) and has obtained (temporary) registration with the CFTC to operate a swap execution facility (**SEF**) (add any other registrations/recognitions or exemptions);
- 1.4 tpSEF is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace;
- 1.5 Because tpSEF regulates the conduct of its participants, it is considered by the Commission to be an exchange;
- 1.6 tpSEF has entered into a Regulatory Services Agreement with the National Futures Association to perform a number of regulatory services including, among other things, trading monitoring and surveillance;
- 1.7 tpSEF will provide an execution venue that will enable its participants to execute swaps in a full range of asset classes. tpSEF will provide execution services for interest rate swaps, credit swaps, foreign exchange swaps, commodity swaps and equity swaps. tpSEF will offer participants various methods for order execution including an order book and request for quote system;
- 1.8 tpSEF has entered into a clearing arrangement with LCH Clearent Limited;
- 1.9 Because tpSEF has participants located in Ontario, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;



- 1.10 tpSEF has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above; and
- 1.11 tpSEF intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange pursuant to section 147 of the Act (**Subsequent Order**);

**AND WHEREAS** the products traded on tpSEF are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and tpSEF is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and tpSEF's activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

**AND WHEREAS** tpSEF has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or tpSEF's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of tpSEF to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, tpSEF is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order terminates on the earlier of (i) October 2, 2014 and (ii) the effective date of the Subsequent Order;
2. tpSEF complies with the terms and conditions contained in Schedule "A."; and
3. tpSEF shall file a full application to the Commission for the Subsequent Order by January 31, 2014.

**DATED** October 1<sup>st</sup>, 2013.

"James E. A. Turner"

"Mary G. Condon"

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of tpSEF**

1. tpSEF will maintain its registration as a swap execution facility (**SEF**) with the Commodity Futures Trading Commission (**CFTC**) and will continue to be subject to the regulatory oversight of the CFTC.
2. tpSEF will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. tpSEF will notify the Commission if its registration as a SEF has been revoked, suspended, or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. tpSEF must do everything within its control, which includes cooperating with the Commission as needed, to cause tpSEF to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. tpSEF will not provide direct access to a participant in Ontario (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the United States *Commodity Exchange Act*, as amended (**CEA**).
6. tpSEF may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, tpSEF will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
8. tpSEF will require Ontario Users to notify tpSEF if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, tpSEF will promptly restrict the Ontario User's access to tpSEF if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. tpSEF must make available to Ontario Users appropriate training for each person who has access to trade on tpSEF's facilities.

**Trading by Ontario Users**

10. tpSEF will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of tpSEF in Ontario, tpSEF will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. tpSEF will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of tpSEF's activities in Ontario.

**Disclosure**

13. tpSEF will provide to its Ontario Users disclosure that states that:
  - (a) rights and remedies against tpSEF may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;

- (b) the rules applicable to trading on tpSEF may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) tpSEF is regulated by the CFTC, rather than the Commission.

**Filings with the CFTC**

- 14. tpSEF will promptly provide staff of the Commission copies of all rules of tpSEF, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 15. tpSEF will promptly provide staff of the Commission copies of all amendments to tpSEF's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. tpSEF will promptly provide to the Commission copies of all product specifications and amended product specification specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 17. tpSEF will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of tpSEF;
  - (c) details of any material legal proceeding instituted against tpSEF;
  - (d) notification that tpSEF has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate tpSEF or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

**Prompt Notice or Filing**

- 18. tpSEF will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of tpSEF;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for tpSEF;
  - (b) any change in tpSEF regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby tpSEF is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the *Commodity Exchange Act* or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, tpSEF by the CFTC or any other regulatory authority to which it is subject;
  - (e) any matter known to tpSEF that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and
  - (f) any default, insolvency, or bankruptcy of tpSEF participant known to tpSEF or its representatives that may have a material, adverse impact upon tpSEF, a clearing agency or any Ontario Participant.

19. tpSEF will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding tpSEF once issued as final by the CFTC.

**Quarterly Reporting**

20. tpSEF will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by tpSEF, or, to the best of tpSEF's knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on tpSEF;
  - (c) a list of all investigations by tpSEF relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to tpSEF during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on tpSEF conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

**Annual Reporting**

21. tpSEF will arrange to have the annual report and annual audited financial statements of tpSEF filed with the Commission promptly after their issuance.
22. tpSEF will arrange to have the annual "Service Organization Controls 1" report prepared for tpSEF filed with the Commission promptly after the report is issued as final by its independent auditor.

**Information Sharing**

23. tpSEF will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

2.2.18 Tradition SEF Inc. – s. 147

Headnote

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

AND

IN THE MATTER OF  
TRADITION SEF INC.

ORDER  
(Section 147 of the Act)

**WHEREAS** Tradition SEF Inc. (the “**Applicant**”) has filed an application dated September 19, 2013 (the “**Application**”) with the Ontario Securities Commission (the “**Commission**”) requesting an interim order pursuant to section 147 of the Act exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act (the “**Exchange Relief**”);

**AND WHEREAS** the Applicant has represented to the Commission that:

- 1.1 The Applicant is a corporation existing under the laws of Delaware in the United States (the “**U.S.**”) with its head office located in New York, New York, U.S.;
- 1.2 The Applicant is a wholly-owned subsidiary of Compagnie Financière Tradition SA, a public limited company existing under the laws of Switzerland and listed for trading on the SIX Swiss Exchange and the Third Market Segment of the Frankfurt Stock Exchange;
- 1.3 Together with its subsidiaries, Compagnie Financière Tradition SA (collectively, “**CFT**”) is one of the world’s largest interdealer brokers of financial products. CFT facilitates transactions between financial institutions and other professional traders in respect of money market products, bonds, interest rate, currency and credit derivatives, equities, equity derivatives, interest rate futures and index futures;
- 1.4 CFT, through the Applicant, operates several electronic trading platforms operating as separate order books, each of which serve the different market segments set out above (the “**Platform**”);
- 1.5 The Applicant proposes to offer electronic trade facilitation and execution services via the Platform to prospective participants in Ontario commencing October 2, 2013 for transactions in various swaps (as such term is defined in *The Dodd-Frank Wall Street Reform and Consumer Protection Act* (U.S.) (the “**Dodd-Frank Act**”), including, but not limited to, Canadian dollar interest rate swaps, U.S. dollar interest rate swaps, foreign exchange derivatives (foreign exchange options, non-deliverable forwards, foreign exchange swaps) in various currencies, equity derivatives, credit derivatives, and commodity and energy derivatives (collectively, the “**offered services**”);
- 1.6 In the U.S., its home jurisdiction, the Applicant operates under the jurisdiction of the U.S. Commodity Futures Trading Commission (the “**CFTC**”) and has applied for (temporary) registration with the CFTC to operate a SEF, which registration was granted as of September 25, 2013;
- 1.7 Pursuant to the final rulemaking governing SEFs (the “**SEF Rules**”), the Applicant is obliged to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace;

- 1.8 As the Applicant regulates the conduct of its participants, it is considered by the Commission to be an exchange, and as the Applicant has participants located in Ontario, it is considered by the Commission to be carrying on business as an exchange in Ontario and is therefore required to be recognized as such or exempted from recognition pursuant to Section 21 of the Act;
- 1.9 The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above;
- 1.10 The Applicant intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange pursuant to Section 147 of the Act (the "**Subsequent Order**");

**AND WHEREAS** the products traded on the Platform are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

**AND WHEREAS** the Commission will monitor developments in international and domestic capital markets and the Applicant's activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

**AND WHEREAS** the Applicant has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the Applicant's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

**AND WHEREAS** based on the Application, together with the representations made by and acknowledgements of the Applicant to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

**IT IS HEREBY ORDERED** by the Commission that, pursuant to Section 147 of the Act, the Applicant is exempt on an interim basis from recognition as an exchange under Subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order terminates on the earlier of (i) October 2, 2014 and (ii) the effective date of the Subsequent Order;
2. The Applicant complies with the terms and conditions contained in Schedule "A"; and
3. The Applicant shall file a full application to the Commission for the Subsequent Order by January 31, 2014.

**DATED** October 1<sup>st</sup>, 2013.

"Mary G. Condon"

"James E. A. Turner"

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of the Applicant**

1. The Applicant will maintain its registration as a swap execution facility (a "**SEF**") with the United States (the "**U.S.**") Commodity Futures Trading Commission ("**CFTC**") and will continue to be subject to the regulatory oversight of the CFTC.
2. The Applicant will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. The Applicant will notify the Commission if its registration as a SEF has been revoked, suspended or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. The Applicant must do everything within its control, which includes cooperating with the Commission as needed, to cause the Platform to carry out its activities as an exchange exempted from recognition under Subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. The Applicant will not provide direct access to a participant in Ontario (an "**Ontario User**") unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an "eligible contract participant" under the *United States Commodity Exchange Act*, as amended ("**CEA**").
6. The Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, the Applicant will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or is not subject to those requirements.
8. The Applicant will require Ontario Users to notify the Applicant if their registration under Ontario securities laws has been revoked, suspended, or amended by the Commission, if they are no longer exempt from or become subject to those requirements, and following such notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User's access to the Applicant if the Ontario User is no longer appropriately registered or exempt from or becomes subject to those requirements.
9. The Applicant must make available to Ontario Users appropriate training for each person who has access to trade on the Applicant's facilities.

**Trading by Ontario Users**

10. The Applicant will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. The Applicant will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of the Applicant's activities in Ontario.

**Disclosure**

13. The Applicant will provide to its Ontario Users disclosure that states that:
- (a) rights and remedies against the Applicant may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;
  - (b) the rules applicable to trading on the Applicant may be governed by the laws of the U.S., rather than the laws of Ontario; and
  - (c) the Applicant is regulated by the CFTC, rather than the Commission.

**Filings with the CFTC**

14. The Applicant will promptly provide staff of the Commission copies of all rules of the Applicant, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
15. The Applicant will promptly provide staff of the Commission copies of all amendments to the Applicant's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
16. The Applicant will promptly provide to the Commission copies of all product specifications and amended product specification specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
17. The Applicant will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
- (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of the Applicant;
  - (c) details of any material legal proceeding instituted against the Applicant;
  - (d) notification that the Applicant has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

**Prompt Notice or Filing**

18. The Applicant will promptly notify staff of the Commission of any of the following:
- (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of the Applicant;
    - (iii) the access model, including eligibility criteria, for Ontario Users;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for the Applicant;
  - (b) any change in the Applicant's regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby the Applicant is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the CEA or CFTC regulations;



## Decisions, Orders and Rulings

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- (d) any known investigations of, or disciplinary action against, the Applicant by the CFTC or any other regulatory authority to which it is subject;
  - (e) any matter known to the Applicant that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and
  - (f) any default, insolvency, or bankruptcy of the Applicant, participant known to the Applicant or its representatives that may have a material, adverse impact upon the Applicant, a clearing agency or any Ontario User.
19. The Applicant will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding the Applicant once issued as final by the CFTC.

### Quarterly Reporting

20. The Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by the Applicant, or, to the best of Applicant's knowledge, by the CFTC or U.S. Securities and Exchange Commission with respect to such Ontario Users' activities on the Platform;
  - (c) a list of all investigations by the Applicant relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on the Applicant conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

### Annual Reporting

21. The Applicant will arrange to have the annual report and annual audited financial statements of the Applicant filed with the Commission promptly after their issuance.
22. The Applicant will arrange to have the annual "Service Organization Controls 1" report prepared for the Applicant filed with the Commission promptly after the report is issued as final by its independent auditor.

### Information Sharing

23. The Applicant will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

2.2.19 TW SEF LLC – s. 147

**Headnote**

Application for an order that a swap execution facility registered with the United States Commodity Futures Trading Commission is exempt from the requirement to register as an exchange in Ontario – requested order granted.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

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

**AND**

**IN THE MATTER OF  
TW SEF LLC**

**ORDER  
(Section 147 of the Act)**

**WHEREAS** TW SEF LLC (“**TW SEF**”) has filed an application dated September 18, 2013 (the “**Application**”) with the Ontario Securities Commission (the “**Commission**”) requesting an interim order pursuant to section 147 of the Act exempting TW SEF from the requirement to be recognized as an exchange under subsection 21(1) of the Act (the “**Exchange Relief**”); and

**WHEREAS** TW SEF has represented to the Commission that:

- a. TW SEF is a Delaware-organized limited liability company that is an indirect wholly-owned subsidiary of Tradeweb Markets LLC;
- b. TW SEF provides an electronic platform for trading interest rate swaps and credit default swap indices that operates as a disclosed request-based market;
- c. In the United States, TW SEF operates under the jurisdiction of the Commodity Futures Trading Commission (the “**CFTC**”) and has obtained (temporary) registration with the CFTC to operate a swap execution facility (a “**SEF**”);
- d. TW SEF is obliged under CFTC rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and to discipline participants, including by means other than exclusion from the marketplace, and TW SEF has retained the National Futures Association as a regulatory services provider;
- e. Because TW SEF regulates the conduct of its participants, it is considered by the Commission to be an exchange;
- f. In the event that TW SEF has participants located in Ontario, it would be considered by the Commission to be carrying on business as an exchange in Ontario and would be required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
- g. TW SEF has no physical presence in Ontario and does not otherwise carry on business in Ontario, except as described above; and
- h. TW SEF intends to file a full application to the Commission for a subsequent order exempting it from the requirement to be recognized as an exchange pursuant to section 147 of the Act (a “**Subsequent Order**”); and

**WHEREAS** the products traded on TW SEF are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario), and TW SEF is not considered to be carrying on business as a commodity futures exchange in Ontario; and

**WHEREAS** the Commission will monitor developments in international and domestic capital markets and TW SEF’s activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule “A” to this order; and

**WHEREAS** TW SEF has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or TW SEF's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities; and

**WHEREAS** based on the Application, together with the representations made by and acknowledgements of TW SEF to the Commission, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest,

**IT IS HEREBY ORDERED** by the Commission that, pursuant to section 147 of the Act, TW SEF is exempt on an interim basis from recognition as an exchange under subsection 21(1) of the Act,

**PROVIDED THAT:**

1. This Order terminates on the earlier of (i) October 2, 2014, and (ii) the effective date of the Subsequent Order;
2. TW SEF complies with the terms and conditions contained in Schedule "A;" and
3. TW SEF shall file a full application to the Commission for the Subsequent Order by January 1, 2014.

**DATED:** October 1<sup>st</sup>, 2013.

"Mary G. Condon"

James E. A. Turner"

**SCHEDULE "A"**

**TERMS AND CONDITIONS**

**Regulation and Oversight of TW SEF**

1. TW SEF LLC ("**TW SEF**") will maintain its registration as a swap execution facility (a "**SEF**") with the Commodity Futures Trading Commission (the "**CFTC**") and will continue to be subject to the regulatory oversight of the CFTC.
2. TW SEF will continue to comply with the ongoing requirements applicable to it as a SEF registered with the CFTC.
3. TW SEF will notify the Commission if its registration as a SEF has been revoked, suspended, or amended by the CFTC, or the basis on which its registration as a SEF has been granted has significantly changed.
4. TW SEF must do everything within its control, which includes cooperating with the Ontario Securities Commission (the "**Commission**") as needed, to cause TW SEF to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

**Access**

5. TW SEF will not provide direct access to a participant in Ontario (an "**Ontario User**") unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an eligible contract participant under the United States Commodity Exchange Act, as amended (the "**CEA**").
6. TW SEF may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario User provided direct access to its SEF, TW SEF will require, as part of its application documentation or continued access to the SEF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or exempt from those requirements.
8. TW SEF will require Ontario Users to notify TW SEF if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, TW SEF will promptly restrict the Ontario User's access to TW SEF if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. TW SEF must make available to Ontario Users appropriate training for each person who has access to trade on TW SEF's facilities.

**Trading by Ontario Users**

10. TW SEF will not provide access to an Ontario User to trading in products other than swaps and security-based swaps, as defined in section 1a of the CEA, without prior Commission approval.

**Submission to Jurisdiction and Agent for Service**

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of TW SEF in Ontario, TW SEF will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. TW SEF will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of TW SEF's activities in Ontario.

**Disclosure**

13. TW SEF will provide to its Ontario Users disclosure that states that:

## Decisions, Orders and Rulings

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- (a) rights and remedies against TW SEF may only be governed by the laws of the U.S., rather than the laws of Ontario and may be required to be pursued in the U.S. rather than in Ontario;
- (b) the rules applicable to trading on TW SEF may be governed by the laws of the U.S., rather than the laws of Ontario; and
- (c) TW SEF is regulated by the CFTC, rather than the Commission.

### Filings with the CFTC

- 14. TW SEF will promptly provide staff of the Commission copies of all rules of TW SEF, and amendments to those rules, that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 15. TW SEF will promptly provide staff of the Commission copies of all amendments to TW SEF's Form SEF (including Exhibits to Form SEF) that it files with the CFTC.
- 16. TW SEF will promptly provide to the Commission copies of all product specifications and amended product specifications that it files with the CFTC under the regulations pertaining to self-certification and/or approval.
- 17. TW SEF will promptly provide staff of the Commission the following information to the extent it is required to provide to or file such information with the CFTC:
  - (a) the annual Board of Directors' report regarding the activities of the board and its committees;
  - (b) the annual unaudited financial statements of TW SEF;
  - (c) details of any material legal proceeding instituted against TW SEF;
  - (d) notification that TW SEF has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate TW SEF or has a proceeding for any such petition instituted against it; and
  - (e) the appointment of a receiver or the making of any voluntary arrangement with creditors.

### Prompt Notice or Filing

- 18. TW SEF will promptly notify staff of the Commission of any of the following:
  - (a) any material change to its business or operations or the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC;
    - (ii) the corporate governance structure of TW SEF;
    - (iii) the access model, including eligibility criteria, for Ontario Participants;
    - (iv) systems and technology; and
    - (v) the clearing and settlement arrangements for TW SEF;
  - (b) any change in TW SEF regulations or the laws, rules and regulations in the U.S. relevant to futures and options where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this schedule;
  - (c) any condition or change in circumstances whereby TW SEF is unable or anticipates it will not be able to continue to meet the SEF Core Principles established by the CFTC or any other applicable requirements of the Commodity Exchange Act or CFTC regulations;
  - (d) any known investigations of, or disciplinary action against, TW SEF by the CFTC or any other regulatory authority to which it is subject;
  - (e) any matter known to TW SEF that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and

- (f) any default, insolvency, or bankruptcy of TW SEF participant known to TW SEF or its representatives that may have a material, adverse impact upon TW SEF, a clearing agency or any Ontario Participant.
19. TW SEF will promptly file with staff of the Commission copies of any Rule Enforcement Review report regarding TW SEF once issued as final by the CFTC.

**Quarterly Reporting**

20. TW SEF will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users;
  - (b) a list of all Ontario Users against whom disciplinary action has been taken in the last quarter by TW SEF, or, to the best of TW SEF's knowledge, by the CFTC or SEC with respect to such Ontario Users' activities on TW SEF;
  - (c) a list of all investigations by TW SEF relating to Ontario Users;
  - (d) a list of all Ontario applicants for status as a participant who were denied such status or access to TW SEF during the quarter, together with the reasons for each such denial;
  - (e) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;
  - (f) for each product,
    - (i) the total trading volume and value originating from Ontario Users, presented on a per Ontario User basis, and
    - (ii) the proportion of worldwide trading volume and value on TW SEF conducted by Ontario Users, presented in the aggregate for such Ontario Users; and
  - (g) a list outlining each incident of a material systems failure, malfunction or delay that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

**Annual Reporting**

21. TW SEF will arrange to have the annual report and annual audited financial statements of TW SEF filed with the Commission promptly after their issuance.
22. TW SEF will arrange to have the annual "Service Organization Controls 1" report prepared for TW SEF filed with the Commission promptly after the report is issued as final by its independent auditor.

**Information Sharing**

23. TW SEF will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

## Chapter 3

# Reasons: Decisions, Orders and Rulings

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### 3.1 OSC Decisions, Orders and Rulings

#### 3.1.1 FCPF Corporation (formerly known as Redev Corporation) and Richard Crenian

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

AND

IN THE MATTER OF  
THE REGISTRATION OF  
FCPF CORPORATION (FORMERLY REDEV CORPORATION) and  
RICHARD CRENIAN

#### SETTLEMENT AGREEMENT

#### Introduction

1. This settlement agreement (the **Settlement Agreement**) relates to the registration status under the *Securities Act* (Ontario) (the **Act**) of FCPF Corporation (**FCPF**) (formerly known as Redev Corporation) (**Redev**) and Richard Crenian (**Crenian**) (collectively, the **Registrants**).

#### Agreed Statement of Facts

2. Staff of the Ontario Securities Commission (**Staff of the OSC**) and the Registrants agree to the facts as stated herein.

#### The Registrants

3. FCPF is registered under the Act as an exempt market dealer. FCPF offers for sale securities of related-party issuers that carry on the business of real estate development in Alberta and elsewhere.
4. FCPF first became registered as a limited market dealer on April 25, 2006. At the time of its initial registration, FCPF was known as Redev. On March 7, 2013, Redev notified Staff that it had changed its name to FCPF effective January 31, 2013.
5. FCPF's registration was transitioned to the category of exempt market dealer on September 28, 2009.
6. Crenian has been registered with FCPF as follows:
  - (a) Designated compliance officer: April 25, 2006 to September 28, 2009;
  - (b) Chief compliance officer: January 25, 2010 to January 10, 2011; and
  - (c) Ultimate designated person: January 25, 2010 to February 3, 2011, and July 4, 2011 to the present.
7. At the time Crenian became registered as FCPF's chief compliance officer, he did not meet the proficiency requirements for that position as set out in National Instrument 31-103 – *Registration Requirements, Exemptions, and Ongoing Registrant Obligations* (**NI 31-103**).
8. The transition provisions of NI 31-103 permitted Crenian one year from September 28, 2009 within which to achieve the proficiency requirements for the chief compliance officer of an exempt market dealer. Crenian did not achieve these requirements, and accordingly on December 16, 2010, Staff recommended to the Director that the registration of FCPF be suspended pursuant to section 28 of the Act.

9. FCPF requested an opportunity to be heard (an **OTBH**) in relation to Staff's recommendation of December 16, 2010. That OTBH was settled on the basis that FCPF's registration would be suspended until such time as it appointed a properly-qualified chief compliance officer. This suspension was effective February 3, 2011.
10. FCPF's registration was reinstated effective July 4, 2011 when a chief compliance officer was appointed.

*The Compliance Review*

11. In the fall of 2012, Staff conducted a review of FCPF's compliance with Ontario securities law pursuant to section 20 of the Act (the **Compliance Review**).
12. Through the Compliance Review, Staff identified the following deficiencies in the Registrants' compliance with Ontario securities law, which the Registrants admit to:
  - (a) During the period of time that FCPF's registration was suspended in 2011, the firm traded in securities with investors DT and KH, contrary to section 25 of the Act and section 10.4 of NI 31-103. The trade to DT was conducted by AF, an individual who has never been registered under the Act. Acts in furtherance of the trade to KH were carried out during the time when FCPF's registration was suspended, and the trade was completed after FCPF's registration was reinstated.
  - (b) AF traded in securities on behalf of FCPF on at least eleven different occasions from 2005 to 2011 without being registered under the Act. These sales raised approximately \$810,000 for issuers distributed by FCPF, and AF was paid commissions totaling approximately \$56,700 for these trades.
  - (c) No know-your-client (**KYC**) information was properly recorded for any of the trades carried out by AF.
  - (d) No KYC information was collected for trades made to clients YJ, RT, or KH, which trades were made through a registered representative of FCPF.
  - (e) FCPF, through AF, sold securities in reliance on the accredited investor exemption to the prospectus requirement to the following individuals who did not qualify as accredited investors: DT, JM, TF, and NC. These investors signed subscription agreements in which they represented that they were accredited investors.
  - (f) KH invested in two issuers sold to her by FCPF, both of which were of substantially the same nature. Each investment by KH represented approximately 12.5% to 25% of her "net investible assets" (a term used in FCPF's KYC form), and on a combined basis they represented approximately 25% to 50% of her net investible assets. These trades were carried out by a registered representative of FCPF, and the firm could not demonstrate to Staff that the representative properly assessed whether these trades resulted in KH being over-concentrated in FCPF offerings, and therefore whether they were suitable for her.
13. The Compliance Review did not find any evidence that FCPF clients had suffered monetary loss as a result of the Registrants' breaches of Ontario securities law.

*Staff Recommends Suspension of Registration*

14. On January 2, 2013, Staff sent a report to FCPF setting out its findings from the Compliance Review.
15. Also on January 2, 2013, Staff sent a letter to the Registrants informing them that Staff had recommended to the Director that their registrations be suspended pursuant to section 28 of the Act, and informing them of their right to request an OTBH.
16. On January 16, 2013, counsel for the Registrants notified Staff in writing that the Registrants wished to have an OTBH before the Director made a decision regarding Staff's recommendation.
17. On February 15, 2013, FCPF consented to the imposition of terms and conditions on its registration which prohibited it from trading in securities. These terms and conditions were imposed on the understanding that they would be in place pending negotiations between Staff and the Registrants to settle the OTBH.

**Admission of Non-Compliance with Ontario Securities Law**

18. On the basis of the Agreed Statement of Facts, FCPF admits that it did not effectively establish, maintain, and apply policies and procedures to establish a system of controls and supervision sufficient to provide reasonable assurance



that the firm and each individual acting on its behalf consistently complied with securities legislation and to manage the risks associated with its business in accordance with prudent business practices.

19. On the basis of the Agreed Statement of Facts, Crenian admits that he failed to properly discharge all of his obligations as designated compliance officer, ultimate designated person, and chief compliance officer under Ontario securities law.
20. The Registrants admit:
  - (a) FCPF traded in securities during a period of time when its registration was suspended, contrary to subsection 25(1) of the Act and section 10.4 of NI 31-103;
  - (b) Allan Fulton traded in securities on behalf of FCPF without being registered under the Act, contrary to subsection 25(1) of the Act;
  - (c) FCPF traded in securities where such trades were distributions of securities and where such distributions were made in reliance on exemptions to the prospectus requirement to individuals who did not qualify for such exemptions, contrary to paragraph 7.1(2)(d) of NI 31-103;
  - (d) FCPF did not take reasonable steps to ensure that it obtained the KYC information required by section 13.2 of NI 31-103 for each of its clients; and
  - (e) FCPF did not take reasonable steps to ensure that, before it made a recommendation to, or accepted an instruction from, each of its clients to buy a security, the purchase was suitable for the client, contrary to subsection 13.3 of NI 31-103.

**Joint Recommendation to Director**

21. In order to resolve the OTBH that has been requested by the Registrants, and on the basis of the Agreed Statement of Facts, the admission of non-compliance with Ontario securities law, and the undertakings set out in this Settlement Agreement, Staff and the Registrants (the **Parties**) have agreed to the following terms, and make the following joint recommendation to the Director:
  - (a) The registration of FCPF shall be revoked pursuant to section 28 of the Act;
  - (b) The registration of Crenian as an ultimate designated person shall be suspended pursuant to section 28 of the Act, and he may apply for a reactivation of registration after a period of eight years from February 15, 2013 (*i.e.*, the date that terms and conditions were imposed on the registration of FCPF prohibiting it from trading in securities). If Crenian applies for a reactivation of registration as an ultimate designated person, the conduct giving rise to this Settlement Agreement may be considered by Staff in assessing his suitability for registration, together with any other relevant consideration;
  - (c) Crenian undertakes that he will not apply for registration as the chief compliance officer of a registered firm for a period of eight years from February 15, 2013. If Crenian applies for registration as a chief compliance officer, the conduct giving rise to this Settlement Agreement may be considered by Staff in assessing his suitability for registration, together with any other relevant consideration;
  - (d) Crenian will resign all positions as a permitted individual, and undertakes that he will not become a permitted individual of a registered firm for a period of eight years from February 15, 2013;
  - (e) Crenian undertakes that he will not apply for registration as a dealing representative in any category of registration for a period of four years from February 15, 2013. If Crenian applies for registration as a dealing representative, the conduct giving rise to this Settlement Agreement may be considered by Staff in assessing his suitability for registration, together with any other relevant consideration; and
  - (f) Crenian will successfully complete the Conduct and Practices Handbook Course before applying to be registered in any category, or becoming a permitted individual, and will successfully complete the PDO Exam (as defined by NI 31-103) before applying to be an ultimate designated person or permitted individual.
22. The Parties submit that their joint recommendation is reasonable, having regard to the following factors:
  - (a) The misconduct by the Registrants was significant, but Staff is not aware of any investors having suffered any losses to date as a result of the activities of the Registrants;

- (b) The Registrants have not previously been the subject of any regulatory action by the OSC relating to allegations of misconduct;
- (c) The Registrants have accepted full responsibility for their misconduct and have expressed remorse for that misconduct; and
- (d) By agreeing to this Settlement Agreement, the Registrants have saved the Director the time and resources that would have been required for an OTBH.

23. The Parties acknowledge that if the Director does not accept this joint recommendation:

- (a) This joint recommendation and all discussions and negotiations between the Parties in relation to this matter shall be without prejudice to the Parties; and
- (b) The Registrants will be entitled to an OTBH in accordance with section 31 of the Act in respect of any recommendation that may be made by Staff regarding their registration status.

Mark Skuce  
Mark Skuce, Legal Counsel,  
Compliance and Registrant Regulation

Helen Daley  
Helen Daley  
Counsel for FCPF Corporation and Richard Crenian

October 1, 2013  
Date

September 30, 2013  
Date

#### Decision of the Director

Having reviewed and considered the agreed facts, admissions, representations, submissions, and undertakings contained in the settlement agreement (the **Settlement Agreement**) signed on behalf of Richard Crenian and FCPF Corporation (formerly known as Redev Corporation) on September 30, 2013, and by staff of the Ontario Securities Commission on October 1, 2013, and on the basis of those agreed facts, admissions, representations, submissions, and undertakings, I, Debra Foubert, in my capacity as Director under the *Securities Act* (Ontario) (the **Act**), accept the joint recommendation of the parties, and make the following decision pursuant to section 28 of the Act:

- (i) Effective immediately, the registration of FCPF Corporation (formerly known as Redev Corporation) is revoked.
- (ii) Effective immediately, the registration of Richard Crenian as an ultimate designated person is suspended, and he may apply for a reactivation of registration as an ultimate designated person after a period of eight years from February 15, 2013 (i.e., the date on which terms and conditions were imposed on the registration of FCPF Corporation which prevented the firm or anyone acting on its behalf from trading in securities).

October 1, 2013  
Date

Debra M. Foubert  
Director

3.1.2 Global Consulting and Financial Services et al.

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

AND

IN THE MATTER OF  
GLOBAL CONSULTING AND FINANCIAL SERVICES,  
GLOBAL CAPITAL GROUP, CROWN CAPITAL MANAGEMENT CORP.,  
MICHAEL CHOMICA, JAN CHOMICA and LORNE BANKS

REASONS FOR SANCTIONS

At the conclusion of the hearing held on October 2, 2013 (the "**Hearing**"), I ordered sanctions against Michael Chomica ("**Chomica**") in connection with an agreed statement of facts (the "**Agreed Statement of Facts**") and a joint submission on sanctions (the "**Joint Submission on Sanctions**") entered into by Chomica and Staff of the Ontario Securities Commission ("**Staff**"). These are my reasons as to the sanctions ordered against Chomica at the Hearing.

The Hearing was held in relation to proceedings pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") (the "**Section 127 Proceedings**"), in which Chomica is a named respondent. Chomica is also a respondent to proceedings in the Ontario Court of Justice, pursuant to subsection 122(1)(c) of the Act (the "**Section 122 Proceedings**"). In connection with the Section 122 Proceedings, on February 14, 2013, the Ontario Court of Justice accepted a guilty plea by Chomica for three counts of fraud, contrary to sections 122 and 126.1(b) of the Act (the "**Guilty Plea**"). On March 14, 2013, the Ontario Court of Justice sentenced Chomica to 18 months of incarceration for the first count of fraud and two years each for the second and third counts of fraud, to be served concurrently (the "**Conviction**"). Pursuant to paragraph 1 of subsection 127(10) of the Act, I found that Chomica's Conviction may form the basis of an order in the public interest under subsection 127(1) of the Act.

The Section 127 Proceedings were initiated on March 27, 2013 when the Ontario Securities Commission (the "**Commission**") issued a Notice of Hearing pursuant to sections 37, 127 and 127.1 of the Act against Global Consulting and Financial Services ("**Global Consulting**"), Global Capital Group ("**Global Capital**"), Crown Capital Management Corp. ("**Crown Capital**"), Chomica, Jan Chomica and Lorne Banks ("**Banks**"). On July 17, 2013, the Commission approved of a settlement agreement between Staff and Banks. On August 6, 2013, the Commission approved of a settlement agreement between Staff and Global Consulting and Jan Chomica. Following a motion hearing held on September 4, 2013, the Commission ordered that the oral hearing on the merits as it relates to Chomica, Crown Capital and Global Capital be converted to a written hearing. Staff subsequently filed an Amended Statement of Allegations on September 13, 2013. Pursuant to the Amended Statement of Allegations, Staff alleged that Chomica breached sections 25 and 126.1(b) of the Act and engaged in conduct that was contrary to the public interest and harmful to the integrity of the Ontario capital markets.

On October 1, 2013, the Commission ordered that an oral hearing be held on October 2, 2013 to consider the Agreed Statement of Facts and the Joint Submission on Sanctions, as well as to consider the next steps in the proceeding with respect to Crown Capital and Global Capital. In connection with the Hearing, Staff filed the following materials with the Registrar of the Commission: the Agreed Statement of Facts; the Joint Submission on Sanctions; the Statement of Facts for the Guilty Plea, dated February 14, 2013; an accompanying appendix; and a transcript from a hearing held before the Ontario Court of Justice on February 14, 2013 in relation to the Guilty Plea.

I was satisfied that Chomica fully accepted, agreed to and understood the facts and sanctions contained in the Agreed Statement of Facts and the Joint Submission on Sanctions. However, I note that the Agreed Statement of Facts only relates to Chomica's contraventions of sections 122 and 126.1(b) of the Act. The Agreed Statement of Facts does not relate to Staff's allegation of Chomica's breach of section 25 of the Act. Staff did not pursue its allegation against Chomica in relation to section 25 of the Act, as set out in the Amended Statement of Allegations, and therefore I make no finding in relation thereto.

Having reviewed the submissions of Staff and Chomica and having heard the oral submissions of the parties, I found that Chomica's fraudulent misconduct that led to the Conviction required strong sanctions to be imposed. I found that it was appropriate and proportional to the circumstances that the following sanctions be imposed at the Hearing:

- permanent trading, acquisition and exemption bans, pursuant to clauses 2, 2.1 and 3 of subsection 127(1) of the Act;
- Chomica was reprimanded orally at the Hearing, pursuant to clause 6 of subsection 127(1) of the Act;

**Reasons: Decisions, Orders and Rulings**

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- permanent director and officer bans, pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act;
- a permanent ban from becoming or acting as a registrant, as an investment fund manager or as a promoter, pursuant to clause 8.5 of subsection 127(1) of the Act;
- a disgorgement order in the amount of \$550,000 that was obtained through Chomica's non-compliance with Ontario securities law, pursuant to clause 10 of subsection (1) of the Act; and
- a telephoning ban to any residence within or outside Ontario for the purpose of trading in any security or in any class of securities, pursuant to subsection 37(1) of the Act.

In relation to the disgorgement order, I note that the Agreed Statement of Facts states that Chomica obtained \$550,000 as a result of his non-compliance with Ontario securities law. At the Hearing, Chomica agreed to forfeit to the Commission \$2,000 in cash that was seized by Staff during the execution of a search warrant on his residence and to have that amount applied towards any disgorgement order made by the Commission. Once Chomica has fully satisfied the terms of the disgorgement order, I found that he shall be permitted to acquire and/or trade securities for the account of his registered trading retirement savings plan ("RRSP") as defined in the *Income Tax Act*, R.S.C. 1985, c. 1, as amended.

**DATED** at Toronto this 2nd day of October, 2013.

"Alan Lenczner"

## 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 ermanent Order	Date of Lapse/Revoke
Noveko International Inc.	03 Oct 13	15 Oct 13		
Wasco Capital Inc.	07 Oct 13	18 Oct 13		

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

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

THERE ARE NO ITEMS FOR 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
Strike Minerals Inc.	19 Sept 13	01 Oct 13	01 Oct 13		

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## 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 8

# Notice of Exempt Financings

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### REPORT OF TRADES SUBMITTED ON FORM 45-106F1 AND 45-501F1

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price (\$)	No. of Securities Distributed
09/19/2013	9	Activision Blizzard, Inc. - Notes	24,056,950.00	23,500.00
09/16/2013	1	Alon USA Energy, Inc. - Notes	206,320.00	67.63
09/19/2013	25	ATICO MINING CORPORATION - Units	14,085,000.00	313,000,000.00
09/24/2013	3	Atna Resources Ltd. - Common Shares	5,824,000.00	36,400,000.00
09/20/2013	1	BANK OF MONTREAL - Debt	2,000,000.00	20,000,000.00
09/20/2013	1	Bank of Montreal - Notes	2,000,000.00	N/A
09/16/2013	1	Barclays Bank PLC - Note	250,000.00	1.00
09/19/2013 to 09/20/2013	3	Barclays Bank PLC - Notes	250,000.00	3.00
09/17/2013	5	Barclays Bank PLC - Notes	1,450,000.00	5.00
09/20/2013	1	BI-LO Holding Finance, LLC and BI-LO holding Finance, Inc. - Note	6,110,478.00	1.00
09/12/2013	1	Catterton Partners VII L.P. - Limited Partnership Interest	154,800,000.00	N/A
09/18/2013	4	Diamondback Energy, Inc. - Notes	6,952,500.00	6,750.00
09/11/2013	10	ELLIPTIC TECHNOLOGIES INC. - Preferred Shares	800,000.00	3,674,388.00
09/03/2013	2	First Reliance Real Estate Investment Trust (Amended) - Units	5,000.00	555.56
07/24/2013	1	Fortress Gotham 2011 Limited - Loan	50,000.00	1.00
09/16/2013	1	Fuel Transfer Technologies Inc. - Preferred Shares	0.00	58,500.00
09/23/2013	13	GEONOVUS MINERALS CORP. - Units	257,500.00	5,151,000.00
09/20/2013	23	Isotechnika Pharma Inc. - Units	5,999,999.94	133,333,332.00
09/18/2013	3	JBS USA, LLC and JBS USA Finance, Inc. - Notes	35,911,540.00	35,000.14
09/17/2013	18	J.P. Morgan Chase & Co. - Notes	4,280,000.00	18.00
09/19/2013	1	Kenedix, Inc. - Common Shares	55,643.07	10,500.00
09/20/2013	17	LiveWorkPlay Winnipeg Developments Ltd. - Bonds	792,000.00	792.00
09/20/2013	23	Lower Mattagami Energy Limited Partnership - Bonds	200,000,000.00	N/A

**Notice of Exempt Financings**

<b>Transaction Date</b>	<b>No. of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Purchase Price (\$)</b>	<b>No. of Securities Distributed</b>
09/18/2013	2	LTP Financing Inc. - Bonds	43,000.00	43.00
09/08/2013	1	Marketo, Inc. - Common Shares	16,473,420.00	450,000.00
09/16/2013	13	Mayo Lake Minerals Inc. - Common Shares	60,000.00	600,000.00
05/22/2013	2	Millicom International Cellular S.A. - Notes	6,199,800.00	2.00
08/30/2013	20	Morrison Laurier Mortgage Corporation - Preferred Shares	6,273,200.00	N/A
09/20/2013	1	MOZZAZ CORPORATION - Common Shares	249,999.79	407,830.00
09/13/2013	46	NOKA RESOURCES INC. - Units	784,299.00	5,228,660.00
09/20/2013	1	Office Depot de Mexico S.A. de C.V. - Notes	508,000.00	493.20
09/20/2013	1	Pacific North West Capital Corp. - Common Shares	100,000.00	2,000,000.00
09/18/2013	1	Pinnacle Operating Corporation - Notes	2,060,000.00	2,000.00
09/25/2013	1	Prospect Holdings Company, LLC/Prospect Holding Finance Company - Notes	5,003,850.00	4,858.11
09/13/2013	79	Quaterra Resources Inc. - Common Shares	3,076,392.00	29,810,000.00
09/23/2013 to 09/26/2013	29	Quia Resources Inc. - Common Shares	373,200.00	74,640,000.00
09/18/2013	16	Ranovus Inc. - Preferred Shares	9,991,132.72	28,571,429.00
09/10/2013	19	Redstone Capital Corporation - Bonds	464,300.00	N/A
09/10/2013	15	Redstone Investment Corporation - Notes	757,000.00	N/A
09/18/2013 to 09/19/2013	3	Residences At Quadra Village Limited Partnership - Units	120,000.00	120,000.00
09/25/2013	2	Rocket Fuel Inc. - Common Shares	298,700.00	10,000.00
09/23/2013	2	Royal Bank of Canada - Special Trust Securities	6,194,479.20	60,240.00
09/16/2013	1	Sagent Pharmaceuticals, Inc. - Common Shares	657,645.00	30,000.00
09/16/2013 to 09/17/2013	48	SIF SOLAR ENERGY INCOME & GROWTH FUND - Units	1,052,300.00	10,523.00
09/15/2013	48	Skyline Apartment Real Estate Investment Trust - Units	7,191,720.75	542,771.38
09/03/2013	53	SKYLINE COMMERCIAL REAL ESTATE INVESTMENT TRUST - Units	7,387,200.00	738,720.00
09/06/2013	2	SPIRE US LIMITED PARTNERSHIP - Units	612,707.27	51,910,969.00
09/19/2013	5	STONE RANGE INDUSTRIAL LIMITED - Units	121,025.00	121,025.00
09/17/2013	1	Sumitomo Mitsui Trust Bank, Limited - Note	25,696,318.27	1.00

**Notice of Exempt Financings**

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<b>Transaction Date</b>	<b>No. of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Purchase Price (\$)</b>	<b>No. of Securities Distributed</b>
09/17/2013	5	Torch River Resources Ltd. - Common Shares	150,000.00	2,142,857.00
09/16/2013 to 09/20/2013	33	UBS AG, Jersey Branch - Certificates	13,289,928.17	33.00
09/18/2013	16	Verizon Communications Inc. - Notes	44,807,346.64	N/A
09/26/2013	28	WALTON CA TUSCAN HILLS LP - Units	1,065,064.24	103,304.00
09/26/2013	24	WALTON FLA RIDGEWOOD LAKES INVESTMENT CORPORATION - Common Shares	619,950.00	61,995.00
09/12/2013	8	WALTON FLA RIDGEWOOD LAKES LP - Units	600,198.13	57,923.00
09/12/2013	18	WALTON INCOME 8 INVESTMENT CORPORATION - Bonds	2,056,500.00	18,000.00
09/18/2013	20	Western Energy Services Corp. - Notes	92,433,390.45	90,000.00
09/13/2013 to 09/16/2013	2	WOULFE MINING CORP. - Units	1,313,305.30	13,133,053.00
09/16/2013	2	Xoom Corporation - Common Shares	188,782.00	6,000.00
09/26/2013	11	Zephyr Minerals Ltd. - Units	225,000.10	1,500,000.00

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## Chapter 11

# IPOs, New Issues and Secondary Financings

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**Issuer Name:**

Boyd Group Income Fund  
Principal Regulator - Manitoba

**Type and Date:**

Preliminary Short Form Prospectus dated October 7, 2013  
NP 11-202 Receipt dated October 7, 2013

**Offering Price and Description:**

\$55,200,000.00 - 2,000,000 Units  
Price: \$27.60 per Unit

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

National Bank Financial Inc.  
Cormark Securities Inc.  
CIBC World Markets Inc.  
Laurentian Bank Securities Inc.  
Scotia Capital Inc.  
Octagon Capital Corporation

**Promoter(s):**

-

**Project #2119106**

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**Issuer Name:**

Builders Capital Mortgage Corp.  
Principal Regulator - Alberta

**Type and Date:**

Amended and Restating Preliminary Long Form  
Prospectus dated October 4, 2013  
NP 11-202 Receipt dated October 4, 2013

**Offering Price and Description:**

Minimum: \$12,000,000 - \* Subscription Receipts  
Maximum: \$40,000,000 - \* Subscription Receipts  
Price: \$ \* per Subscription Receipt

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

MGI Securities Inc.  
Mackie Research Capital Corporation  
Macquarie Private Wealth Inc.  
Burgeonvest Bick Securities Limited  
Leede Financial Markets Inc.  
PI Financial Corp.

**Promoter(s):**

Builders Capital Management Corp.

**Project #2046232**

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**Issuer Name:**

Dividend Growth Split Corp.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated September 27,  
2013

NP 11-202 Receipt dated October 1, 2013

**Offering Price and Description:**

Maximum: \$ \* - Up to\* Preferred Shares and \* Class A  
Shares

Prices: \$ \* per Preferred Share

\$ \* per Class A Share

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

RBC Dominion Securities Inc.  
CIBC World Markets Inc.  
Scotia Capital Inc.  
TD Securities Inc.  
BMO Nesbitt Burns Inc.  
National Bank Financial Inc.  
GMP Securities L.P.  
Raymond James Ltd.  
Canaccord Genuity Corp.  
Desjardins Securities Inc.  
Dundee Securities Inc.  
Mackie Research Capital Corporation  
Macquarie Private Wealth Inc.

**Promoter(s):**

-

**Project #2117815**

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**Issuer Name:**

Energy Fuels Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated September 30,  
2013

NP 11-202 Receipt dated October 2, 2013

**Offering Price and Description:**

\$5,000,000.00 - 31,250,000 Common Shares

Price: \$0.16 per Common Share

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

Dundee Securities Ltd.  
Cantor Fitzgerald Canada Corporation  
Haywood Securities Inc.

**Promoter(s):**

-

**Project #2117920**

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**Issuer Name:**

FortisAlberta Inc.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Base Shelf Prospectus dated October 3, 2013  
NP 11-202 Receipt dated October 3, 2013

**Offering Price and Description:**

\$500,000,000.00  
Medium Term Note Debentures  
(unsecured)

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

Scotia Capital Inc.  
TD Securities Inc.  
BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
RBC Dominion Securities Inc.  
National Bank Financial Inc.  
HSBC Securities (Canada) Inc.  
Casgrain & Company Limited

**Promoter(s):**

-

**Project #2118526**

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**Issuer Name:**

GLG Income Opportunities Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated October 4, 2013  
NP 11-202 Receipt dated October 7, 2013

**Offering Price and Description:**

Class A Units, Class F Units, Class O Units and Class R  
Units

Price: Initially at \$10.00 per Unit and subsequently at the  
Net Asset Value per Unit  
Minimum Purchase: \$5,000

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

-

**Promoter(s):**

MAN Investments Canada Corp.

**Project #2118860**

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**Issuer Name:**

Gluskin Sheff + Associates Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated October 1, 2013  
NP 11-202 Receipt dated October 1, 2013

**Offering Price and Description:**

\$121,6000,000.00 - 6,400,000 Subordinate Voting Shares  
Price: \$19.00 per Subordinate Voting Share

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

RBC Dominion Securities Inc.  
TD Securities Inc.  
BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
GMP Securities L.P.  
Scotia Capital Inc.

**Promoter(s):**

-

**Project #2115425**

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**Issuer Name:**

PHX Energy Services Corp.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated October 3, 2013  
NP 11-202 Receipt dated October 3, 2013

**Offering Price and Description:**

\$27,040,000.00 - 2,600,000 Common Shares  
Price: \$10.40 per Common Share

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

PETERS & CO. LIMITED  
RBC DOMINION SECURITIES INC.  
SCOTIA CAPITAL INC.  
CORMARK SECURITIES INC.  
FIRSTENERGY CAPITAL CORP.

**Promoter(s):**

-

**Project #2118459**

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**Issuer Name:**

Pine Cliff Energy Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated October 2, 2013  
NP 11-202 Receipt dated October 2, 2013

**Offering Price and Description:**

\$20,020,000.00 - 18,200,000 Common Shares  
Price: \$1.10 per Offered Share

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

Paradigm Capital Inc.  
Clarus Securities Inc.  
Altacorp Capital Inc.  
FirstEnergy Capital Corp.  
GMP Securities L.P.  
Haywood Securities Inc.  
Jennings Capital Inc.  
Scotia Capital Inc.

**Promoter(s):**

-

**Project #2118174**

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**Issuer Name:**

Starlight U.S. Multi-Family (No. 2) Core Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated October 4, 2013  
NP 11-202 Receipt dated October 4, 2013

**Offering Price and Description:**

Maximum: US\$50,000,000 and Minimum: US\$22,000,000  
of

Class A Units and/or Class U Units and/or Class D Units  
and/or Class F Units and/or Class C Units

Price: C\$10.00 per Class A Unit

US\$10.00 per Class U Unit

C\$10.00 per Class D Unit

C\$10.00 per Class F Unit

C\$10.00 per Class C Unit

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

CIBC WORLD MARKETS INC.  
NATIONAL BANK FINANCIAL INC.  
SCOTIA CAPITAL INC.  
GMP SECURITIES L.P.  
RAYMOND JAMES LTD.  
CANACCORD GENUITY CORP.  
DESJARDINS SECURITIES INC.  
DUNDEE SECURITIES LTD.  
MACQUARIE PRIVATE WEALTH INC.

**Promoter(s):**

STARLIGHT INVESTMENTS LTD.

**Project #2118757**

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**Issuer Name:**

Trilogy Energy Corp.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated October 4, 2013  
NP 11-202 Receipt dated October 4, 2013

**Offering Price and Description:**

\$200,070,000.00 - 7,020,000 Common Shares  
Price: \$28.50 per Common Share

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

BMO NESBITT BURNS INC.  
RBC DOMINION SECURITIES INC.  
PETERS & CO. LIMITED  
CIBC WORLD MARKETS INC.  
SCOTIA CAPITAL INC.  
TD SECURITIES INC.  
FIRSTENERGY CAPITAL CORP.  
CORMARK SECURITIES INC.  
ALTACORP CAPITAL INC.  
GMP SECURITIES L.P.

**Promoter(s):**

-

**Project #2117664**

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**Issuer Name:**

Harbour Global Growth & Income Corporate Class  
(Class A, AT5, AT8, F, FT5, FT8, I, IT5, IT8, O and OT5  
shares)

Harbour Growth & Income Corporate Class  
(Class A, AT5, AT8, E, ET5, ET8, F, FT5, FT8, I, IT5, IT8,  
O, OT5 and OT8 shares)

Harbour Growth & Income Fund  
(Class A, E, F, I, O and Z units)

Harbour Voyageur Corporate Class

(Class A, AT5, AT8, E, ET5, ET8, F, FT5, FT8, I, IT8, O,  
OT5 and OT8 shares)

Principal Regulator - Ontario

**Type and Date:**

Amendment No. 2 dated September 30, 2013 to the  
Simplified Prospectuses of Harbour Global Growth &  
Income Corporate Class, Harbour Growth & Income  
Corporate Class and Harbour Growth & Income Fund  
dated July 26, 2013 and to the Annual Information Form of  
Harbour Global Growth & Income Corporate Class,  
Harbour Growth & Income Corporate Class, Harbour  
Growth & Income Fund and Harbour  
Voyageur Corporate Class dated July 26, 2013  
(amendment no. 2).

NP 11-202 Receipt dated October 4, 2013

**Offering Price and Description:**

-

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

-

**Promoter(s):**

CI Investments Inc.

**Project #2069145**

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**Issuer Name:**

Series A, Series F and Series I Units of  
BlackRock All Bond Portfolio (formerly BlackRock Security  
Portfolio)  
BlackRock Defensive Portfolio  
BlackRock Conservative Portfolio  
BlackRock Balanced Portfolio  
BlackRock Growth Portfolio  
BlackRock MaxGrowth Portfolio  
BlackRock Diversified Monthly Income Portfolio  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated October 1, 2013  
NP 11-202 Receipt dated October 3, 2013

**Offering Price and Description:**

Series A, Series F and Series I Mutual Fund Units @ Net  
Asset Value

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

-

**Promoter(s):**

-

**Project #2092555**

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**Issuer Name:**

BRP Inc.  
Principal Regulator - Quebec

**Type and Date:**

Final Short Form Prospectus dated October 2, 2013  
NP 11-202 Receipt dated October 2, 2013

**Offering Price and Description:**

\$222,800,000.00  
8,000,000 Subordinate Voting Shares Price: \$27.85 per  
Subordinate Voting Share

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

BMO NESBITTBURNS INC.  
RBC DOMINION SECURITIES INC.  
UBS SECURITIES CANADA INC.  
CITIGROUP GLOBAL MARKETS CANADA INC.  
CIBC WORLD MARKETS INC.  
DESJARDINS SECURITIES INC.  
SCOTIA CAPITAL INC.  
NATIONAL BANK FINANCIAL INC.

**Promoter(s):**

-

**Project #2114085**

**Issuer Name:**

Canadian Apartment Properties Real Estate Investment  
Trust  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated October 2, 2013  
NP 11-202 Receipt dated October 2, 2013

**Offering Price and Description:**

\$130,019,850.00 - 6,327,000 Units Price: \$20.55 per Unit

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

RBC DOMINION SECURITIES INC.  
SCOTIA CAPITAL INC.  
TD SECURITIES INC.  
BMO NESBITT BURNS INC.  
CIBC WORLD MARKETS INC.  
NATIONAL BANK FINANCIAL INC.  
CANACCORD GENUITY CORP.  
RAYMOND JAMES LTD.  
DUNDEE SECURITIES LTD.  
DESJARDINS SECURITIES INC.  
GMP SECURITIES L.P.

**Promoter(s):**

-

**Project #2113620**

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**Issuer Name:**

CanElsion Drilling Inc.  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated October 1, 2013  
NP 11-202 Receipt dated October 1, 2013

**Offering Price and Description:**

\$30,380,000.00  
4,900,000 Common Shares  
Price: \$6.20 per Common Share

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

PETERS & CO. LIMITED  
FIRSTENERGY CAPITAL CORP.  
NATIONAL BANK FINANCIAL INC.  
ALTACORP CAPITAL INC.  
LIGHTYEAR CAPITAL INC.

**Promoter(s):**

-

**Project #2114986**



**Issuer Name:**

Dividend 15 Split Corp.  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated October 2, 2013  
NP 11-202 Receipt dated October 2, 2013

**Offering Price and Description:**

Maximum: \$29,737,900.00 - Up to 1,686,800 Preferred  
Shares @ \$10/Share and 1,197,200 Class A Shares @  
\$10.75/Share

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

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

**Promoter(s):**

-

**Project #2114774**

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**Issuer Name:**

Series A and Series F Units of  
Excel Blue Chip Equity Fund (formerly Excel Blue Chip  
Fund)  
Excel Blue Chip Balanced Fund  
Excel High Income Fund  
Excel Money Market Fund  
Excel India Fund  
Excel China Fund  
Excel Chindia Fund  
Excel Emerging Europe Fund  
Excel Latin America Fund  
Excel BRIC Fund  
Excel Emerging Markets Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated September 30, 2013  
NP 11-202 Receipt dated October 4, 2013

**Offering Price and Description:**

Series A and Series F Units @ Net Asset Value

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

Excel Funds Management Inc.

**Promoter(s):**

Excel Funds Management Inc.

**Project #2105266**

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**Issuer Name:**

Series B, Series S5, Series S8, Series I, Series I5, Series  
I8, Series F, Series F5 and Series F8  
Securities (unless otherwise indicated) of  
Fidelity Canadian Equity Private Pool\*  
Fidelity Concentrated Canadian Equity Private Pool\*  
Fidelity U.S. Equity Private Pool\*  
Fidelity U.S. Equity Currency Neutral Private Pool\*  
Fidelity International Equity Private Pool\*  
Fidelity International Equity Currency Neutral Private Pool\*  
Fidelity Global Equity Private Pool\*  
Fidelity Global Equity Currency Neutral Private Pool\*  
Fidelity Concentrated Value Private Pool\*  
Fidelity U.S. Dividend Private Pool  
Fidelity Balanced Income Private Pool\*  
Fidelity Balanced Income Currency Neutral Private Pool\*  
Fidelity Balanced Private Pool\*  
Fidelity Balanced Currency Neutral Private Pool\*  
Fidelity Asset Allocation Private Pool\*  
Fidelity Asset Allocation Currency Neutral Private Pool\*  
Fidelity U.S. Growth and Income Private Pool  
Fidelity Premium Fixed Income Private Pool (available in  
Series B, Series I and Series F only)  
Fidelity Premium Money Market Private Pool (available in  
Series B, Series I, Series D and  
Series F only)  
Fidelity Premium Fixed Income Capital Yield Private Pool\*  
(available in Series B, Series I,  
Series F, Series S5, Series I5 and Series F5 only)  
Fidelity Premium Tactical Fixed Income Capital Yield  
Private Pool (available in Series B, Series  
I and Series F only)  
Fidelity Canadian Equity Investment Trust (available in  
Series O only)  
Fidelity Concentrated Canadian Equity Investment Trust  
(available in Series O only)  
Fidelity U.S. Equity Investment Trust (available in Series O  
only)  
Fidelity International Equity Investment Trust (available in  
Series O only)  
Fidelity Global Equity Investment Trust (available in Series  
O only)  
Fidelity Emerging Markets Debt Investment Trust (available  
in Series O only)  
Fidelity Emerging Markets Equity Investment Trust  
(available in Series O only)  
Fidelity Floating Rate High Income Investment Trust  
(available in Series O only)  
Fidelity High Income Commercial Real Estate Investment  
Trust (available in Series O only)  
Fidelity Convertible Securities Investment Trust (available  
in Series O only)  
Fidelity U.S. Small/Mid Cap Equity Investment Trust  
(available in Series O only)  
Fidelity Concentrated Value Investment Trust (available in  
Series O only)  
Fidelity Global High Yield Investment Trust (available in  
Series O only)  
Fidelity U.S. Multi-Cap Investment Trust (available in Series  
O only)  
Fidelity International Growth Investment Trust (available in  
Series O only)  
(\*Class of Fidelity Capital Structure Corp.)

Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated September 26, 2013

NP 11-202 Receipt dated October 1, 2013

**Offering Price and Description:**

Series B, Series S5, Series S8, Series I, Series I5, Series I8, Series F, Series F5 and Series F8 Securities and Series O Securities

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

Fidelity Investments Canada ULC

**Promoter(s):**

Fidelity Investments Canada ULC

**Project #2094138**

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**Issuer Name:**

Fidelity Floating Rate High Income Fund

Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus dated September 26, 2013

NP 11-202 Receipt dated October 1, 2013

**Offering Price and Description:**

Series A, Series B, Series F and Series O units

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

-

**Promoter(s):**

Fidelity Investments Canada ULC

**Project #2100476**

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**Issuer Name:**

iShares Global Monthly Advantaged Dividend Index Fund

iShares Advantaged Canadian Bond Index Fund

iShares Advantaged Convertible Bond Index Fund

iShares Advantaged U.S. High Yield Bond Index Fund (CAD-Hedged)

iShares Balanced Income CorePortfolio Fund

iShares Balanced Growth CorePortfolio Fund

Principal Regulator - Ontario

**Type and Date:**

Amendment #1 dated September 27, 2013 to the Long

Form Prospectus dated May 24, 2013

NP 11-202 Receipt dated October 7, 2013

**Offering Price and Description:**

-

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

BlackRock Asset Management Canada Limited

BlackRock Investments Canada Inc.

**Promoter(s):**

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**Project #2046363**

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**Issuer Name:**

iShares Advantaged Short Duration High Income Fund

Principal Regulator - Ontario

**Type and Date:**

Amendment #3 dated September 27, 2013 to the Long Form Prospectus dated October 10, 2012

NP 11-202 Receipt dated October 4, 2013

**Offering Price and Description:**

-

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

BlackRock Asset Management Canada Limited

BlackRock Investments Canada Inc.

**Promoter(s):**

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**Project #1940478**

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**Issuer Name:**

iShares Broad Commodity Index Fund (CAD-Hedged)

iShares Managed Futures Index Fund

Principal Regulator - Ontario

**Type and Date:**

Amendment #3 dated September 27, 2013 to the Long

Form Prospectus dated October 10, 2012

NP 11-202 Receipt dated October 4, 2013

**Offering Price and Description:**

-

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

BlackRock Asset Management Canada Limited

**Promoter(s):**

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**Project #1940461**

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**Issuer Name:**

Mackenzie Canadian Money Market Fund (Formerly Mackenzie Sentinel Money Market Fund) (Investor Series, Series A, Series AR, Series C, Series DA, Series F, Series G, Series GP, Series I, Series O, Series PW, Series PWF, Series PWX, Series SC, Series SP)  
 Mackenzie Sentinel Cash Management Fund (Series A, Series AR and Series O)  
 Mackenzie Canadian Bond Fund (Formerly Mackenzie Sentinel Bond Fund) (B-Series, Investor Series, Series A, Series AR, Series F, Series G, Series I, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series SC)  
 Mackenzie Canadian Short Term Income Fund (Formerly Mackenzie Sentinel Short-Term Income Fund) (Series A, Series F, Series G, Series I, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series SC)  
 Mackenzie Corporate Bond Fund (Formerly Mackenzie Sentinel Corporate Bond Fund) (Series A, Series AR, Series F, Series G, Series I, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8)  
 Mackenzie Floating Rate Income Fund (Series A, Series AR, Series F, Series F6, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series SC, Series S6, Series T6)  
 Mackenzie Global Bond Fund (Formerly Mackenzie Sentinel Global Bond Fund) (Series A, Series F, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series U)  
 Mackenzie North American Corporate Bond Fund (Formerly Mackenzie Sentinel North American Corporate Bond Fund) (Series A, Series F, Series F6, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6)  
 Mackenzie Real Return Bond Fund (Formerly Mackenzie Sentinel Real Return Bond Fund) (Series A, Series F, Series G, Series I, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series U)  
 Mackenzie Strategic Bond Fund (Series A, Series AR, Series F, Series F6, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series SC, Series S6, Series T6)  
 Mackenzie Canadian All Cap Balanced Fund (Formerly Mackenzie Saxon Balanced Fund) (B-Series, Investor Series, Series A, Series AR, Series F, Series F8, Series I, Series O, Series O6, Series PW, Series PWF, Series PWX, Series T6, Series T8)  
 Mackenzie Canadian Growth Balanced Fund (Formerly Mackenzie Universal Canadian Balanced Fund) (Series A, Series F, Series G, Series I, Series O, Series O6, Series PW, Series

PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
 Mackenzie Canadian Large Cap Balanced Fund (Formerly Mackenzie Maxxum Canadian Balanced Fund) (Series A, Series F, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
 Mackenzie Cundill Canadian Balanced Fund (Series AR, Series C, Series F, Series F8, Series G, Series I, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
 Mackenzie Global Diversified Balanced Fund (Formerly Mackenzie Founders Income & Growth Fund) (Series A, Series AR, Series F, Series F8, Series G, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T5, Series T6, Series T8)  
 Mackenzie Global Diversified Income Fund (formerly Mackenzie Sentinel Diversified Income Fund) (Series A, Series F, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T5)  
 Mackenzie Income Fund (Formerly Mackenzie Sentinel Income Fund) (Series A, Series AR, Series B, Series C, Series F, Series G, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8)  
 Mackenzie Ivy Canadian Balanced Fund (Formerly Mackenzie Ivy Growth & Income Fund) (Series A, Series F, Series F8, Series G, Series I, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
 Mackenzie Ivy Global Balanced Fund (Series A, Series F, Series F8, Series I, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
 Mackenzie Strategic Income Fund (Formerly Mackenzie Sentinel Strategic Income Fund) (Series A, Series AR, Series B, Series F, Series F8, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T8)  
 Mackenzie Canadian All Cap Dividend Fund (Formerly Mackenzie Saxon Dividend Income Fund) (B-Series, Investor Series, Series A, Series AR, Series F, Series F6, Series O, Series O6, Series PW, Series PWF, Series PWX, Series T6)  
 Mackenzie Canadian All Cap Value Fund (Formerly Mackenzie Saxon Stock Fund) (B-Series, Investor Series, Series A, Series F, Series I, Series O, Series PW, Series PWF, Series PWX)  
 Mackenzie Canadian Concentrated Equity Fund (Formerly Mackenzie Focus Canada Fund) (Series A, Series F, Series O, Series PW, Series PWF, Series PWX)  
 Mackenzie Canadian Growth Fund (Formerly Mackenzie Universal Canadian Growth Fund) (Series A, Series F, Series G, Series I, Series O, Series PW, Series PWF, Series PWX)

Mackenzie Canadian Large Cap Dividend & Growth Fund (Formerly Mackenzie Maxxum Dividend Growth Fund) (Series A, Series F, Series G, Series I, Series O, Series PW, Series PWF, Series PWX, Series T5)

Mackenzie Canadian Large Cap Dividend Fund (Formerly Mackenzie Maxxum Dividend Fund) (Series A, Series F, Series F8, Series G, Series O, Series O6, Series PW, Series PWF, Series PWX, Series T6, Series T8)

Mackenzie Canadian Large Cap Growth Fund (Formerly Mackenzie Maxxum Canadian Equity Growth Fund) (Series A, Series F, Series G, Series I, Series O, Series PW, Series PWF, Series PWX)

Mackenzie Canadian Small Cap Value Fund (Formerly Mackenzie Saxon Small Cap Fund) (B Series, Investor Series, Series A, Series F, Series O, Series PW, Series PWF, Series PWX)

Mackenzie Cundill Canadian Security Fund (Series AR, Series C, Series F, Series F8, Series G, Series I, Series O, Series PW, Series PWF, Series PWX, Series T6, Series T8)

Mackenzie Growth Fund (Series A, Series F, Series G, Series O, Series PW, Series PWF, Series PWX)

Mackenzie Ivy Canadian Fund (Series A, Series F, Series F8, Series G, Series I, Series O, Series PW, Series PWF, Series PWX, Series T6, Series T8)

Mackenzie US Large Cap Growth Fund (Formerly Mackenzie Universal U.S. Growth Leaders Fund) (Series A, Series F, Series O, Series PW, Series PWF, Series PWX)

Mackenzie Cundill Recovery Fund (Series AR, Series C, Series F, Series G, Series O, Series PW, Series PWF, Series PWX)

Mackenzie Cundill Value Fund (Series C, Series F, Series F8, Series G, Series I, Series O, Series O6, Series PW, Series PWF, Series PWX, Series T6, Series T8)

Mackenzie Diversified Equity Fund (Formerly Mackenzie Founders Fund) (Series A, Series AR, Series F, Series F8, Series G, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)

Mackenzie Global Asset Strategy Fund (Formerly Mackenzie Global Tactical Fund) (Series A, Series F, Series O, Series PW, Series PWF, Series PWX)

Mackenzie Global Concentrated Equity Fund (Formerly Mackenzie Focus Fund) (Series A, Series F, Series I, Series O, Series PW, Series PWF, Series PWX)

Mackenzie Global Dividend Fund (Formerly Mackenzie Universal Global Infrastructure Income Fund) (Series A, Series AR, Series F, Series F8, Series I, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T5, Series T6, Series T8, Series U, Series U5)

Mackenzie Global Small Cap Growth Fund (Formerly Mackenzie Ivy Enterprise Fund) (Series A, Series F, Series G, Series O, Series PW, Series PWF, Series PWX)

Mackenzie International Growth Fund (Formerly Mackenzie Universal International Stock Fund) (Series A, Series F, Series I, Series O, Series PW, Series PWF, Series PWX)

Mackenzie Ivy Foreign Equity Fund (Series A, Series AR, Series F, Series F8, Series G, Series I, Series O, Series O6, Series PW, Series PWF, Series PWX, Series T6, Series T8)

Mackenzie Canadian Resource Fund (Formerly Mackenzie Universal Canadian Resource Fund) (Series A, Series F, Series G, Series O, Series PW, Series PWF, Series PWX)

Symmetry Balanced Portfolio (Series A, Series AR, Series F, Series F6, Series F8, Series G, Series O, Series PW, Series PWF, Series PWX, Series T6, Series T8)

Symmetry Conservative Income Portfolio (Series A, Series AR, Series F, Series F6, Series F8, Series G, Series O, Series PW, Series PWF, Series PWX, Series T6, Series T8)

Symmetry Conservative Portfolio (Series A, Series AR, Series F, Series F6, Series F8, Series G, Series O, Series PW, Series PWF, Series PWX, Series T6, Series T8)

Symmetry Fixed Income Portfolio (Series A, Series AR, Series F, Series F6, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series W)

Symmetry Growth Portfolio (Series A, Series AR, Series F, Series F6, Series F8, Series G, Series O, Series PW, Series PWF, Series PWX, Series T6, Series T8)

Symmetry Moderate Growth Portfolio (Series A, Series AR, Series F, Series F6, Series F8, Series G, Series O, Series PW, Series PWF, Series PWX, Series T6, Series T8)

Mackenzie Canadian Short Term Yield Class (Formerly Mackenzie Sentinel Canadian Short-Term Yield Class) (Series A, Series F)

Mackenzie North American Corporate Bond Class (Formerly Mackenzie Sentinel North American Corporate Bond Class) (Series A, Series F, Series F6, Series O, Series O6, Series T6)

Mackenzie Canadian All Cap Balanced Class (Formerly Mackenzie Saxon Balanced Class) (Series A, Series F, Series F8, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)

Mackenzie Strategic Income Class (Formerly Mackenzie Sentinel Strategic Income Class) (Series A, Series F, Series F6, Series F8, Series O, Series O6, Series T6, Series T8)

Mackenzie All Cap Dividend Class (Series A, Series F, Series F6, Series F8, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)

Mackenzie Canadian All Cap Dividend Class (Formerly Mackenzie Saxon Dividend Income Class) (Series A, Series F, Series F6, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6)

Mackenzie Canadian All Cap Value Class (Formerly Mackenzie Saxon Stock Class) (Series A, Series F, Series O, Series PW, Series PWF, Series PWX, Series T8)  
Mackenzie Canadian Large Cap Dividend Class (Formerly Mackenzie Maxxum Dividend Class) (Series A, Series F, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Mackenzie Canadian Small Cap Value Class (Formerly Mackenzie Saxon Small Cap Class) (Series A, Series F, Series O, Series PW, Series PWF, Series PWX)  
Mackenzie Cundill Canadian Security Class (Series A, Series F, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Mackenzie Cundill US Class (Formerly Mackenzie Cundill American Class) (Series A, Series F, Series F8, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Mackenzie US Growth Class (Formerly Mackenzie Universal North American Growth Class) (Series A, Series F, Series G, Series O, Series PW, Series PWF, Series PWX, Series T8)  
Mackenzie US Large Cap Class (Formerly Mackenzie Universal U.S. Blue Chip Class) (Series A, Series F, Series F8, Series I, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Mackenzie US Mid Cap Growth Class (Formerly Mackenzie Universal American Growth Class) (Series A, Series AR, Series F, Series I, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Mackenzie US Mid Cap Growth Currency Neutral Class (Formerly Mackenzie Universal American Growth Currency Neutral Class) (Series A, Series AR, Series F, Series I, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Mackenzie Cundill Emerging Markets Class (Formerly Mackenzie Cundill Emerging Markets Value Class) (Series A, Series F, Series O, Series PW, Series PWF, Series PWX)  
Mackenzie Cundill Recovery Class (Series A, Series F, Series O, Series PW, Series PWF, Series PWX)  
Mackenzie Cundill Value Class (Series A, Series AR, Series F, Series F8, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Mackenzie Emerging Markets Class (Formerly Mackenzie Universal Emerging Markets Class) (Series A, Series F, Series O, Series U, Series PW, Series PWF, Series PWX)  
Mackenzie Global Concentrated Equity Class (Formerly Mackenzie Focus Class) (Series A, Series F, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series

PWX8, Series T6, Series T8)  
Mackenzie Global Diversified Equity Class (Formerly Mackenzie Founders Global Equity Class) (Series A, Series AR, Series F, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Mackenzie Global Growth Class (Formerly Mackenzie Universal Global Growth Class) (Series A, Series F, Series G, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T8)  
Mackenzie Global Small Cap Growth Class (Formerly Mackenzie Ivy Enterprise Class) (Series A, Series F, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T8)  
Mackenzie International Growth Class (Formerly Mackenzie Universal International Stock Class) (Series A, Series F, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Mackenzie Ivy European Class (Series A, Series F, Series O, Series PW, Series PWF, Series PWX, Series T6, Series T8)  
Mackenzie Ivy Foreign Equity Class (Series A, Series F, Series F8, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Mackenzie Ivy Foreign Equity Currency Neutral Class (Series A, Series AR, Series F, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Mackenzie Global Resource Class (Formerly Mackenzie Universal World Resource Class) (Series A, Series F, Series O, Series PW, Series PWF, Series PWX, Series U)  
Mackenzie Gold Bullion Class (Formerly Mackenzie Universal Gold Bullion Class) (Series A, Series F, Series O, Series PW, Series PWF, Series PWX)  
Mackenzie Precious Metals Class (Formerly Mackenzie Universal World Precious Metals Class) (Series A, Series F, Series O, Series PW, Series PWF, Series PWX)  
Symmetry Balanced Portfolio Class (Series A, Series F, Series F8, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Symmetry Conservative Income Portfolio Class (Series A, Series F, Series F8, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)  
Symmetry Conservative Portfolio Class (Series A, Series F, Series F8, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series T6, Series T8)  
Symmetry Equity Portfolio Class (Series A, Series AR, Series F, Series F6, Series F8, Series G, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8, Series W)

Symmetry Fixed Income Portfolio Class (Series A, Series F, Series O, Series O6, Series T6, Series T8, Series W)

Symmetry Growth Portfolio Class (Series A, Series F, Series F8, Series O, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)

Symmetry Moderate Growth Portfolio Class (Series A, Series F, Series F8, Series O, Series O6, Series PW, Series PWF, Series PWF8, Series PWT8, Series PWX, Series PWX8, Series T6, Series T8)

Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated September 27, 2013  
NP 11-202 Receipt dated October 4, 2013

**Offering Price and Description:**

Series A, AR, B, C, DA,, F, F6, F8, G, GP, I, O, O6, PW, PWF, PWF8, PWT8, PWX, PWX8, S6, SC, SP, T5, T6, T8, U, U5, W, B-Series and Investor Series securities

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

Quadrus Investment Services Ltd.

LBC Financial Services Inc.

**Promoter(s):**

Mackenzie Financial Corporation

Mackenzie Financial Capital Corporation

**Project #2103259**

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**Issuer Name:**

Merus Labs International Inc.

Principal Regulator - Ontario

**Type and Date:**

Final Base Shelf Prospectus dated October 3, 2013

NP 11-202 Receipt dated October 4, 2013

**Offering Price and Description:**

\$80,000,000

Debt Securities

Common Shares

Subscription Receipts

Warrants

Preferred Shares

Units

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

-

**Promoter(s):**

-

**Project #2092339**

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**Issuer Name:**

Portland Advantage Fund

Portland Canadian Balanced Fund

Portland Canadian Focused Fund

Portland Global Income Fund (Series T Units also available)

Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated September 27, 2013

NP 11-202 Receipt dated October 1, 2013

**Offering Price and Description:**

Series A, Series F, Series G and Series T Units

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

Portland Private Wealth Services Inc.

**Promoter(s):**

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**Project #2104818**

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**Issuer Name:**

Premium Brands Holdings Corporation

Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated October 2, 2013

NP 11-202 Receipt dated October 2, 2013

**Offering Price and Description:**

\$50,000,000.00 - 5.50% Convertible Unsecured

Subordinated Debentures

Price: Per Debenture \$1,000.00

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

CIBC World Markets Inc.

BMO Nesbitt Burns Inc.

National Bank Financial Inc.

Scotia Capital Inc.

TD Securities Inc.

Canaccord Genuity Corp.

PI Fiancial Corp.

**Promoter(s):**

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**Project #2112130**

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**Issuer Name:**

Russell Income Essentials Class Portfolio  
(US Dollar Hedged Series B-5, US Dollar Hedged Series F-5)

Russell Diversified Monthly Income Class Portfolio  
(US Dollar Hedged Series B-5, US Dollar Hedged Series F-5)

Principal Regulator - Ontario

**Type and Date:**

Amendment #1 dated September 25, 2013 to the Simplified Prospectuses and Annual Information Form dated July 8, 2013

NP 11-202 Receipt dated October 3, 2013

**Offering Price and Description:**

-

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

Russell Investments Canada Limited

**Promoter(s):**

Russell Investments Canada Limited

Project #2067785

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**Issuer Name:**

Strategic Oil & Gas Ltd.

Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated September 30, 2013

NP 11-202 Receipt dated October 1, 2013

**Offering Price and Description:**

\$12,017,500.00 - 12,650,000 Common Shares; and  
\$17,000,000.00 - 15,454,545 Flow-Through Shares: Per  
Offered Common Share \$0.95, Per Flow-Through Share  
\$1.10

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

RAYMOND JAMES LTD.

MACQUARIE CAPITAL MARKETS CANADA LTD.

DUNDEE SECURITIES LTD.

FIRSTENERGY CAPITAL CORP.

NATIONAL BANK FINANCIAL INC.

PARADIGM CAPITAL INC.

PI FINANCIAL CORP.

**Promoter(s):**

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Project #2114666

**Issuer Name:**

Sulliden Gold Corporation Ltd.

Principal Regulator - Quebec

**Type and Date:**

Final Short Form Prospectus dated October 3, 2013

NP 11-202 Receipt dated October 4, 2013

**Offering Price and Description:**

\$40,086,000.00 - 39,300,000 Common Shares \$1.02 per  
Offered Share

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

NATIONAL BANK FINANCIAL INC.

SCOTIA CAPITAL INC.

RAYMOND JAMES LTD.

CORMARK SECURITIES INC.

GMP SECURITIES L.P.

DESJARDINS SECURITIES INC.

HAYWOOD SECURITIES INC.

MACQUARIE CAPITAL MARKETS CANADA LTD.

**Promoter(s):**

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Project #2115138

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**Issuer Name:**

Verisante Technology, Inc.

Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated September 30, 2013

NP 11-202 Receipt dated October 2, 2013

**Offering Price and Description:**

Up to \$10,000,000.00

Common Shares

Units consisting of Common Shares and Warrants to

Purchase Common Shares

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

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**Promoter(s):**

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Project #2112157

**Issuer Name:**

Western Forest Products Inc.  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated October 2, 2013  
NP 11-202 Receipt dated October 2, 2013

**Offering Price and Description:**

\$58,000,000.00 - 40,000,000 Units \$1.45 per Unit

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

SCOTIA CAPITAL INC.  
CIBC WORLD MARKETS INC.  
GOLDMAN SACHS CANADA INC.  
RBC DOMINION SECURITIES INC.  
TD SECURITIES INC.  
BMO NESBITT BURNS INC.  
HSBC SECURITIES (CANADA) INC.  
NATIONAL BANK FINANCIAL INC.  
RAYMOND JAMES LTD.

**Promoter(s):**

-

**Project #2114007**

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## Chapter 12

# Registrations

### 12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Equinox Investment Management Ltd.	Portfolio Manager	October 3, 2013
Change in Registration Category	BridgingFinance Inc.	From: Restricted Portfolio Manager To: Restricted Portfolio Manager and Exempt Market Dealer	October 3, 2013
Name Change	From: Baring Asset Management LLC To: Baring North America LLC	Investment Fund Manager and Exempt Market Dealer	October 7, 2013

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## Chapter 13

# SROs, Marketplaces and Clearing Agencies

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### 13.1 SROs

#### 13.1.1 Notice of Ministerial Approval of Memorandum of Understanding between Certain Provincial Securities Regulators Concerning the Mutual Fund Dealers Association of Canada (MFDA)

**NOTICE OF MINISTERIAL APPROVAL OF  
MEMORANDUM OF UNDERSTANDING BETWEEN CERTAIN PROVINCIAL SECURITIES REGULATORS  
CONCERNING THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA (MFDA)**

On October 2, 2013, the Minister of Finance approved, pursuant to section 143.10 of the *Securities Act* (Ontario), the memorandum of understanding between certain provincial securities regulators, collectively the recognizing regulators (RRs), concerning the MFDA (the MOU). The MOU is intended to promote a more effective and efficient system of oversight of the MFDA and to formalize current cooperation among the RR. It provides a comprehensive framework with respect to the coordination of the oversight reviews and activities of the MFDA by the RR. The MOU sets out an agreed communication process with the MFDA, and establishes uniform procedures, in the form of a Joint Rule Protocol ("JRP"), relating to the review and approval of or non-objection to rule changes proposed by the MFDA.

The MOU came into effect in Ontario on October 2, 2013. The MOU signed by certain provincial securities regulators, was published in the Bulletin on August 8, 2013 (See (2013), 36 OSCB 7909).

**13.1.2 OSC Staff Notice of Approval – MFDA Proposed Amendments to MFDA Rules 2.2.5 (Relationship Disclosure), 2.4.4 (Transaction Fees or Charges) and 5.4.2 (Trade Confirmations – Automatic Payment Plans)**

**OSC STAFF NOTICE OF REQUEST FOR COMMENT**

**MUTUAL FUNDS DEALERS ASSOCIATION OF CANADA (MFDA)**

**AMENDMENTS TO MFDA RULES 2.2.5 (RELATIONSHIP DISCLOSURE),  
2.4.4 (TRANSACTION FEES OR CHARGES) AND  
5.4.2 (TRADE CONFIRMATIONS – AUTOMATIC PAYMENT PLANS)**

The MFDA and British Columbia Securities Commission (BCSC) are publishing for public comment proposed amendments to MFDA Rules 2.2.5 (Relationship Disclosure), 2.4.4 (Transaction Fees or Charges) and 5.4.2 (Trade Confirmations – Automatic Payment Plans). The objective of the amendments is to amend the above-mentioned rules to reflect recent changes to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) and the Companion Policy to the Instrument related to cost disclosure, performance reporting and client statement. The requirements established under NI 31-103 will come into effect on July 15, 2014. A copy of the MFDA Notice including the amended documents was also published on our website at <http://www.osc.gov.on.ca>.

## Chapter 25

# Other Information

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### 25.1 Approvals

#### 25.1.1 Capital International Asset Management (Canada) Inc. – s. 213(3)(b) of the LTCA

##### Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager, with prior track record acting as trustee, for approval to act as trustee of pooled funds and future pooled funds to be managed by the applicant and offered pursuant to a prospectus exemption.

##### Statutes Cited

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

September 25, 2013

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

Attention: Lynn M. McGrade

Dear Sirs/Mesdames:

**Re: Capital International Asset Management (Canada) Inc. (the “Applicant”)**

**Application under Clause 213(3)(b) of the *Loan and Trust Corporations Act (Ontario)* (the “LTCA”) for Approval of Appointment as Trustee**

**Application No. 2013/0563**

Further to your application dated August 28, 2013 (the “Application”) filed on behalf of the Applicant, and based on the facts set out in the Application and the representation by the Applicant that the assets of the U.S. Equity Fund and any other future mutual fund trusts that the Applicant may establish and manage from time to time, will be held in the custody of a trust company incorporated and licensed or registered under the laws of Canada or a jurisdiction, or a bank listed in Schedule I, II or III of the *Bank Act (Canada)*, or an affiliate of such bank or trust company, the Ontario Securities Commission (the “Commission”) makes the following order:

Pursuant to the authority conferred on the Commission in clause 213(3)(b) of the *Loan and Trust Corporations Act (Ontario)*, the Commission approves the proposal that the Applicant act as trustee of U.S. Equity Fund and any future

mutual fund trusts which may be established and managed by the Applicant from time to time, the securities of which will be offered pursuant to an exemption from the prospectus requirement.

Yours truly,

“C. Wesley M. Scott”  
Commissioner

“Christopher Portner”  
Commissioner

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