The Ontario Securities Commission

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

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

Contact Centre – Inquiries, Complaints:

Office of the Secretary:

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

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

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

Fax: 416-593-2318

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One Corporate Plaza
2075 Kennedy Road
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M1T 3V4

Customer Support
1-416-609-3800 (Toronto & International)
1-800-387-5164 (Toll Free Canada & U.S.)
Fax 1-416-298-5082 (Toronto)
Fax 1-877-750-9041 (Toll Free Canada Only)
Email CustomerSupport.LegalTaxCanada@TR.com

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1.1.1 OSC Staff Notice 51-731 Corporate Branch 2020 Annual Report

OSC Staff Notice 51-731 *Corporate Finance Branch 2020 Annual Report* is reproduced on the following separately numbered pages. Bulletin pagination resumes at the end of the Report.

ONTARIO SECURITIES COMMISSION

OSC Staff Notice 51-731

Corporate Finance Branch

2020 Annual Report

November 19, 2020

Ontario

Contents

Director's Message and Executive Summary

The recent and continuing impact of the COVID-19 pandemic (COVID-19) on the Ontario and worldwide capital markets is unprecedented and underscores the importance of being able to provide balanced, tailored, flexible and responsive regulation to carry out the Ontario Securities Commission's broad mandate.

I am proud to share our Annual Report (the Report) which provides an overview of the Corporate Finance Branch's (the Branch's) operational and policy work for the fiscal year ended March 31, 2020 (fiscal 2020) and aims to provide timely guidance for issuers and their advisors about our expectations and our interpretation of regulatory requirements in certain areas.

Responsive Regulation

The Canadian Securities Administrators (the CSA) responded to the initial impact of COVID-19 by publishing substantively harmonized temporary exemptions from certain regulatory filing requirements, including granting relief to allow issuers to delay certain filings and waiving certain late filing fees. The Branch also hosted a webinar to provide guidance to issuers on disclosing and reporting on the effects of COVID-19 as well as guidance on conducting virtual annual meetings. While the focus of the Report is fiscal 2020, it is important to address the impact of COVID-19 as it continues to present numerous challenges for market participants. We have included additional considerations related to the impacts of COVID-19 in some sections of this Report in order to provide issuers and their advisors with timely guidance.

Throughout fiscal 2020, the Branch, with its CSA partners, continued work on several policy initiatives designed to reduce regulatory burden. In November 2019, the OSC published *Reducing Regulatory Burden in Ontario's Capital Markets*. Among other recommendations, this report contains 13 decisions and recommendations relating to the Branch on how to reduce regulatory burden for Ontario market participants. In May 2020, the OSC provided a status update on these recommendations and, to date, 8 of the 13 recommendations for Corporate Finance issuers have been completed and the majority of the remaining recommendations are on target for their estimated completion date.

Some key new initiatives that have been adopted include a CSA process for issuers to request confidential staff review of an entire prospectus prior to announcing an offering and for mining reporting issuers to seek OSC staff's preliminary views on certain technical disclosure documents. We believe this new process for staff review will support the strong desire by issuers for increased market certainty when conducting offerings. The CSA also published final amendments in connection with at-the-market distributions and business acquisition reporting requirements which are both expected to reduce the regulatory burden on reporting issuers.

CSA regulatory burden reduction initiatives, including those relating to primary business requirements, alternative offering models, continuous disclosure (CD) requirements and electronic delivery of documents, will continue to be part of the Branch's main policy focus in fiscal 2021.

Compliance

This Report provides insight into how the Branch has undertaken its operations throughout fiscal 2020, including the following:

- ***Continuous Disclosure Review Program***

Key compliance trends noted in reviews carried out through our CD review program in fiscal 2020 included trends relating to MD&A disclosure, mining technical reports, the use of non-GAAP financial measures, forward-looking information and executive compensation.

- ***Offerings – Public***

In fiscal 2020, the Branch receipted approximately 400 prospectuses, representing a slight decrease from the prior year. Key issues noted by staff during prospectus reviews include issues relating to an issuer's primary business, sufficiency of proceeds and financial condition, as well as issues relating to audit committees in the context of an IPO, among others.

- ***Exemptive Relief Applications***

We reviewed over 250 applications for exemptive relief in fiscal 2020. This Report includes guidance for applications relating to reporting issuer status, revocations of cease trade orders, business acquisition reports, and relief from certain financial statement requirements in connection with reverse takeovers.

In addition to the above, this Report contains insider reporting tips for issuers and insiders, an update on designated rating organizations and financial benchmarks, as well as information relating to other administrative matters that may be of interest to issuers and their advisors.

Engagement with our stakeholders continues to be a critical component of our work. We hope that this Report will serve as a guide to better understand disclosure and other regulatory obligations under Ontario securities laws.

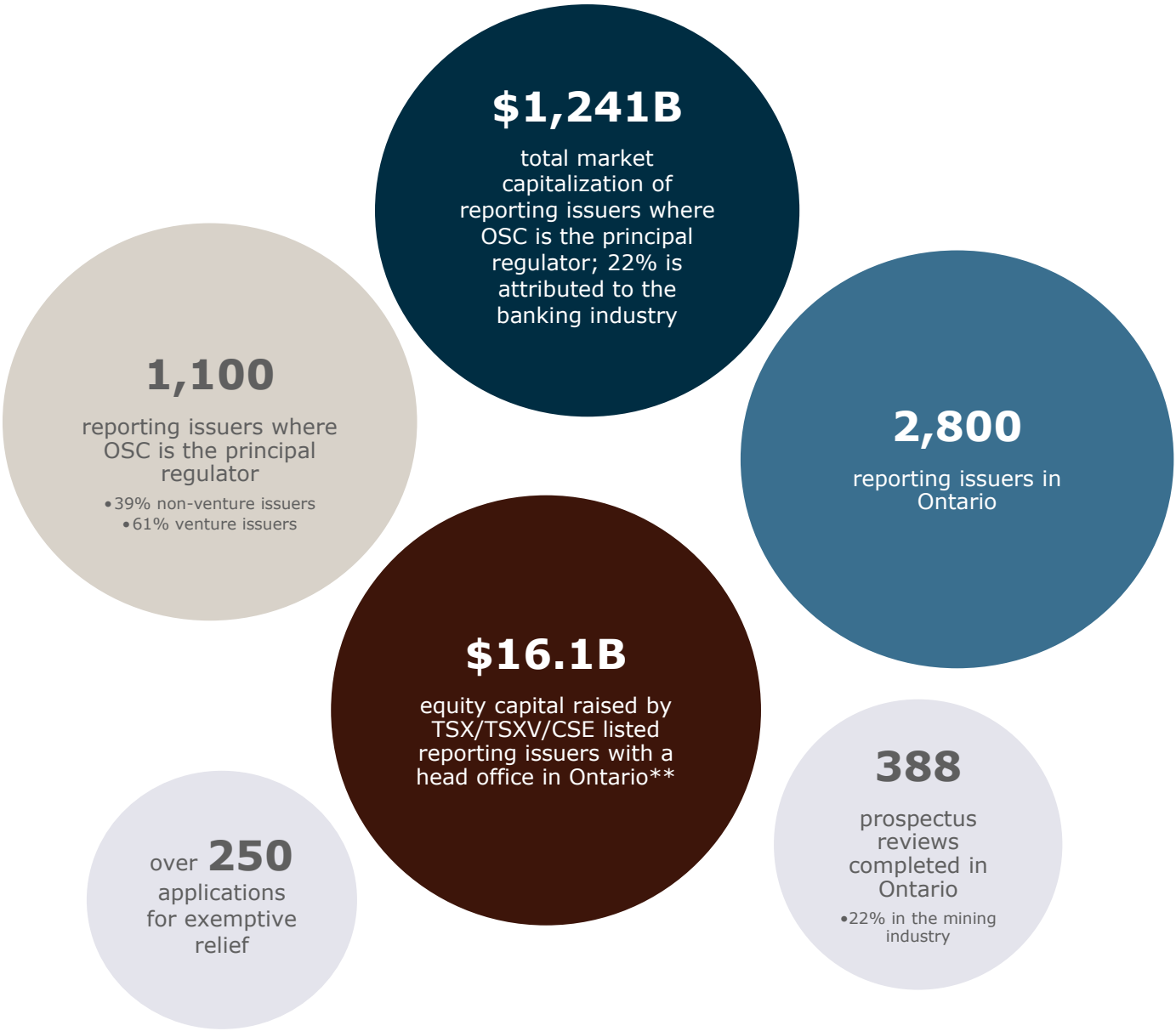
As in previous years, we welcome any questions or feedback that you may have.

Finally, I want to thank Branch staff for their continued dedicated support and professionalism in carrying out our regulatory role during a time of immense change and uncertainty in the capital markets.

Kind regards,

Sonny Randhawa
Director, Corporate Finance
Ontario Securities Commission

Fiscal 2020 Snapshot*



** Note: all figures are as at / for the fiscal year ended March 31, 2020 and are approximate or rounded.*
*** Includes $15.7B in equity capital raised by TSX/TSXV listed reporting issuers with a head office in Ontario, including listed convertible debt, and $0.4B in equity capital raised by CSE listed reporting issuers with a head office in Ontario*

Part A: Introduction

A.1. Objectives

A.2. Branch Mandate

A.1. Objectives

This Report provides an overview of the Branch's operational and policy work during fiscal 2020, discusses future issuer-related policy initiatives, and sets out our expectations and our interpretation of regulatory requirements in certain areas. The Report is intended for individuals and entities we regulate, their advisors, as well as investors. In light of the current economic environment and the impacts of COVID-19, we have also included guidance on considerations for disclosing and reporting on the impacts related to COVID-19 in certain sections in order to provide issuers and their advisors with additional guidance specifically targeted to issues that may need to be addressed as a result of the pandemic.

This Report aims to:

- reinforce the importance of compliance with regulatory obligations
- provide guidance to improve disclosure in regulatory filings
- provide insights on trends
- provide guidance on novel issues
- inform on key issuer-related policy initiatives

Part B – Compliance	Part C – Responsive Regulation	Part D – Education and Outreach
Provides an overview of and guidance on the key findings and outcomes from our regulatory oversight program conducted during the fiscal year.	Provides an update on the various issuer-related policy initiatives the Branch is involved in.	Highlights some of the outreach and education resources the Branch provides for issuers and their advisors.

A.2. Branch Mandate

As a regulatory agency, the OSC administers and enforces the *Securities Act* (Ontario) (the Act) and the *Commodity Futures Act* (Ontario).

OSC VISION	OSC ORGANIZATIONAL GOALS
To be an effective and responsive securities regulator — fostering a culture of integrity and compliance and instilling investor confidence in the capital markets.	PROMOTE Confidence in Ontario's Capital Markets REDUCE Regulatory Burden FACILITATE Financial Innovation

OSC MANDATE

To provide protection to investors from unfair, improper or fraudulent practices, to foster fair and efficient capital markets and confidence in capital markets and to contribute to the stability of the financial system and the reduction of systemic risk.

CORPORATE FINANCE BRANCH - WHO ARE WE

In support of the OSC's mandate, the Corporate Finance Branch is responsible for regulating issuers others than investment funds and leading related policy initiatives. Regulation in this area is broad and takes many forms including:

Issuer regulation	• review of public distributions of securities, • review of exempt market activities and related policy development, • continuous disclosure reviews of reporting issuers, • review and consideration of applications for relief from regulatory requirements, and • issuer related policy initiatives.

Other areas overseen by our Branch mandate include:

Insider reporting	• review of insider reporting,
Designated rating organizations (DROs)	• review of credit rating agencies designated as DROs,
Listed issuer regulation	• oversight of the listed issuer function for OSC recognized exchanges, • policy initiatives for listed issuer requirements,
Education and Outreach	• engagement with stakeholders through a number of activities, including our advisory committees, and • delivery of issuer education and outreach programs.

We regularly consult and partner with other branches across the OSC in executing our functions. For example, we partner with the Market Regulation branch for oversight of the listed issuer function and the Compliance and Registrant Regulation branch (CRR Branch) for oversight of the exempt market. We also regularly consult with the Enforcement branch on matters of non-compliance.

Part B: Compliance

- B.1. Continuous Disclosure Review Program
- B.2. Offerings - Public
- B.3. Exempt Market
- B.4. Exemptive Relief Applications
- B.5. Insider Reporting
- B.6. Administrative Matters

Part B provides an overview of the key findings and outcomes from our regulatory oversight program conducted during the fiscal year. This Part discusses key or novel issues, suggests best practices and specifies applicable legislation and relevant guidance to assist companies in addressing each of the topic areas.

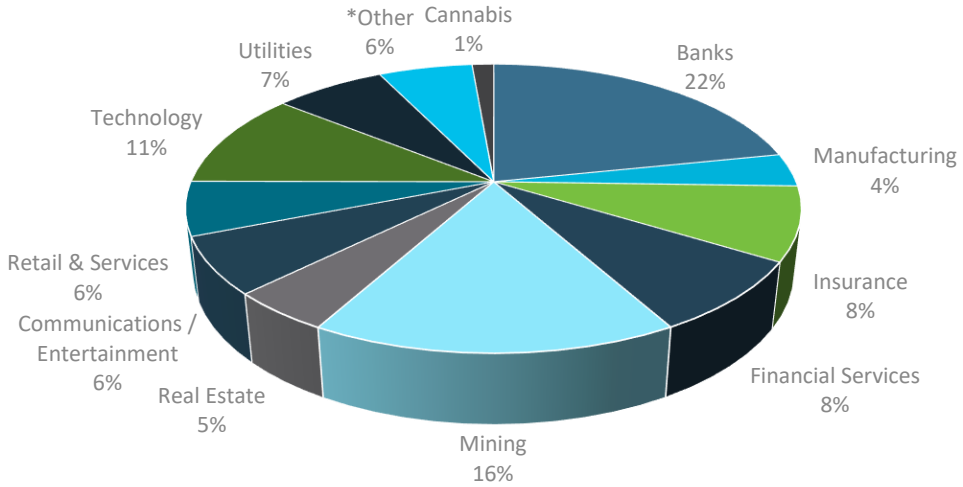
B.1. Continuous Disclosure Review Program

Under Canadian securities laws, reporting issuers must provide timely and periodic CD about their business and affairs. Where an issuer has a head office in Ontario, or has a significant connection to Ontario, the OSC has primary responsibility as principal regulator for reviewing that issuer's CD. Disclosure documents include periodic filings such as:

- interim and annual financial statements,
- management's discussion and analysis (MD&A),
- certifications of annual and interim filings,
- management information circulars,
- annual information forms (AIFs), and
- technical reports.

The Branch oversees over 1,100 reporting issuers with an aggregate market capitalization of approximately $1,241 billion as at March 31, 2020. The three largest industries by market capitalization were banking, mining, and technology.

Figure 1: Market capitalization of Ontario reporting issuers by industry as at March 31, 2020



**Industry in the other category include biotech/pharma, cryptocurrency, environmental, gaming, hospitality, transportation, oil & gas, etc.*

a) Overview of the CD review program

Our CD review program is risk-based and outcome focused. It includes planned reviews based on risk criteria as well as ongoing monitoring through news releases, media articles, complaints and other sources. The CD review program is conducted pursuant to the powers in section 20.1 of the Act and is part of a harmonized CD review program conducted by the CSA.

For more information see CSA Staff Notice 51-312 (Revised) *Harmonized Continuous Disclosure Review Program*.

i) Objectives of the CD review program

The CD review program has two main objectives:

Compliance	to assess whether reporting issuers are complying with their disclosure obligations, and
Issuer education and outreach	to help reporting issuers better understand their disclosure obligations.

We assess compliance with CD requirements through a review of a reporting issuer's filed documents, website and social media. This review function is critical to facilitating fair and efficient markets, investor protection, and informed investment decision making and trading. CD reviews also support the raising of new capital, as many issuers raise funds through short form prospectuses which incorporate CD documents by reference.

ii) Types of CD reviews

In general, we conduct either a "full" review or an "issue-oriented" review (IOR) of a reporting issuer's CD.

Full review	Broad in scope and generally covering an issuer's most recent annual and interim financial statements and MD&A, AIF, annual reports, information circulars, news releases, material change reports, website, social media disclosure, investor presentations, and SEDI filings.
IOR	An in-depth review focusing on a specific accounting, legal or regulatory issue that we believe warrants regulatory scrutiny.

In planning our full reviews, we draw on our knowledge of issuers and their industries and use risk-based criteria to identify reporting issuers with a higher risk of non-compliant disclosure. We may also select an issuer for review based on a complaint. The criteria are designed to identify issuers whose disclosure is likely to be materially improved or brought into compliance with securities laws or accounting standards as a result of our intervention. Our risk-based procedures incorporate both qualitative and quantitative criteria which we review regularly to keep current with our evolving capital markets. We also monitor novel and high growth areas of financing activity when developing our review program.

IORs are generally focused on a specific accounting, legal or regulatory issue, an emerging issue or industry or implementation of recent rules. Conducting IORs allows us to:

- monitor compliance with requirements and provide a basis for communicating interpretations of these requirements, staff disclosure expectations and areas of concern,
- quickly address specific areas where there is heightened risk of investor harm,
- identify common deficiencies,
- provide industry specific disclosure examples to assist preparers in complying with regulatory requirements, and
- assess compliance with new accounting standards.

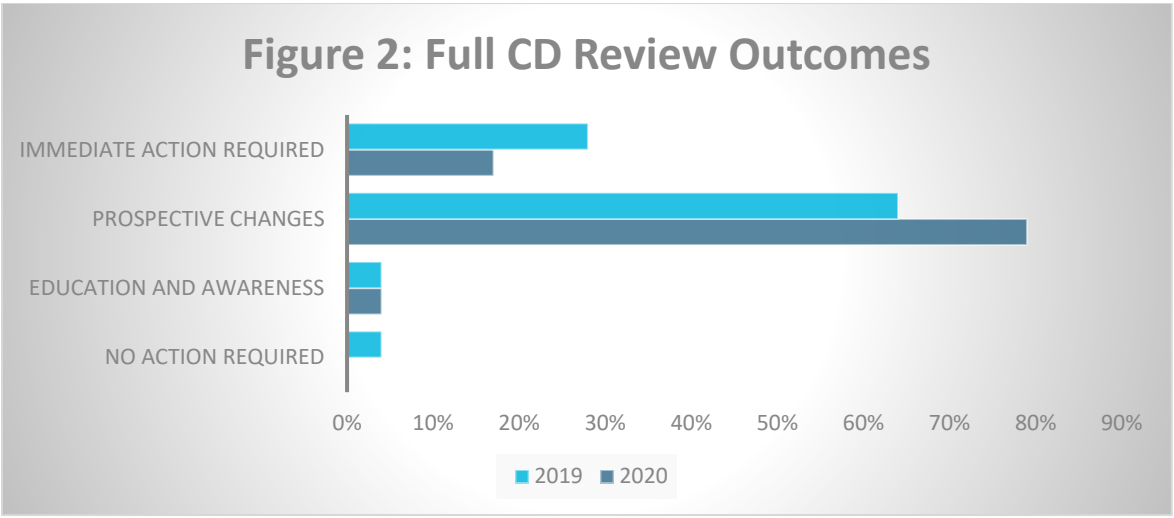
b) CD review program outcomes for fiscal 2020

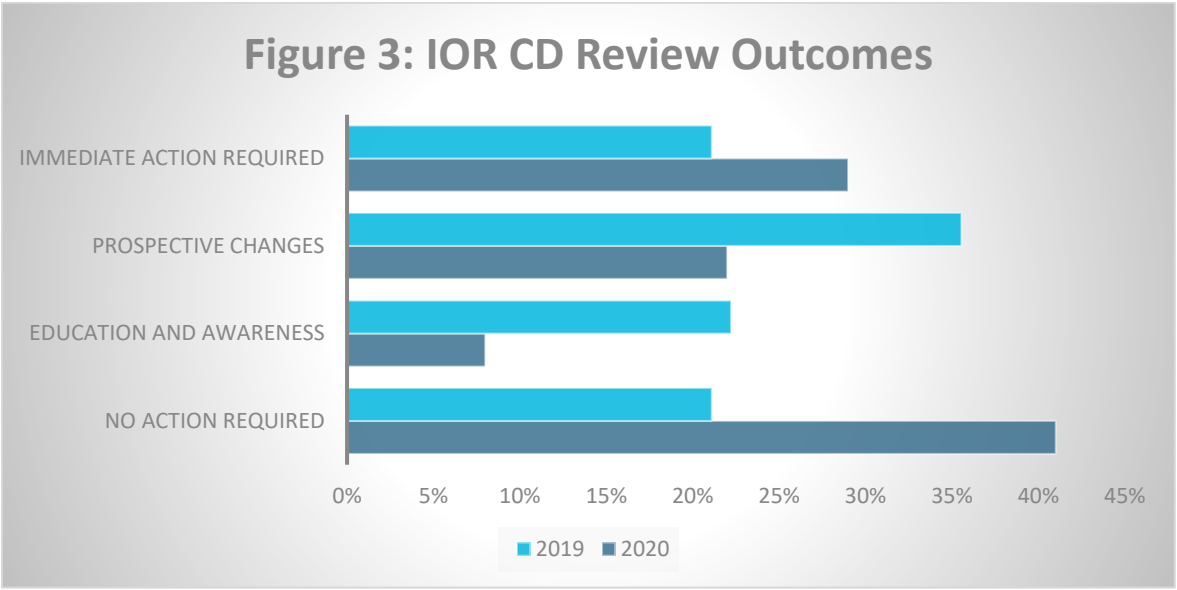
For each reporting issuer, we measure outcomes of a CD review by tracking the following:

- prospective disclosure enhancements,
- education and awareness, and
- outcomes where immediate action was required by the issuer, such as a refiling.

A CD review may result in more than one outcome. For example, an issuer may have been required to refile certain CD documents while also committing to prospective disclosure enhancements.

i) Summary of Review Outcomes





Given our risk-based criteria to identify reporting issuers, the outcomes on a year-over-year basis should not be interpreted as trends since the issues and issuers reviewed each year are generally different. For example, some reviews may be industry-specific, focusing on certain disclosures that are specific to a particular industry, such as technical mining disclosure, as set out in National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (NI 43-101).

Other reviews may be issue-specific, focusing on a particular continuous disclosure requirement for which we've noted widespread deficiencies. These reviews may result in an increased number of outcomes categorized as "prospective changes" or "immediate action required" if deficiencies identified are prevalent among several issuers. Certain reviews are also conducted for research purposes only and for which few staff comment letters are issued. As such, the outcomes of these reviews may be categorized as "no action required" or "education and awareness" if the review resulted in the publication of a staff notice. For example, in fiscal 2020 we conducted "research reviews" on the disclosure of entry-points documents which resulted in "no outcomes" since no letters were issued.

ii) Refilings

Immediate action was required by reporting issuers in 17% of our full CD reviews and 29% of our IORs (fiscal 2019: 28% and 21%, respectively). Staff generally request that a document be refiled when it contains material deficiencies. Examples of instances where staff have requested refilings include

- refiling of financial statements to correct material misstatements,
- refiling of an MD&A where the MD&A was materially deficient and did not meet the form requirements of Form 51-102F1 *Management's Discussion and Analysis* (Form 51-102F1),
- filing of a clarifying news release when an issuer failed to include sufficient disclosure on material assumptions, milestones and risk factors pertaining to forward-looking information (FLI) or failing to update the market on FLI, and
- refiling of a technical report where the report filed was not in compliance with NI 43-101.

***17%** of full reviews and **29%** of IORs resulted in immediate action being required by the issuer*

Generally, MD&A, mining technical reports (and related news releases) and material contracts are the documents we most often request issuers to refile or file (in instances when documents were not filed in the first place).

c) Trends and guidance

This section highlights some of the common deficiencies that were observed during our CD reviews in fiscal 2020. We encourage issuers to continue to review and improve their disclosure, including with reference to the guidance below.

i) Management's Discussion and Analysis

The MD&A is the cornerstone of a reporting issuer's overall financial disclosure and provides an analytical and balanced discussion of the issuer's results of operations and financial condition through the eyes of management. MD&A disclosure should be specific, useful and understandable. The MD&A requirements are set out in Part 5 of Form 51-102F1 to National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102).

The following table presents a summary of certain key issues, observations and best practices identified in our reviews, and in addition, includes potential disclosure considerations resulting from the impacts of COVID-19 on these topics. The observations below do not represent an exhaustive list. Issuers should consider their specific business and operations and provide clear and transparent disclosure of the impact of COVID-19.

Issue	Observations	Best practices
Liquidity and capital resources	Issuers provide incomplete or boilerplate disclosure regarding their liquidity and capital resources such as "management believes the issuer has adequate working capital to fund operations" or "has adequate cash resources to finance future foreseeable capacity expansions".	Provide insight beyond the numbers by • discussing material cash requirements, • explaining how liquidity obligations have been settled or will be settled, and • quantifying working capital needs and how these needs relate to future business plans or milestones. Be specific about the period(s) to which the discussion applies and when additional financing is relied upon. ***Additional considerations for COVID-19 impacts*** COVID-19 may have a significant impact on certain issuers' financial position and capital and liquidity resources. It will be particularly important for those issuers to provide a comprehensive discussion on both the current and expected effects of the pandemic, including quantifying the impact where possible. Examples of items requiring disclosure might include: any subsidies and/or funding received from government programs, increased counterparty risk (A/R collection), reduced cash flow from operations as a result of decreased demand, delays in capital project plans, impacts of any cost cutting initiatives (employee layoffs, reduced hours), factors that could influence credit ratings, changes in the issuers dividend policy, material risks of not meeting covenants, new financing

Issue	Observations	Best practices
		arrangements with less favourable terms than in recent periods etc.
Discussion of operations	The variances in financial statement line items are stated with limited narrative discussion of the factors resulting in the variance and any trends or potential trends.	The discussion should • include a detailed, analytical and quantified discussion of the various factors that affect revenues and expenses beyond the percentage change or amount, • provide insight into the issuer's past and future performance, and • be clear and transparent. Be specific and disclose information that readers need to make informed investment decisions. ***Additional considerations for COVID-19 impacts*** COVID-19 may have a significant impact on an issuer's operations. Disclosure of such impacts should be entity-specific and transparent, providing a detailed explanation and breakdown of the impacts of COVID-19, but also of any other factors contributing to period over period variances as well as actions/remedies undertaken by the issuer in response to COVID-19. Examples of items requiring disclosure might include: providing concessions or modifying terms of arrangements as a landlord or lender that will have a material impact, operational changes or shut downs of production facilities or store locations, changes in demand for products and services, costs (including changes in prices or constraints on supply), any breaches or potential breaches of material contracts by the issuer or its counterparties (including as a result of claiming force majeure) etc. Issuers should avoid 'blaming' or generally listing COVID-19 as the sole reason for any period over period variances or other negative news.
Risks and uncertainties	Itemized lists of risks are provided that are general in nature.	Be specific about • the material risks and uncertainties applicable to the issuer, and • the anticipated significance and impact those risks may have on the issuer's financial

Issue	Observations	Best practices
		position, operations, cash flows and future prospects. Explain how the issuer is mitigating the risk and update risk disclosures when circumstances change. ***Additional considerations for COVID-19 impacts*** Given the uncertainty brought on by COVID-19, most issuers will be impacted by COVID-19 in some way, which may vary significantly between issuers, industries and location of operations. Risk factors should be specific to the issuer and generic or boilerplate disclosure should be avoided.
Business plan	Early stage or development issuers do not provide sufficient detail regarding their business plans.	Identify concrete milestones in the issuer's business plans. For each milestone, describe the steps and associated costs required to complete it and identify the anticipated timing of completion. ***Additional considerations for COVID-19 impacts*** Issuers should consider whether previously disclosed milestones and/or business plans are still reasonably expected within the timeframe disclosed and with the issuer's current financial resources.

Reminder: Reporting issuers that have significant projects that have not yet generated revenue are required by Item 1.4(d) of Form 51-102F1 to describe each project including the plan for the project and status of the project relative to that plan, and expenditures made and how these relate to anticipated timing and costs to take the project to the next stage of the project plan. This requirement is applicable to all issuers with significant projects that have not yet generated revenue, not just development stage issuers or venture issuers.

ii) Mining disclosures

In 2018 and 2019, we undertook a review of mining technical reports jointly with other jurisdictions that employ specialist mining staff. On June 4, 2020, the CSA published CSA Staff Notice 43-311 *Review of Mineral Resource Estimates in Technical Reports* which provides detailed

Staff commentary on the results of the review and guidance on regulatory requirements and expectations for technical reports that support disclosure of mineral resource estimates.

In summary, the review showed that geological and statistical information relevant to the disclosure of mineral resource estimates was generally compliant. However, inadequate disclosure was frequently noted in the following four areas:

- demonstrating that a mineral resource had reasonable prospects of eventual economic extraction;
- performing and documenting verification of drill hole data, particularly legacy data from former project operators;
- setting out project-specific risk factors that could affect a mineral resource estimate; and
- displaying the estimate's sensitivity to changes in cut-off grade.

When filing a technical report supporting a mineral resource estimate, NI 43-101 requires disclosure of the key assumptions, parameters, and methods used by the qualified person in determining that the mineralization has reasonable prospects for eventual economic extraction, and therefore meets the 2014 CIM Definition Standards for Mineral Resources & Mineral Reserves definition of a "mineral resource".

For a reasonably informed reader to understand the basis used by the qualified person to determine the mineral resource estimate, disclosure should include the following criteria:

- cut-off grade, and continuity of mineralization at the selected cut-off grade,
- metallurgical recovery of the commodities or products of interest,
- smelter payments,
- commodity price or product value,
- methods for mining and processing the mineralization, and
- costs related to mining, processing, and general and administration.

In addition, specific information about constraining boundaries, such as pit shells for open pit deposits, potentially mineable shapes for underground deposits, and practical surface limitations need to be considered and should be used in conjunction with the above criteria for the preparation of mineral resource estimates.

If legacy data (collected by previous project operators) forms part of the dataset for a mineral resource estimate, disclosure about the qualified person's efforts to adequately verify that data needs to be sufficiently disclosed in the technical report.

Each mineral project has its own set of risks, any of which could affect the accuracy over time of the resource estimate. Rather than provide "boilerplate" disclosure of risks common to the mining industry, disclosure should set out meaningful risks specific to the mineral project.

Knowing how the size and grade of a mineral deposit vary with cut-off grade is valuable information in assessing the economic robustness of a mineral project, but the estimates shown should all meet the "reasonable prospects" test, and the final estimate for the project should be clearly marked in any table or graphic displaying sensitivity results.

Issuers in the mineral industry should also be aware that the Canadian Institute of Mining, Metallurgy, and Petroleum has revised its guidance on estimation and exploration best practices. The *General Guidance* section in Companion Policy 43-101CP to NI 43-101 notes that this guidance represents industry-standard practice and will generally be used by qualified persons preparing scientific and technical information for mineral project disclosure. *CIM Estimation of Mineral Resources & Mineral Reserves Best Practice Guidelines* (November 29, 2019) and *CIM Mineral Exploration Best Practice Guidelines* (November 23, 2018) are significant enhancements of previous CIM best-practice documents and we encourage issuers and practitioners to consult the new editions for current guidance on exploration and mineral resource and reserve estimation practices.

Issuers that disclose potential economic outcomes based on mineral resources should be aware that forecasts of cash flows, operating costs, capital costs, production rates, or mine life are all considered to be the results of a preliminary economic assessment (PEA). Such disclosure may trigger the requirement to file a technical report supporting these potential economic outcomes.

We also continue to see non-compliant disclosure in technical reports of PEAs based on inferred mineral resources which combine potential economic outcomes from PEAs with economic outcomes based on more advanced mining studies used to support mineral reserves. Issuers that combine or integrate these economic outcomes together in their disclosure may be required to amend and refile their technical report.

Reminder: Issuers that disclose a PEA on an advanced property containing mineral reserves should follow the guidance outlined in CSA Staff Notice 43-307 *Mining Technical Reports – Preliminary Economic Assessments*.

We encourage public mining issuers to request a review of the issuer's publicly filed technical disclosure, as discussed in OSC Staff Notice 43-706 *Pre-filing Review of Mining Technical Disclosure*.

In addition, issuers with mineral reserves on undeveloped mineral projects should regularly determine whether that mineral reserve is still economically viable, typically by applying a discounted cash flow analysis with updated assumptions.

iii) Non-GAAP financial measures

Non-GAAP financial measures continue to be disclosed by many issuers in news releases, MD&A, prospectus filings, marketing materials, investor presentations and on issuers' websites, as issuers believe this information provides additional insight into their overall financial performance.

As in past years, we continue to be concerned by the prominence given to disclosure of non-GAAP financial measures, the lack of transparency about the various adjustments made in

arriving at non-GAAP financial measures and the appropriateness of the adjustments themselves as they generally present a more positive picture of financial performance, which may be misleading to investors. Issuers should consider the guidance and examples in CSA Staff Notice 52-306 (Revised) *Non-GAAP Financial Measures* (SN 52-306) and in prior Corporate Finance Branch Annual Reports.

Regulatory Developments

To improve the disclosure surrounding non-GAAP financial measures and certain other financial measures, the CSA is intending to replace SN 52-306 with a Proposed National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure* and a related proposed Companion Policy (Proposed NI 52-112).

Proposed NI 52-112 sets out disclosure requirements for non-GAAP financial measures and other financial measures (i.e., segment measures, capital management measures, and supplementary financial measures as defined in Proposed NI 52-112). It was published on September 6, 2018 for a first comment period and, after making revisions for comments received during the first comment period, it was published on February 13, 2020 for a second comment period, which ended on June 29, 2020.

Additional Considerations for COVID-19 Impacts

Issuers should be cautioned when defining adjustments or alternative profit measures as "COVID-19 related". Not all COVID-19 effects are non-recurring and there may be limited basis for management to conclude that a loss or expense is non-recurring, infrequent or unusual. This includes where the impacts of COVID-19 cross over multiple reporting periods. It could also be misleading to describe an adjustment as COVID-19 related if management does not explain how the adjusted amount was specifically associated with COVID-19.

iv) Forward-looking information

Many issuers disclose FLI in news releases, MD&A, prospectus filings, marketing materials, investor presentations or on their website. FLI should provide valuable insight about the issuer's business and how the issuer intends to attain its corporate objectives and targets.

We continue to see deficiencies in FLI disclosure including a lack of balanced discussion of the key assumptions used and the risk factors inherent in the FLI. Issuers should consider the guidance in prior Corporate Finance Branch Annual Reports.

Additional Considerations for COVID-19 Impacts

When disclosing FLI, issuers should, among other things, identify the material factors or assumptions and the material risk factors that are relevant to the FLI. Some key questions to consider when assessing the impacts of COVID-19:

- Is there still a reasonable basis for previously disclosed FLI?
- Have risk factors that could cause actual results to vary been identified?
- Have users been cautioned that actual results may vary from FLI?
- How has COVID-19 impacted your company's overall outlook for its future operations and liquidity position?
- Has previously issued FLI been updated? Have decisions to update or withdraw material FLI been adequately and promptly communicated to the market?

v) Executive compensation

If a reporting issuer is required to send an information circular to security holders, the issuer must disclose executive compensation information as required by section 9.3.1 of NI 51-102 and Item 8 of Form 51-102F5 *Information Circular* (Form 51-102F5). Non-venture issuers must file this disclosure within 140 days after the issuer's most recently completed financial year and venture issuers must file this disclosure within 180 days after the issuer's most recently completed financial year. A reporting issuer that is not required to send an information circular to security holders must comply with section 11.6 of NI 51-102, which requires the same executive compensation information to be disclosed within the above-noted timeframes.

A reporting issuer may rely on the exemption from executive compensation disclosure under section 9.5 of NI 51-102 only in instances where the proxy solicitation requirements of the laws under which the reporting issuer is incorporated are substantially similar to the requirements of Part 9 of NI 51-102. In this regard, staff may take the position that a reporting issuer should file executive compensation disclosure in the context of a CD review or a prospectus review, if such disclosure has not been filed within 140 days after the end of the issuer's most recently completed financial year for non-venture issuers, or 180 days after the end of the issuer's most recently completed financial year for venture issuers.

Additional Considerations for COVID-19

Ontario Instrument 51-504 *Temporary Exemption from Certain Requirements to File or Send Securityholder Materials* and substantially similar orders in other CSA jurisdictions gives issuers until December 31, 2020 to file their executive compensation disclosure and temporarily relieve issuers from requirements to send, or send upon request, copies of annual or interim financial statements and MD&A to investors within certain time periods up to December 31, 2020. The relief is limited and is subject to terms and conditions.

vi) Diversity on boards and in executive officer positions

The disclosure requirements regarding the representation of women on boards and in executive officer positions are set out in National Instrument 58-101 *Disclosure of Corporate Governance Practices* and have been in place for six annual reporting periods. The disclosure requirements are intended to increase transparency for investors and other stakeholders regarding the representation of women in these roles and the approach that specific TSX-listed issuers take in respect of such representation. This transparency is intended to assist investors when making investment and voting decisions.

On October 2, 2019, CSA Multilateral Staff Notice 58-311 *Report on Fifth Staff Review of Disclosure regarding Women on Boards and in Executive Officer Positions* (SN 58-311) was published. SN 58-311 reports the findings of our fifth review of disclosure regarding women on boards and in executive officer positions. Of note, 17% of overall board seats were occupied by women, 73% of issuers in the review sample had at least one woman on their board and 64% of issuers in the review sample had at least one woman in an executive officer position.

On January 23, 2020, the underlying data used in SN 58-311 was published along with the data for additional issuers that was not included in past review samples for the balance of 2018.

On September 15, 2020 a multilateral CSA news release was published providing an update on the timing of the Sixth Staff Review of Disclosure regarding Women on Boards and in Executive Officer Positions and the CSA's consideration of its role in the broader diversity conversation.

vii) Corporate governance related disclosure expectations for reporting issuers in the cannabis industry

On November 12, 2019, we along with other participating CSA jurisdictions published CSA Multilateral Staff Notice 51-359 *Corporate Governance Related Disclosure Expectations for Reporting Issuers in the Cannabis Industry*.

The notice outlines some of the specific problems we are seeing with governance practices in the cannabis industry and provides our expectations in these areas. In particular, we have observed instances of

- inadequate transparency relating to the cross-ownership of financial interests by cannabis reporting issuers (or their directors and officers) involved in mergers, acquisitions or other significant corporate transactions (M&A Transactions). Staff are of the view that, in the context of these transactions, the cross-ownership of financial interests is material information for investors and their investment/voting decisions and should be disclosed.

- reporting issuers identifying board members as being independent, without giving adequate consideration to potential conflicts of interest, or other factors that may compromise their independence. The notice discusses considerations with regard to the independence of board members, including the development of a written code of business conduct and ethics that addresses these and other governance related matters.

The notice provides guidance related to governance and disclosure-related practices for reporting issuers in the cannabis industry, including in the context of M&A Transactions. This will allow security holders to make their own determination about the merits of these transactions, considering any cross-ownership of financial interests as well as disclosure about how the parties addressed any governance concerns.

As stated in the notice, we will continue to monitor governance practices and related disclosure in the cannabis industry through our review program activities moving forward.

While the notice has been directed towards cannabis reporting issuers, its content is equally relevant to other issuers, including those in emerging growth industries.

viii) Climate-change related disclosure

The focus on climate change-related issues in Canada and internationally has grown rapidly in recent years. In order to make informed investment and voting decisions, investors, particularly institutional investors, are seeking improved disclosure on the material risks, opportunities, and financial impacts related to climate change.

Securities legislation in Canada requires reporting issuers to disclose the material risks affecting their business and, where practicable, the financial impacts of such risks. In addition to addressing regulatory requirements, these disclosures provide issuers with an opportunity to

inform investors about the sustainability of their business model and to provide insights into how they are mitigating and adapting to these risks.

On August 1, 2019, we published CSA Staff Notice 51-358 *Reporting of Climate Change-related Risks* (SN 51-358) in light of our findings that issuers needed further guidance on identifying and disclosing material climate change-related risks. Please see CSA Staff Notice 51-354 *Report on Climate change-related Disclosure Project* (SN 51-354) for more details on our findings. The key objective of SN 51-358 is to provide issuers, especially smaller issuers, with guidance as to how they might approach preparing disclosures of material climate change-related risks.

SN 51-358 does not create any new legal requirements or modify existing ones. It reinforces and expands upon the guidance provided in CSA Staff Notice 51-333 *Environmental Reporting Guidance* (SN 51-333) and should be read in conjunction with SN 51-333, which continues to provide guidance to issuers on existing CD requirements relating to a broad range of environmental matters, including climate change.

We encourage boards of directors and management of issuers to review SN 51-358 as it:

- provides an overview of the responsibilities of boards and management relating to risk identification and disclosure,
- outlines relevant factors to consider in assessing the materiality of climate change-related risks,
- provides examples of some of the types of climate change-related risks to which issuers may be exposed,
- includes questions for boards and management to consider in the climate change context, and
- provides an overview of the disclosure requirements if an issuer chooses to disclose forward-looking climate change-related information.

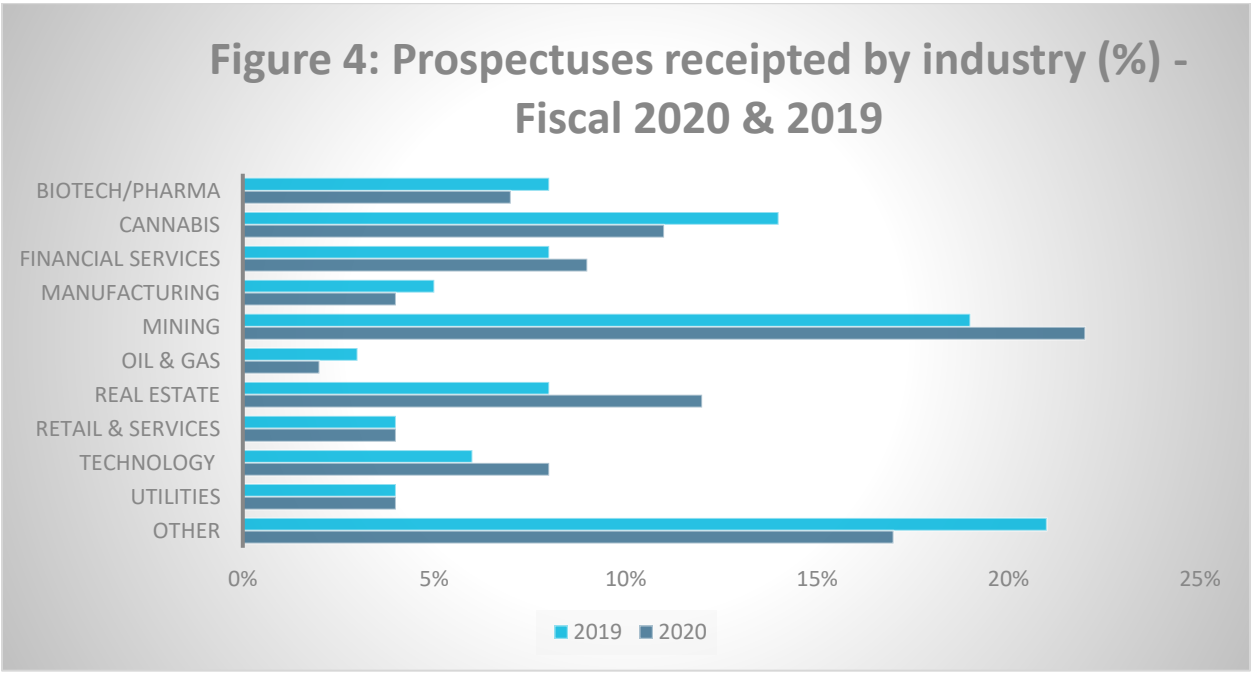
We will continue to monitor disclosure of climate change-related matters as part of our ongoing CD review program.

B.2. Offerings - Public

Under Canadian securities law, to distribute securities, an issuer must file and obtain a receipt for a prospectus or rely upon a prospectus exemption. Another key component of our compliance work stream is the review of prospectuses in connection with public offerings. This section outlines statistics and trends with respect to public offerings and provides guidance on common issues that arise during our reviews of prospectuses. Section B.3 addresses the exempt market.

a) Statistics

In fiscal 2020, we reviewed 388 prospectuses that were filed in Ontario (fiscal 2019: 440). These filings covered a wide range of industries with mining, cannabis and real estate being the most active sectors based on the number of offerings.



Industry in the other category include environmental, gaming, hospitality, transportation etc.

b) Trends and guidance

In fiscal 2020, the number of prospectuses we reviewed where the OSC was the principal regulator was lower than the prior fiscal year. A significant factor in the decrease in volume over the year was the overall decline of offerings in the cannabis industry. Fiscal 2019 saw a strong performance in the cannabis sector due to the legalization of cannabis for recreational use in October 2018, however, overall market conditions in the sector declined in fiscal 2020 and resulted in fewer prospectuses being filed and receipted.

Further, we saw a decrease in the number of offerings towards the end of the fiscal year given the overall economic impact and market turmoil caused by COVID-19 in March 2020, however prospectus volumes have picked up since April 1.

Tip: The guidance in this section also applies to prospectus-level disclosure included in an information circular in connection with a proposed significant acquisition or a restructuring transaction as required by Item 14.2 of Form 51-102F5.

Key takeaways from our work reviewing offering documents in fiscal 2020 are set out below. Many of the matters highlighted could benefit from pre-file discussions between issuers and staff to avoid delays at the time of the prospectus filing.

Reminder: The process to submit an entire prospectus for a confidential pre-file review is outlined in CSA Staff Notice 43-310 *Confidential Pre-File Review of Prospectuses (for non-investment fund issuers)*. The process to submit a pre-filing application regarding interpretation of securities legislation to a particular offering or proposed offering or exemptive relief from securities legislation is outlined in National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions*.

i) Primary business in an initial public offering (IPO)

The disclosure requirements for an issuer's primary business are one of the areas currently under consideration as part of the policy initiative to reduce regulatory burden for non-investment fund reporting issuers. Until this project is completed, the guidance issued for primary business in OSC Staff Notice 51-728 *Corporate Finance Branch 2016-2017 Annual Report* continues to apply.

For specific inquiries relating to primary business fact patterns, we encourage issuers to file a pre-filing prior to the filing of a prospectus.

ii) Disclosure improvements

Disclosure enhancements, where we required material disclosure changes to a prospectus, remained our most consistent outcome. Highlighted below are areas where we continue to note deficiencies.

Issuers are reminded to include up to date and timely disclosure of COVID-19 impacts and risk factors in a prospectus or prospectus supplement to the extent that the filings incorporated by reference do not include current disclosure of such.

Description of the business and regulatory environment	Issues may arise in circumstances where an issuer • appears to have no business or the offering is a blind pool, • has a complex corporate structure, • has a significant change in business or operations, • is in the cannabis industry, cryptocurrency sector or in an emerging industry such as the psychedelics industry and lacks disclosure about its specific regulatory environment, or • has recently completed a significant acquisition or capital restructuring where a securities regulatory review has not been carried out.

Risk factors relating to the business and/or offering	Avoid boilerplate language and tailor the disclosure to the issuer's situation (e.g. assess political/regulatory risk, discuss factors that may affect the issuer's title to its assets). • Be specific about any new risks affecting the issuer's business. • Discuss any steps the issuer has taken to mitigate the risk. • Do not include risk factors that do not apply to the issuer just because another issuer in the same industry does.
MD&A disclosure in a long form prospectus	• Include relevant information and provide sufficient detail, especially regarding those items highlighted in this report under the heading "Part B: Compliance – Continuous Disclosure Review Program – Trends and Guidance". • MD&A included in a long form prospectus should be just as comprehensive as a stand-alone MD&A.
Use of proceeds	• Provide sufficient detail (via an itemized list) and be comprehensive. Generic phrases such as "for general corporate purposes" are insufficient disclosure. • If proceeds are being raised to take advantage of favourable market conditions, state so clearly in the prospectus. • Use a table format to explain and disclose variances between the intended and actual uses of proceeds from prior financings, if not already disclosed in the MD&A.

iii) Sufficiency of proceeds and financial condition of an issuer

The Act sets out specific circumstances under which a receipt for a prospectus shall not be issued. One example is where the aggregate of the proceeds being raised under the prospectus together with the other resources of the issuer are insufficient to accomplish the purpose of the offering as stated in the issuer's prospectus. The same considerations apply for a non-offering prospectus.

As such, a critical part of every prospectus review is considering the issuer's financial condition and intended use of proceeds (or available funds for a non-offering prospectus). A prospectus must contain clear disclosure of how the issuer intends to use the proceeds raised in the offering as well as disclosure of the issuer's financial condition, including any liquidity concerns. We may request issuers to include disclosure to describe an issuer's financial condition, including for example disclosure about negative cash flows from operating activities, working capital deficiencies, net losses and significant going concern risks. This disclosure is important to investors because it provides appropriate warnings about significant risks that the issuer is facing or may face in the short term and may help investors avoid or minimize negative consequences when making investment decisions.

In some instances, an issuer's representations about its ability to continue as a going concern and the period during which it expects to be able to continue operations may be inconsistent with the issuer's historical statements of cash flows (in particular, its cash flows from operating activities). In these cases, we may request that the issuer provide a cash flow forecast or

financial outlook-type disclosure to support its expected period of liquidity (i.e., ability to continue operations). However, disclosure on its own may not be sufficient to satisfy our receipt refusal concerns in certain circumstances, particularly where the issuer's assumptions on future changes in operations are not objective and supportable.

Reminder: A principal purpose of the sufficiency of proceeds receipt refusal provision is to protect the integrity of the capital markets, which would be harmed if an issuer ceased operations on account of insufficient funds shortly after completing a public offering.

An issuer may need to change the structure of an offering to address concerns regarding the issuer's financial condition (e.g. setting a minimum subscription or finding additional sources of financing).

For issuers filing a base shelf prospectus, we may take the view that the structure of a base shelf prospectus is not appropriate given the issuer's financial condition and uncertainty of financing. Typically, receipt refusal concerns on financial condition arise if the issuer does not appear to have sufficient cash resources to continue operations for the next 12 months or to meet concrete developmental milestones expected to be completed in the next 12 months given the business plan and intention of the issuer. In these cases, to address our concern that incremental drawdowns may be insufficient to satisfy the issuer's short-term liquidity requirements, we may request that the issuer

- withdraw the base shelf and file a short form prospectus with a minimum subscription amount,
- withdraw the base shelf and file a short form prospectus with a fully underwritten commitment, or
- arrange for additional committed sources of financing.

Staff note that any additional financing should be closed before an issuer is cleared for final.

In addition, staff may inquire about the size of a base shelf offering if it appears that the amount contemplated under the base shelf is significantly higher than the issuer's current market capitalization. This may indicate a potential significant acquisition, transaction or change of business, and as such, staff would inquire about the rationale for filing a base shelf prospectus with a contemplated offering in excess of its market capitalization.

For more information and guidance, issuers, including those filing a base shelf or non-offering prospectus, should review CSA Staff Notice 41-307 *Corporate Finance Prospectus Guidance - Concerns regarding an issuer's financial condition and the sufficiency of proceeds from a prospectus offering*.

iv) Audit committees in place in IPOs

Where an issuer files an IPO prospectus, it must have an audit committee in place that meets the composition requirements prescribed in National Instrument 52-110 *Audit Committees* (NI 52-110) no later than the date of the receipt for the final prospectus.

Non-venture issuers: must have an audit committee in place that is composed of at least three members, all of whom are independent and financially literate as defined in NI 52-110 (subject to exemptions set out in NI 52-110).

Venture issuers: must have an audit committee in place that is composed of at least three members, a majority of whom are not executive officers, employees or control persons of the issuer or of an affiliate of the issuer (subject to exemptions set out in NI 52-110).

v) Reverse takeover transactions (RTO)

Issuers conducting their first public offering following an RTO should be mindful of the requirements in Item 10A.1 of Form 44-101F1 *Short Form Prospectus*. If the RTO was completed after the end of the financial year in respect of which the issuer's current AIF is incorporated by reference into the short form prospectus, the prospectus is required to include the same disclosure about the RTO acquirer that would be contained in Form 41-101F1 *Information Required in a Prospectus* (Form 41-101F1) if the RTO acquirer was the issuer of the securities being distributed.

Issuers should consider whether their current CD and documents incorporated by reference into the prospectus satisfy the disclosure requirements in National Instrument 41-101 *General Prospectus Requirements* (NI 41-101) in respect of the RTO acquirer, including financial statements for the required periods. Some of the most common deficiencies we note include:

- predecessor entity financial statements or primary business financial statements are omitted,
- missing MD&A for the relevant annual and interim periods for the RTO acquirer,
- missing comparative years' auditor's report incorporated by reference (if a change of auditors has occurred),
- deficient description of the business and the regulatory environment, and
- auditors are not named as experts.

vi) Timing for inclusion of financial statements in an IPO venture issuer's prospectus

Under Form 41-101F1, annual financial statements are required to be included in a prospectus for completed financial years ended more than (i) 90 days before the date of the prospectus, or (ii) 120 days before the date of the prospectus if the issuer is a venture issuer. Interim financial

statements are subject to a similar requirement for periods ended within 45 and 60 days, respectively. Importantly, the extended deadlines applicable to venture issuers do not apply to IPO venture issuers. This includes an RTO acquirer in the context of a restructuring transaction that is subject to the requirements of Form 41-101F1.

Type of issuer	Deadline for inclusion of annual financial statements	Deadline for inclusion of interim financial statements
Non-venture issuer	90 days	45 days
IPO venture issuer	90 days	45 days
RTO acquirer (i.e. target)	90 days	45 days
Venture issuer (i.e. an existing reporting issuer)	120 days	60 days

Reminder: The 90 and 45 day deadlines are also applicable to any "issuer" financial statements that are included in an IPO venture issuer's prospectus or similar document in compliance with Item 32 of Form 41-101F1.

vii) Auditor's report required in a preliminary prospectus

Subsection 54(1) of the Act states that a preliminary prospectus shall substantially comply with the requirements of Ontario securities law respecting the form and content of a prospectus, except that the report or reports of the auditor or accountant required by securities regulations need not be included. In staff's view, this language does not impact the requirement in section 4.2 of NI 41-101 which requires that any financial statements included in a long form prospectus filed in the form of Form 41-101F1 must be audited, and subparagraph 9.1(1)(b)(iii) of NI 41-101 which requires the provision of an auditor's comfort letter when an audit report included in the preliminary prospectus is unsigned.

viii) Cannabis industry

We note that issuers in the cannabis industry may operate in several different jurisdictions and the regulatory uncertainty, differences in legal and regulatory frameworks across jurisdictions, and other potential risks should be disclosed to investors. Staff will continue to review cannabis filings on a case-by-case basis to determine if there are any novel business models which may give rise to public interest concerns which cannot be addressed by disclosure.

As general guidance, issuers considering entering the cannabis industry, or issuers considering new investments in the cannabis industry, should ensure that announcements about these new opportunities are balanced and that they are not potentially misleading to investors as a result. Also, issuers who are substantially dependent on licenses to cultivate or sell cannabis, or on

leased facilities in which those activities are performed, should file the related licenses/agreements as material contracts on SEDAR.

We have included specific guidance for issuers operating in the cannabis industry in Canada below. For specific guidance for issuers operating in the cannabis industry in the United States of America or other foreign jurisdictions, please refer to OSC Staff Notice 51-730 *Corporate Finance Branch 2019 Annual Report*.

Jurisdiction	Guidance
Canada	We expect that the growth of the Canadian cannabis industry will continue given the legalization of cannabis for recreational use in October 2018. Under the current framework, the production, distribution and sale of cannabis is tightly controlled by the Canadian federal, provincial, territorial and municipal governments. As such, the distribution model for recreational cannabis is prescribed by provincial and territorial regulations and differs in each jurisdiction. Some provinces have government-run retailers, while others have government-licensed retailers, and some have a combination of the two. All sales of recreational cannabis must be conducted in accordance with applicable provincial and territorial legislation and through applicable local or municipal agencies. The Government of Canada has also published regulations which, among other things, outline additional rules for the cultivation, processing, research, analytical testing, distribution, sale, importation and exportation of cannabis, hemp and related products in Canada, including the various classes of licences that can be granted depending on the nature of the activity being undertaken. The Government of Canada also released its proposed amendments to the cannabis regulations that contemplate the production of cannabis edibles, extracts and topicals, among a variety of other amendments that came into force in October 2019, thereby creating an opportunity for cannabis issuers to manufacture and sell cannabis edibles, extracts and topicals, in addition to other cannabis product forms. Cannabis product offerings include a portfolio of various cannabis edibles, beverages, extracts and topicals that have been introduced into the Canadian recreational cannabis market in December 2019. However, cannabis product availability varies based on provincial regulations across Canada. Canadian licensed cannabis producers and issuers involved in the cannabis industry either indirectly or on an ancillary basis, have conducted significant public equity financings over the last few years and continue to invest in a number of activities, including • production capacity expansion projects at their Canadian facilities, • pursuit of cannabis retail licenses through the applicable provincial retail licensing processes, • build-out of retail cannabis store networks where permissible across Canada,

	• expansion into new international markets, • research and development projects, • acquisitions, • launch of new cannabis products in the Canadian recreational cannabis market, including edibles, cannabis-infused beverages, topicals, extracts, vape pens and vape cartridge products, among others, • launch of a wide range of cannabis products across a variety of brands, formats and strains that serve the needs of medical cannabis patients and/or distribution to medical institutions and clinics, • development of cannabinoid-based medicines to relieve symptoms associated with chronic pain and diseases, • development and marketing of non-cannabinoid based natural health and wellness products authorized for sale over-the-counter in Canada by Health Canada, • development of new assets, and • joint venture arrangements, multi-year licensing agreements or other business combinations. The disclosure of such activities should be qualified, as appropriate, by specific risk factor disclosure. Cannabis issuers who make announcements about anticipated production capacity in a new facility under construction, the launch of new cannabis product offerings or the development of cannabinoid-based medicines, among others, should disclose the material factors and assumptions related to such projections. Assumptions for financial projections should be specific and comprehensive, particularly with respect to quantitative details, such that an investor is able to clearly understand how each assumption contributes to the projection. Cannabis issuers should also ensure that this forward-looking information is updated, as required by securities law.

Along with recent rapid growth, the cannabis industry has experienced significant share price volatility, high multiples, rapid consolidation and legislative and regulatory uncertainty. These challenges reinforce the need for cannabis companies to focus on good governance practices. Implementing a corporate governance structure in accordance with high ethical and legal standards will provide confidence to investors and regulators. Issuers may also refer to CSA Staff Notice 51-357 *Staff Review of Reporting Issuers in the Cannabis Industry* which highlights good disclosure practices, so that investors are provided with transparent information about financial performance and risks and uncertainties, to support informed investing decisions.

On November 12, 2019, we along with other participating CSA jurisdictions published CSA Multilateral Staff Notice 51-359 *Corporate Governance Related Disclosure Expectations for Reporting Issuers in the Cannabis Industry*. The notice outlines some of the specific problems we have seen with governance practices in the cannabis industry and sets out our expectations in these areas. Please see page 25 of this Report for further information regarding this notice.

For more information:

CSA Multilateral Staff Notice 51-359 *Corporate Governance Related Disclosure Expectations for Reporting Issuers in the Cannabis Industry*

CSA Staff Notice 51-357 *Staff Review of Reporting Issuers in the Cannabis Industry*

CSA Staff Notice 51-352 (Revised) *Issuers with U.S. Marijuana-Related Activities*

CSA Staff Notice 51-342 *Staff Review of Issuers Entering Into Medical Marijuana Business Opportunities*

CSA Staff Notice 51-356 *Problematic Promotional Activities by Issuers*

ix) Psychedelics industry

In recent months, there has been an increased presence of issuers that are involved with psychedelic drugs. "Psychedelics" are a class of drugs that affect the brain's serotonin receptors and trigger changes in perception, cognition, mood, behaviour, and possibly state of consciousness. They include drugs such as DMT, ibogaine, ketamine, LSD, MDMA, psilocybin, and psilocin. Although each of these substances are subject to differing regulation and classification under Canadian law, they are all controlled substances.

The recent focus on psychedelic drugs by issuers is based primarily on its use as medicine, but also for recreational purposes. Issuers have begun conducting clinical trials for drug efficacy to treat conditions such as depression and addiction.

For issuers performing clinical trials, they are required to obtain appropriate regulatory approval from oversight bodies such as Health Canada, the U.S. Food and Drug Administration (FDA) and the Canadian National Agency for Food and Drug Administration and Control, among others depending on the nature of the issuer's operations.

According to the 2020 Report on Psychedelics presented by the NEO Exchange, several companies, located in nations such as Canada, Germany, the United Kingdom, and the United States, have entered the market for psychedelic drugs, with nearly $150 million USD invested into this industry in the first half of 2020.[1]

The issuers in the sector are not a homogenous group. The business models and growth plans of each of these companies vary significantly. The legal and regulatory framework also varies depending on the jurisdiction of operations for each issuer and the market segment in which it

[1] https://reportonpsychedelics.com/

operates. An issuer operating in the psychedelics sector may need to consider compliance with multiple laws and regulatory regimes depending on the market segments in which it is operating.

Due to the illegality of psychedelic drugs in various countries, issuers engaged in activities related to psychedelic drugs should have clear disclosure regarding the regulatory, licensing and legal framework(s) under which the issuer operates. Staff also expect to see risks associated with this business appropriately identified, understood and managed by the board of directors. Depending on the issuer's business, it may be appropriate to provide disclosures that are analogized to the disclosure expectations set out in SN 51-352.

Staff continues to monitor industry developments in this emerging sector. Staff will review filings by issuers involved with psychedelic drugs on a case-by-case basis to determine if there are any novel business models which may give rise to public interest concerns which cannot be addressed by disclosure.

In these circumstances, we encourage issuers and their advisors to consult with staff on a pre-file basis to discuss the appropriate level of disclosure and potential risks and other novel considerations that may arise.

x) IPO issuers with hybrid business structures

In instances where an IPO issuer's proposed business model is a public/private equity fund consisting of investments both in publicly traded securities and private investments, we may take the view that the portfolio invested in publicly traded securities should be subject to certain investment fund requirements, while the portfolio invested in privately traded securities should be subject to corporate finance requirements. Such requirements may include measures relating to the deployment of IPO proceeds destined for the private portfolio, certain investment restrictions such as a concentration restriction, and the required use of a custodian.

The guidance outlined in CSA Multilateral Staff Notice 51-349 *Report on the Review of Investment Entities and Guide for Disclosure Improvements* should also be considered by such IPO issuers.

xi) Subsequent offerings by an IPO blind pool issuer

Certain issuers that hold minimal assets at the time of their IPO and have not identified any acquisitions are considered "blind pools". The audited financial statements included in the IPO prospectus of a blind pool issuer generally do not reflect any meaningful results. Staff may have concerns where these types of issuers seek to conduct a follow-on public capital financing before they have filed audited financial statements reflecting business operations. An issuer may be able to address staff's concerns by providing audited financial statements for an interim period ended after its operations commenced to provide investors with some audited financial history of the underlying operating business. We encourage issuers to submit a pre-file and consult with staff in these circumstances.

xii) Base shelf prospectuses qualifying distributions of specified derivatives or asset backed securities

Where an issuer's base shelf prospectus contemplates distributions of specified derivatives or asset-backed securities that are novel (as such terms are defined in National Instrument 44-102 *Shelf Distributions* (NI 44-102) or NI 41-101*,* as applicable), we will issue comments and, if appropriate, require the issuer to file an undertaking to pre-clear any prospectus supplements that will qualify distributions of novel specified derivatives or asset-backed securities. To avoid unnecessary delays relating to this matter, issuers that do not plan to distribute such novel securities should include disclosure in its base shelf prospectus similar to the following:

> *This Prospectus does not qualify for issuance specified derivatives or asset-backed securities that are novel (as such terms are defined in National Instrument 44-102 Shelf Distributions or NI 41-101 General Prospectus Requirements, as applicable).*

xiii) Asset vs. business acquisitions: IFRS 3 amendments

In October 2018, the International Accounting Standards Board (IASB) issued amendments to the definition of a business in IFRS 3 *Business Combinations* (IFRS 3). IFRS 3 sets out different accounting requirements for a business combination versus an acquisition of an asset or group of assets that does not constitute a business under the standard. The amendments apply to relevant transactions that occur on or after the beginning of the first annual reporting period beginning on or after January 1, 2020.

Notwithstanding the issuer's determination of its applicable accounting requirements under IFRS 3, reporting issuers must make a separate determination of whether the acquisition constitutes an asset or business acquisition under securities law. An acquisition could meet the definition of an asset acquisition under IFRS, while the same acquisition could be considered a business acquisition for securities law purposes. The term "business" should be evaluated in light of the specific facts and circumstances. We generally consider the acquisition of a separate entity, a subsidiary or a division to be an acquisition of a business, and in certain circumstances a smaller component of a company may also be considered an acquisition of a business. We generally also view the acquisition of licenses, patents, royalties and intellectual property as "business" acquisitions for securities law purposes, as the revenue producing activity or potential revenue producing activity remains the same. Part 8 of Companion Policy 51-102CP and OSC Staff Notice 51-728 *Corporate Finance Branch 2016-2017 Annual Report* provide guidance regarding this determination.

xiv) Acquisition of intangible assets

IAS 38 *Intangible Assets* requires that an issuer, when determining whether to recognize a purchased intangible asset, assess if (i) it is probable that the future economic benefits that are attributable to the asset will flow to the entity; and (ii) the cost of the asset can be measured reliably. The probability of future economic benefits must be based on reasonable and supportable assumptions that will exist over the life of the asset.

As part of our CD and prospectus reviews, in circumstances where an issuer has acquired intangible assets and has recognized such assets within its financial statements, we may request that the issuer provide both its quantitative and qualitative analyses that it has previously prepared or provided to its auditors to support the probability of economic benefits attributed to each of the acquired intangible assets flowing to the issuer, as well as the issuer's corresponding purchase price allocation to each of the assets based on such analyses. Additionally, for acquisitions involving non-cash consideration (i.e. shares), staff may also request the issuer to explain how the consideration was valued and how the resulting purchase price allocations reconcile to the original book values of the acquired intangible assets. Finally, where necessary, we may request that the issuer disclose certain supporting assumptions of the above analyses in order to provide a clearer understanding of how the assigned values for these intangible assets were determined by the issuer.

This is an area of heightened interest to staff in circumstances where the fair values assigned to certain intangible assets upon acquisition by an issuer are substantially higher than their respective original book values (e.g., acquired licenses, etc.). This is especially the case for certain internally generated intangible assets (e.g., brands, titles, customer lists, etc.), which are only permitted to be recognized as assets upon acquisition by another entity.

xv) Promoter liability

Where a promoter exists at the time of an issuer's IPO, we remind issuers to consider whether promoter status continues for subsequent offerings irrespective of whether it has been two years since the IPO. This assessment should consider whether the promoter's relationship with the issuer has changed since the IPO in terms of the promoter's continued involvement in the governance and management of the issuer, including the promoter's ownership and *de facto* control of the issuer, among other factors. How and when a promoter ceases to be a promoter is determined on a case by case basis. The analysis should consider how the facts and circumstances upon which the issuer determined that a promoter is a promoter of the issuer have changed.

xvi) Relief to be evidenced by receipt of a final prospectus

When seeking relief in connection with an offering where the relief will be evidenced by receipt, issuers should provide written submissions explaining why relief is required. The application letter itself will be made available to the public on request unless the Commission grants a request for confidentiality that is included in the application letter (see the 'Requests for confidentiality' section on page 46). To facilitate this, an application letter should be a stand-alone document satisfying the guidance set out in OSC Staff Notice 41-703 *Corporate Finance Prospectus Practice Directive #2 – Exemption from Certain Prospectus Requirements to be Evidenced by a Receipt*.

An issuer should inform staff if there are any concerns about making the application letter or the OSC acknowledgement letter, if applicable, available to the public.

xvii) Testing the waters exemption

As stated in the recently published *Reducing Regulatory Burden in Ontario's Capital Markets Report*, we will consider whether the expanded "testing the waters" exemption recently adopted in the U.S. will affect financing activity by Canadian issuers who are also trading in the U.S., or will impact Canadian-based institutional investors, and whether changes to our requirements are necessary. Market participants are encouraged to contact staff with any questions relating to this issue.

xviii) Prospectus filings - timing

Reminder: A preliminary prospectus, together with all accompanying materials in acceptable form, should be filed before 12:00 p.m. on the day that the receipt is required. If materials are filed after 12:00 p.m., the receipt will normally be issued before 12:00 p.m. on the next business day and dated as of that day.

If issuers anticipate filing a preliminary prospectus within a reasonable period of time after 12:00 p.m. (or 3:00 p.m. for a bought deal prospectus) and need a receipt issued that day, they should advise the prospectus review officer by email at prospectusreviewofficer@osc.gov.on.ca and explain the reason for not filing before the applicable deadline. We will attempt to accommodate these requests, but there is no assurance that a receipt will be issued on the same day.

Where an issuer plans to conduct an overnight marketed deal, the issuer should (a) advise the prospectus review officer by email no later than the morning of the day on which the receipt is required (but prior to filing the materials), and (b) file all materials in acceptable form before 12:00 p.m. that day. In such cases, we will make reasonable efforts to issue a receipt for the preliminary prospectus at or just after 4:00 p.m. on the day of the filing.

Each year, we receive requests to issue a receipt for a preliminary prospectus at a specific time of the day. In rare circumstances, staff may consider this request where the issuer can demonstrate that there would be a material adverse consequence to an issuer if a preliminary receipt is not issued at the specific time. The issuer should make such a request along with reasons in its cover letter accompanying the filing of the preliminary prospectus. The cover letter should also acknowledge that the issuer bears the risk of the receipt being issued at a time other than the requested time. Issuers should note that we cannot guarantee that the request will be satisfied and there is a practical risk that the receipt will be issued at a time other than the requested time.

xviv) Confidential pre-file review of prospectuses

In the Fall of 2019, OSC staff began accepting confidentially pre-filed prospectuses for review. We did so in order to help issuers have greater certainty regarding the timing of prospectus offering transactions, and as part of our broader commitment to reducing regulatory burden. We reviewed three such confidential pre-files in FY2019-20. On March 5, 2020 the CSA published *CSA Staff Notice 43-310 Confidential Pre-file Review of Prospectuses (for non-investment fund issuers)*, which more formally describes the process for confidentially pre-filing a prospectus. Since publication of the notice to the present, we have reviewed 21 confidential pre-files.

We would like to remind issuers and their advisors to carefully consider whether the draft preliminary prospectus is at an appropriate stage for a confidential pre-file. We may determine that a draft is not at an appropriate stage for staff review and ask that the pre-file be withdrawn. This may occur in the following circumstances:

- the disclosure in the draft document falls significantly short of the standard required of a preliminary prospectus;
- there is no significant prospect of a transaction occurring within the foreseeable future;
- the terms and conditions of the offering, and any related transactions, are still in flux.

We will also consider issuing additional guidance in the future on common issues or concerns that we identify from our reviews.

B.3. Exempt Market

The OSC recognizes the need to be vigilant in its oversight of the exempt market as it evolves under the new regulatory framework. Our Branch and the CRR Branch have primary responsibility for oversight of compliance in the exempt market. Both branches are working to coordinate and conduct the compliance reviews of issuers and registrants.

a) General

i) Frequent market activity without involvement of a registered dealer

We remind issuers that offer their own securities regularly to assess whether they are trading in, or advising on, securities for a business purpose and, therefore may be subject to the dealer or adviser registration requirements. A discussion of the factors relevant to that determination is included in section 1.3 of the Companion Policy to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

ii) Marketing materials

Materials purporting to describe the business and affairs of an issuer that are prepared primarily for prospective investors will generally fall within the definition of "offering memorandum" in subsection 1(1) of the Act. While the use of such documents is voluntary and not subject to specific form requirements, Part 5 of OSC Rule 45-501 provides that statutory rights of action in favour of a purchaser of securities will apply if the materials contain a misrepresentation. Furthermore, an issuer is required to include a description of these statutory rights and deliver the material to the OSC within 10 days. These requirements may apply to materials such as investor presentations, letters or brochures.

Reminder: Issuers that use exemptions other than the offering memorandum (OM) exemption, such as the accredited investor exemption, family, friends and business associates exemption, private issuer exemption or minimum amount exemption, should consider the requirements of OSC Rule 45-501 *Ontario Prospectus and Registration Exemptions* (OSC Rule 45-501) regarding disclosure provided in connection with the distribution of securities.

b) Offering Memorandum Exemption

i) Disclosure requirements

Issuers relying on the OM exemption in subsection 2.9(2.1) of National Instrument 45-106 *Prospectus Exemptions* (NI 45-106) (OM issuers) frequently have complex structures with funds being raised by one issuer that are loaned or otherwise invested in another entity that conducts the business activities intended to produce a return on investment. We note that where such a structure is used, it is the issuer's responsibility to ensure that the OM contains sufficient information to allow a potential purchaser to make an informed investment decision in relation to the securities being distributed.

Reminder: On September 17, 2020, the CSA published proposed amendments to the OM exemption for a 90-day comment period that ends on December 16, 2020. Please see page 56 of this Report for further information regarding these proposed amendments.

ii) Marketing materials

Any marketing materials used in connection with a distribution under the OM exemption must be incorporated by reference into the prescribed form of OM and filed with the OSC (either as an attachment to a report of exempt distribution or through the OSC Electronic Filing Portal) at the

same time as the OM is filed or, if the marketing materials are prepared after the OM was filed, within 10 days of the first use of the materials. This requirement is subject to a limited exception that allows the use of an "OM standard term sheet". We found that in several instances, issuers have delivered or made available materials to prospective investors without filing those materials.

iii) Ongoing Reporting Obligations

We remind OM issuers that they are subject to ongoing reporting obligations to both the OSC and their securityholders.

OM issuers are required to deliver annual financial statements and a Form 45-106F16 *Notice of Use of Proceeds* (Form 45-106F16) to the OSC and make them reasonably available to investors, within 120 days after the issuer's financial year end. The financial statements are required to be audited and prepared in accordance with IFRS. The documents must be delivered to the OSC through our Electronic Filing Portal.

When completing the Form 45-106F16, OM issuers must provide a reasonable breakdown of all proceeds used in section 2 of the table. The breakdown should be specific and provide sufficient detail for an investor to understand how the proceeds have been used.

OM issuers must continue to deliver these documents each year until the earliest of

- the date the issuer becomes a reporting issuer in any jurisdiction of Canada, and
- the date the issuer ceases to carry on business.

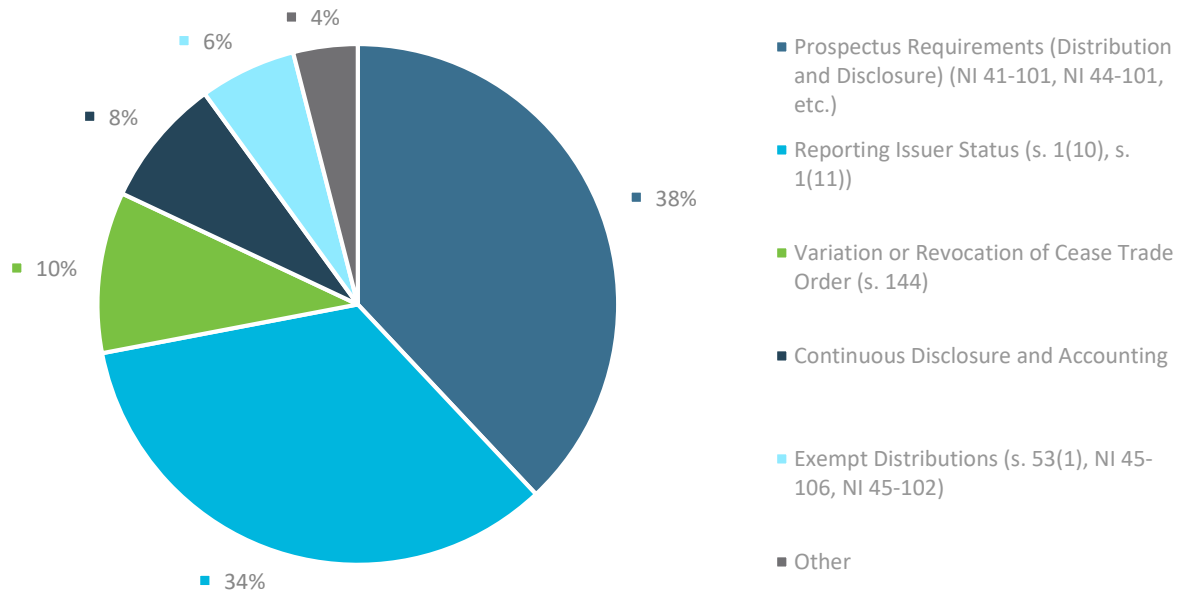
B.4. Exemptive Relief Applications

Staff review and make recommendations to appropriate decision makers on applications for exemptive relief. The review standard for granting relief varies, but it generally requires a decision maker to determine that granting the requested relief would not be prejudicial to the public interest.

a) Statistics

In fiscal 2020, we completed reviews of over 250 applications for exemptive relief from various securities law requirements (fiscal 2019: over 280).

Figure 5: Exemptive Relief Applications by Type - Fiscal 2020



b) Trends and guidance

We have noted a decrease in the number of applications received in fiscal 2020 and the proportion of the various types of applications changed slightly compared to previous fiscal years. We saw an increase in the number of applications for relief from certain prospectus requirements and a decrease in the number of applications for relief in connection with reporting issuer status. These two types of applications for relief remained the most common.

We will continue to monitor the types of applications we receive and the exemptive relief granted to determine whether we should consider changes to our rules or policies.

Key takeaways from our exemptive relief work in fiscal 2020 are set out below.

Tip: Prior OSC orders and exemptive relief decisions can be found on the OSC website or on CanLII at https://canlii.org/en/on/onsec/.

i) Applications for a decision that an issuer is not a reporting issuer

We continue to receive a significant number of these applications each fiscal year and our process for reviewing them is currently set out in National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* The process for Ontario-only applications for such a decision is set out in OSC Staff Notice 12-703 *Applications for a Decision that an Issuer is not a Reporting Issuer*.

Foreign issuers who seek a decision that they are no longer a reporting issuer should review the "modified procedure" in section 20 of NP 11-206 to consider details that help support such an application. The modified procedure is intended for foreign issuers with a *de minimis* connection to Canada. One of the requirements of the modified procedure is that the issuer be able to make a representation that residents of Canada do not beneficially own more than 2% of each class or series of outstanding securities (including debt securities) and do not comprise more than 2% of the total number of securityholders of the issuer. Staff will generally ask issuers to describe the due diligence that was conducted in order to make this representation.

Reminder: There should be sufficient time between the news release announcing that the issuer has applied to cease to be a reporting issuer and the date of the order to provide securityholders with the opportunity to object to the order.

ii) Revocation of failure-to-file cease trade orders

Under Multilateral Instrument 11-103 *Failure-to-file Cease Trade Orders in Multiple Jurisdictions* and local statutory provisions adopted by certain CSA jurisdictions: (i) a failure-to-file cease trade order will generally result in the same prohibition or restriction in other participating jurisdictions; and (ii) a reporting issuer will generally deal only with the regulator that issued the failure-to-file cease trade order if it is seeking a revocation or variation of this order that has the same result in multiple jurisdictions.

National Policy 11-207 *Failure-to-file Cease Trade Orders and Revocations in Multiple Jurisdictions* outlines the interface process for Ontario to opt into decisions to issue and revoke failure-to-file cease trade orders made by other CSA regulators. We remind issuers that in Ontario, the OSC can treat the filing of the CD document referred to in a failure-to-file cease trade order that has been in effect for 90 days or less as an application for the revocation of the cease trade order. An application and related fee are not required in this circumstance.

iii) Revocation of a cease trade order that has been breached

If an issuer has breached the terms of a cease trade order, it can still seek a revocation. However, we will ask for disclosure of the circumstances surrounding the breach in the draft

decision document which staff will consider in making a recommendation in connection with the issuer's application. In some cases, staff will not recommend granting a revocation order in the face of one or more breaches of the cease trade order and may also consider whether breaches of a cease trade order warrant enforcement action.

Reminder: The definition of "trade" in the Act includes acts in furtherance of a trade such as advertising or soliciting investors, directly or indirectly.

iv) Revocation of a long-standing cease trade order

Where an issuer with a long-standing cease trade order seeks a revocation, the review process may take longer than a short-term cease trade order as staff will review the issuer's updated CD record to consider whether it is in compliance with applicable securities laws including compliance with applicable audit committee composition requirements under NI 52-110. As well, we may require an issuer to provide a written undertaking that it will not execute an RTO or a significant acquisition of, or a restructuring transaction involving a business outside of Canada unless the issuer files with the OSC, and obtains, a receipt for a final prospectus containing the disclosure required for the transaction.

v) Management Cease Trade Orders (MCTO)

National Policy 12-203 *Management Cease Trade Orders* (NP 12-203) provides guidance as to when we will consider issuing an MCTO rather than a failure-to-file cease trade order. Issuers that can satisfy the eligibility criteria for an MCTO should file an application for an MCTO at least 2 weeks in advance of the deadline and issue a default announcement. We believe that, in most cases, an issuer exercising reasonable diligence should have discussed with their auditors about timing and be able to determine whether it can comply with a specified requirement at least 2 weeks in advance of the deadline.

An element of the eligibility criteria set out in section 6 of NP 12-203 is whether there is an active, liquid market for the issuer's securities. In our review of this element, we consider the trade volume, trade value, and number of trades of the issuer's securities. If the majority of trading days have a low trade value and/or low number of trades, we are likely to conclude there is an absence of an active, liquid market for an issuer's securities and staff would therefore not generally recommend granting an MCTO.

For issuers seeking to obtain an MCTO, we require fully completed Personal Information Forms (PIFs) for an issuer's CEO and CFO (see Appendix "A" to NI 41-101). If an issuer has submitted PIFs for these individuals within the last 3 years, the issuer should provide the SEDAR project number and submission number where the PIF can be found.

MCTO applications should be filed through the OSC Electronic Filing Portal - General PDF Submissions, not the Applications portal.

vi) Business acquisition report (BAR)

The number of applicants seeking relief from the BAR requirements in Part 8 of NI 51-102 has decreased in the last two fiscal years. We expect that these applications will further decrease as a result of anticipated amendments to the BAR requirements (see page 52 for further details).

Tip: Issuers should file their BAR relief applications early to avoid going into default. The cost or time involved in preparing and auditing the financial statements required to be included in the BAR are not generally viewed by staff as relevant factors when considering whether to recommend relief.

vii) Requests for confidentiality

A filer requesting that an application and supporting materials be held in confidence during the application review process under National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* should provide substantive reasons for the confidentiality request in its application. If a filer is also requesting that the decision be held in confidence after the effective date of the decision, the filer should explain why the confidentiality request is reasonable in the circumstances, not prejudicial to the public interest, and should specify the length of time the filer wishes to maintain confidentiality. Generally, staff is of the view that a decision should not be held in confidence for a period of greater than 90 days following the date of the decision. In instances where a request to hold a decision in confidence after the effective date of the decision has been granted, it is the filer's responsibility to notify staff if an event that would cause confidentiality to expire, as set out in the decision, has occurred.

viii) Reverse takeover transactions – relief from financial statements

If an issuer prepares an information circular in respect of a significant acquisition or a restructuring transaction, including an RTO, under which securities are to be changed, exchanged, issued or distributed, the information circular is required to include prospectus level disclosure (including financial statements) for the entities referred to in Item 14.2 of Form 51-102F5.

While exchanges can waive certain listing requirements, they cannot waive financial statement requirements in respect of information circulars. In these circumstances, if an issuer is requesting relief from a financial statement requirement, the issuer must obtain the exemptive relief prior to mailing their information circular.

Tip: Issuers and their advisors may wish to consider whether a pre-file is appropriate for novel applications. See National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions*.

ix) Automatic Securities Disposition Plans

On October 24, 2019, the CSA announced that it would review automatic securities disposition plans (ASDPs) to ensure that they remain a legitimate trading mechanism by insiders and do not undermine the fairness of the Canadian capital markets. ASDPs enable insiders to sell the securities of an issuer through an arm's-length administrator, according to a predetermined set of instructions. This announcement also indicated that staff of the CSA jurisdictions would be unlikely to recommend new insider reporting relief for trades under ASDPs.

The CSA continues to consider its approach on ASDPs and anticipates publishing a staff notice setting out recommended best practices for issuers and insiders regarding such plans.

Staff of the CSA jurisdictions remain unlikely to recommend new insider reporting relief for trades under ASDPs.

B.5. Insider Reporting

a) Overview

We review compliance of reporting insiders and issuers with insider reporting requirements through a risk-based compliance program. We actively and regularly assist filers and their advisors by providing guidance on filing matters.

The objective of our insider reporting oversight work is twofold

- **compliance**
- **education and outreach**

Insider reporting serves a number of functions, including deterring improper insider trading based on material undisclosed information and increasing market efficiency by providing investors with information about the trading activities of insiders, and, by inference, the insiders' views of the issuer's future prospects. Non-compliance affects the integrity, reliability and effectiveness of the insider reporting regime, which in turn has a negative impact on market efficiency. Where we identify non-compliance, we reach out to filers and request remedial filings.

Filers should make remedial filings as soon as they become aware of an error to accurately inform investors of their activities and to avoid any further late filing fees.

We educate filers through our compliance reviews and we also reach out to new reporting issuers directly to inform them of insider reporting obligations. We encourage issuers to implement insider trading policies and monitor insider trading to meet best practice standards in National Policy 51-201 *Disclosure Standards*.

Reminder: the definition of "reporting insider" can be found in National Instrument 55-104 *Insider Reporting Requirements and Exemptions* (NI 55-104).

We remind issuers and their insiders that they should also refer to the definition of "significant shareholder" and the interpretation of "control" in NI 55-104 as well as the interpretation of "beneficial ownership" in the Act when determining who is required to file on SEDI. Understanding these definitions and interpretations will help filers identify and comply with their obligations.

Insiders are also reminded to check their insider profile to ensure the contact information is correct and file an amended insider profile within ten days of any change in name, relationship to an issuer, or if the insider has ceased to be a reporting insider of the issuer.

b) Cannabis IOR – Insider Reporting

In February 2020, we concluded an insider reporting review of a sample of 47 Cannabis issuers whose principal regulator is Ontario.

The purpose of this targeted, risk-based review was to assess insider reporting compliance in the emerging Cannabis sector and to educate issuers and insiders on insider filing requirements.

We reviewed 657 reporting insiders, including 124 senior officers. In 43% of our reviews we identified various deficiencies such as outdated information, insider relationship status and discrepancies in shareholdings between SEDI and available CD documents. Our reviews resulted in $35,350 in late SEDI fees charged, 43 new insider profiles created, 184 new reports and 62 amendments filed, 13 transactions deleted and improved accuracy of SEDI disclosure. We will continue to closely monitor insider reporting compliance in this sector.

For more information and guidance issuers and insiders should also review guidance provided in OSC Staff Notice 51-726 *Report on Staff's Review of Insider Reporting and User Guides for Insiders and Issuers*.

B.6. Administrative Matters

a) Participation fee form

Under OSC Rule 13-502 *Fees* if a reporting issuer files its annual financial statements before they are due, the participation fee must also be paid on the same date. If the participation fee is not paid at the same time the annual financial statements are filed, late fees will be applied starting from the date that the annual financial statement were filed.

Each issuer must select the participation fee form applicable to its reporting issuer classification as the forms and related fees are substantively different.

Tip: The class of the issuer is based on their status as at the end of their previous financial year, not at the time of filing. Issuers must also ensure that the correct form for Ontario participation fees is completed as other jurisdictions have fee forms that look very similar to the OSC form.

b) Refiling CD documents

If a reporting issuer must correct a material typographical or administrative error (or omission) in an electronic filing, the issuer must refile the entire corrected document using the appropriate cover page for the filing type as well as a covering letter or a face page for the corrected document describing the correction with the date of the correction.

If information in the refiled document is materially different from information in the originally filed document, please refer to Part 11.5 of NI 51-102 for the procedure to be followed for refiling.

When refiling a document with materially different information or when filing restated information, the document should be attached to the document type that is identified as "Amended" or "Restated". For example, if an amended material change report is being filed, it should be filed using the document type "Material change report (amended)". If an amended NI 43-101 technical report is being filed, it should be filed using the document type "Amended & restated technical report (NI 43-101)".

c) Making documents private on SEDAR

We often receive requests from reporting issuers and SEDAR filers to make certain documents private on SEDAR. Generally, we will make a document private on SEDAR if it has been filed on the wrong issuer profile or if the document contains errors caused by redaction software. We

may also make a document private if the document contains confidential information that is potentially detrimental to the issuer.

In order to request a document be marked private, issuers will need to complete a request form and send it to the financial examiners at finrepnotifications@osc.gov.on.ca. Please note that we only consider requests to make CD private from those issuers whose principal regulator is Ontario. We cannot guarantee that a request will be approved immediately as we require time to review each individual request and consult internally, if necessary.

If an issuer's request is denied, we recommend that the issuer refile the document including a note to the reader on the face page or cover page of the document explaining the reason for refiling. Making a document private on SEDAR does not mean that it has not already been disseminated in the public domain. Certain requests to mark a document private may require a formal application under subsection 140(2) of the Act.

Part C: Responsive Regulation

- C.1. At-the-Market Offerings
- C.2. Business Acquisition Reports (BARs)
- C.3. Alternative Prospectus Model
- C.4. Pre-filing Review of Mining Technical Disclosure
- C.5. Electronic Delivery of Documents
- C.6. Start-up Crowdfunding
- C.7. Syndicated Mortgages
- C.8. Offering Memorandum Exemption
- C.9. Designated Rating Organizations (DROs)
- C.10. Financial Benchmarks
- C.11. Branch Advisory Committees

The Branch is involved in various issuer-related policy initiatives. In this Part of the Report we provide an update on these initiatives.

C.1. At-the-Market Offerings

On June 4, 2020, the CSA published Notice of Amendments to National Instrument 44-102 *Shelf Distributions* and Change to Companion Policy 44-102CP *Shelf Distributions* relating to At-the-Market Distributions (the ATM amendments). The ATM amendments came into effect on August 31, 2020.

An ATM offering is a distribution of securities by an issuer under a base shelf prospectus into the secondary market (i.e. over an exchange and at prevailing market prices) using a registered investment dealer acting as an agent. ATM requirements are currently found in Part 9 of NI 44-102 but do not contemplate necessary exemptions from certain prospectus requirements that are not practical in the context of an ATM distribution.

The ATM amendments replace relief that has been required by issuers conducting ATM offerings of equity securities and liberalize the current ATM distribution regime in Canada.

It is expected that the ATM amendments will reduce the regulatory burden for issuers and agents who wish to conduct ATM offerings. Stakeholders no longer have to incur costs associated with obtaining relief and are able to conduct ATM offerings more quickly, as such distributions are readily available to qualifying market participants.

The ATM amendments also apply to closed-end investment funds as that industry has recently expressed interest in conducting ATM offerings.

C.2. Business Acquisition Reports (BARs)

On August 20, 2020, the CSA published Notice of Amendments to National Instrument 51-102 *Continuous Disclosure Obligations* and Changes to Certain Policies Related to the Business Acquisition Report Requirements (the BAR amendments). The BAR Amendments came into effect on November 18, 2020.

In response to CSA Consultation Paper 51-404 *Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers*, we received feedback that in some cases the significance tests may produce anomalous results, that preparation of a BAR may entail or take significant time and cost, and that the information necessary to comply with the BAR requirements may, in some instances, be difficult to obtain.

The BAR amendments will:

- alter the determination of significance for reporting issuers that are not venture issuers such that an acquisition of a business or related businesses is a significant acquisition only if at least two of the existing significance tests are triggered, and
- increase the significance test threshold for reporting issuers that are not venture issuers from 20% to 30%.

It is expected that the BAR amendments will reduce regulatory burden for reporting issuers that are not venture issuers by limiting the application of the BAR requirements while still providing investors with relevant and appropriate information following such transactions.

C.3. Alternative Prospectus Model

Together with our CSA partners, we are considering a potential alternative prospectus model. As part of this work, the CSA developed a harmonized process for full reviews of prospectuses on a confidential pre-file basis for non-investment fund issuers.

Details of the process, and staff's expectations, are outlined in CSA Staff Notice 43-310 *Confidential Pre-File Review of Prospectuses (for non-investment fund issuers)* dated March 5, 2020. As described in the notice, the regulatory review process for prospectuses normally begins when an issuer publicly files its preliminary prospectus. If a material issue is raised during the review process, this may cause delays in receipting the prospectus and closing the offering. Market participants have expressed concern that delays can cause uncertainty in the market and have indicated that the pre-file process would help reduce this uncertainty and provide issuers with greater flexibility in planning their prospectus offerings.

C.4. Pre-filing Review of Mining Technical Disclosure

In June 2019, the Branch instituted a program of pre-file reviews of mining technical disclosure, with the goal of increasing certainty for issuers by reducing the risk that mineral disclosure deficiencies may disrupt short-form prospectus offerings. This gives issuers increased confidence when negotiating short-form financings and related schedules. The reviews encompass the Annual Information Form, the issuer's technical reports, news releases, and website disclosure, filed up to the date of the pre-file request. On typical timelines, the reviews are completed in ten business days. Issuers can file an application to request the pre-filing review, and a fee applies. More information on the program can be found in OSC Staff Notice 43-706 *Pre-filing Review of Mining Technical Disclosure*.

C.5. Electronic Delivery of Documents

On January 9, 2020, the CSA published Consultation Paper 51-405 *Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers* (the Consultation Paper), for a 60-day comment period, seeking comment on the appropriateness of implementing an access equals delivery model (an AED model) in the Canadian market for various documents that non-investment fund reporting issuers are required to deliver to investors.

We received feedback on the Consultation Paper from various market participants, including issuers, investors, industry associations and law firms. A significant majority of commenters expressed general support for implementing an AED model. In addition, we received strong support for prioritizing the implementation of an AED model for prospectuses, annual financial statements, interim financial reports and their related MD&A.

Under the proposed AED model, delivery will be deemed to have occurred once (i) the document is filed on SEDAR; and (ii) a news release is issued and filed on SEDAR indicating, among other things, that the document is available on SEDAR and that a paper copy can be obtained upon request. An AED model would not eliminate the option for non-investment fund reporting issuers to deliver prospectuses and financial statements and related MD&A in paper form based on investors' standing instructions or upon request.

It is expected that implementing the proposed AED model would reduce regulatory burden and costs for non-investment fund reporting issuers, modernize the way documents are made available to investors and promote a more environmentally friendly manner of communicating information than paper delivery.

C.6. Start-up Crowdfunding

On February 27, 2020, the CSA published proposed National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (the Proposed Crowdfunding Rules) for a 90-day comment period. The comment period, originally scheduled to end on May 27, 2020, was extended to July 13, 2020 due to COVID-19.

If adopted as published for comment, the Proposed Crowdfunding Rules would create a new, nationally harmonised regulatory framework for non-reporting issuers seeking to raise capital through crowdfunding that provides:

- an exemption from the prospectus requirement to allow a non-reporting issuer to distribute eligible securities through an online funding portal; and
- an exemption from the dealer registration requirement for a funding portal to facilitate online distributions by issuers relying on the start-up crowdfunding prospectus exemption.

In addition, a firm registered in Ontario in the category of exempt market dealer or investment dealer would be allowed to operate a funding portal if it meets the requirements set out in the Proposed Crowdfunding Rules.

On July 30, 2020, the OSC published an interim order OSC Instrument 45-506 *Start-Up Crowdfunding Registration and Prospectus Exemptions (Interim Class Order)*. The Interim Class Order came into effect on July 30, 2020 and provides registration and prospectus exemptions for start-up crowdfunding that are substantially similar to the local exemptions in certain other CSA jurisdictions. The Interim Class Order will remain in effect until the earlier of 18 months from its effective date or the date the Proposed Crowdfunding Rules are adopted.

C.7. Syndicated Mortgages

Subsections 35(4) and 73.2(3) of the Act provide that mortgages sold by persons registered or exempt from registration under mortgage brokerage legislation are exempt from the registration and prospectus requirements in Ontario. These exemptions currently include syndicated mortgages, which are defined as mortgages in which two or more persons participate, directly or indirectly, as the mortgagee. As such, syndicated mortgage investments are primarily regulated by the Financial Services Regulatory Authority of Ontario (FSRA).

Concerns have been raised about the current regulatory framework, including in a 2016 expert report to the Ministry of Finance reviewing the mandate of the Financial Services Commission of Ontario (FSCO). In response to these concerns, on April 27, 2016, the Ontario government announced its plan to update regulatory oversight of syndicated mortgage investments. Effective June 8, 2019 the FSRA assumed the regulatory functions of the FSCO.

On March 8, 2018, the CSA published for comment proposed amendments to NI 45-106 and National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103), which together with changes to the Act that have not yet been proclaimed in force, would substantially harmonize the treatment of syndicated mortgages across the CSA.

In response to comments from market participants, revised proposals were published for a second comment period on March 15, 2019. The second comment period for the proposed amendments ended on June 14, 2019, with additional comments provided by 11 commenters.

The OSC also published revised local proposed exemptions for a 45-day comment period on August 6, 2020.

The proposed amendments would replace subsections 35(4) and 73.2(3) of the Act with harmonized mortgage exemptions in NI 31-103 and NI 45-106 that would no longer include syndicated mortgages. In Ontario, we have proposed prospectus and dealer registration exemptions for qualified syndicated mortgages and for syndicated mortgages distributed to permitted clients. Qualified syndicated mortgages are not expected to present significant investor protection concerns because of various restrictions relating to property type, loan-to-value ratio

and other mortgage characteristics. The proposed Ontario exemptions for qualified syndicated mortgages and syndicated mortgages distributed to permitted clients would also require the syndicated mortgages to be distributed or traded by a person or company that is registered or licensed under the *Mortgage Brokerages, Lenders and Administrators Act, 2006*. Therefore, the primary oversight for these syndicated mortgages will remain with FSRA.

The proposed amendments also provide for additional investor protections, such as

- enhancing disclosure and requiring the delivery of a current property appraisal prepared by an independent professional appraiser to investors who purchase syndicated mortgage investments under the offering memorandum exemption, and
- removing the private issuer exemption for syndicated mortgage investments.

We continue to work with other branches of the OSC, FSRA staff and Ministry of Finance staff to coordinate the oversight of investments in the syndicated mortgage sector.

C.8. Offering Memorandum Exemption

On September 17, 2020, the CSA published for comment proposed amendments to the OM exemption. The proposed amendments are intended to provide investors with more tailored and current information and to clarify the CSA's disclosure expectations for issuers.

The OM exemption was originally designed to help early stage and small businesses raise capital from a large pool of investors without having to comply with the more costly prospectus regime and was expected to be used by relatively simple issuers for relatively small amounts of capital, prior to issuers becoming reporting issuers. However, in practice, the OM exemption is used to a significant extent by larger and more complex issuers and often those issuers are engaged in specific activities, such as real estate ownership or development or acting as a type of collective investment vehicle carrying out mortgage lending or making other investments.

The proposed amendments set out new disclosure requirements for issuers that are engaged in "real estate activities" or issuers that are "collective investment vehicles", which includes mortgage investment entities. These include a new requirement for issuers with real estate activities to provide an independent appraisal of the real property, if it discloses a value for the real property other than in its financial statements, will use a material amount of the proceeds to acquire an interest in real property, or will acquire an interest in real property from a related party. There are also separate tailored disclosure schedules for issuers with real estate activities and for issuers that are collective investment vehicles.

In addition, the proposed amendments include a number of general amendments, which are intended to clarify or streamline parts of NI 45-106 or improve disclosure for investors, including a requirement that issuers engaged in ongoing distributions amend their offering memorandum to include a six-month interim financial report.

The comment period for the proposed amendments will end on December 16, 2020.

C.9. Designated Rating Organizations (DROs)

In April 2012, the CSA implemented a regulatory oversight regime for credit rating agencies (CRAs) through National Instrument 25-101 *Designated Rating Organizations* (NI 25-101). The regime recognizes and responds to the role of CRAs in our credit markets, and the role of CRA-issued ratings which are referred to in securities rules and policies. Under the regime, the OSC has the authority to designate a CRA as a DRO, to impose terms and conditions on a DRO, and to revoke a designation order, or change its terms and conditions, where the OSC considers it in the public interest to do so.

There are currently five CRAs that have been designated as DROs in Canada under NI 25-101:

1. DBRS Limited
2. Fitch Ratings, Inc.
3. Kroll Bond Rating Agency, LLC (Kroll)
4. Moody's Canada Inc.
5. S&P Global Ratings Canada

Kroll has only been designated as a DRO for the purposes of the alternative eligibility criteria in section 2.6 of National Instrument 44-101 *Short Form Prospectus Distributions* and section 2.6 of NI 44-102 for issuers of asset-backed securities to file a short-form prospectus or shelf prospectus, respectively.

In Canada, the OSC is the principal regulator of these DROs. We conduct reviews of DROs using a risk-based approach. Our reviews focus on credit rating activities of the CRAs in Canada or in respect of Canadian issuers.

When we identify a concern, or an area of material non-compliance, we may take various actions depending on the nature of the observation and the perceived or potential harm to the marketplace.

This may include, but is not limited to, recommending changes to the DRO's policies, procedures or information and documents on the DRO's website, or requiring training or specified oversight of DRO staff in areas where we have seen non-compliance with the DRO's policies or procedures.

Given the impact of COVID-19 on the global economy, CRAs will play an important role in the level and type of activity in the debt capital markets. Our reviews of DROs in fiscal 2021 will focus on certain issues relating to the COVID-19 situation.

Upcoming amendments to NI 25-101

Subject to Commission and Ministerial approvals, the CSA is targeting to publish final NI 25-101 amendments in early 2021 so that NI 25-101 will be recognized for purposes of the European Union (EU) "equivalence/certification" regime under the EU CRA Regulation. The NI 25-101 amendments will reflect changes to the EU CRA Regulation that came into effect in 2018 and that are required for purposes of the EU "equivalence/certification" regime.

The existing DROs in Canada are only relying on the EU "endorsement" regime and NI 25-101 continues to be recognized for purposes of that regime. The NI 25-101 amendments would be required if a DRO wanted to instead rely on the EU "equivalence/certification" regime.

C.10. Financial Benchmarks

In the OSC's statement of priorities for 2018-2019, it was announced that we would be developing an OSC/CSA regulatory regime for financial benchmarks and publishing for comment a proposed rule to establish a Canadian regulatory regime for financial benchmarks. On March 14, 2019, the CSA published for comment a proposed rule, National Instrument 25-102 *Designated Benchmarks and Benchmark Administrators* (NI 25-102), intended to implement a comprehensive regime for the designation and regulation of benchmarks and those that administer them.

We are pursuing this initiative since we believe there is a need for regulation due to misconduct in other jurisdictions and the potential for similar misconduct in Canada, and we need to reflect global developments in benchmarks regulation, including the IOSCO *Principles for Financial Benchmarks* and the European Union's *Benchmarks Regulation.*

Subject to Commission and Ministerial approvals, the CSA is targeting to publish the final version of NI 25-102 in early 2021.

C.11. Branch Advisory Committees

The Branch has several committees that have been constituted to advise OSC staff on matters related to a range of projects and policy initiatives. A list of the current advisory committees and their members can be found here.

Continuous Disclosure Advisory Committee (CDAC)

The CDAC advises staff on a range of projects, including the planning, implementation and communication of its CD review program, as well as related policy initiatives. The CDAC also serves as a forum to advise OSC staff on emerging issues, and to critically assess procedures. The CDAC consists of 10 to 15 members who meet approximately four times annually. Members serve two-year terms and are selected for their extensive knowledge of CD issues and a strong interest in related policy. The CDAC is currently chaired by Michael Balter, a Manager of the Branch.

Small Business Advisory Committee

The Small Business Advisory Committee (formerly the Small and Medium Enterprises Committee) advises staff on current business practices and emerging trends affecting small businesses in both the public and private markets. The Committee also provides feedback on the effectiveness of the Branch's policies and initiatives as they relate to small businesses. We are currently reviewing applications submitted by interested parties to serve as members of this committee.

Mining Technical Advisory and Monitoring Committee (MTAMC)

The MTAMC provides advice to the CSA on technical issues relating to disclosure requirements for the mining industry. The committee also serves as a forum for continuing communication between the CSA and the mining industry. The MTAMC consists of approximately 15 members who meet three times annually. Members typically serve three-year terms and are drawn from across Canada and different sectors of the mining industry, ranging from early stage exploration to commercial production. Members typically have significant technical experience and a strong interest in securities regulatory policy as it relates to the mining industry. The MTAMC is currently co-chaired by Craig Waldie, a Senior Geologist of the Branch.

Part D: Education and Outreach

D.1. Online Resources

D.2. OSC SME Institute

A part of our Branch's mandate is to foster a culture of compliance through outreach and other initiatives. Although we cannot provide legal, financial accounting or other advice, we try to assist issuers in meeting their regulatory requirements by providing issuer education and outreach both at a micro level through direct communication with an issuer, as well as at a macro level through broad communications, such as staff notices. We also share the observations and findings of our review program through the Branch's outreach program for SMEs called the OSC SME Institute. In this Part of the Report we highlight some of these education and outreach resources.

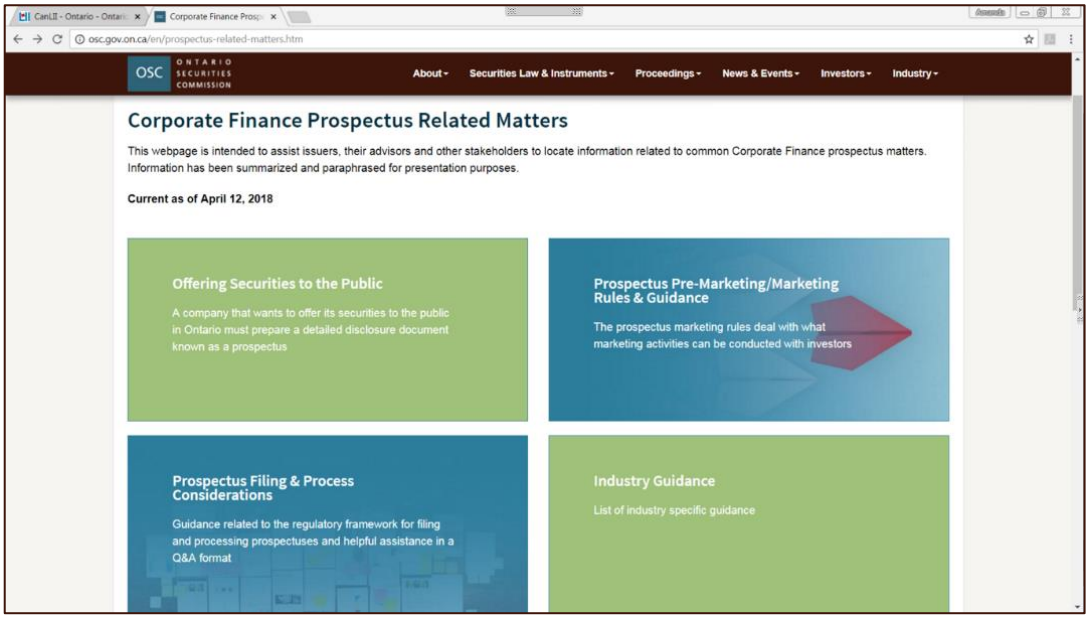
D.1. Online Resources

Corporate Finance section of OSC website - The Corporate Finance section of the OSC website provides a basic outline for issuers on how to comply with Ontario securities law and file certain documents with the OSC. It describes the steps an issuer needs to take to

- distribute and market securities,
- disclose information on a timely and accurate basis, and
- apply for regulatory exemptions.

In particular, there is a page that contains links to information for smaller issuers (both reporting issuers and other issuers) that want to learn more about Ontario securities law. The "Information for Companies" section of the OSC website can be found here.

OSC Corporate Finance Prospectus Webpage - On May 16, 2018, the Branch launched a webpage focused exclusively on Corporate Finance Prospectus Related Matters.



This webpage is intended to assist issuers, their advisors and other stakeholders in locating information related to common Corporate Finance prospectus matters. This webpage will serve as a useful guide to easily access prospectus related information articulated in the form of guidance, notices, policies and branch reports. We encourage issuers and their advisors to review the webpage for helpful prospectus related details.

OSC Exempt Market Webpage - The OSC exempt market webpage provides access to the OSC Electronic Filing Portal and electronic form to file reports of exempt distribution. The webpage also provides links, information, and guidance for issuers including

- a summary and comparison of the key capital raising exemptions in Ontario,
- exempt market activity data,
- forms and filing requirements,
- tips on completing Form 45-106F1 and frequently asked questions, and
- exempt market publications.

D.2. OSC SME Institute

Through the OSC SME Institute, we offer SMEs a series of free educational seminars to help them and their advisors understand the securities regulatory requirements for being or becoming a public company in Ontario and participating in the exempt market. Anyone interested in attending an event or consulting past presentations can visit the section Information for Small and Medium Enterprises on the OSC's website. A summary of the recent seminars we have conducted is included in the table below (along with links to the presentation). Video replays of the presentations are also available on the OSC's YouTube channel.

Date of seminar	Topic
May 6, 2020	COVID-19: Continuous Disclosure Obligations and Considerations for SMEs
March 4, 2020	Regulatory Administration: Common Filing Errors, Insider Reporting and the Process for Fee Waivers for Late Insider Reports
February 5, 2020	Hot Topics in Continuous Disclosure and Prospectus Filings: What SME issuers need to know

Finally, staff of the Branch give presentations from time to time at industry conferences, professional advisory firms' offices and provide staff views and commentary through various media forums.

APPENDIX A – Key Staff Notices

Topic	Reference
COVID-19	• CSA Staff Notice 51-360 (Updated) – *Frequently Asked Questions Regarding Filing Extension Relief Granted by Way of a Blanket Order in Response to COVID-19* • CSA Multilateral Staff Notice 51-361 – *Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2020 and March 31, 2019*
Prospectus Practice Directives	• OSC Staff Notice 41-702 – *Prospectus Practice Directive #1 – Personal Information Forms and Other Procedural Matters Regarding Preliminary Prospectus Filings* • OSC Staff Notice 41-703 – *Corporate Finance Prospectus Practice Directive #2 – Exemption from Certain Prospectus Requirements to be Evidenced by a Receipt*
Pre-Filing Reviews	• CSA Staff Notice 43-310 – *Confidential Pre-File Review of Prospectuses (for non-investment fund issuers)* • OSC Staff Notice 43-706 – *Pre-filing Review of Mining Technical Disclosure*
Disclosure Obligations	• OSC Staff Notice 51-711 (Revised) – *Refilings and Corrections of Errors* • OSC Staff Notice 51-723 – *Report on Staff's Review of Related Party Transaction Disclosure and Guidance on Best Practices* • CSA Multilateral Staff Notice 51-361 – *Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2020 and March 31, 2019*
Forward-Looking Information	• OSC Staff Notice 51-721 – *Forward-Looking Information Disclosure* • CSA Staff Notice 51-356 – *Problematic promotional activities by issuers*
Non-GAAP Financial Measures	• CSA Staff Notice 52-306 (Revised) – *Non-GAAP Financial Measures* • CSA Staff Notice 52-329 – *Distribution Disclosures and Non-GAAP Financial Measures in the Real Estate Industry* • OSC Staff Notice 52-722 – *Report on Staff's Review of Non-GAAP Financial Measures and Additional GAAP Measures*
Industries	• CSA Staff Notice 43-307 – *Mining Technical Reports – Preliminary Economic Assessments* • CSA Staff Notice 43-309 – *Review of Website Investor Presentations by Mining Issuers* • CSA Staff Notice 43-311 – *Review of Mineral Resource Estimates in Technical Reports* • CSA Staff Notice 51-327 – *Revised Guidance on Oil and Gas Disclosure*

	• CSA Staff Notice 51-342 – *Staff Review of Issuers Entering Into Medical Marijuana Business Opportunities* • CSA Multilateral Staff Notice 51-349 – *Report on the Review of Investment Entities and Guide for Disclosure Improvements* • CSA Staff Notice 51-352 (Revised) – *Issuers with U.S. Marijuana-Related Activities* • CSA Staff Notice 51-357 – *Staff Review of Reporting Issuers in the Cannabis Industry* • OSC Staff Notice 51-720 – *Issuer Guide for Companies Operating in Emerging Markets* • OSC Staff Notice 51-722 – *Report on a Review of Mining Issuers' Management's Discussion and Analysis and Guidance* • OSC Staff Notice 51-724 – *Report on Staff's Review of REIT Distributions Disclosure*
Insider Reporting and SEDI	• OSC Staff Notice 51-726 – *Report on Staff's Review of Insider Reporting and User Guides for Insiders and Issuers* • CSA Staff Notice 55-316 – *Questions and Answers on Insider Reporting and the System for Electronic Disclosure by Insiders (SEDI)*
Use of the Internet and Cyber Security	• CSA Multilateral Staff Notice 51-347 – *Disclosure of cyber security risks and incidents* • CSA Staff Notice 51-348 – *Staff's Review of Social Media Used by Reporting Issuers*
Corporate Governance	• CSA Multilateral Staff Notice 58-310 *Report on Fourth Staff review of Disclosure regarding Women on Boards and in Executive Officer Positions* • CSA Multilateral Staff Notice 58-311 *Report on Fifth Staff Review of Disclosure regarding Women on Boards and in Executive Officer Positions* • CSA Multilateral Staff Notice 51-359 *Corporate Governance Related Disclosure Expectations for Reporting Issuers in the Cannabis Industry*
Climate Change	• CSA Staff Notice 51-354 – *Report on Climate change-related Disclosure Project* • CSA Staff Notice 51-358 – *Reporting of Climate Change-related Risks*

APPENDIX B – Staff Contact Information

Topic	Staff Contact	
Administrative Matters including insider reporting and cease trade orders	Eden Williams Manager, Regulatory Administration ewilliams@osc.gov.on.ca (416) 593-8338	
Continuous Disclosure Reviews	Marie-France Bourret Manager mbourret@osc.gov.on.ca (416) 593-8083	Lina Creta Manager lcreta@osc.gov.on.ca (416) 204-8963
Designated Rating Organizations and Financial Benchmarks	Michael Bennett Senior Legal Counsel mbennett@osc.gov.on.ca (416) 593-8079	
Exchange Oversight	Michael Balter Manager mbalter@osc.gov.on.ca (416) 593-3739	
Exempt Market	Winnie Sanjoto Manager wsanjoto@osc.gov.on.ca (416) 593-8119	
Mining Technical Disclosure	Craig Waldie Senior Geologist cwaldie@osc.gov.on.ca (416) 593-8308	James Whyte Senior Geologist jwhyte@osc.gov.on.ca (416) 593-2168
Preliminary Prospectus Receipts	Evelina Barsukov Review Officer ebarsukov@osc.gov.on.ca (416) 593-3694	Lorraine Greer Review Officer lgreer@osc.gov.on.ca (416) 593-2322

The OSC Inquiries & Contact Centre operates from
8:30 a.m. to 5:00 p.m. Eastern Time, Monday to Friday,
and can be reached on the Contact Us page on the OSC website at:

osc.gov.on.ca

Contacts

If you have questions or comments about this report, please contact:

Sonny Randhawa
Director
Corporate Finance
srandhawa@osc.gov.on.ca
(416) 204-4959

Marie-France Bourret
Manager
Corporate Finance
mbourret@osc.gov.on.ca
(416) 593-8083

Shari Liu
Accountant
Corporate Finance
sliu@osc.gov.on.ca
(416) 596-4257

Melissa Taylor
Legal Counsel
Corporate Finance
mtaylor@osc.gov.on.ca
(416) 596-4295

1.1.2 OSC Notice 11-791 – Statement of Priorities – Request for Comments Regarding Statement of Priorities for Financial Year to End March 31, 2022

ONTARIO SECURITIES COMMISSION

OSC Notice 11-791 – Statement of Priorities

Request for Comments Regarding Statement of Priorities for Financial Year to End March 31, 2022

The *Securities Act* (Act) requires the Ontario Securities Commission (OSC or Commission) to deliver to the Minister of Finance and publish in its Bulletin each year a statement of the Chair setting out the proposed priorities of the Commission for its current fiscal year in connection with the administration of the Act, the regulations and rules, together with a summary of the reasons for the adoption of the priorities.

The Statement of Priorities (SoP) is a subset of the overall OSC Business Plan which is aligned with the OSC Strategic Plan. The document reflects the OSC's current views on the priority actions that the OSC will take in 2021-2022 to address each of the goals and its related priorities.

This edition of the 2021-2022 SoP outlines the items we believe will continue to be important considering the uncertainties created by the coronavirus pandemic, as well as the pending recommendations from the Capital Markets Modernization Taskforce (Taskforce) and their consideration by the Government of Ontario.

The OSC recognizes that it will need to update its priorities to reflect the impacts and lessons learned from the coronavirus pandemic. The OSC will review and consider the recommendations of the Taskforce and will adjust its priorities to accommodate any changes recommended by the Taskforce as adopted by the Government of Ontario.

The 2021-2022 SoP has a 30-day comment period. The Commission will consider stakeholder comments and make any necessary revisions prior to finalizing and publishing its 2021-2022 Statement of Priorities.

Comments

Any comments should be made in writing by December 16th, 2020 and sent to:

Robert Day
Senior Specialist Business Planning
Ontario Securities Commission
rday@osc.gov.on.ca

[Editor's note: The Draft Statement of Priorities for Financial Year to End March 31, 2022 follows on separately numbered pages. Bulletin pagination resumes at the end of the Draft Statement.]

OSC

2021-2022 Statement of Priorities

DRAFT FOR COMMENT

INTRODUCTION

OSC Statement of Priorities

We are pleased to present the OSC Chair's Statement of Priorities for the Ontario Securities Commission for the year commencing April 1, 2021. The *Securities Act* requires the OSC to publish the Statement of Priorities (SoP) in its Bulletin and to deliver it to the Minister by June 30 of each year. This Statement of Priorities also supports the OSC's commitment to be both effective and accountable in delivering its regulatory services.

The OSC regulates the largest capital market in Canada and our actions have impacts for Ontario and the rest of Canada. The OSC is committed to promoting fair and efficient markets in Ontario and has identified a broad range of initiatives to improve the existing regulatory framework. We strive to anticipate problems in the market and act decisively to promote public confidence in our capital markets, protect investors, and support market integrity. We will continue to proactively identify emerging issues, trends, and risks in our capital markets.

Confidence in fair and efficient markets is a prerequisite for economic growth. Investor protection is always a top priority for the OSC.

The OSC continues to move the regulatory agenda forward, improving the way we approach our work and engage with industry participants and other regulators to understand the issues and their concerns. The OSC interacts extensively with stakeholders through various advisory committees, roundtables and other means of consultation, to inform operational approaches and policy development. The OSC engages with investor advocacy groups and investors directly to gain insights to better understand investor needs and interests.

Our significant work in the international regulatory environment, taking into consideration the constraints imposed by the COVID-19 pandemic, will continue as another key means to gain insights into emerging issues and standards that can be integrated into our policy development and oversight activities. These actions are essential to reach solutions that balance the inclusion of innovation and competition in the marketplace with the maintenance of appropriate investor safeguards.

The OSC works as part of the Canadian Securities Administrators (CSA) to harmonize rules and their application across the country. The OSC is also a member of the Heads of Regulatory Agencies (HoA), an important federal-provincial forum for cooperation on financial sector issues. Chaired by the Bank of Canada, the HoA brings together the Department of Finance Canada, the Office of the Superintendent of Financial Institutions (OSFI) as well as the Autorité des marchés financiers, the Ontario Securities Commission, the British Columbia Securities Commission and the Alberta Securities Commission.

INTRODUCTION

Vision, Mandate and Goals

Our Vision

To be an effective and responsive securities regulator – fostering a culture of integrity and compliance and instilling investor confidence in the capital markets.

Our Mandate

To provide protection to investors from unfair, improper or fraudulent practices, to foster fair and efficient capital markets and confidence in capital markets and to contribute to the stability of the financial system and the reduction of systemic risk.

Our Organizational Goals

PROMOTE Confidence in Ontario's Capital Markets	**REDUCE** Regulatory Burden	**FACILITATE** Financial Innovation
Promote confidence in Ontario's capital markets among market participants and investors	*Enhance access for businesses and financial services providers to Ontario's capital markets*	*Cultivate an environment that supports development of innovative financial business models*

Strengthen Our Organizational Foundation

People	Technology	Information

INTRODUCTION

Key Priorities

Our 2021-2022 SoP sets out the four strategic goals on which the OSC intends to focus its resources and actions in 2021-2022. It also lays out the priority initiatives that the OSC will pursue in support of each of these strategic goals.

We are publishing this edition of the SoP for 2021-2022 to outline the items we believe will continue to be important considering the uncertainties created by the COVID-19 pandemic, as well as the pending recommendations from the Capital Markets Modernization Taskforce (Taskforce) and their consideration by the Government of Ontario.

The OSC recognizes that it will need to update its priorities to reflect the impacts and lessons learned from COVID-19 pandemic. Also, we anticipate adjusting our priorities to accommodate any changes due to the recommendations from the Taskforce following their consideration by the Government of Ontario.

We will review our plans as matters become clearer and ensure that we keep stakeholders updated.

GOAL 1 – Promote Confidence in Ontario's Capital Markets

Promote confidence in Ontario's capital markets among market participants and investors

- Continue Implementation of Client Focused Reforms (CFR)
- Continue Consultation on the Current Self-Regulatory Organization (SRO) Framework
- Bring Timely and Impactful Enforcement Actions
- Implement Mutual Fund Embedded Commissions Policies and Ontario Regulatory Response to Deferred Sales Charges (DSC)
- Improve the Retail Investor Experience and Protection
- Continue to Expand Systemic Risk Oversight
- Strengthen Investor Redress through the Ombudsman for Banking Services and Investments (OBSI), through Policy and Oversight Activities

GOAL 2 – Reduce Regulatory Burden

Enhance access for businesses and financial services providers to Ontario's capital markets

- Complete Actions Identified in the OSC Burden Reduction Plan

GOAL 3 – Facilitate Financial Innovation

Cultivate an environment that supports development of innovative financial business models

- Implement Multi-Year Plan for the Office of Economic Growth and Innovation
- Engage with Fintech and Support Innovation in Capital Markets

GOAL 4 – Strengthen Our Organizational Foundation

People, Technology and Information

- Continue Redevelopment of CSA National Systems
- Modernize OSC Technology Platform
- Foster Inclusion and Diversity
- Continue to Monitor and Adapt to the Impacts of the COVID-19 Pandemic

THE ENVIRONMENT

Impacts

Environmental factors influence securities regulators in their operations and regulatory oversight. There are key challenges that may influence the OSC's policy agenda, its operations, and the way it uses its resources.

Effects of COVID-19

Since the outbreak of the COVID-19 pandemic in early 2020, the world's economies and financial markets have experienced unprecedented conditions. The economic consequences of putting large parts of the economy into lockdown are apparent. With the supply and demand for goods and services severely restricted, economic growth has fallen substantially. Millions of Canadians have found themselves without employment and businesses have struggled to make payments to suppliers and for rent.

Governments have provided large-scale fiscal and monetary support for the economy and financial markets. At the same time, we have seen unprecedented levels of Central Bank intervention in markets to support liquidity. These supports are providing the foundation of the recovery as it is unfolding to date.

Financial markets have so far proven themselves to be largely resilient to the conditions experienced. Markets have recovered from the initial stresses experienced in March and April 2020; however, there remains a long and challenging path to recovery. The OSC, along with our CSA colleagues, has taken a variety of steps to support industry participants and investors during these extraordinary times. Regulators will continue their efforts to identify and implement support measures where appropriate.

Despite the start of a recovery, considerable uncertainty remains about the success of efforts to contain the virus, risks of future waves of infections, and a timeline for a widely available effective vaccine. As such, there is little clarity about the speed of the economic recovery and longer-term impact on capital markets.

Households with constrained income are likely to prioritize non-discretionary spending and reduce their investing. The experience of the economic shutdown may encourage other households to pay down their debt and build up contingency savings in case of future waves of the virus and associated lockdowns. This too may impact investing behaviour.

At the time of writing, forecasters anticipate that interest rates will be maintained at very low levels until at least 2022. Continued low interest rates will impact capital markets activity including capital raising and investment portfolio decisions.

Low rates will encourage firms to maintain current levels of debt or increase their borrowing if they are creditworthy. This would result in stable or even increased volumes of prospectus filings from corporate issuers and growing levels of corporate debt.

Low interest rates will challenge investors to find returns that match their needs and plans. Increased efforts by investors to search for yield could increase their exposure to risk. This may take the form of leveraged investing or moves into more risky asset classes and individual investments.

Regulators will need to remain vigilant about products promising higher returns and that investors have the necessary tools to make informed decisions. Other risks to investors could include issues around the quality of financial information, forward-looking information and debt servicing costs as well as concerns about further growth in the level of corporate debt.

Capital Markets Modernization Taskforce

The Ontario government announced the formation of the Taskforce, which began work in February 2020. After consulting with various stakeholders, the Taskforce published a consultation report in July 2020 outlining its findings and its proposals to modernize securities regulation in Ontario. The final Taskforce report, expected by the end of 2020, could result in significant changes to the *Securities Act*.

The OSC will review and consider the recommendations of the Taskforce and will adjust its priorities to accommodate any changes recommended by the Taskforce as adopted by the Government of Ontario.

OUR GOALS

GOAL 1 – Promote Confidence in Ontario's Capital Markets

The OSC shares the Ontario government's commitment to making Ontario's capital markets globally competitive and an attractive place in North America in which to invest, grow businesses and create jobs. We will promote confidence in Ontario's capital markets among market participants and investors by engaging and educating investors, exercising effective compliance oversight, and pursuing timely and vigorous enforcement.

To achieve globally competitive, efficient and strong capital markets and a regulatory system that attracts investment from around the world will require the OSC to effectively balance the need to streamline capital-raising for businesses, while seeking to protect investors from financial systemic risk and misconduct. Every year we design and carry out routine and targeted reviews of market participants with the objective of upholding the highest standards of disclosure and compliance through our various compliance oversight programs.

OUR KEY PRIORITIES

1.1 Continue Implementation of Client Focused Reforms

To improve the client/registrant relationship, regulatory reforms to NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* were published in final form in 2019. There will be a phased transition period. Amendments relating to conflicts of interest will take effect on June 30, 2021, and the remaining changes will take effect on December 31, 2021.

Under the amendments, registrants will be required to:

- Address material conflicts of interest in the best interest of the client
- Put the client's interest first when making a suitability determination
- Do more to clarify for clients what they should expect from registrants.

Actions will include:

- The OSC, with other CSA jurisdictions and the SROs, will work with the implementation committee to provide guidance, respond to questions and otherwise assist registrants to operationalize the amendments
- Publish Frequently Asked Question guidance to assist registrants with implementing the CFRs.

Planned Outcomes:

- Investors will benefit from registrants addressing material conflicts of interest in their best interest
- Registrants must consider specific factors when deciding whether an investment product is suitable and whether their recommendations "put the client's interest first"
- Investors will receive greater clarity around the products and services they can expect from their registrants. Registrants will need to:
  - explain the potential impact on a client's investment returns from management expense fees or other ongoing fees connected with the investment product (and the effect of compounding fees over time)
  - provide investors with more information about any restrictions on their ability to liquidate or resell an investment product
- Increased investor confidence in the industry by better aligning industry conduct with investors' expectations, as reflected by fewer compliance review recommendations relating to information collection, inadequate know-your-product due diligence and unsuitable investments.

1.2 Implement Mutual Fund Embedded Commissions Policies and Ontario Regulatory Response to Deferred Sales Charges (DSC)

The OSC will work with fund managers and dealers to streamline implementation issues to promote positive investor experiences as rule changes take effect. The OSC will also monitor mutual fund sales trends, new products and services to assess whether activities are in line with the policy objectives of the mutual fund embedded commissions policies.

The OSC will work to finalize the Ontario regulatory response to the use of the DSC option in the sale of mutual funds to address certain negative investor outcomes.

Actions will include:

- Provide appropriate additional accommodation allowing flexibility for investors to be switched to different fee options
- Foster the launch of new products and services that facilitate the implementation of the policies
- Obtain mutual fund sales, new products and new services data for trend analysis, and follow up if the trends raise any concerns
- Following the review of the comment letters on the OSC proposed DSC rule, formulate next steps, including publication of the final rule.

Planned Outcomes:

- Support for innovation results in wider product choices for investors
- Unintended capital market activities are identified and examined
- Implementation issues identified and addressed.

1.3 Improve the Retail Investor Experience and Protection

The OSC will identify ways to improve the investor experience and investor protection. Efforts will focus on engaging stakeholders, identifying appropriate areas for improvement, and making changes that will help investors have positive experiences and be better informed when making investment decisions.

Collectively, these efforts are intended to lead to greater investor protection and help reduce the impact of fraud. A range of initiatives will be completed in support of this priority.

Actions will include:

- Stakeholder consultations on ways to improve the investor experience
- Investor education and financial literacy activities
- Continued implementation of the OSC Seniors Strategy
- Consideration of comments received to finalize amendments to implement a regulatory framework to address issues of financial exploitation and diminished mental capacity among older and vulnerable investors
- Continued expansion of the use of behavioural insights in OSC policy work
- Timely and responsive investor research conducted and published
- Collaboration on financial literacy initiatives with the Government of Ontario, including the Ministry of Finance, Ministry of Education, and Ministry of Seniors and Accessibility

Planned Outcomes:

- Financial education resources and channels such as GetSmarterAboutMoney.ca continue to be used by large numbers of investors and seen as a leader in Canada and internationally
- Protection of senior and vulnerable investors enhanced
- Educated investors make more informed decisions
- Effectiveness of OSC policies and programs improved through integration of behavioural insights.

1.4 Continue to Expand Systemic Risk Oversight

The OSC works with many domestic and international regulators to monitor financial stability risks, improve market resilience, and reduce the potential risks arising from global systemic events. The OSC is continuing to build a domestic derivatives framework and to operationalize the necessary compliance and oversight tools required to achieve a practical and effective regime.

The OSC will also continue to respond to potential risks associated with investment management activities through its work on investment funds liquidity risk management and enhanced risk monitoring.

1.4.1 Enhanced Systemic Risk Oversight

The OSC will continue to enhance systemic risk oversight capabilities through a combination of continued policy work and operational initiatives.

Actions will include:

- Subject to Ministerial approval, finalize amendments to the derivatives dealer Business Conduct Rule, limiting the scope of the rule and specifying which jurisdictions will be granted equivalency
- Work with CSA on the next version of the proposed Derivatives Dealer Registration Rule
- Finalize Notice on status of Margin Rule for uncleared derivatives involving Ontario entities
- Finalize amendments to the Trade Reporting Rule with respect to internationally adopted data standards
- In coordination with other IOSCO members, design and implement enhanced data collection to monitor vulnerabilities associated with the use of leverage in the asset management industry
- Work with other provincial and federal agencies, including through the HoA, to enhance the identification of financial system vulnerabilities and promote financial system resilience.

1.4.2 Conduct Compliance Reviews of Over-the-Counter (OTC) Derivatives Rules (Trade Reporting, Clearing, Segregation & Portability)

Improve quality of trade reports to enhance ability to meet systemic risk monitoring and market abuse detection objectives.

Actions will include:

- Create data quality reports to inform decisions as to which reporting counterparties should be reviewed
- Conduct ad hoc compliance reviews on issues as they become present in the data.

1.4.3 Enhanced Data Analytics to Support Systemic Risk Oversight

Design and implement a framework for analyzing OTC derivatives data for systemic risk oversight and market conduct purposes including development of analytical tools and the creation of snapshot descriptions of the Canadian OTC derivatives market.

Actions will include:

- Design and build an enhanced derivatives data mart that uses and relates data from multiple reporting entities
- Provide inter-provincial data support and analytics.

1.4.4 Continue to Expand Systemic Risk Oversight in Asset Management

Implement annual surveys, in a scalable manner, of private and public investment funds about their portfolio exposure in order to assess relevant systemic risks, with a focus on aggregated asset classes and leverage information.

Actions will include:

- Review existing and readily available information
- Collect required additional information
- Continue to improve the collection, processing and analysis of information.

Planned Outcomes:

- Finalized amendments to the Business Conduct Rule for derivatives dealers
- Expanded derivatives database development
- Operational procedures for new compliance and oversight processes documented
- New templates for systemic risk analysis operationalized
- Increased use of data and enhanced data analysis for systemic risk monitoring, research, inter-agency information sharing and policy development
- Improved and more effective coordination and cooperation with regulatory partners.

1.5 Bring Timely and Impactful Enforcement Actions

Effective compliance and enforcement are essential to maintaining the integrity and attractiveness of our capital markets. Disruption of illegal activity and deterrence are key strategies to prevent or limit harm to investors. Our actions against firms and individuals who do not comply with the rules need to be timely and visible to achieve the desired deterrent effect and enhance public confidence in our markets.

As securities fraud and misconduct become increasingly complex, regulators must evolve their compliance and enforcement approaches and expand their tools.

Growth in cross-border activity, which is accelerated by technology, benefits investors by reducing friction and cost, but can also harm investors by enabling cross-border fraud and misconduct that can be very difficult to address.

This creates challenges in supervision, surveillance and enforcement. If regulatory approaches are not aligned, cross-border supervision and enforcement efforts may be impeded. Regulators will need greater access to data and more sophisticated surveillance and analysis tools to more effectively evaluate compliance with regulatory requirements and identify misconduct.

Actions will include:

- Focus investigative and litigation resources on cases expected to have a strong regulatory impact and that are aligned with our strategic priorities
- Continue to identify and develop surveillance and analytical tools, including by working with the CSA to implement the next phases of the Market Analysis Platform (MAP)
- The quasi-criminal team will work in cooperation with policing partners and continue to focus on fraudulent behaviour and recidivism
- Take proactive and timely disruption steps to mitigate or stop investor harms
- The Whistleblower group will triage tips to focus action on impactful enforcement proceedings with effective regulatory messages.

Planned Outcomes:

- Implementation of new tools that increase use of data to support case selection and investigations
- Enhanced profile for the OSC Whistleblower Program increases the number of credible tips
- Continued number of visible, effective disruption actions completed

- Continued visibility of priority case outcomes with strong regulatory messages aligned with OSC strategic priorities
- Greater use of data analytics in market conduct cases to strengthen the detection of harmful conduct
- In conjunction with our CSA partners, successful roll-out of the next phases of the Market Analysis Platform, initiative to further enhance enforcement effectiveness in identifying and pursuing insider trading and market manipulation cases.

1.6 Continue Consultation on the Current Self-Regulatory Organization (SRO) Framework

Consider ongoing SRO developments and feedback on initial consultation paper and develop responses as required regarding the evolution of the SRO framework.

Actions will include:

- Publish recommended SRO framework for comment.

Planned Outcomes:

- Consideration of public feedback on a recommended SRO framework reflecting the evolution of the market.

1.7 Strengthen Investor Redress through the Ombudsman for Banking Services and Investments (OBSI), through Policy and Oversight Activities

Investors can be at risk for potential losses in cases where registered firms or advisors have acted unfairly, made an error or given bad advice. The OSC strives to improve investor access to redress in these types of situations. Avenues to obtain investor redress, including an effective and fair dispute resolution system, are now regarded as an essential element of investor protection frameworks. To achieve better results for investors, the OSC will continue its efforts to strengthen OBSI in its role as the independent dispute resolution service.

Actions will include:

- Provide analysis of the proposal for OBSI binding decisions in Ontario within increased claim limits
- Engage with our CSA partners on strengthening OBSI.

Planned Outcomes:

- Better results for investors regarding redress and dispute resolution, which will also foster deserved investor confidence.

OUR GOALS

GOAL 2 – Reduce Regulatory Burden

Delivering responsive regulatory oversight includes being mindful of the impact of regulatory burden on market participants. The OSC, with its CSA partners, has identified and is pursuing opportunities to reduce undue burden and to make its interface with market participants easier and less costly. The OSC will continue to fulfill its responsibility to protect investors.

We will seek to reduce burden while improving the investor experience, by seeking to modernize the information provided to investors, or other interactions that investors have with issuers and registrants.

OUR KEY PRIORITIES

2.1 Complete Actions Identified in the OSC Burden Reduction Plan

In November 2019, the OSC published the report: *"Reducing Regulatory Burden in Ontario's Capital Market"*. In that report, the OSC set out concerns raised by stakeholders, and it identified actions to address those concerns, as well as items for further study.

The OSC Office of Economic Growth and Innovation (Innovation Office) was created in 2020. Its mandate includes leading and facilitating the OSC's continuing efforts to reduce regulatory burden, including completing the recommendations identified in the burden reduction report.

Actions will include:

- Complete the burden reduction items identified in the report by the planned dates
- Engage in further study on the items identified for follow-up
- Issue regular status updates on the progress against the actions identified in the report
- Identify and consider global best practices undertaken by similar organizations to reduce regulatory costs.

Planned Outcomes:

Visible and tangible results of burden reduction efforts will include:

- New tools and use of technology to assist with navigating the regulatory process
- Greater transparency around our processes and flexibility on what is required to fulfill regulatory requirements
- Less duplication of requirements and form filings
- Improved coordination of reviews
- A more tailored regulatory approach that considers the size and type of businesses
- Clearer communication from staff
- Improved coordination between the OSC and our regulatory partners
- Rules and guidance that are easier to read and understand
- Information that is easier to find and better organized on our website
- Improved investor experience.

OUR GOALS

Goal 3 – Facilitate Financial Innovation

The OSC will continue to develop flexible regulatory approaches and improved access to services and support for businesses looking to establish or expand in Ontario. These efforts will build on the progress to date with the creation of the Innovation Office. This includes creating an environment that supports emerging financial technology, while at the same time ensuring investor protection, through flexible and proportionate regulatory approaches.

OUR KEY PRIORITIES

3.1 Implement Multi-Year Plan for Office of Economic Growth and Innovation

The Innovation Office has developed a Charter that sets out its vision and priorities over the next few years. These initiatives, which include outreach to stakeholders, innovation hubs and others, will support innovation, facilitate capital formation and foster economic growth.

Actions will include:

- Foster, promote and, where possible, model and test innovative business models and methods in capital formation, transaction and service efficiency and fairness
- Monitor and report on the progress to implement the recommendations from the OSC Burden Reduction Taskforce Report
- Contribute to the OSC's efforts to modernize its regulatory programs and policy formulation
- Obtain stakeholder feedback
- Increase the OSC's visibility and credibility as an innovative and agile regulator
- Demonstrate clear, visible connections to innovation ecosystem including hubs, stakeholders, market participants, investors and other regulators
- Monitor innovation and economic growth initiatives and engage actively with innovation hubs and similar groups within domestic and global regulatory organizations.

Planned Outcomes:

- The Innovation Office is fully operational and delivering on its mandate
- Innovative novel businesses, entrepreneurs and start-ups develop in Ontario to help foster economic growth and improve access by investors
- Better understanding of opportunities to reduce regulatory burden by conducting outreach programs with market participants to solicit their input
- Gained insight by testing innovative ideas with market participants and investors
- Increased OSC's profile as an innovative and agile regulator by engaging with innovation hubs and similar groups within domestic and global regulatory organizations.

3.2 Engage with Fintech and Support Innovation in Capital Markets

The Innovation Office will expand the work of OSC LaunchPad through deeper engagement with businesses and will provide support for a strong Ontario innovation ecosystem and improve access to services by investors. The OSC will help innovative Fintech businesses navigate the regulatory requirements and will be flexible with businesses as they meet their obligations (e.g. by granting conditional exemptive relief and providing guidance about how to comply within new business models).

Actions will include:

- Research, identify and test new innovative methods, services and products specific to the OSC's mandate to enhance capital markets efficiency
- Identify, understand and promote emerging business models, services and products in finance that benefit investors and our capital markets
- Provide additional tools to assist firms that want to test novel products and services
- Enhance OSC LaunchPad and potential tools to give the innovation community important insights and information into securities law requirements including information for start-ups on whether and how securities regulations may apply to their business
- Work with the CSA Sandbox to issue timely approvals for Ontario businesses to operate in Canada as registered firms (offering novel products and services to investors) or marketplaces.

Planned Outcomes:

- Costs and time to market for innovative businesses are reduced
- Implemented tools that support new businesses seeking to raise capital
- Learnings from working with innovative businesses are used to modernize regulation for the benefit of Ontario businesses and reduce burden on market participants
- Positive feedback from stakeholders regarding guidance issued, surveys conducted, and support provided to innovative businesses
- OSC LaunchPad website reflects current novel issues and relevant notices, news releases or guidance.

OUR GOALS

GOAL 4 – Strengthen Our Organizational Foundation

The OSC regulates and supports an ever-changing and highly competitive financial sector. The COVID-19 pandemic, global discussion about anti-black racism, ongoing review of our capital markets by the government-appointed Taskforce and resulting stakeholder commentary have increased the need and urgency for the OSC to have a strong organizational foundation of people, systems and data management and analytics.

OUR KEY PRIORITIES

4.1 Continue Redevelopment of CSA National Systems

The development of SEDAR+ (as a replacement for SEDAR), SEDI, NRD and other CSA national systems is a critical foundation for the OSC to become a more data analysis-focused and evidence-based regulator.

Actions will include:

- Support the CSA initiative to implement SEDAR+, a modern, accessible, integrated, searchable, secure, and robust database and system that can support existing regulatory requirements and that can be easily modified to support the future needs of market participants and regulators
- Complete work on OSC local systems and related processes, workflows and policies to ensure they are aligned with phase 1 of SEDAR+ when it is launched.

Planned Outcomes:

- Launch of SEDAR+ meets user needs and is aligned with OSC local systems
- Improved operational functions and more efficient service delivery to market participants
- CSA Systems Fee Rule is completed within defined timelines.

4.2 Modernize OSC Technology Platform

The OSC continues with several strategic initiatives to modernize its technology platforms and further leverage data and analytics in delivering regulatory outcomes.

To reach the next level in digitalization of operations, the OSC has created the Digital Solutions Branch, which will own and lead the implementation of the enterprise wide digital strategy.

Actions will include:

- Fully operationalize the new Digital Solutions Branch
- Revise digital transformation strategy and roadmap to align with business priorities and leverage best practices and latest technologies
- Continue development of OSC business workflow applications that are integrated with SEDAR+
- Replace select legacy systems with new modern cloud-based platforms
- Continue development of derivatives trades database, with expanded data sets and analytics
- Continue implementation of the Information Security Program that is aligned with the National Institute of Standards and Technology cybersecurity framework.

Planned Outcomes:

- Integrated digital strategy allows for improved data insights and efficient data sharing between branches and with industry stakeholders
- Increased efficiency of internal regulatory operations and corporate services through optimization and automaton of business processes
- Improved operational efficiency for workflows integrated with the new SEDAR + platform
- Accelerated transition from stand-alone, legacy systems to integrated enterprise platforms, processes and data flows
- Improved systemic risk oversight capabilities
- Improved cybersecurity posture.

4.3 Foster Inclusion and Diversity

The OSC is focused on building and sustaining diversity in our OSC community and ensuring that the employee experience is equitable and inclusive for everyone.

Actions will include:

- Implement an Inclusion and Diversity Strategy to remove barriers to inclusion at the OSC; and to achieve equitable opportunities and a consistent employee experience for all

- Provide and promote opportunities for learning and dialogue to develop a better understanding of bias, racism, and barriers to inclusion
- Take actions outlined in the Black North Initiative (BNI) CEO pledge to end anti-black systemic racism.

Planned Outcomes:

- Updated / new policies and practices that are equitable and inclusive for all employees, including recruitment, talent development, secondment, promotion, code of conduct, respectful workplace
- Increased understanding leading to individual and organizational change in practices and behaviours to support equity and inclusion
- A workplace where employees experience psychological safety and inclusion
- Achieve the goals and targets set out in the BNI CEO pledge.

4.4 Continue to Monitor and Adapt to the Impacts of the COVID-19 Pandemic

The OSC will continue to adapt work practices and the workplace to support effective and efficient delivery of regulation and business operations, during and after the COVID-19 pandemic.

Actions will include:

- Adjust work policies and practices to accommodate remote work, and support collaboration and organizational culture in a fully or partially remote work model
- Provide resources and benefits to support employee physical and mental health and well-being
- Implement physical design features to ensure employee health and safety, and to support flexible work.

Planned Outcomes:

- Updated / new policies and practices that address employment practices including flexible and alternative work, home office set-up, and benefits
- Increased awareness and utilization of health and well-being benefits and programs
- Redefined and redesigned office space.

1.1.3 Notice of Ministerial Approval of Amendments to National Instrument 51-102 Continuous Disclosure Obligations Related to Business Acquisition Report Requirements

NOTICE OF MINISTERIAL APPROVAL OF AMENDMENTS TO
NATIONAL INSTRUMENT 51-102 *CONTINUOUS DISCLOSURE OBLIGATIONS*

The Ontario Minister of Finance recently approved amendments (the **Rule Amendments**) made by the Ontario Securities Commission to the following rule:

- National Instrument 51-102 *Continuous Disclosure Obligations*

The Rule Amendments, as well as corresponding changes to Companion Policy 51-102CP *Continuous Disclosure Obligations*, Companion Policy 41-101CP to National Instrument 41-101 *General Prospectus Requirements* and Companion Policy 44-101CP to National Instrument 44-101 *Short Form Prospectus Distributions* (collectively, the **CP Changes**), were published in Chapter 1 of the Bulletin on August 20, 2020. The same material is being published today in Chapter 5 of this Bulletin. The Rule Amendments and the CP Changes are effective as of November 18, 2020.

1.2 Notices of Hearing

1.2.1 Katanga Mining Limited et al. – s. 144

FILE NO.: 2020-37

IN THE MATTER OF
KATANGA MINING LIMITED,
ARISTOTELIS MISTAKIDIS,
TIM HENDERSON,
LIAM GALLAGHER,
JEFFREY BEST,
JOHNNY BLIZZARD,
JACQUES LUBBE and
MATTHEW COLWILL

NOTICE OF HEARING
Section 144 of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Application for Variation of a Decision

HEARING DATE AND TIME: In Writing

PURPOSE

The purpose of this proceeding is to consider an Application made by Katanga Mining Limited to vary the terms of an Order issued by the Commission on December 18, 2018 relating to the Settlement Agreement entered into on December 14, 2018 between Staff of the Commission and Katanga Mining Limited.

REPRESENTATION

Any party to the proceeding may be represented by a representative at the hearing.

FAILURE TO PARTICIPATE

IF A PARTY DOES NOT PARTICIPATE, THE HEARING MAY PROCEED IN THE PARTY'S ABSENCE AND THE PARTY WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDING.

FRENCH HEARING

This Notice of Hearing is also available in French on request of a party. Participation may be in either French or English. Participants must notify the Secretary's Office in writing as soon as possible if the participant is requesting a proceeding be conducted wholly or partly in French.

AVIS EN FRANÇAIS

L'avis d'audience est disponible en français sur demande d'une partie, que la participation à l'audience peut se faire en français ou en anglais et que les participants doivent aviser le Bureau du secrétaire par écrit dès que possible si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

Dated at Toronto this 16th day of November, 2020

"Grace Knakowski"
Secretary to the Commission

For more information

Please visit www.osc.gov.on.ca or contact the Registrar at registrar@osc.gov.on.ca.

1.3 Notices of Hearing with Related Statements of Allegations

1.3.1 Trevor Rosborough et al. – ss. 127(1), 127.1

FILE NO.: 2020-33

IN THE MATTER OF
TREVOR ROSBOROUGH,
TAYLOR CARR and
DMITRI GRAHAM

NOTICE OF HEARING
Subsection 127(1) and Section 127.1 of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Enforcement Proceeding

HEARING DATE AND TIME: December 3, 2020 at 9:00 a.m.

LOCATION: Teleconference

PURPOSE

The purpose of this proceeding is to consider whether it is in the public interest for the Commission to make the orders requested in the Statement of Allegations filed by Staff of the Commission on November 9, 2020.

The hearing set for the date and time indicated above is the first attendance in this proceeding, as described in subsection 5(1) of the Commission's *Practice Guideline*.

REPRESENTATION

Any party to the proceeding may be represented by a representative at the hearing.

FAILURE TO ATTEND

IF A PARTY DOES NOT ATTEND, THE HEARING MAY PROCEED IN THE PARTY'S ABSENCE AND THE PARTY WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDING.

FRENCH HEARING

This Notice of Hearing is also available in French on request of a party. Participation may be in either French or English. Participants must notify the Secretary's Office in writing as soon as possible if the participant is requesting a proceeding be conducted wholly or partly in French.

AVIS EN FRANÇAIS

L'avis d'audience est disponible en français sur demande d'une partie, que la participation à l'audience peut se faire en français ou en anglais et que les participants doivent aviser le Bureau du secrétaire par écrit dès que possible si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

Dated at Toronto this 17th day of November, 2020

"Grace Knakowski"
Secretary to the Commission

For more information

Please visit www.osc.gov.on.ca or contact the Registrar at registrar@osc.gov.on.ca.

IN THE MATTER OF
TREVOR ROSBOROUGH,
TAYLOR CARR and
DMITRI GRAHAM

STATEMENT OF ALLEGATIONS
(Subsection 127(1) and Section 127.1 of the *Securities Act*, RSO 1990, c S.5)

A. OVERVIEW

1. These allegations involve illegal insider trading and tipping by an experienced registrant and his associates. The respondents in this matter undermined the integrity of Ontario's capital markets by disseminating, and trading with knowledge of, material, non-public information for their personal gain.

2. Illegal insider trading and tipping are fundamental abuses of material, non-public information. Regardless of the amount of any profit made, these offences erode public confidence in Ontario's capital markets and cannot be tolerated. This is especially so when those engaged in this illegal conduct are registrants, who serve an important gatekeeper role in protecting the integrity of our markets. Investors rely on registrants to understand and comply with Ontario securities law. Consequently, registrants who abuse that trust and counsel others to engage in illegal conduct tarnish the reputation of both the registration regime and law-abiding registrants in Ontario.

3. This misconduct was centered on Trevor Rosborough (**Rosborough**), a suspended mutual fund dealing representative who enlisted the help of associates so he could advise clients while suspended, illegally tip clients and associates and engage in illegal insider trading.

4. On October 31, 2017, Rosborough was terminated by his employer for obtaining and using pre-signed forms. The termination had the effect of suspending Rosborough's registration pursuant to s. 29(3) of the Ontario *Securities Act* (the **Act**). In November 2017, Rosborough enlisted the help of two individuals, one of whom was Dmitri Graham (**Graham**), to help him continue to advise clients while his registration was suspended. Graham, who was a registered mutual fund dealing representative, helped Rosborough process securities transactions at this time. In return, Rosborough allowed Graham to work from his office space, drive his vehicle, and paid his registration fees at Sterling Mutuals Inc. (**Sterling Mutuals**).

5. While suspended from registration, Rosborough obtained material, non-public information from his friend Taylor Carr (**Carr**), who was an employee at WeedMD Inc. (**WeedMD**). WeedMD is a reporting issuer in Ontario that is listed and publicly traded on the Toronto Venture Exchange (**TSX-V**). Through Carr, Rosborough learned WeedMD was set to announce that it had entered into a definitive purchase option agreement that was expected to be "transformational" and eventually increase the company's annual production by over 4000% (the **Expansion**).

6. To impress his existing clients and to grow his business, prior to November 22, 2017, Rosborough communicated details of the Expansion to two clients, Clients A and B. Rosborough also communicated this information to Graham.

7. Between November 10, 2017 and November 21, 2017, each of Rosborough, Carr, and Graham, (collectively, the **Respondents**) purchased WeedMD shares. WeedMD publicly announced the Expansion on November 22, 2017, and the closing price of WeedMD's shares rose by 33% that day, relative to the previous day's closing price. On November 22, 2017, following the announcement of the Expansion, the Respondents sold all their shares for a modest profit. These profitable trades were a result of insider trading and tipping, and therefore significant breaches of Ontario securities law.

B. FACTS

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

WeedMD and the Expansion

8. WeedMD is a reporting issuer in Ontario and the Ontario Securities Commission (the **Commission**) is its principal regulator. WeedMD was listed on the TSX-V on April 27, 2017.

9. On November 22, 2017, WeedMD announced details of the Expansion, confirming that the company had entered into a definitive lease and purchase option agreement with Perfect Pick Farms Ltd. (**Perfect Pick**) for Perfect Pick's 98-acre property which included a 610,000 sq. ft. state-of-the-art greenhouse facility that could be rapidly retrofitted for cannabis. The new facility was expected to increase WeedMD's annual production from 1,200 kg to more than 21,000 kg in the initial phase and eventually bring annual production to over 50,000 kg. The Expansion was characterized by WeedMD as a "transformational expansion".

10. After the details of the Expansion were generally disclosed, the closing price of WeedMD shares rose by 33% relative to the previous day's closing price. A material change report regarding the Expansion was filed by WeedMD on November 27, 2017. The Expansion was material in respect of WeedMD.

The Respondents

A. Rosborough

11. Rosborough was registered as a mutual fund salesperson with Quadrus Investment Services Ltd. (**Quadrus**) from September 5, 2006 to September 28, 2009, and then as a mutual fund dealing representative from September 28, 2009 to October 31, 2017.

12. On October 31, 2017, Rosborough was terminated from Quadrus for obtaining and using pre-signed forms. The termination had the effect of suspending Rosborough's registration pursuant to s. 29(3) of the Act. This conduct also resulted in a settlement agreement between Rosborough and the Mutual Fund Dealers Association (the **MFDA**) wherein Rosborough agreed to a fine of $10,000 and $2,500 in costs.

13. Between his registration suspension with Quadrus and reactivation of his registration with Sterling Mutuals Inc. (**Sterling Mutuals**) on or around July 30, 2018, Rosborough breached s. 25 of the Act, among others, for engaging in stealth advising via two individuals, one of whom is Graham. In a settlement agreement approved by the Director of Compliance and Registrant Regulation on May 4, 2020, (the **CRR Settlement**), Rosborough agreed to, among other terms, a five-year suspension of his registration, effective June 1, 2020.

B. Carr

14. Carr is a resident of St. Thomas, Ontario. Carr worked as a Production Technician at WeedMD in November 2017.

15. Carr met Rosborough through his father during a snowmobiling trip and the two became acquainted.

C. Graham

16. Graham is a resident of London, Ontario. Graham was registered with Quadrus from September 16, 2016 to October 20, 2017 as a Dealing Representative under the category of Mutual Fund Dealer. Rosborough arranged for Graham to become registered with Sterling Mutuals so he could process securities transactions for Rosborough. Graham's registration with Sterling Mutuals was finalized on November 23, 2017. Rosborough introduced Graham to others as his associate. Graham worked out of Rosborough's office space at Masterpiece Financial.

17. Graham is currently a registrant with the Investment Industry Regulatory Organization of Canada (**IIROC**) as a dealing representative sponsored by National Bank Financial Incorporated.

Tipping and Insider Trading of WeedMD Shares

18. Between November 10, 2017 and November 22, 2017 (the **Material Time**), the Respondents engaged in insider trading. Rosborough and Carr also engaged in insider tipping during the Material Time.

19. On or before November 10, 2017, Carr learned details of the Expansion within WeedMD before it was publicly disclosed. The Expansion was significant to Carr because he would be promoted once the Expansion was finalized. As an employee of WeedMD during the Material Time, Carr was in a special relationship with WeedMD pursuant to ss. 76(5)(c)(i) of the Act.

20. After meeting on a snowmobiling trip organized by Carr's father, Carr and Rosborough became acquainted and kept in contact. Rosborough would contact Carr on several occasions to inquire about the status of WeedMD. Carr was the only person Rosborough knew who was employed at WeedMD during the Material Time.

21. On or before November 10, 2017, Carr told Rosborough about the material, non-public information relating to the Expansion. Rosborough subsequently became a person in a special relationship with WeedMD, pursuant to ss. 76(5)(e) of the Act, because he knew, or ought to have known, that Carr was in a special relationship with WeedMD.

22. On November 10, 2017, Rosborough, with knowledge of material, non-public information, purchased 1,090 WeedMD shares in his personal account.

23. On the same day, Rosborough sent an email to Client A stating, "I also have a friend who is the head grower at WeedMD how[sic] let me know off the record that they will be announcing a huge new facility so we need to buy that stock before next Friday and sell Friday."

24. On November 14, 2017, Carr had a phone conversation with Rosborough. Carr purchased WeedMD shares the same day.

25. On or before November 15, 2017, Rosborough communicated details of the Expansion to Graham. On November 15, 2017, Graham purchased 3,185 WeedMD shares. Graham became a person in a special relationship with WeedMD because he knew, or ought to have known, that Rosborough was in a special relationship with WeedMD pursuant to ss. 76(5)(e) of the Act.

26. Prior to November 16, 2017, Rosborough communicated details of the Expansion to Client B, who opened a direct investing account and purchased shares of WeedMD. On November 16, 2017, Client A purchased WeedMD shares.

27. On or before November 21, 2017, Carr told Rosborough WeedMD was postponing the general disclosure of the Expansion to November 22, 2017.

28. On Tuesday, November 21, 2017, Client A's spouse emailed Rosborough asking if the announcement regarding the Expansion was forthcoming. Rosborough responded on the same day that the announcement was "deferred to Wednesday".

29. On or before November 21, 2017, Rosborough communicated the deferral of the announcement regarding the Expansion to Graham. On November 21, 2017, Graham purchased an additional 1,300 WeedMD shares.

30. On November 22, 2017, details of the Expansion were generally disclosed, and the Respondents all sold their WeedMD shares and profited from the trade.

Misleading Statements

31. During Staff's investigation, Graham made numerous statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state facts that were required to be stated or that were necessary to make the statements not misleading, contrary to ss. 122(1)(a) of the Act.

32. Specifically, during Graham's compelled examination on April 24, 2020, Graham misled Staff by:

    (a) Indicating he did not work with Rosborough at Masterpiece Financial until 2018. When asked about his employment gap from October 2017 to March 2018, Graham indicated he was "doing nothing in between"; and

    (b) Minimizing his relationship with Rosborough by:

        (i) Denying that it was Rosborough who recommended he move his registration to Sterling Mutuals;

        (ii) Denying that he was compensated by Rosborough or Masterpiece Financial; and

        (iii) Denying that he ever assisted Rosborough with anything work related.

33. Staff later confirmed that Graham began working with Rosborough in November 2017. The work arrangement began with Rosborough inviting Graham to join Sterling Mutuals so that Graham could submit client applications on Rosborough's behalf while he was not registered to do so. Graham was compensated by Rosborough under this arrangement.

34. Graham's misleading statements obfuscated the nature of Graham's relationship with Rosborough, which was material to Staff's investigation into whether Rosborough told Graham material, non-public information regarding the Expansion.

C. BREACHES OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

35. Staff allege the following breaches of Ontario securities law and conduct contrary to the public interest:

    (a) The Respondents, while in a special relationship with an issuer, purchased or sold securities of the issuer with the knowledge of a material fact or material change with respect to the issuer that had not been generally disclosed contrary to ss. 76(1) of the Act;

    (b) Carr and Rosborough, while in a special relationship with an issuer, informed another person outside of the necessary course of business of a material fact or material change with respect to the issuer, before the material fact or material change had been generally disclosed;

(c) Graham made statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state facts that were required to be stated or that were necessary to make the statements not misleading, contrary to ss. 122(1)(a) of the Act.

36. Staff reserve the right to make such further and other allegations as Staff deems fit and the Commission may permit.

D. ORDER SOUGHT

37. Staff seek the following orders against the Respondents:

(a) that they cease trading in any securities or derivatives permanently or for such period as is specified by the Commission under paragraph (2) of subsection 127(1) of the Act;

(b) that they be prohibited from acquiring any securities permanently or for such period as is specified by the Commission under paragraph (2.1) of subsection 127(1) of the Act;

(c) that any exemption contained in Ontario securities law not apply to them permanently or for such period as is specified by the Commission under paragraph (3) of subsection 127(1) of the Act;

(d) that they be reprimanded under paragraph (6) of subsection 127(1) of the Act;

(e) that they resign any position they may hold as a director or officer of any issuer under paragraph (7) of subsection 127(1) of the Act;

(f) that they be prohibited from acting as a director or officer of any issuer permanently or for such period as is specified by the Commission under paragraph (8) of subsection 127(1) of the Act;

(g) that they resign any position they may hold as a director or officer of any registrant under paragraph (8.1) subsection 127(1) of the Act;

(h) that they be prohibited from acting as a director or officer of any registrant permanently or for such period as is specified by the Commission under paragraph (8.2) of subsection 127(1) of the Act;

(i) that they be prohibited from becoming or acting as a registrant or promoter permanently or for such period as is specified by the Commission under paragraph (8.5) of subsection 127(1) of the Act;

(j) that they pay an administrative penalty of not more than $1 million for each failure to comply with Ontario securities law, pursuant to paragraph 9 of subsection 127(1) of the Act;

(k) that they disgorge to the Commission any amounts obtained as a result of non-compliance with Ontario securities law, pursuant to paragraph 10 of subsection 127(1) of the Act;

(l) that they pay costs of the Commission investigation and hearing under section 127.1 of the Act; and

(m) such other order as the Commission considers appropriate in the public interest.

DATED at Toronto this 9th day of November, 2020.

Vivian Lee
Litigation Counsel
Enforcement Branch

Tel: (416) 597-7243
Email: vlee@osc.gov.on.ca

1.4 Notices from the Office of the Secretary

1.4.1 Katanga Mining Limited et al.

FOR IMMEDIATE RELEASE
November 16, 2020

KATANGA MINING LIMITED,
ARISTOTELIS MISTAKIDIS,
TIM HENDERSON,
LIAM GALLAGHER,
JEFFREY BEST,
JOHNNY BLIZZARD,
JACQUES LUBBE and
MATTHEW COLWILL,
File No. 2020-37

TORONTO – On November 16, 2020, the Commission issued a Notice of Hearing pursuant to Section 144 of the *Securities Act*, RSO 1990, c S.5 to consider an Application made by Katanga Mining Limited to vary the terms of an Order issued by the Commission on December 18, 2018 relating to the Settlement Agreement entered into on December 14, 2018 between Staff of the Commission and Katanga Mining Limited.

A copy of the Notice of Hearing dated November 16, 2020 and the Application dated November 2, 2020 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

1-877-785-1555 (Toll Free)
inquiries@osc.gov.on.ca

1.4.2 VRK Forex & Investments Inc. and Radhakrishna Namburi

FOR IMMEDIATE RELEASE
November 16, 2020

VRK FOREX & INVESTMENTS INC. and
RADHAKRISHNA NAMBURI,
File No. 2019-40

TORONTO – The Commission issued an Order in the above named matter.

A copy of the Order dated November 16, 2020 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

1-877-785-1555 (Toll Free)
inquiries@osc.gov.on.ca

1.4.3 Douglas John Eley

FOR IMMEDIATE RELEASE
November 17, 2020

DOUGLAS JOHN ELEY,
File No. 2020-35

TORONTO – The Commission issued an Order in the above named matter.

A copy of the Order dated November 16, 2020 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

1-877-785-1555 (Toll Free)
inquiries@osc.gov.on.ca

1.4.4 Trevor Rosborough et al.

FOR IMMEDIATE RELEASE
November 17, 2020

TREVOR ROSBOROUGH,
TAYLOR CARR, AND
DMITRI GRAHAM,
File No. 2020-33

TORONTO – The Office of the Secretary issued a Notice of Hearing on November 17, 2020 setting the matter down to be heard on December 3, 2020 at 9:00 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 November 17, 2020 and Statement of Allegations dated November 9, 2020 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

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

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Nerium Biotechnology, Inc.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 52-107, Acceptable Accounting Principles and Auditing Standards, ss. 3.2 and 3.3 – An issuer that is not yet an 'SEC issuer' wants to file financial statements prepared in accordance with U.S. GAAP and audited in accordance with U.S. GAAS – the issuer intends to become an SEC registrant – the issuer has filed a registration statement with the SEC – the issuer will meet all the elements of the definition of 'SEC issuer' once the SEC accepts its registration statement – the issuer will file financial statements and MD&A that comply with the requirements for SEC issuers in NI 52-107 and NI 51-102 – if the issuer does not become an SEC issuer by a set date, it will re-file its financial statements in accordance with Canadian GAAP and Canadian GAAS and its MD&A in the Canadian form.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards, ss 3.2, 3.3.

Date: June 18, 2020

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

AND

IN THE MATTER OF
NERIUM BIOTECHNOLOGY, INC.
(the Filer)

DECISION

Background

The Ontario Securities Commission (the "**Decision Maker**") has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Filer from the requirements of (i) subsection 3.2 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* ("**NI 52-107**") that the Filer's financial statements, other than acquisition statements, be prepared in accordance with Canadian generally accepted accounting principles ("**Canadian GAAP**") applicable to publicly accountable enterprises to permit the Filer to prepare its financial statements in accordance with United States generally accepted accounting principles (as defined in NI 52-107) ("**U.S. GAAP**") for the year ended December 31, 2019, the three-month period ended March 31, 2020 and the three- and six-month periods ended June 30, 2020; and (ii) subsection 3.3 of NI 52-107 that the Filer's financial statements be audited in accordance with Canadian generally accepted auditing standards ("**Canadian GAAS**") to permit the Filer's financial statements to be audited in accordance with Public Company Accounting Oversight Board (United States of America) generally accepted auditing standards ("**U.S. PCAOB GAAS**") for the year ended December 31, 2019 (collectively, 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 herein.

Representations

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

1. The Filer was incorporated on June 1, 2006 pursuant to the *Canada Business Corporations Act*.

2. The Filer's head office is located at 1147 Huebner Road, Suite 175, San Antonio, Texas, United States, 78230.

3. The Filer's registered and records office is located at 199 Bay Street, Suite 4000, Toronto, Ontario, Canada, M5L 1A9.

4. The primary business of the Filer is the research, development, manufacturing and marketing of oleander-based products for the treatment of certain forms of proliferative diseases and viral infections.

5. The Filer is a reporting issuer in Ontario. The Filer is not a reporting issuer in any other jurisdiction of Canada.

6. The Filer's financial year end is December 31.

7. No securities of the Filer have ever been listed for trading on any Canadian or other stock exchange.

8. The Filer is not eligible to cease to be a reporting issuer in Ontario.

9. The Filer's authorized share capital consists of the following as at the date of this application:

   (i) an unlimited number of Common shares, of which 36,469,181 are issued and outstanding; and

   (ii) an unlimited number of Preferred shares issuable in series, of which none are issued and outstanding.

10. To the knowledge of the Filer, approximately 90.16% of the Filer's outstanding Common shares are directly or beneficially held by United States residents and approximately 9.84% of the outstanding Common shares are directly or beneficially held by Canadian residents.

11. All of the executive officers and the majority of the directors of the Filer are residents in the United States.

12. The majority of the consolidated assets of the Filer are located in the United States.

13. The business of the Filer is administered principally in the United States.

14. The Filer's financial statements are stated in United States dollars.

15. On June 28, 2011, the Filer's registration statement on Form 20-F (the "**Prior Registration**") with the U.S. Securities Exchange Commission ("**SEC**") was declared effective and, as a result the Filer became a SEC Issuer (as defined in NI 52-107).

16. In connection with the Prior Registration and the Filer's status as a SEC Issuer, the Filer began preparing its financial statements in accordance with U.S. GAAP and having its financial statements audited in accordance with U.S. PCAOB GAAS, as applicable.

17. On December 14, 2012, the Filer filed a Form 15 with the SEC to terminate its registration and, as a result, the Filer ceased to be a SEC Issuer; however, the Filer did not cease to prepare its financial statements in accordance with U.S. GAAP and have its financial statements audited in accordance with U.S. PCAOB GAAS, as applicable.

18. The Filer is not in default of securities legislation in Ontario, other than, as discussed above, with respect to (i) its annual financial statements for the year ended December 31, 2012, its annual and interim financial statements for the years ended December 31, 2013 to 2018 and its interim financial statements for the year ended December 31, 2019 having been prepared in accordance with U.S. GAAP and having been audited in accordance with U.S. PCAOB GAAS, as applicable, and (ii) the late filing of its annual financial statements for the year ended December 31, 2019.

19. The Filer filed a new registration statement on Form 10 (the "**Form 10**") on June 15, 2020 with the SEC in order to again become a SEC Issuer. The Filer anticipates that it will become a SEC Issuer in 60 days from the date of filing the Form 10, subject to the Filer not withdrawing and resubmitting the Form 10 in order to address comments from the SEC.

20. Upon becoming a SEC Issuer, the Filer may (i) under Part 3.7 of NI 52-107, prepare its financial statements, other than acquisition statements, in accordance with U.S. GAAP, and (ii) under Part 3.8 of NI 52-107, have its annual financial statement audited in accordance with U.S. PCAOB GAAS.

21. If the Filer does not become a SEC Issuer by September 30, 2020, the Filer will immediately re-file on SEDAR the financial statements for the year ended December 31, 2019, the three-month period ended March 31, 2020 and the three- and six-month periods ended June 30, 2020; the re-filed financial statements will be prepared in accordance with

Canadian GAAP applicable to publicly accountable enterprises; the re-filed annual financial statements will be audited in accordance with Canadian GAAS; the related management's discussion and analysis will be amended to reflect the re-filed financial statements; and the Filer will issue a news release upon re-filing the financial statements that explains the nature and purpose of the re-filings.

22. The Filer will not issue any securities until the earlier of it (i) qualifying as a SEC Issuer or (ii) having filed the documents referenced in subsection 3.3 above.

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 Exemption Sought is granted provided:

(a) the Filer files financial statements prepared in accordance with U.S. GAAP for the year ended December 31, 2019, the three-month period ending March 31, 2020 and the three- and six-month periods ending June 30, 2020 and audited in accordance with U.S. PCAOB GAAS, as applicable;

(b) if the Filer does not become a SEC Issuer by September 30, 2020, the Filer will immediately file on SEDAR:

i. the financial statements for the year ended December 31, 2019, the three-month period ended March 31, 2020 and the three- and six-month periods ended June 30, 2020, prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises and audited in accordance with Canadian GAAS, as applicable;

ii. the financial statements for the years ended December 31, 2018 and 2017, prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises and audited in accordance with Canadian GAAS;

iii. the related management's discussion and analysis amended to reflect the re-filed financial statements; and

iv. a news release explaining the nature and purpose of the re-filings; and

(c) the Filer does not issue any securities until the earlier of it (i) qualifying as a SEC Issuer; or (ii) filing the documents referenced in paragraph (b) above.

"Cameron McInnis"
Chief Accountant
Ontario Securities Commission

2.1.2 Columbia Care Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – issuer requires relief from requirement to file a business acquisition report – the acquisition is significant under the thresholds applicable at the completion date of the acquisition – the acquisition is not significant under the amended thresholds that will become effective on November 18, 2020.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 8.2, 13.1.

November 10, 2020

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
COLUMBIA CARE INC.
(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**") granting relief from the requirement to file a business acquisition report within 75 days after the acquisition date (the "**Exemption Sought**") contained in paragraph 8.2(1) of National Instrument 51-102 – *Continuous Disclosure Obligation* ("**NI 51-102**").

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 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, New Brunswick, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, the Northwest Territories, Nunavut and the Yukon.

Interpretation

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

Representations

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

1. The Filer was incorporated under the *Business Corporations Act* (Ontario) (the "OBCA") on August 13, 2018 under the name "Canaccord Genuity Growth Corp." as a special purpose acquisition corporation. On April 26, 2019, the Filer completed its "qualifying transaction" with Columbia Care LLC and the Filer was continued out of Ontario under the OBCA and into the jurisdiction of British Columbia under the *Business Corporations Act* (British Columbia). The Filer's registered office is located in Vancouver, British Columbia.

2. The common shares and common share purchase warrants of the Filer trade on the Aequitas NEO Exchange and the Canadian Securities Exchange.

3. The Filer is a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, the Northwest Territories, Nunavut and the Yukon.

4. The Filer is not in default of any requirement of securities legislation in any of the jurisdictions of Canada.

5. On November 5, 2019, the Filer announced that it had entered into a definitive agreement to acquire (the "**Transaction**") The Green Solution ("**TGS**") for approximately US$140M, excluding certain performance-based milestone payments. The Filer filed a material change report with respect to the Transaction on November 11, 2019.

6. On August 26, 2020, the Filer announced that the Transaction was expected to close on September 1, 2020. In its press release, the Filer included information with respect to the revenue, gross profit before fair value adjustments and adjusted EBITDA for both the Filer, TGS and on a pro-forma basis. The Transaction closed on September 1, 2020.

7. Part 8 of NI 51-102 sets out three required significance tests: the asset test, the investment test and the profit or loss test. The Transaction is considered significant under the required investment test as the Filer's consolidated investments in and advances to TGS exceed 20

percent of its consolidated assets as at the last day of the most recently completed financial year of the Filer. The Transaction is also considered significant under the required asset test, as the Filer's proportionate share of the consolidated assets of the business exceeds 20 percent of its consolidated assets, calculated using the audited annual financial statements of each of the Filer and TGS.

8. Part 8 of NI 51-102 also sets out three optional significance tests for reporting issuers that are not venture issuers: the asset test, the investment test and the profit or loss test. The Transaction is considered significant under the optional investment test as the Filer's consolidated investments in and advances to TGS exceed 20 percent of its consolidated assets as at the last day of the most recently completed interim period or financial year of the Filer. The remaining two optional significance tests, being the asset test and the profit or loss test, did not exceed the twenty percent threshold required under NI 51-102. As a result, in the absence of exemptive relief, the Filer is required to file a business acquisition report ("**BAR**") on or before November 15, 2020.

9. On August 20, 2020, the Canadian Securities Administrators published a Notice of Amendments to National Instrument 51-102 Continuous Disclosure Obligations and Changes to Certain Policies Related to the Business Acquisition Report Requirements (the "**BAR Requirements**"), which provided for amendments (the "**Amended BAR Requirements**") to the BAR Requirements for reporting issuers that are non-venture issuers. The Amended BAR Requirements are expected to come into effect on November 18, 2020.

10. The Amended BAR Requirements will change the criteria for determining whether a completed acquisition is significant, based on the three tests set out in NI 51-102. Under the BAR Requirements, a non-venture issuer would have to file a BAR if any one of the three significance tests (i.e. the asset test, the investment test or the profit or loss test) was met. Under the Amended BAR Requirements, an acquisition will be significant only if at least two of the three significance tests are satisfied. Under the Amended BAR Requirements, a non-venture issuer will not be required to file a BAR if only one of the three significance tests is met. The significance test threshold for acquisitions by non-venture issuers has been increased from 20% to 30% under the Amended BAR Requirements.

11. Under the Amended BAR Requirements, the Filer would not be required to file a BAR, as only one of the three required and optional significance tests would have been met, namely, the investment test.

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.

"Marie-France Bourret"
Manager, Corporate Finance
Ontario Securities Commission

2.1.3 Nerium Biotechnology, Inc.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 52-107, Acceptable Accounting Principles and Auditing Standards, ss. 3.2 and 3.3 – An issuer that is not yet an 'SEC issuer' wants to file financial statements prepared in accordance with U.S. GAAP and audited in accordance with U.S. GAAS, as applicable – the issuer intends to become an SEC registrant – the issuer has filed a registration statement with the SEC – the issuer will meet all the elements of the definition of 'SEC issuer' once the SEC accepts its registration statement – the issuer will file financial statements and MD&A that comply with the requirements for SEC issuers in NI 52-107 and NI 51-102 – if the issuer does not become an SEC issuer by a set date, it will re-file its financial statements in accordance with Canadian GAAP and Canadian GAAS and its MD&A in the Canadian form.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards, ss 3.2, 3.3.

November 12, 2020

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

AND

IN THE MATTER OF
NERIUM BIOTECHNOLOGY, INC.
(the Filer)

DECISION

Background

The Ontario Securities Commission (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Filer from the requirements of (i) subsection 3.2 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**) that the Filer's financial statements, other than acquisition statements, be prepared in accordance with Canadian generally accepted accounting principles (**Canadian GAAP**) applicable to publicly accountable enterprises to permit the Filer to prepare its financial statements in accordance with United States generally accepted accounting principles (as defined in NI 52-107) (**U.S. GAAP**) for the year ended December 31, 2019, the three-month period ended March 31, 2020 and the three- and six-month periods ended June 30, 2020; and (ii) subsection 3.3 of NI 52-107 that the Filer's financial statements be audited in accordance with Canadian generally accepted auditing standards (**Canadian GAAS**) to permit the Filer's financial statements to be audited in accordance with Public Company Accounting Oversight Board (United States of America) generally accepted auditing standards (**U.S. PCAOB GAAS**) for the year ended December 31, 2019 (collectively, 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 herein.

Representations

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

1. The Filer was incorporated on June 1, 2006 pursuant to the Canada Business Corporations Act.

2. The Filer's head office is located at 1147 Huebner Road, Suite 175, San Antonio, Texas, United States, 78230.

3. The Filer's registered and records office is located at 199 Bay Street, Suite 4000, Toronto, Ontario, Canada, M5L 1A9.

4. The primary business of the Filer is the research, development, manufacturing, and marketing of oleander-based products for the treatment of certain forms of proliferative diseases and viral infections.

5. The Filer is a reporting issuer in Ontario. The Filer is not a reporting issuer in any other jurisdiction of Canada.

6. The Filer's financial year end is December 31.

7. No securities of the Filer have ever been listed for trading on any Canadian or other stock exchange.

8. The Filer is not eligible to cease to be a reporting issuer in Ontario.

9. The Filer's authorized share capital consists of the following as at the date of this application:

   (i) an unlimited number of Common shares, of which 36,469,181 are issued and outstanding; and

   (ii) an unlimited number of Preferred shares issuable in series, of which none are issued and outstanding.

10. To the knowledge of the Filer, approximately 90.16% of the Filer's outstanding Common shares are directly or beneficially held by United States residents and approximately 9.84% of the outstanding Common shares are directly or beneficially held by Canadian residents.

11. All of the executive officers and the majority of the directors of the Filer are residents in the United States.

12. The majority of the consolidated assets of the Filer are located in the United States.

13. The business of the Filer is administered principally in the United States.

14. The Filer's financial statements are stated in United States dollars.

15. On June 28, 2011, the Filer's registration statement on Form 20-F (the **Prior Registration**) with the U.S. Securities Exchange Commission (**SEC**) was declared effective and, as a result, the Filer became a SEC Issuer (as defined in NI 52-107).

16. In connection with the Prior Registration and the Filer's status as a SEC Issuer, the Filer began preparing its financial statements in accordance with U.S. GAAP and having its financial statements audited in accordance with U.S. PCAOB GAAS, as applicable.

17. On December 14, 2012, the Filer filed a Form 15 with the SEC to terminate its registration and, as a result, the Filer ceased to be a SEC Issuer; however, the Filer did not cease to prepare its financial statements in accordance with U.S. GAAP and have its financial statements audited in accordance with U.S. PCAOB GAAS, as applicable.

18. The Filer is not in default of securities legislation in Ontario, other than, as discussed above, with respect to its annual financial statements for the year ended December 31, 2012, its annual and interim financial statements for the years ended December 31, 2013 to 2019 and its interim financial statements for the three-month period ended March 30, 2020 and the three- and six-month periods ended June 30, 2020 having been prepared in accordance with U.S. GAAP and having been audited in accordance with U.S. PCAOB GAAS, as applicable.

19. In order to again become a SEC Issuer, the Filer filed a new registration statement on Form 10 on June 15, 2020 (the **Initial Form 10**).

20. On July 21, 2020, the SEC requested that the Filer withdraw the Initial Form 10 and re-file once the Filer was in a position to submit its financial statements for the year ended December 31, 2019 (the **Annual Financial Statements**) and the applicable interim period. The Filer had been delayed in submitting such financial statements to the SEC as it was informed by its auditors that the auditors would have to complete a review of the applicable interim financial statements prior to consenting to the release of their opinion with respect to the Annual Financial Statements. The Initial Form 10 was withdrawn by the Filer on July 21, 2020.

21. The Filer's auditors completed their review of the interim financial statements for the three- and six-month period ended June 30, 2020 (the **Interim Financial Statements**) and consented to the release of their report on September 18, 2020. The Filer then re-filed the registration statement on Form 10 (the **Refiled Form 10**) on September 18, 2020, which included the Annual Financial Statements and the Interim Financial Statements prepared in accordance with U.S. GAAP and audited in accordance with U.S. PCAOB GAAS, as applicable (the **Financial Statements**).

22. Subsequent to the filing of the Refiled Form 10, the Filer received confirmation from the SEC that the Refiled Form 10 was complete.

23. Upon becoming a SEC Issuer, the Filer may (i) under Part 3.7 of NI 52-107, prepare its financial statements, other than acquisition statements, in accordance with U.S. GAAP, and (ii) under Part 3.8 of NI 52-107, have its annual financial statements audited in accordance with U.S. PCAOB GAAS.

24. On June 18, 2020, the Decision Maker issued a decision (the **Initial Order**) granting relief substantially similar to the Exemptions Sought (the **Existing Relief**).

25. In accordance with the terms and conditions of the Existing Relief, the Filer has filed on SEDAR the Financial Statements and the related management's discussion and analysis.

26. Under the terms of the Existing Relief, if the Filer did not become a SEC Issuer by September 30, 2020, the Filer was required to immediately re-file on SEDAR:

    (i) the financial statements for the year ended December 31, 2019, the three-month period ended March 31, 2020 and the three- and six-month periods ended June 30, 2020 prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises and audited in accordance with Canadian GAAS, as applicable;

    (ii) the financial statements for the years ended December 31, 2018 and 2017, prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises and audited in accordance with Canadian GAAS;

    (iii) the related management's discussion and analysis amended to reflect the re-filed financial statements; and

(iv) a news release explaining the nature and purpose of the re-filings.

27. At the time of the Initial Order, the Filer anticipated that it would become a SEC Issuer by September 30, 2020.

28. As a result of the delay associated with the re-filing of the Initial Form 10, the Filer did not become a SEC Issuer by September 30, 2020, but it anticipates that it will become a SEC Issuer by November 17, 2020, 60 days from the date of filing.

29. The Exemption Sought will extend the deadline of the Existing Relief such that the Filer is required to make the filings described in paragraph 26 above if the Filer does not become a SEC Issuer by November 30, 2020.

30. The Filer will not issue any securities until the earlier of it (i) qualifying as a SEC Issuer or (ii) having filed the documents referenced in paragraph 26 above.

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 Existing Relief is revoked and the Exemption Sought is granted provided that:

(a) the Filer files financial statements prepared in accordance with U.S. GAAP for the three- and nine-month periods ended September 30, 2020;

(b) if the Filer does not become a SEC Issuer by November 30, 2020, the Filer will immediately file on SEDAR:

i. the financial statements for the interim periods ended March 31, 2020, June 30, 2020, and September 30, 2020, prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises;

ii. the financial statements for the year ended December 31, 2019, prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises and audited in accordance with Canadian GAAS;

iii. the related management's discussion and analysis amended to reflect the re-filed financial statements; and

iv. a news release explaining the nature and purpose of the re-filings; and

(c) the Filer does not issue any securities until the earlier of it (i) qualifying as a SEC Issuer; or (ii) filing the documents referenced in paragraph (b) above.

"Mark Pinch"
Associate Chief Accountant
Ontario Securities Commission

2.1.4 BMO Asset Management Inc. and BMO Canadian MBS Index ETF

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Related issuer debt securities relief for index tracking funds conditional on IRC approval, compliance with independent pricing and transparency requirements, investment restrictions for primary offerings, including a limitation equal to the proportion of the related issuer debt securities in the index being tracked.

Applicable Legislative Provisions

Securities Act (Ontario), ss. 111(2)(a), 111(2)(c)(ii), 111(4), 113.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.5(2)(a), 15.1.
National Instrument 81-102 Investment Funds, ss. 4.1(2), 19.1.

October 2, 2020

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
BMO Asset Management Inc.
(BMOAM),
BMO Canadian MBS Index ETF
(the MBS Index ETF)
and each future investment fund managed by BMOAM or an affiliate
(collectively, the Filer)
whose investment objective is to seek to replicate the performance
of a mortgage-backed securities (MBS)
index that is a "permitted index" as contemplated in
National Instrument 81-102 Investment Funds (NI 81-102)
(the fund's MBS Index)
(together with the MBS Index ETF, the MBS Index Funds)

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 (the **Legislation**) for an exemption from the following restrictions to permit each MBS Index Fund to invest in BMO MBS (defined below) bought on a primary offering (each, a **Related Issuer MBS Investment**) up to the representation of the BMO MBS in the fund's MBS Index:

a) the restrictions in securities legislation, in Ontario under subsections 111(2)(a) and (c) of the *Securities Act* (Ontario) (the **Act**) (described below), that prohibit an investment fund from knowingly making or holding an investment in (i) any person or company who is a substantial securityholder of the investment fund, its management company or its distribution company (each, a substantial securityholder) or (ii) an issuer in which any officer or director of the investment fund, its management company or distribution company or an associate of any of them, or a substantial securityholder has a significant interest (the **Act Relief**);

b) the restriction contained in subsection 13.5(2)(a) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) (described below) (the **31-103 Relief**); and

c) the restriction contained in subsection 4.1(2) of NI 81-102 (described below) (the **81-102 Relief**);

(the Act Relief, the 31-103 Relief and the 81-102 Relief, collectively, the **Requested Relief**)

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

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

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

Interpretation

Terms defined in MI 11-102, National Instrument 14-101 *Definitions*, NI 81-102, National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**) and NI 31-103 have the same meaning if used in this decision, unless otherwise defined. Additionally:

"Mortgage-backed securities" or "MBS" means debt securities backed by a pool, brought together by an issuer, of loans that are secured by mortgages against real property.

"BMO MBS" means MBS issued by Bank of Montreal (**BMO**) or a subsidiary otherwise further described in representation 13 below.

Representations

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

The Filer and the MBS Index Funds

1. BMOAM is a corporation incorporated under the laws of the Province of Ontario, an indirect wholly-owned subsidiary of BMO and an affiliate of various registered dealers, including BMO Nesbitt Burns Inc. The head office of BMOAM is located in Toronto, Ontario.

2. BMOAM is registered as a portfolio manager and exempt market dealer in each of the Jurisdictions, as an investment fund manager in Ontario, Quebec and Newfoundland and Labrador and as commodity trading manager in Ontario.

3. BMOAM is the manager and portfolio manager of the MBS Index ETF. The Filer may be the manager of future MBS Index Funds and may be the portfolio manager of future MBS Index Funds.

4. The MBS Index Funds are or will be "dealer managed investment funds" as the term is used in NI 81-102 because the Filer, the portfolio manager of the MBS Index Funds, is or will be controlled by BMO, which is a principal shareholder of a specified dealer.

5. Each of the MBS Index Funds is, or will be, a reporting issuer in one or more Jurisdictions and the securities of each MBS Index Fund are, or will be, qualified for distribution in one or more of the Jurisdictions pursuant to a prospectus prepared and filed in accordance with securities legislation.

6. The Filer and the MBS Index ETF are not in default of securities legislation in the Jurisdictions.

MBS Index ETF and FTSE MBS Index

7. The investment objective of the MBS Index ETF is, and the investment objective of future MBS Index Funds will be, to seek to replicate the performance of a MBS Index, net of expenses. Currently, the MBS Index ETF seeks to replicate the performance of the FTSE Canada NHA MBS 975 Index (**FTSE MBS Index**).

8. A MBS Index is composed of MBS. The FTSE MBS Index is composed of MBS that are issued by Canadian banks. The FTSE MBS Index includes MBS issues as constituents in the index based on FTSE's calculation of the market share of such issues.

9. The FTSE MBS Index is calculated and administered by FTSE International Limited (**FTSE**). FTSE is an organization that is independent of the Filer and that specializes in creating index offerings for the global financial markets. FTSE is a wholly-owned subsidiary of London Stock Exchange Group.

10. The FTSE MBS Index is designed to reflect the performance of the fixed-rate 975 Pool of the Canadian National Housing Act Mortgage Backed Securities market, denominated in Canadian dollars. Each security is weighted by its relative market capitalization and rebalanced on a monthly basis.

BMO and MBS Market

11. BMO is the third largest issuer of MBS in Canada. Currently, approximately 15% of the constituents of the FTSE MBS Index are BMO MBS.

12. There may not be a sufficient supply of BMO MBS in the secondary market for the MBS Index ETF or a future MBS Index Fund to meet its investment objective. BMO MBS, as well as most other bank MBS, are issued in the primary market and currently bought exclusively by, or issued directly to, bank treasuries and the Canada Mortgage and Housing Corporation, making it difficult for investors, such as the MBS Index Funds, to access MBS in the secondary market.

13. The BMO MBS (i) are non-exchange-traded debt securities, (ii) have a term to maturity of 365 days or more, (iii) have been given and continue to have, at the time of purchase by the MBS Index Fund, a "designated rating" by a "designated rating organization" within the meaning of those terms in NI 44-101 *Short Form Prospectus Distributions* (**NI 44-101**), and (iv) will be purchased in a primary offering where the terms, such as the size and the pricing, will be a matter of public record as evidenced in a prospectus, offering memorandum, press release or other public document.

Subsections 111(2) and 111(4) of the Act

14. Subsection 111(2)(a) of the Act prohibits an investment fund from knowingly making an investment in any person or company who is a substantial securityholder of the investment fund, its management company or its distribution company.

15. Subsection 111(2)(c)(ii) of the Act prohibits an investment fund from knowingly making an investment in an issuer in which any person or company who is a substantial securityholder of the investment fund, its management company or its distribution company has a significant interest.

16. Subsection 111(4) of the Act prohibits an investment fund from holding an investment prohibited under any other subsection of section 111 of the Act.

17. The issuer of the BMO MBS, BMO or a subsidiary, will be either: (i) a company that is a substantial securityholder of the management company or distribution company of the MBS Index Funds or (ii) an issuer in which a company who is a substantial securityholder of the management company or distribution company of the MBS Index Funds has a significant interest. As a result, the MBS Index Funds are prohibited from investing in the BMO MBS.

Subsection 13.5(2)(a) of NI 31-103

18. Subsection 13.5(2)(a) of NI 31-103 prohibits a registered adviser from knowingly causing an investment portfolio managed by it (including the MBS Index ETF and future MBS Index Funds) to purchase a security of an issuer in which a responsible person, or an associate of a responsible person (including an officer or director of the Filer) is a partner, officer or director, unless: (i) this fact is disclosed to the client, and (ii) the written consent of the client to the purchase is obtained before the purchase.

19. While there are currently no directors or officers of the Filer who are also officers or directors of an issuer of BMO MBS, the Filer anticipates that there may, in the future, be officers and/or directors of the Filer who are also officers and/or directors of the issuers of BMO MBS.

20. Pursuant to the Companion Policy to NI 31-103, disclosure of the relationship between an issuer of BMO MBS and the Filer, and consent to make a Related Issuer MBS Investment, must be made to, and obtained from, each investor in the MBS Index Funds. Due to the widely-held nature of a publicly qualified investment fund, and the fact that, in the case of an exchange-traded fund, the manager does not have knowledge of the beneficial owners of the fund, it is impracticable for the Filer to obtain consent from each investor in a MBS Index Fund to make a Related Issuer MBS Investment.

Subsection 4.1(2) of NI 81-102

21. Subsection 4.1(2) of NI 81-102 prohibits a dealer managed investment fund from knowingly making an investment in a class of securities of an issuer of which a partner, director, officer or employee of the dealer manager of the investment fund, or a partner, director, officer or employee of an affiliate or associate of the dealer manager, is a partner, director or officer, unless the partner, director, officer or employee: (a) does not participate in the formulation of investment

decisions made on behalf of the dealer managed investment fund; (b) does not have access before implementation to information concerning investment decisions made on behalf of the dealer managed investment fund; and (c) does not influence, other than through research, statistical and other reports generally available to clients, the investment decisions made on behalf of the dealer managed investment fund.

22. The MBS Index Funds are or will be "dealer managed investment funds" as the term is used in NI 81-102, as the portfolio manager of the MBS Index Funds is or will be wholly owned by BMO, which is a principal shareholder of various specified dealers, including BMO Nesbitt Burns Inc.

23. While there are currently no directors or officers of the Filer who are also officers or directors of an issuer of the BMO MBS, the Filer anticipates that there may, in the future, be officers and/or directors of the Filer who are also officers and/or directors of the issuers of BMO MBS.

Section 6.2 of NI 81-107

24. The Filer cannot rely on the exemption codified under section 6.2 of NI 81-107 for Related Issuer MBS Investments because, under NI 81-107, such investments must be made on an exchange.

Prior Decisions

25. The Filer has exemptive relief from subsection 111(2) of the Act and subsection 13.5(2)(a) of NI 31-103 dated September 23, 2014 and has exemptive relief from subsection 4.1(2) of NI 81-102 dated September 22, 2014, to allow mutual funds and portfolios managed by it to invest in debt securities of a related issuer (**2014 Decisions**).

26. The Filer cannot rely on the 2014 Decisions for the purposes of Related Issuer MBS Investments up to the representation of the BMO MBS in the fund's MBS Index because the relief restricts a fund from investing more than 5% of its net asset value in related issuer debt in the primary market.

27. As a result, absent the Requested Relief, a MBS Index Fund will not be able to replicate the performance of its MBS Index in situations where BMO MBS represent more than 5% of the fund's MBS Index.

IRC Review and Related Issuer MBS Investments

28. The Filer has established, or will establish, an independent review committee (**IRC**) in respect of each MBS Index Fund in accordance with the requirements of NI 81-107.

29. Any proposed Related Issuer MBS Investments will be referred to the IRC of the MBS Index Funds in accordance with subsection 5.2(1) of NI 81-107 and the Filer, as manager, and the IRC will comply with Section 5.4 of NI 81-107 in respect of any standing instructions the IRC provides in connection with Related Issuer MBS Investments.

30. At the time of a Related Issuer MBS Investment, the Filer, as manager, will have policies and procedures in place to enable the applicable MBS Index Funds to engage in the applicable Related Issuer MBS Investment.

31. If the IRC of a MBS Index Fund becomes aware of an instance where the Filer, as manager of the MBS Index Fund, did not comply with the terms of this decision or a condition imposed by securities legislation or the IRC in its approval, the IRC of the MBS Index Fund will, as soon as practicable, notify in writing the securities regulatory authority or regulator in the jurisdiction under which the MBS Index Fund is organized.

32. Each Related Issuer MBS Investment conducted by an MBS Index Fund will represent the business judgement of responsible persons uninfluenced by considerations other than the best interests of the MBS Index 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) at the time of purchase and while holding the Related Issuer MBS Investment, the fund's MBS Index is a "permitted index", as contemplated by NI 81-102, in that it is a market index that is both (i) administered by an organization that is not affiliated with any of the fund, its manager, its portfolio adviser or its principal distributor, and (ii) available to persons or companies other than the fund;

b) the purchase or holding is consistent with, or is necessary to meet, the investment objective of the MBS Index Fund;

c) at the time of the purchase, the IRC of the MBS Index Fund has approved the Related Issuer MBS Investment in accordance with subsection 5.2(2) of NI 81-107;

d) the manager of the MBS Index Fund complies with section 5.1 of NI 81-107 and the manager and the IRC of the MBS Index Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the investment;

e) the BMO MBS has been given and continues at the time of purchase to have a "designated rating", by a "designated rating organization", within the meaning of those terms in NI 44-101;

f) the size of the BMO MBS primary offering is at least $100 million;

g) at least two purchasers who are independent and at arm's-length, which may include an "independent underwriter" (within the meaning of National Instrument 33-105 *Underwriting Conflicts*), collectively purchase at least 20% of the BMO MBS primary offering;

h) the percentage representation of BMO MBS in the portfolio of the MBS Index Fund will be no higher than the percentage representation of BMO MBS in the fund's MBS Index;

i) no MBS Index Fund will participate in the BMO MBS primary offering, if following its purchase, the MBS Index Fund, together with other related investment funds under common management with the MBS Index Fund, will hold more than 20% of the securities issued in the same BMO MBS primary offering;

j) the BMO MBS are offered at the same price per security to all purchasers participating in the BMO MBS primary offering such that the price paid for the securities by a MBS Index Fund in the BMO MBS primary offering will not be higher than the price paid by any arm's length purchaser who participates in the BMO MBS primary offering; and

k) no later than the time the MBS Index Fund files its annual financial statements, and no later than the 90th day after each financial year-end, the Filer, as manager of the MBS Index Fund, files with the securities regulatory authority or regulator the particulars of any Related Issuer MBS Investment.

The 31-103 Relief and the 81-102 Relief

"Darren McKall"
Manager, Investment Funds and Structured Products Branch
Ontario Securities Commission

The Act Relief

"Mary Anne DeMonte-Whelan"
Commissioner
Ontario Securities Commission

"Heather Zordel"
Commissioner
Ontario Securities Commission

2.1.5 Global Reach Financial Solutions Inc.

Headnote

Application for a decision to exempt a money services business (MSB) from the dealer registration and prospectus requirements in connection with certain distributions of and trades in over-the-counter (OTC) derivatives that are made by the filer with a "permitted counterparty" or an "eligible commercial hedger" – "permitted counterparty" defined to mean "permitted client" as defined in Section 1.1 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – "eligible commercial hedger" generally defined to mean a non-individual commercial hedger as defined in proposed derivatives business conduct and registration rules but with reduced financial threshold – exemption sought as an interim response to current regulatory uncertainty associated with the regulation of OTC derivatives, pending the development by the Canadian Securities Administrators (the CSA) of a uniform framework for the regulation of OTC derivatives in all provinces and territories of Canada – Decision includes terms and conditions of relief that are based on the regulatory framework for derivatives firms set out in the proposed derivatives business conduct and registration rules being developed by the CSA and a "sunset date" that is date that is the earlier of: (i) the date that is four years after the date of the Decision; and (ii) the coming into force in the jurisdiction of legislation or a rule that specifically governs dealer, adviser or other registration requirements applicable to market participants in connection with OTC derivative transactions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25(1), 53(1), 74.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 1.1 ("permitted client").
Proposed National Instrument 93-101 Derivatives: Business Conduct and Proposed National Instrument 93-102 Derivatives: Registration ("commercial hedger" and "eligible commercial hedger").

November 16, 2020

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
GLOBAL REACH FINANCIAL SOLUTIONS INC.
(the Filer)

DECISION

Background

The Principal Regulator (as defined below) in the Jurisdiction has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the Filer and its respective officers, directors and representatives be exempt from

(a) the dealer registration requirement (the **Dealer Registration Relief**), and

(b) the prospectus requirement (the **Prospectus Relief**),

in the Legislation in respect of distributions of or other trades in OTC Derivatives (as defined below) in connection with the Filer's foreign exchange risk management and payment services business (the **Filer's FX Business**) made by

(c) the Filer to or with a "Permitted Counterparty" (as defined below) or an "Eligible Commercial Hedger" (as defined below), and

(d) by a Permitted Counterparty or an Eligible Commercial Hedger to or with the Filer

as the case may be, subject to the terms and conditions below (the **Requested Relief**).

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

1. the Ontario Securities Commission is the principal regulator for this application (the **Principal Regulator**); and

2. the Filer has provided notice that, in the case of the Dealer Registration Relief and, in the jurisdictions where required, the Prospectus Relief, section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in Newfoundland and Labrador, Northwest Territories, Nunavut, Prince Edward Island and Yukon (the **Applicable Jurisdictions**).

Interpretation

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

In this decision, the following terms have the following meanings:

"Commercial hedger" means a person or company that carries on a business and that transacts in an OTC Derivative to hedge a risk in respect of that business associated with any of the following:

(a) an asset that the person or company owns, produces, manufactures, processes, or merchandises or reasonably anticipates owning, producing, manufacturing, processing, or merchandising;

(b) a liability that the person or company incurs or reasonably anticipates incurring; or

(c) a service which the person or company provides, purchases, or reasonably anticipates providing or purchasing;

"OTC Derivative" has the meaning ascribed to that term in Appendix A to this decision;

"Permitted Counterparty" means a person or company that is a "permitted client", as that term is defined in section 1.1 [*Definition of terms used throughout this Instrument*] of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**);

"Eligible Commercial Hedger" means a person or company, other than an individual, that

(a) is a commercial hedger in relation to the OTC Derivative that it transacts with the Filer;

(b) has represented to the Filer in writing that it has the requisite knowledge and experience to evaluate the information provided to the person or company about OTC Derivatives by the Filer, the suitability of the OTC Derivatives for the person or company, and the characteristics of the OTC Derivatives to be transacted on the person or company's behalf, and

(c) has, or directly or indirectly owns or is owned by or is under common ownership with an entity, or group of entities, that has, net assets of at least $500,000 as shown on its most recently prepared financial statements;

Underlying Interest has the meaning ascribed to that term in Appendix A to this decision.

Representations

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

The Filer

1. The Filer is incorporated under the *Canada Business Corporations Act* (Canada). The Filer's principal office is located in Vancouver, British Columbia.

2. The Filer is a subsidiary of Global Reach Group Holdings (Jersey) Ltd., which, with its affiliates, is part of the Global Reach corporate group (the **Global Reach Group**), a provider of foreign exchange (**FX**) risk management and payment services, headquartered in the United Kingdom (the **UK**), with operations in six countries, including offices in the Netherlands, Spain, South Africa and Cyprus.

3. The Global Reach Group has three trading subsidiaries in the UK, all of which hold the relevant licences from the UK Financial Conduct Authority (the **UK FCA**):

   (a) Global Reach Markets Limited – an authorized investment firm which provides advice / deals as matched principal broker in OTC FX derivatives;

   (b) Global Reach Partners – an authorized payment institution which provides foreign exchange and payment services to corporate clients (where the FX falls outside of the investment rules – spot and deliverable forwards where the underlying requirement is for the payment of goods or services); and

   (c) Foreign Currency Exchange Limited – an authorized e-money institution providing payment wallets and foreign exchange services (where outside of investment regulation).

   Each of these entities is required to adhere to both prudential and conduct requirements ensuring their financial soundness, the protection of client money and the fair treatment of clients.

4. The Filer acknowledges that the Principal Regulator and the regulatory authorities in the other jurisdictions (collectively, the **Canadian Securities Regulators**) may share information about the Filer and this Application with the UK FCA and authorizes the UK FCA to share information about the Filer and the Global Reach Group with the Canadian Securities Regulators.

5. The Filer provides FX and payment services for commercial and other non-retail customers in Canada for the hedging of risk or payment facilitation and not for speculative or investment purposes.

6. As described below, on May 13, 2020, the Filer acquired the key elements of the Canadian business of EncoreFX Inc. (**EncoreFX**), a former provider of foreign exchange risk management and payment services (the **Acquisition**) that filed for bankruptcy in March 2020.

7. As a result of the Acquisition, many of the individuals who previously held senior roles with EncoreFX became officers or employees of the Filer. The Filer is seeking relief to conduct the FX trading business formerly carried on by EncoreFX in Ontario and the other Applicable Jurisdictions.

8. The Filer is not registered under the securities, commodity futures or derivatives legislation of any of the provinces or territories of Canada in any capacity.

9. The Filer is classified as a Money Services Business under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) (**PCMLTFA**) and associated regulations. The Filer is registered as a Money Services Business (**MSB**) or equivalent in all provinces in which it carries on business. As an MSB, the Filer fully complies with anti-money laundering and anti-terrorist financing laws and regulations in Canada and, in particular, the Guidelines produced by the Financial Transactions and Reports Analysis Centre of Canada (**FINTRAC**).

10. The Filer is currently offering FX and payment services to businesses in all provinces other than Quebec. Sales, dealing and operations staff have been hired in British Columbia, Alberta, Saskatchewan, Manitoba and Ontario.

11. Outside of Ontario, the Filer provides corporate clients currency exchange services, foreign currency payments and risk management services. Clients receive personalized risk management planning and execution services backed by the proprietary Strategy Optimization Platform (SOP) reporting and analysis tools. Clients also have access to the proprietary online Express platform for self serving their spot transactions, payments and forward drawdowns and for transaction reporting requirements.

12. Outside of Ontario, the Filer relies on exemptions for trading in OTC Derivatives with “Qualified Persons” set out in the following instruments:

Alberta	ASC Blanket Order 91-507 *Over-the-Counter Trades in Derivatives*
British Columbia	Blanket Order 91-501 *Over-the-Counter Derivatives*
Manitoba	Blanket Order 91-501 *Over-the-Counter Trades in Derivatives*
New Brunswick	Local Rule 91-501 *Derivatives*
Nova Scotia	Blanket Order 91-501 *Over the Counter Trades in Derivatives*
Saskatchewan	General Order 91-908 *Over-the-Counter Derivatives*

13. The Filer is seeking the Requested Relief in Ontario in connection with the Application because the Ontario Securities Commission (the **OSC**) has not adopted a blanket order or local rule comparable to the above instruments. Rather, the Filer understands that the OSC has historically considered applications for exemptive relief by firms seeking to trade OTC Derivatives on a case-by-case basis, pending the development of modernized derivatives business conduct and registration rules.

14. The Filer did not carry on business in Ontario prior to the Acquisition of assets of EncoreFX and following the Acquisition has not engaged in Ontario in any activities that, in the Filer's view, require compliance with the registration or prospectus requirements of Ontario securities law or any other derivatives-specific rule, including OSC Rule 91-507, *Trade Repositories and Derivatives Data Reporting* (the **OSC trade reporting rule**).

15. The Filer's activities in Ontario following the Acquisition have been limited to certain currency exchange transactions that are settled by actual delivery of the foreign currency to the customer or an arm's length third party within two business days, with no rollover or extension. For the purposes of this representation, "actual delivery" means a transfer of ownership, possession and control of the foreign currency to the customer or an arm's length third party within two business days. The Filer does not act as agent, bailee or custodian for the customer in Ontario and does not have or share possession or control of the customer's foreign currency.

16. The Filer is not in default of securities, commodity futures or derivatives legislation in any province or territory of Canada.

OSC staff position

17. OSC staff have advised the Filer that OTC Derivatives may, depending on the nature of the contract, the manner in which it is offered, the nature of the client, and the manner in which the underlying or reference asset is delivered or custodied, constitute or involve "securities" and "derivatives" for the purposes of Ontario securities law.

18. In support of this view, OSC staff have referred the Filer to the following OSC and CSA staff guidance and caselaw:

- OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts to Investors in Ontario* (**OSC Staff Notice 91-702**) and the cases cited therein, including *Pacific Coast Coin Exchange v. Ontario* (Securities Commission) (the ***Pacific Coast* decision**), and subsequent exemptive relief decisions that have granted exemptive relief to investment dealers based on the guidance in OSC Staff Notice 91-702;

- CSA Staff Notice 21-327 *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets*;

- Commission and Court decisions involving online trading platforms, decisions, evidences of ownership of a commodity, including "warehouse receipts", for investment or speculative purposes; and

- Commission guidance in the Companion Policy to OSC Rule 91-506 *Derivatives: Product Determination* (**OSC Rule 91-506**) on when an FX derivative may be considered to qualify for the "spot currency exclusion" in s. 2(1)(c) of OSC Rule 91-506;

19. OSC staff have also referred the Filer to a number of recent insolvencies involving online trading platforms, including EncoreFX, as indicative of the potential risks to investors who purchase FX or commodities through unregistered trading platforms but do not receive actual delivery of the FX or other commodity from the unregistered platform at the time of the transaction.

The Filer's Acquisition of the EncoreFX business

20. On March 30, 2020, EncoreFX filed an assignment in bankruptcy pursuant to Section 49(1) of the *Bankruptcy and Insolvency Act* (Canada) (the **BIA**). Ernst & Young Inc. (**EY**) was appointed as the Licensed Insolvency Trustee (the **Trustee**).

21. On May 13, 2020, the Filer acquired the key elements of the Canadian business of EncoreFX. The Filer has retained 60 former EncoreFX employees, including the former President of EncoreFX, Paul Lennox, who is a CFA Charter holder with more than 27 years of financial industry experience.

22. The Filer only acquired certain assets of EncoreFX, and EncoreFX remains a separate, unrelated company; the ownership of the two companies is different and the directors are different. The two current officers of the Filer with signing authority, the Chief Financial Officer and Chief Compliance and Risk Officer, had no involvement with EncoreFX prior to the Acquisition.

23. If the Filer were a registered firm under the *Securities Act* (Ontario) (the **OSA**), the Filer's officers, directors and "permitted individuals" (as that term is defined in National Instrument 33-109 *Registration Information* (**NI 33-109**) would be as follows:

- Millie Richardson, Chief Compliance and Risk Officer, Director
- Brett Flowers, Chief Financial Officer, Director
- Paul Lennox, President, Director – former President of EncoreFX (officer)
- Kevin Neufeld, Senior Vice President Sales, Director – former SVP Sales EncoreFX

24. No customers of EncoreFX have been directly transferred to the Filer; the Filer is opening new accounts with customers. The Filer did not carry on business in Ontario prior to the acquisition of assets of EncoreFX and following the acquisition has not engaged in Ontario in any activities requiring registration or a prospectus.

25. The Global Reach Group also notified the UK FCA of the purchase.

The Reasons for the Bankruptcy of EncoreFX

26. The Filer understands that, as disclosed in the First Report of the Trustee dated April 22, 2020 filed with the Supreme Court of British Columbia in Bankruptcy and Insolvency, at paragraphs 36 to 42, EncoreFX failed due to a liquidity squeeze brought about in part by the extreme exchange rate volatility as a result of the COVID-19 pandemic and the subsequent inability of some of its clients to honour their obligations to post margin on their out-of-the-money (**OTM**) positions due to the impact of COVID-19 on their own businesses, while EncoreFX was OTM with its liquidity providers and was obligated to post margin.

27. EncoreFX issued clients margin calls in accordance with their mark-to-market terms but many clients with OTM positions were not able to meet their margin calls in a timely manner.

28. As noted in the First Report of the Trustee, in order to be competitive within its industry, EncoreFX offered terms to certain clients booking EncoreFX derivatives that included no initial margin and OTM limits up to a predetermined amount (i.e., the client's derivative contract would have to be OTM greater than for example US $500,000 before EncoreFX would require the client to pay margin).

29. The liquidity squeeze came about as a number of clients became OTM on their transactions and defaulted on their obligations because of the rapid changes in the FX market and extreme market volatility caused by the COVID-19 pandemic, and as a consequence, EncoreFX was left OTM with its liquidity providers and was obligated to pay significant additional margin.

30. EncoreFX ownership determined that even if all OTM amounts owing could be collected from clients over time, there was no short-term liquidity available to EncoreFX to meet its obligations, and EncoreFX made the decision to suspend all trading activity as at March 29, 2020.

Enhanced measures and safeguards by the Filer to protect client assets

31. The two current officers of the Filer with signing authority, the Chief Financial Officer and Chief Compliance and Risk Officer, had no involvement with EncoreFX prior to the acquisition.

32. Senior managers of the Filer report directly to Global Reach Group level executives with respect to their operational and risk management functions. The management and dealing team of the Filer are very experienced FX industry professionals, many with more than 20 years MSB and FX derivatives experience.

33. The Filer and Global Reach Group operate a centralized treasury function that is required to meet Global Reach Group's UK regulatory standards. As such, the Filer has robust liquidity controls and stress tests positions before they are taken onto the book to ensure that it has sufficient capital and liquidity, including in the event of extreme market conditions.

34. In addition, the Global Reach Group is subject to investment regulation by the Financial Conduct Authority in the United Kingdom and would, as a matter of course, apply its Group minimum standards to all subsidiaries, including the application of Treating Customers Fairly, conflicts of interest and other conduct requirements. All customers will (as at EncoreFX) receive product disclosure statements which clearly set out the risks.

35. Additionally, Global Reach Group is currently putting in place measures to hold customer funds in trust in order to provide increased protection.

36. Moreover, the Filer has adopted the CFA Code of Ethics, adapted for hedging clients, and its dealers are required to successfully complete the CSI Derivatives Fundamentals and Options Licensing course.

Proposed Conduct of OTC Derivative Transactions

37. The Filer proposes to enter into bilateral OTC Derivative transactions with counterparties located in all provinces and territories of Canada that consist exclusively of persons or companies that are Permitted Counterparties or Eligible Commercial Hedgers. The Filer understands that the Permitted Counterparties and Eligible Commercial Hedgers would be entering into the OTC Derivative transactions for hedging purposes and not for speculative or investment purposes. The Underlying Interest of the OTC Derivatives to be entered into between the Filer and a Permitted Counterparty or an Eligible Commercial Hedger will consist of an actual or anticipated commercial or financial foreign currency asset or liability.

38. The Filer may provide early settlement limits and mark-to-market (**MTM**) limits before requiring margin or collateral, and will require a Permitted Counterparty or an Eligible Commercial Hedger to deposit margin or collateral with the Filer in respect of its obligations in connection with an OTC Derivative transaction that is OTM, as a means of managing the MTM risk that the Filer faces with its counterparties on OTM positions (where the MTM value of the OTC Derivative reflects a credit exposure to the Filer). A Permitted Counterparty or an Eligible Commercial Hedger will be credit risk assessed to determine the maximum MTM exposure acceptable to the Filer. If a Permitted Counterparty or Eligible Commercial Hedger's MTM exposure exceeds the acceptable MTM limit, they will be required to post additional collateral (or variation margin) to the Filer in order to maintain their position in the OTC Derivative.

39. Since the Filer's counterparties are not entering into OTC Derivatives transactions for speculative purposes, the Filer will stipulate a threshold amount in its contracts, which is the reference value of the MTM exposure of the OTC Derivative above which collateral has to be posted to the Filer. Higher credit risk counterparties are additionally required to post initial margin at the outset of an OTC Derivative transaction, as an extra cushion of support to protect the Filer against unexpected credit and operational risks. These risks can include problems such as operational error, large changes in MTM value of an OTC Derivative, as well as delays in receiving collateral.

40. The Filer seeks the Requested Relief as an interim, harmonized solution to the uncertainty and fragmentation that currently characterizes the regulation of OTC Derivatives across Canada, pending the development of a uniform framework for the regulation of OTC Derivative transactions in all provinces and territories of Canada.

Development of a modernized framework for OTC Derivatives

41. Ontario has now established a framework for regulating the trading of derivatives in Ontario (the **Ontario Derivatives Framework**) through amendments to the OSA that were made by the *Helping Ontario Families and Managing Responsibility Act, 2010* (Ontario). The amendments to the OSA establishing the Ontario Derivatives Framework will not become effective until the date on which they are proclaimed in force. These amendments are not expected to be proclaimed in force until an ongoing public consultation on the regulation of OTC Derivatives has been completed.

42. On April 19, 2018, the Canadian Securities Administrators (the **CSA**) published a Notice and Request for Comment on the Proposed National Instrument 93-102 *Derivatives: Registration* (**Proposed NI 93-102**), and on June 14, 2018, the CSA published a Notice and Second Request for Comment on the Proposed National Instrument 93-101 *Derivatives: Business Conduct* (**Proposed NI 93-101**), which, together, are intended to implement a comprehensive regime for the regulation of persons or companies that are in the business of trading or advising on derivatives.

Rationale for Requested Relief

43. The Filer acknowledges that the definitions of the terms "security" and "derivative" in the OSA are broad and agrees that its clients could benefit from the protection of additional risk disclosure delivered in connection with the exemption order. Accordingly, the Filer is willing to electronically deliver or make available an information statement or other offering document to its clients in order to more fully explain the structure, features and risks of the Filer's OTC Derivatives, as more fully set out in Appendix B.

44. The Requested Relief would substantially address, for the Filer and its Permitted Counterparty and Eligible Commercial Hedger clients, the regulatory uncertainty and fragmentation that is currently associated with the regulation of OTC Derivative transactions in Canada, by permitting these parties to enter into OTC Derivative transactions in reliance upon exemptions from the dealer registration and prospectus requirements of the securities legislation of Ontario and each Applicable Jurisdiction on the basis of certain terms and conditions that are set forth in Proposed NI 93-101 and Proposed NI 93-102.

45. If the Requested Relief is granted, the Filer will comply with the terms and conditions of the Requested Relief including the Business Conduct and Risk Mitigation Terms and Conditions in Appendix B (collectively, the **Terms and Conditions of the Relief**).

46. The Filer acknowledges that the scope of the Requested Relief and the Terms and Conditions of the Relief may change as a result of developments in international and domestic capital markets or the Filer's activities, or as a result of any changes to the laws in Canada affecting trading in derivatives, commodity futures contracts, commodity futures options or securities.

Books and Records

47. The Filer acknowledges that it is or will become a "market participant" for the purposes of the OSA if the Requested Relief is granted. For the purposes of the OSA, and as a market participant, the Filer is required by subsection 19(1) of the OSA to: (i) keep such books, records and other documents as are necessary for the proper recording of its business transactions and financial affairs, and the transactions that it executes on behalf of others; and (ii) keep such books, records and documents as may otherwise be required under Ontario securities law.

48. For the purposes of its compliance with subsection 19(1) of the OSA, the Filer will keep books and records that comply with the requirements set out in Appendix B.

Trade reporting

49. To the extent necessary and in respect of the OTC Derivative transactions, the Filer will comply with the derivatives trade reporting rules and instruments in effect in the provinces and territories of Canada.

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 is that the Requested Relief is granted, provided that:

(a) the Filer takes reasonable steps and documents such steps in writing to ensure that the Filer solicits and transacts in OTC Derivatives only with clients and prospective clients in Canada that are Permitted Counterparties or Eligible Commercial Hedgers;

(b) the Filer conducts all OTC Derivatives transactions with clients in compliance with the Business Conduct and Risk Mitigation Terms and Conditions as set out in Appendix B;

(c) prior to first entering into an OTC Derivative transaction with a client, the Filer has

  (i) provided to the client the Risk Disclosure Document (as defined in Appendix B) and has delivered, or has previously delivered, a copy of the Risk Disclosure Document provided to that client to the Principal Regulator; and

  (ii) obtained a written or electronic acknowledgement from the client, confirming that the client has received, read and understood the Risk Disclosure Document;

(d) as represented in paragraph 34 hereof, Global Reach Group and the Filer remain in compliance with the Global Reach Group minimum standards applicable to all subsidiaries, including in connection with treating customers fairly, conflicts of interest and other conduct requirements in accordance with UK FCA standards;

(e) the Filer remains in compliance with the requirements of the PCMLTFA and FINTRAC that apply to the Filer;

(f) the Filer has furnished to the Principal Regulator the name and principal occupation of its officers and directors, together with the personal information form and authorization of indirect collection, use and disclosure of personal information provided for in Form 33-109F4 of National Instrument 33-109 *Registration Information* completed by any officer or director;

(g) the Filer will not provide advice or make a recommendation to a client or prospective client in relation to securities or derivatives, other than in connection with the Filer's FX Business and in accordance with the Business Conduct and Risk Mitigation Terms and Conditions as set out in Appendix B. For clarity, the Filer may provide general information through its website or other marketing materials about the merits of an FX transaction provided the general advice is fair, balanced and not misleading, and the Filer may provide clients with risk management advice and

recommendations as to FX products or strategies for hedging purposes relative to specific circumstances and objectives in accordance with the Business Conduct and Risk Mitigation Terms and Conditions as set out in Appendix B. The Filer will not operate a managed account as that term is defined in section 1.1 of NI 31-103;

(h) the Filer shall promptly inform the Principal Regulator in writing of any material change affecting the Filer, being any change in the business, activities, operations or financial results or condition of the Filer that may reasonably be perceived by a client to be material;

(i) the Filer 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 Filer concerning the conduct of activities with respect to OTC Derivatives;

(j) the Requested Relief shall immediately expire upon the earliest of

A. four years from the date that this Decision is issued;

B. 90 days after the date of registration of the Filer under securities, commodity futures or derivatives legislation in any jurisdiction in Canada;

C. the issuance of an order or decision by a court, a Commission or other similar regulatory body in or outside of Canada, that suspends or terminates the ability of any member of the Global Reach Group to trade OTC Derivatives; and

D. with respect to an Applicable Jurisdiction, the coming into force of legislation or a rule by its Commission regarding the trading of derivatives with investors in such Applicable Jurisdiction

(the **Interim Period**).

"Timothy Moseley"
Vice-Chair
Ontario Securities Commission

"Wendy Berman"
Vice-Chair
Ontario Securities Commission

APPENDIX A
Definitions

"Clearing Corporation" means an association or organization through which Options or futures contracts are cleared and settled.

"Forward Contract" means an agreement, not entered into or traded on or through an organized market, stock exchange or futures exchange and cleared by a Clearing Corporation, to do one or more of the following on terms or at a price established by or determinable by reference to the agreement and at or by a time established by or determinable by reference to the agreement:

(a) make or take delivery of the Underlying Interest of the agreement; or

(b) settle in cash instead of delivery.

"Option" means an agreement that provides the holder with the right, but not the obligation, to do one or more of the following on terms or at a price determinable by reference to the agreement at or by a time established by the agreement:

(a) receive an amount of cash determinable by reference to a specified quantity of the Underlying Interest of the Option.

(b) purchase a specified quantity of the Underlying Interest of the Option.

(c) sell a specified quantity of the Underlying Interest of the Option.

"OTC Derivative" means one or more of, or any combination of, an Option, a Forward Contract, or any instrument of a type commonly considered to be a derivative, in which:

(a) the agreement relating to, and the material economic terms of, the Option, Forward Contract, swap or other instrument have been customized to the purposes of the parties to the agreement and the agreement is not part of a fungible class of agreements that are standardized as to their material economic terms;

(b) the creditworthiness of a party having an obligation under the agreement would be a material consideration in entering into or determining the terms of the agreement; and

(c) the agreement is not entered into or traded on or through an organized market, stock exchange or futures exchange.

"Underlying Interest" means, for a derivative, the commodity, interest rate, actual or anticipated commercial or financial foreign currency asset or liability, foreign exchange rate, security, economic indicator, index, basket, benchmark or other variable, or another derivative, and, if applicable, any relationship between, or combination of, any of the foregoing, from or on which the market price, value or payment obligations of the derivative are derived or based.

APPENDIX B
Business Conduct and Risk Mitigation
Terms and Conditions

Part I – Risk disclosure

Risk Disclosure Statement [*All clients*]

1. The Filer will, prior to a client's first OTC Derivatives Transaction with the Filer, and as part of the account-opening process, provide the client with a separate risk disclosure document that clearly explains, in plain language, the transaction and the risks associated with the transaction (collectively the **Risk Disclosure Document**). The Risk Disclosure Document will include a plain language description of the structure, feature and risks of the OTC Derivative, and the potential risks to the client in the event of the bankruptcy or insolvency of the Filer.

2. The Risk Disclosure Document will clearly explain, in plain language, that the Filer is not registered under the securities, commodity futures or derivatives laws of any jurisdiction of Canada and that client assets are not protected under the Canadian Investor Protection Fund (**CIPF**), the U.S. Securities Investor Protection Corporation, or equivalent protections. The Risk Disclosure Statement will include a reference to and a copy of or link to this decision.

3. Prior to the client's first OTC Derivatives transaction, Filer will also obtain a written or electronic acknowledgement from the client confirming that the client has received, read and understood the Risk Disclosure Document. Such acknowledgment will be separate from and prominent among other acknowledgements provided by the client as part of the account-opening process.

4. Prior to a client's first Filer Transaction, Filer will ensure a complete copy of the Risk Disclosure Document to be provided to that client is delivered, or has previously been delivered, to the Principal Regulator.

Part II – Core business conduct obligations [*All clients*]

Acting fairly, honestly and in good faith

5. The Filer shall act and shall take reasonable steps to cause each individual acting on its behalf to act fairly, honestly and in good faith with clients.

Conflicts of interest

6. The Filer will establish, maintain and apply reasonable policies and procedures to identify existing material conflicts of interest, and material conflicts of interest that the Filer in its reasonable opinion would expect to arise, between Filer, including each individual acting on behalf of the Filer, and a client of the Filer.

7. The Filer will respond to an existing or potential conflict of interest identified under the preceding paragraph. If a client, acting reasonably, would expect to be informed of a conflict of interest identified under the preceding paragraph, the Filer will disclose, in a timely manner, the nature and extent of the conflict of interest to the client whose interest conflicts with the interest identified.

8. On and after July 1, 2021, the Filer will comply, and will take reasonable steps to cause each individual acting on its behalf to act to comply, with the enhanced conflicts of interest provisions in section 13.4 and 13.4.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) as if the Filer were a "registered firm" and individuals acting on behalf of Filer were "registered individuals".

Gatekeeper know-your-client (KYC) obligations

9. The Filer will establish, maintain and apply reasonable policies and procedures to

   (a) obtain facts necessary to comply with applicable legislation, including anti-money laundering (**AML**) legislation, relating to the verification of a client's identity,

   (b) establish the identity of a client and, if the Filer has cause for concern, make reasonable inquiries as to the reputation of the client,

   (c) if the Filer will, as a result of its relationship with a client have any credit risk in relation to the client, establish the creditworthiness of the client.

10. For the purpose of establishing the identity of a client that is a corporation, partnership or trust, the Filer will establish the following:

    (a) the nature of the client's business;

    (b) the identity of any individual who meets either of the following:

        (i) in the case of a corporation, is a beneficial owner of, or exercises direct or indirect control or direction over, more than 25% of the voting rights attached to the outstanding voting securities of the corporation;

        (ii) in the case of a partnership or trust, exercises control over the affairs of the partnership or trust.

11. The Filer will take reasonable steps to keep the information required under the preceding two paragraphs current. The requirement in the preceding two paragraphs does not apply if the client is a registered firm or a Canadian financial institution.

Proficiency

12. The Filer will adhere to the CFA Code of Ethics and take reasonable steps to ensure that its dealers are required to successfully complete the CSI Derivatives Fundamentals and Options Licensing course before soliciting or transacting with any client or prospective client.

Handling Complaints

13. The Filer will document and, in a manner that a reasonable person would consider fair and effective, promptly respond to each complaint made to the Filer about any product or service offered by the Filer or an individual acting on behalf of the Filer.

14. The Filer will include in the Risk Disclosure Document disclosure that clearly explains, in plain language, that the Filer is not a registered dealer in any jurisdiction in Canada and as such is not required to make available to clients the services of an independent dispute resolution or mediation service such as the Ombudsman for Banking Services and Investments (**OBSI**).

Trade Confirmation

15. The Filer will promptly deliver a written confirmation of the OTC Derivatives transaction to either of the following:

    (a) the client;

    (b) if the client has consented in writing, a registered adviser acting for the client.

Tied Selling Restriction

16. The Filer will not impose undue pressure on or coerce a person or company to obtain an OTC Derivatives-related product or service from a particular person or company, including the Filer or any of its affiliated entities, as a condition of obtaining another product or service from the Filer.

Part III – Supplemental business conduct obligations for certain clients

17. The Filer must comply with the requirements in this Part in relation to all clients, other than

    (a) a client that is a Permitted Counterparty or

    (b) a client that is an Eligible Commercial Hedger, if the Filer has provided the Specified Commercial Hedger with a copy of this Decision including Appendices and the Eligible Commercial Hedger has provided the Filer with written waiver confirming that they do not wish to receive the protections provided in this Part.

Derivatives-party-specific needs and objectives

18. The Filer will take reasonable steps to ensure that, before it makes a recommendation to or accepts an instruction from a client to transact in an OTC Derivative, it has sufficient information regarding all of the following to enable it to meet its obligations under section 18 [*Suitability*]:

(a) the client's needs and objectives with respect to its transacting in OTC Derivatives;

(b) the derivatives party's financial circumstances;

(c) the derivatives party's risk tolerance;

(d) if applicable, the nature of the derivatives party's business and the operational risks it wants to manage.

19. The Filer will take reasonable steps to keep the information required under the preceding section current.

Suitability

20. The Filer, or an individual acting on behalf of the Filer, must take reasonable steps to ensure that, before it makes a recommendation to or accepts an instruction from a client to transact in an OTC Derivative, both the OTC Derivative and the transaction are suitable for the client.

21. If a client instructs the Filer, or an individual acting on behalf of the Filer, to transact in an OTC Derivative and, in the Filer's reasonable opinion, following the instruction would result in a transaction or derivative that is not suitable for the client, the Filer must inform the client in writing of the Filer's opinion and must not transact in the OTC Derivative unless the client instructs the Filer to proceed anyway.

22. On and after December 31, 2021, the Filer will comply, and will take reasonable steps to cause each individual acting on its behalf to act to comply, with the enhanced know-your-client, know-your product and suitability obligations Division 1 of Part 13 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) as if Filer were a "registered firm" and individuals acting on behalf of Filer were "registered individuals".

Permitted referral arrangements

23. Neither the Filer, nor any individual acting on behalf of the Filer, will participate in a referral arrangement in respect of an OTC Derivative with another person or company unless all of the following apply:

(a) before a client is referred by or to the Filer, the terms of the referral arrangement are set out in a written agreement between the Filer and the person or company;

(b) the Filer records all referral fees;

(c) the Filer, or the individual acting on behalf of the Filer, ensures that the information prescribed above is provided to the client in writing before the Filer or the individual receiving the referral either opens an account for the client or provides services to the client.

24. The Filer, or an individual acting on behalf of the Filer, will not refer a client to another person or company unless the Filer first takes reasonable steps to verify and conclude that the person or company has the appropriate qualifications to provide the services, and, if applicable, is registered to provide those services.

25. The written disclosure of the referral arrangement required by this Part [*Permitted referral arrangements*] must include all of the following:

(a) the name of each party to the agreement referred to in this section;

(b) the purpose and material terms of the agreement, including the nature of the services to be provided by each party;

(c) any conflicts of interest resulting from the relationship between the parties to the agreement and from any other element of the referral arrangement;

(d) the method of calculating the referral fee and, to the extent possible, the amount of the fee;

(e) the category of registration, or exemption from registration relied upon, of each derivatives firm and individual acting on behalf of the derivatives firm that is a party to the agreement with a description of the activities that the derivatives firm or individual is authorized to engage in under that category or exemption and, giving consideration to the nature of the referral, the activities that the derivatives firm or individual is not permitted to engage in;

(f) any other information that a reasonable client would consider important in evaluating the referral arrangement.

26. If there is a change to the information set out in the previous section, the Filer must ensure that written disclosure of that change is provided to each client affected by the change as soon as possible and no later than the 30th day before the date on which a referral fee is next paid or received.

27. On and after July 1, 2021, the Filer will comply, and will take reasonable steps to cause each individual acting on its behalf to act to comply, with the enhanced referral arrangement provisions in sections 13.7 to 13.10 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) as if the Filer were a "registered firm" and individuals acting on behalf of the Filer were "registered individuals".

Restriction on lending

28. Except as described in paragraphs 38 to 39, inclusive of the Requested Relief, the Filer will not lend money, extend credit or provide margin to a client.

Restriction on advising or managed accounts

29. The Filer is not registered to provide advice in relation to investments involving securities or derivatives. Accordingly, except as described below, the Filer will not advise a client or prospective client about the merits of an investment in securities or derivatives or recommend or represent that an investment in securities or derivatives is a suitable investment for the client.

30. For clarity, the Filer may provide general information through its website or other marketing materials about the merits of an FX transaction provided the general advice is fair, balanced and not misleading and the advice is not directed at or tailored to the needs of the particular person or company receiving the information, and the Filer may provide clients with risk management advice and recommendations as to FX products or strategies for hedging purposes relative to specific circumstances and objectives.

31. The Filer will not operate a managed account as that term is defined in section 1.1 of NI 31-103.

Restriction on contracts linked to novel or emerging asset classes

32. The Filer will not offer OTC Derivatives linked to bitcoin, ether, cryptocurrencies or other novel or emerging asset classes, or options or other derivatives thereon, to investors in the Applicable Jurisdictions without the prior written consent of the Principal Regulator.

Part IV – Client accounts

33. The Filer must comply with the requirements in this Part in relation to all clients, other than

(a) a client that is a Permitted Counterparty or

(b) a client that is an Eligible Commercial Hedger, if the Filer has provided the Eligible Commercial Hedger with a copy of this Decision including Appendices and the Eligible Commercial Hedger has provided the Filer with written waiver confirming that they do not wish to receive the protections provided in this Part.

Relationship disclosure information

34. For the purposes of a requirement in this decision to deliver a document or provide disclosure to a client, including client relationship disclosure, trade confirmations and account statements, the Filer may deliver the document or provide the disclosure to the client in electronic form if the client has previously provided written consent to receive such documents in electronic form.

35. The Filer will, prior to a client's first transaction in an OTC Derivative, and as part of the account-opening process, provide the client with all information that a reasonable person would consider important about the client's relationship with the Filer and each individual acting on behalf of the Filer. Without limiting the foregoing, the information delivered to a client must include all of the following:

(a) a description of the nature or type of the client's account;

(b) a description of any conflicts of interest that the Filer is required to disclose to a client under this decision;

(c) disclosure of the fees or other charges the client might be required to pay related to the client's account;

(d) a general description of the types of transaction fees or other charges the client might be required to pay in relation the client's account;

(e) a general description of any compensation paid to the Filer by any other party in relation to a client's transactions in OTC Derivatives;

(f) disclosure of the Filer's obligations under this decision if a client has a complaint;

(h) a statement that the Filer is not registered to provide advice in relation to investments involving securities or derivatives; and

(i) the information the Filer must collect about the client under this decision, including the Filer's obligations to collect *Gatekeeper know-your-client (KYC) information*.

36. The Filer must deliver the information in the preceding section to the client in writing before the Filer transacts in an OTC Derivative with, for or on behalf of the client. If there is a significant change in respect of the information delivered to a client in the preceding section, the Filer must take reasonable steps to notify the client of the change in a timely manner and, if possible, before the Filer next transacts in an OTC Derivative with, for or on behalf of the client.

Content and delivery of transaction information

37. The Filer will promptly deliver a written confirmation of the transaction to either of the following:

(a) the client;

(b) if the client has consented in writing, a registered adviser acting for the client.

38. If the Filer transacts with, for or on behalf of a client that is an Eligible Commercial Hedger that has not waived its rights under this Part, the written confirmation required under the preceding section must include all of the following, if applicable:

(a) a description of the transaction;

(b) a description of the agreement that governs the transaction;

(c) the notional amount, quantity or volume of the underlying asset of the transaction;

(d) the number of units of the transaction (if applicable);

(e) the total price paid for the transaction and the per unit price of the transaction;

(f) the commission, sales charge, service charge and any other amount charged in respect of the transaction;

(g) the particular entity that transacted with the client and whether such entity acted as principal or agent in relation to the transaction;

(h) the date and the name of the trading facility on which the transaction took place;

(j) the date of the transaction;

Client statements

39. The Filer must deliver a statement to a client, at the end of each quarterly period, if either of the following applies:

(a) within the quarterly period the Filer transacted in an OTC Derivative with, for or on behalf of the client;

(b) the client has an outstanding position resulting from a transaction where the Filer transacted in an OTC Derivative with, for or on behalf of the client.

40. A statement delivered under this section must include all of the following information for each transaction made with, for or on behalf of the client during the period covered by the statement, if applicable:

(a) the date of the transaction;

(b) a description of the transaction, including notional amount, the number of units of the transaction, the per unit price and the total price;

(c) information sufficient to identify the agreement that governs the transaction.

41. A statement delivered under this section must include all of the following information as at the date of the statement, if applicable:

(a) a description of each outstanding OTC Derivative;

(b) the valuation, as at the statement date, of each outstanding OTC Derivative referred to in paragraph (a);

(c) the final valuation, as at the expiry or termination date, of each OTC Derivative that expired or terminated during the period covered by the statement;

(d) a description of all client assets held or received by the Filer as collateral, and the name of the entity holding such collateral;

(e) any cash balance in the client's account;

(f) a description of any other client asset held or received by the Filer;

(g) the total market value of all cash, OTC Derivatives and other assets in the client's account, other than assets held or received as collateral.

Custody of client assets

42. The Filer will hold assets of a client resident in Canada

(a) separate and apart from the Filer's own property,

(b) in trust for the client,

(c) in the case of cash, in a designated trust account at a Canadian custodian (as defined in NI 31-103) or a Canadian financial institution.

Insurance

43. The Filer will comply with the requirements of section 12.3 [*Insurance – dealer*] of NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) and Appendix A [*Bonding and Insurance Clauses*] to NI 31-103 as if it were a registered dealer, except modified as follows:

A. Fidelity – cover required

B. On Premises – cover not required as no assets of material value are held on premises and no client assets are held on site

C. In transit – cover not required as there will be no physical transit of cash and securities

D. Forgery or alterations – cover required

E. Securities – cover not required as risk not applicable to the Filer's business model.

Capital requirements

44. If, at any time, the excess working capital of the Filer, as calculated in accordance with Form 31-103F1 *Calculation of Excess Working Capital*, is less than zero, the Filer must notify the regulator or, in Québec, the securities regulatory authority as soon as possible.

45. The excess working capital of the Filer, as calculated in accordance with Form 31-103F1 *Calculation of Excess Working Capital*, must not be less than zero for 2 consecutive days.

46. For the purpose of completing Form 31-103F1 *Calculation of Excess Working Capital*, the minimum capital is the amount prescribed in section 12.1 of NI 31-103 for a registered dealer that is not also registered as an investment fund manager.

Part V – Compliance and record-keeping

47. The Filer will establish, maintain and apply policies, procedures, controls and supervision sufficient to provide reasonable assurance that all of the following are satisfied:

    (a) the Filer and each individual acting on its behalf in relation to transacting in a Filer Contract complies with securities legislation relating to trading and advising in securities or derivatives;

    (b) the risks relating to its trading activities are managed in accordance with Filer's risk management policies and procedures;

    (c) each individual who performs an activity on behalf of Filer relating to transacting in, or providing advice in relation to, an OTC Derivative, prior to commencing the activity and on an ongoing basis,

        (i) has the experience, education and training that a reasonable person would consider necessary to perform the activity competently,

        (ii) without limiting subparagraph (i), has the understanding of the structure, features and risks of each OTC Derivative that the individual transacts in, and

        (iii) has conducted themselves with integrity.

Business continuity and disaster recovery

48. The Filer will establish, maintain and apply a written business continuity and disaster recovery plan that is reasonably designed to allow the Filer to minimize disruption and allow Filer to continue its business operations.

49. The business continuity and disaster recovery plan must outline the procedures to be followed in the event of an emergency or other disruption of Filer's normal business activities.

50. The Filer must conduct independent tests of its business continuity and disaster recovery plan on a reasonably frequent basis and not less than annually.

Derivatives party agreement

51. The Filer must ensure that, before transacting in a derivative with a counterparty that it enters into an agreement with that counterparty that establishes all of the material terms governing the trading relationship between the counterparties.

Records

52. The Filer will keep records of its transactions, including all of the following, as applicable:

    (a) records containing a general description of its derivatives business and activities conducted with clients, and compliance with applicable provisions of securities legislation, including

        (i) records of client assets, and

        (ii) records documenting the firm's compliance with internal policies and procedures;

    (b) for each OTC Derivatives transaction, records demonstrating the existence and nature of the OTC Derivatives transaction, including

        (i) records of communications with the client relating to the OTC Derivatives transaction,

        (ii) documents provided to the client to confirm the transaction, the terms of the OTC Derivatives and each transaction relating to the OTC Derivatives,

        (iii) correspondence relating to the OTC Derivatives and each transaction relating to the OTC Derivatives, and

(iv) records made by staff relating to the OTC Derivatives and each transaction relating to the OTC Derivatives, including notes, memos or journals;

(c) for each OTC Derivatives transaction, records that provide for a complete and accurate understanding of the OTC Derivatives transaction and all transactions relating to the OTC Derivatives transaction, including

(i) records relating to pre-execution activity for each transaction including all communications relating to quotes, solicitations, instructions, transactions and prices however they may be communicated,

(ii) reliable timing data for the execution of each transaction relating to the OTC Derivatives, and

(iii) records relating to the execution of the transaction, including

(A) information obtained to determine whether the client qualifies as a Permitted Counterparty or Eligible Commercial Hedger, as applicable,

(B) fees or commissions charged,

(C) any other information relevant to the transaction, and

(D) information used in calculating the OTC Derivatives valuation;

(d) an itemized record of post-transaction processing and events, including a record in relation to the calculation of margin and exchange of collateral;

(e) the price and valuation of the OTC Derivatives transaction.

Form, accessibility and retention of records

53. The records required to be maintained in this Instrument must be kept in a safe location, readily accessible and in a durable form for a period of 8 years following the date on which the derivative expires or is terminated, and

54. A record required to be provided to the regulator or the securities regulatory authority must be provided in a format that is capable of being read by the regulator or the securities regulatory authority.

Part VI – Risk management policies and procedures

55. (1) The Filer must establish, maintain, and apply a written framework that is reasonably designed to establish a system of controls and supervision to monitor and manage the risks associated with its derivatives-related activity.

(2) The framework referred to in subsection (1) must be approved by the Filer's board of directors, or individuals acting in a similar capacity for the firm.

(3) The risk management framework referred to in subsection (1) must, at a minimum

(a) identify material risks to the Filer, including risks from affiliated entities and from specific derivatives or types of derivatives,

(b) establish risk tolerance limits,

(c) establish requirements for the Filer to appropriately manage risks,

(d) provide for the periodic review of the Filer's risks and risk tolerance limits to ensure they reflect the firm's derivatives related activity,

(e) permit senior management to monitor compliance with risk management requirements and risk tolerance limits in order to detect and address non-compliance,

(f) provide for periodic reports to the Filer's senior management and its board of directors on the Filer's material risks, risk tolerance limits, compliance with risk management requirements, compliance with risk tolerance levels and recommendations for changing the risk management framework and risk tolerance limits, and

(g) when there is a material change to the Filer's risk exposures or a material breach of a risk limit, require the Filer to on a timely basis, provide the firm's board of directors, or individuals acting in a similar capacity for the firm, with a report relating to those changes.

(4) The Filer must conduct an independent review of its risk management framework on a reasonably frequent basis.

Agreement for process of determining the value of a derivative

56. The Filer must agree on and clearly document the processes for determining the value of each OTC Derivatives transaction.

Agreement for process relating to disputes

57. (1) The Filer must enter into a written agreement with its counterparties that establishes procedures and processes to identify, record and monitor disputes relating to material terms or valuation and exchange of collateral between the Filer and its counterparties, and to resolve disputes relating to the material terms or valuation of an OTC Derivative in a timely manner.

(2) If a dispute referred to in subsection (1) has not been resolved within 30 days of the date when the Filer should, acting reasonably, become aware of the dispute, the Filer must report the dispute to the Principal Regulator.

Portfolio reconciliation

58. (1) The Filer must establish, maintain and apply written policies and procedures that are reasonably designed to, at least once each calendar year, conduct portfolio reconciliation for all derivatives to which the Filer is a counterparty.

(2) The Filer must establish, maintain and apply written policies and procedures to resolve discrepancies in materials terms and valuations identified as a result of the portfolio reconciliation as soon as possible after they are identified.

(3) The Filer must enter into a written agreement with each derivatives party that describes the terms of the portfolio reconciliation required to be conducted under subsection (1).

Portfolio compression

59. (1) The Filer must establish, maintain and apply written policies and procedures that are reasonably designed to do all of the following:

(a) terminate fully offsetting derivatives with a counterparty that is a derivatives dealer in a timely fashion;

(b) terminate fully offsetting derivatives with a counterparty that is not a derivatives dealer, at the request of that derivatives party, in a timely fashion;

(c) engage in bilateral portfolio compression exercises with each of its counterparties that is a derivatives dealer, when appropriate; and

(d) engage in a multilateral portfolio compression exercise with each of its counterparties that is a derivatives dealer, when appropriate.

(2) Despite subsection (1), the policies and procedures required in that subsection do not need to apply to a derivative that is cleared.

2.1.6 Transat A.T. Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions and Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions – exemption from the requirement to obtain separate minority approval for each class of affected common shares in connection with a proposed business combination transaction so that minority approval would be obtained from the affected classes of securities of the issuer voting together as a single class – issuer is subject to the Canada Transportation Act and its dual-class share structure has been established solely to ensure that it is compliant with the foreign voting control restrictions in such legislation – no difference of interest between holders of each class of common shares in connection with a proposed business combination transaction – requiring a class-by-class vote could give a de facto veto right to a non-Canadian group of security holders.

Applicable Legislative Provisions

Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions, s. 8.1(1), 9.1(2).

November 12, 2020

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
TRANSAT A.T. INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Makers**) have received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption from the requirement that every class of affected securities vote as a separate class for the purpose of obtaining minority approval (the **Class Voting Requirement**) as set out in *Regulation 61-101 respecting Protection of Minority Security Holders in Special Transactions* (CQLR, chapter V-1.1, r. 33) (**Regulation 61-101**) in connection with the Proposed Transaction (as defined below) and that instead, minority approval of the Proposed Transaction be obtained from all of the issued and outstanding Shares (as defined below) voting together as single class (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 the Application;

(b) the Filer has provided notice that Section 4.7(1) of *Regulation 11-102 respecting Passport System* (CQLR, chapter V-1.1, r. 1) (**Regulation 11-102**) is intended to be relied upon in each of Alberta, Manitoba and New Brunswick; 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 *Regulation 14-101 respecting Definitions* (CQLR, chapter V-1.1, r. 3), Regulation 11-102 and Regulation 61-101 have the same meaning if used in this decision, unless otherwise defined. The following terms have the following meanings:

Canadian has the meaning specified in Section 55(1) of the CTA.

CTA means the *Canada Transportation Act*.

CTA Amendments means the amendments to the CTA which came into force effective June 27, 2018 as a result of the *Transportation Modernization Act* (Canada).

held or **holds**, when in reference to the Variable Voting Shares that a person "held" or "holds", shall refer to, and include, the Variable Voting Shares held, beneficially owned or controlled, directly or indirectly by such person.

Representations

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

1. The Filer is a corporation governed by the *Canada Business Corporations Act* (the **CBCA**).

2. The Filer's head office is located in Québec.

3. The Filer is a reporting issuer in all of the provinces of Canada and is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.

4. The authorized share capital of the Filer consists of an unlimited number of Class A variable voting shares (the **Variable Voting Shares**), an unlimited number of Class B voting shares (the **Voting Shares** and, together with the Variable Voting Shares, the **Shares**), and an unlimited number of preferred shares, issuable in series.

5. As of November 5, 2020, 37,747,090 Shares were outstanding. There are no preferred shares outstanding. In addition, as of November 5, 2020, the Filer had 1,738,570 options outstanding, each entitling a Canadian holder to purchase one Voting Share and a non-Canadian Holder to purchase one Variable Voting Share.

6. As of July 31, 2020, the date of the most recent breakdown of Shares as obtained by the Filer's transfer agent, the Shares were comprised of approximately 85.71% Voting Shares and approximately 14.29% Variable Voting Shares.

7. As the owner of Air Transat A.T. Inc., a licensed air carrier, the Filer is subject to the requirements of the CTA. Notably, Section 61(1)(a) of the CTA includes a condition that an applicant for a domestic service operating licence be a Canadian.

8. As result of the CTA Amendments, Canadian was defined to include:

> *"a corporation or entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least 51% of the voting interests are owned and controlled by Canadians and where (i) no more than 25% of the voting interests are owned directly or indirectly by any single non-Canadian, either individually or in affiliation with another person, and (ii) no more than 25% of the voting interests are owned directly or indirectly by one or more non-Canadians authorized to provide an air service in any jurisdiction, either individually or in affiliation with another person."*

9. In order to comply with the CTA Amendments, the Filer amended its articles of incorporation on May 8, 2019 in accordance with a plan of arrangement under the CBCA (the **Amended Articles**). Pursuant to the Amended Articles, the Voting Shares can only be owned or controlled by Canadians, while Variable Voting Shares can only be owned or controlled by non-Canadians. Issued and outstanding Voting Shares are converted into Variable Voting Shares on a one for one basis, automatically and without any further act of the Filer or the holder, if such Voting Share becomes owned or controlled, by a person who is not a Canadian. Conversely, in the event that a Variable Voting Share becomes owned or controlled by a Canadian it will be converted into a Voting Share on a one for one basis automatically and without any further act of the Filer or the holder.

10. In order to comply with the Canadian ownership requirements, the Variable Voting Shares carry one vote per share unless either

    (a) any single non-Canadian, either individually or in affiliation with any other person, holds a number of Variable Voting Shares that exceeds 25% of either the total number of the Filer's issued and outstanding Shares or the number of votes that would be cast at a given meeting of the holders of the Shares (the **Shareholders**);

    (b) all non-Canadians authorized to provide air services, together with such persons in affiliation with them, hold in the aggregate, a number of Variable Voting Shares that exceeds 25% of either the total number of the

Filer's issued and outstanding Shares or the number of votes that would be cast at a given meeting of Shareholders;

(c) the number of issued and outstanding Variable Voting Shares exceeds 49% of either the total number of all of the Filer's issued and outstanding Shares or the number of votes that would be cast at a given meeting of Shareholders.

In the event that any of the applicable aforementioned limits are exceeded, the votes attributable to Variable Voting Shares will be affected as follows:

(i) if required, a reduction of the voting rights of any single non-Canadian (including a single non-Canadian authorized to provide air service), either individually or in affiliation with any other person, carrying more than 25% of the aggregate votes of the issued and outstanding Shares to ensure that such non-Canadian (and the persons in affiliation with them) never carry more than 25% of the votes which holders of Shares cast at any meeting of Shareholders;

(ii) if required and after giving effect to the first proration set out in (i) above, a further proportional reduction of the voting rights of all non-Canadians authorized to provide an air service (including such persons in affiliation with them) to ensure that such non-Canadian authorized to provide air service (and the persons in affiliation with them), in the aggregate, never carry more than 25% of the votes which holders of Shares cast at any meeting of Shareholders;

(iii) if required and after giving effect to the first two prorations set out in (i) and (ii) above, a proportional reduction of the voting rights for the Variable Voting Shares to ensure that non-Canadians never carry, in aggregate, more than 49% of the votes which holders of Shares cast at any meeting of Shareholders.

11. The formal identification of the Voting Shares and Variable Voting Shares as separate classes of shares, as well as the variability in the voting rights associated with the Variable Voting Shares, exist solely for the purposes of facilitating compliance with the Canadian ownership and control requirements of the CTA, with both classes of Shares having identical economic attributes and being listed and traded on the Toronto Stock Exchange as a single class of shares.

The Proposed Transaction

12. On October 9, 2020 the Filer and Air Canada (the **Purchaser**), entered into an arrangement agreement (the **Arrangement Agreement**) providing for the Purchaser's acquisition of all of the issued and outstanding Shares of the Filer (the **Proposed Transaction**). The Arrangement Agreement terminated and replaced a previous arrangement agreement entered into between the parties dated June 27, 2019 in respect of the same subject matter, as subsequently amended on August 11, 2019 (the **Prior Agreement**). The material changes between the Arrangement Agreement and the Prior Agreement are as follows:

(a) the outside date for the closing of the transaction set forth in the Arrangement Agreement is an extended date of February 15, 2021;

(b) the purchase price for the issued and outstanding Shares of the Filer is now $5.00 per Share (the **Purchase Price**);

(c) the Purchase Price is payable at the holder's option either in cash or shares of the Purchaser (whereas the Prior Arrangement was cash only);

(d) the termination fee payable by the Filer to the Purchaser pursuant to a Termination Fee Event (as defined in the Arrangement Agreement) is reduced to $10,000,000 from $15,000,000 previously, except in certain circumstances under the Arrangement Agreement in connection with a new concept of an Intervening Event (as defined in the Arrangement Agreement) where the termination fee is $30,000,000;

(e) the reverse termination fee payable by the Purchaser to the Filer pursuant to a Reverse Termination Fee Event (as defined in the Arrangement Agreement), which was $20,000,000 or $40,000,000 previously depending on the circumstances, is reduced to $10,000,000 or $30,000,000 in the same circumstances under the Arrangement Agreement;

(f) the Arrangement Agreement contains a new closing condition that the Filer's level of net indebtedness on closing not exceed a certain specified threshold on closing.

13. On July 18, 2019, the Decision Makers issued a decision granting the Exemption Sought in respect of the transaction set out in the Prior Agreement, conditional upon the Safeguard Measures (as defined below) being implemented and remaining in place.

14. The Proposed Transaction is structured as an arrangement to be carried out in accordance with Section 192 of the CBCA. The Arrangement Agreement requires that the Proposed Transaction be subject to the approval of 66 2/3% of the votes cast by the holders of the outstanding Voting Shares and Variable Voting Shares voting together as a single class in person or by proxy at a special meeting (the **Special Meeting**) to be held to consider the Proposed Transaction.

15. The Proposed Transaction is a "business combination" (as such term is defined in Regulation 61-101) and is therefore subject to the applicable requirements of Regulation 61-101.

16. Mr. Jean-Marc Eustache, the Chairman of the Board and the President and Chief Executive Officer of the Filer will receive, as a result of the Proposed Transaction, payments which may be characterized as "collateral benefits" (as such term is defined in Regulation 61-101) as (a) he beneficially owns more than 1% of the issued and outstanding Shares of the Filer, and (b) such payments, net of any offsetting costs, would represent more than 5% of the amount of the consideration that Mr. Eustache would otherwise expect to be beneficially entitled to receive under the terms of the Proposed Transaction in exchange for the Voting Shares that he beneficially owns.

17. Consequently, and as a result of the applicable requirements of Regulation 61-101, the Filer is subject to the Class Voting Requirements and is required to obtain approval of the Proposed Transaction by a majority of votes cast by Shareholders, in each case voting separately as a class, excluding the votes attached to applicable Shares beneficially owned, or over which control or direction is exercised, by any party specified in Section 8.1(2) of Regulation 61-101 (the **Disinterested Shareholders**) at the Special Meeting. The Disinterested Shareholders in respect of the Proposed Transaction include all of the holders of Shares except Mr. Eustache.

18. Regulation 61-101 was adopted to ensure the fair treatment of all security holders in the context of a business combination.

19. The following procedural steps have been or will be taken to ensure that the collective interests of the Shareholders are protected in light of the Proposed Transaction:

    (a) Negotiation of the Proposed Transaction was conducted by a special committee of the Filer's board of directors (the **Special Committee**), which was comprised solely of directors who are independent of the Purchaser and Mr. Eustache.

    (b) The Special Committee, after having consulted with independent financial and legal advisors and with the assistance of management of the Filer, unanimously determined that the Proposed Transaction is in the best interests of the Filer and is fair to the Shareholders and recommended to the Filer's board of directors that it approve the Proposed Transaction.

    (c) The Special Committee of the Filer's board of directors did not include Mr. Eustache.

    (d) The Special Meeting will be called to consider and, if deemed advisable, approve the Proposed Transaction, and subject to the interim order of the Superior Court of Québec (the **Court**) in connection with the Proposed Transaction and the Exemption Sought being granted, the approval threshold for the Proposed Transaction will be (i) 66 2/3 % of the votes cast by holders of Shares present in person or represented by proxy at the Special Meeting, and (ii) a majority of votes cast by disinterested holders of Shares present in person or represented by proxy at the Special Meeting voting together as a single class.

    (e) The board of directors of the Filer received opinions dated October 9, 2020 from National Bank Financial Inc. and BMO Capital Markets Inc. (collectively, the **Financial Advisor Opinions**) to the effect that the consideration to be received by Shareholders in the Proposed Transaction was fair, from a financial point of view, to such holders (in each case subject to the respective limitations, qualifications, assumptions and other matters set forth in such opinions).

    (f) The Filer will prepare and deliver to the Shareholders an information circular (the **Information Circular**) prepared in accordance with applicable securities legislation and the interim order of the Court in order to provide sufficient information to allow the Shareholders to make an informed decision in respect of the Proposed Transaction. The Financial Advisor Opinions will be included in the Information Circular.

(g) If the Proposed Transaction is approved by Shareholders at the Special Meeting, it will be subject to the final approval of the Court. All affected Shareholders will receive notice of and be entitled to appear at the hearing for the final Court order.

(h) The Filer will grant dissent rights to the registered Shareholders.

(collectively, the **Safeguard Measures**).

20. The Filer's articles provide that holders of Shares are entitled to vote at all meetings of shareholders of the Filer, except at any meeting where the holders of a specified class of Shares are entitled to vote separately as a class as provided in the CBCA.

21. The CBCA does not require a separate class vote in respect of the Proposed Transaction, as holders of Voting Shares and Variable Voting Shares are entitled to receive the same consideration per share upon completion of the Proposed Transaction.

22. With regards to the accounting treatment of the Variable Voting Shares and the Voting Shares, there is no distinction between the two classes of shares. The Shares are treated as common share capital and presented in the aggregate in shareholders' equity as share capital on the Filer's consolidated statement of financial position. For earnings per share purposes, the Shares are presented together as outstanding shares and earnings per share is calculated based on the weighted average of issued and outstanding aggregate number of Shares.

23. Without the Requested Relief, the Filer would, in addition to the 66 2/3% Shareholder approval of the Proposed Transaction, be required to satisfy the Class Voting Requirements and obtain additional approval from a majority of the Disinterested Shareholders who hold Variable Voting Shares, voting separately as a class (the **Additional Approval**).

24. Granting the holders of the Variable Voting Shares a separate class vote on the Proposed Transaction would be inconsistent with the policy objectives of the CTA, which seek to ensure that Canadians retain control over licensed air carriers at all times. Absent the Exemption Sought, the Additional Approval would provide the non-Canadian holders of Variable Voting Shares with the ability to prevent the Proposed Transaction. Such an outcome would deprive Canadians of de facto control over the Filer.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that the Safeguard Measures are implemented and remain in place as described herein.

"Hugo Lacroix"
Surintendant des marchés de valeurs

2.1.7 PIMCO Canada Corp.

Headnote

National Policy 11– 203 Process for Exemptive Relief Application in Multiple Jurisdictions – Relief granted from the self-dealing provision in s. 4.2(1) of NI 81-102 Investment Funds to permit inter-fund trades in debt securities between investment funds subject to NI 81-102 and Canadian pooled funds, U.S. mutual funds and U.S. pooled funds under related management, subject to conditions.

National Policy 11– 203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from s.13.5(2)(b)(ii) and (iii) of NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations to permit inter-fund trades between Canadian mutual funds, Canadian pooled funds, Canadian managed accounts, U.S. mutual funds and U.S. pooled funds under related management at the last sale price, subject to conditions.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.5, 15.1.
National Instrument 81-102 Investment Funds, ss. 4.2(1), 4.3(1), 4.3(2), 19.2.
National Instrument 81-107 Independent Review Committee for Investment Funds, ss. 6.1(2), 6.1(4).

November 10, 2020

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
PIMCO CANADA CORP.
(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 (the **Legislation**):

(a) for an exemption from the prohibition in section 4.2(1) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) to permit the NI 81-102 Funds (as defined below) to purchase debt securities from, or sell debt securities to, a Canadian Pooled Fund (as defined below) or a U.S. Fund (as defined below) (the **Section 4.2(1) Relief**);

(b) for an exemption from the prohibitions in sections 13.5(2)(b)(ii) and (iii) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) which prohibit a registered adviser from knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase or sell a security from or to the investment portfolio of a responsible person, an associate of a responsible person or an investment fund for which a responsible person acts as an adviser, in order to permit:

(i) a Canadian Fund (as defined below) to purchase securities from or sell securities to a Canadian Fund;

(ii) a Canadian Client Account (as defined below) to purchase securities from or sell securities to a Canadian Fund;

(the transactions described in (b)(i) and (ii) above each being a **Canadian Inter-Fund Trade**)

(iii) a Canadian Fund to purchase securities from or sell securities to a U.S. Fund;

(iv) a Canadian Client Account to purchase securities from or sell securities to a U.S. Fund;

(the transactions described in (b)(iii) and (iv) above each being a **Cross-Border Inter-Fund Trade**); and

(v) the Canadian Inter-Fund Trades and the Cross-Border Inter-Fund Trades to be executed at the last sale price, as defined in the Universal Market Integrity Rules of the Investment Industry Regulatory Organization of Canada, prior to the execution of the trade (the **Last Sale Price**) in lieu of the closing sale price (the **Closing Sale Price**) contemplated by the definition of "current market price of the security" in section 6.1(1)(a)(i) of National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**) on that trading day where the securities involved in the Inter-Fund Trade (as defined below) are exchange-traded securities (which term shall include Canadian and foreign exchange-traded securities);

((b)(i), (ii), (iii), (iv) and (v) above are collectively referred to herein as the **Inter-Fund Trading Relief**); and

(c) to revoke the decision dated October 7, 2014 *In the Matter of PIMCO Canada Corp.* (the **Original Decision**) insofar as the Original Decision related to the Section 4.2(1) Relief and the Inter-Fund Trading Relief (the **Revocation** and, together with the Section 4.2(1) Relief and the Inter-Fund Trading Relief, the **Exemption Sought**).

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

(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 all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, NI 81-102 or NI 31-103 have the same meaning if used in this decision, unless otherwise defined herein. In addition, the following terms have the following meanings:

(a) **40 Act** means the U.S. *Investment Company Act of 1940*, as amended;

(b) **40 Act Funds** means, together, the Existing 40 Act Funds and the Future 40 Act Funds;

(c) **Applicable Inter-Fund Trading Policies** has the meaning given to it in paragraph 35;

(d) **Canadian Client Account** means an account (i) managed by the Filer that is beneficially owned by a client that is resident or domiciled in Canada and is not a responsible person, and (ii) over which the Filer that is registered as a portfolio manager under the securities legislation of one or more provinces or territories of Canada has discretionary authority;

(e) **Canadian Clients** means, together, the NI 81-102 Funds, the Canadian Pooled Funds and the Canadian Client Accounts;

(f) **Canadian Funds** means, together, the NI 81-102 Funds and the Canadian Pooled Funds;

(g) **Canadian Pooled Funds** means, together, the Existing Canadian Pooled Funds and the Future Canadian Pooled Funds;

(h) **Clients** means, together, the Canadian Clients and the U.S. Clients;

(i) **Closed-End Funds** means, together, the Existing Closed-End Fund and the Future Closed-End Funds;

(j) **Existing 40 Act Fund** means each existing investment fund subject to the provisions of the 40 Act and for which PIMCO LLC or another affiliate of the Filer acts as manager and/or portfolio adviser;

(k) **Existing Canadian Pooled Fund** means each investment fund domiciled in Canada (i) that is not a reporting issuer and to which NI 81-102 and NI 81-107 do not apply, and (ii) for which the Filer acts as manager and/or portfolio adviser;

(l) **Existing Closed-End Fund** means PIMCO Global Income Opportunities Fund;

(m) **Existing NI 81-102 Fund** means each existing investment fund (including the Existing Closed-End Fund) (i) that is a reporting issuer and to which NI 81-102 and NI 81-107 apply, and (ii) for which the Filer acts as manager and/or portfolio adviser;

(n) **Existing U.S. Pooled Fund** means each investment fund (i) domiciled in the United States, (ii) to which the 40 Act does not apply, and (iii) for which PIMCO LLC or another affiliate of the Filer acts as manager and/or portfolio adviser;

(o) **Funds** means, together, the Canadian Funds and the U.S. Funds (each, a **Fund**);

(p) **Future 40 Act Fund** means each investment fund (i) to be established in the future, (ii) subject to the provisions of the 40 Act, and (iii) for which PIMCO LLC or another affiliate of the Filer will act as manager and/or portfolio adviser;

(q) **Future Canadian Pooled Fund** means each investment fund (i) to be established in the future, (ii) that will be domiciled in Canada, (iii) that will not be a reporting issuer and to which NI 81-102 and NI 81-107 will not apply, and (iv) for which the Filer will act as manager and/or portfolio adviser;

(r) **Future Closed-End Fund** means each non-redeemable investment fund (i) that will be a reporting issuer and to which NI 81-102 and NI 81-107 will apply, and (ii) for which the Filer will act as manager and/or portfolio adviser;

(s) **Future NI 81-102 Fund** means each investment fund (including a Future Closed-End Fund) (i) to be established in the future, (ii) that will be a reporting issuer and to which NI 81-102 and NI 81-107 will apply, and (iii) for which the Filer will act as manager and/or portfolio adviser;

(t) **Future U.S. Pooled Fund** means each investment fund (i) to be established in the future, (ii) that will be domiciled in the United States, (iii) which will not be subject to the provisions of the 40 Act, and (iv) for which PIMCO LLC or another affiliate of the Filer will act as manager and/or portfolio adviser;

(u) **Inter-Fund Trades** means, together, Canadian Inter-Fund Trades, Cross-Border Inter-Fund Trades and, where applicable, all trades pursuant to the Section 4.2(1) Relief;

(v) **IRC** means the independent review committee of the Canadian Funds;

(w) **NI 81-102 Funds** means, together, the Existing NI 81-102 Funds and the Future NI 81-102 Funds;

(x) **PIMCO** means the global asset management business of PIMCO LLC and its subsidiaries;

(y) **PIMCO LLC** means Pacific Investment Management Company;

(z) **Trust Funds** means, collectively, any of the Funds established as a trust;

(aa) **U.S. Client Account** means an account (i) managed by PIMCO LLC or an affiliate of PIMCO LLC, (ii) that is beneficially owned by a client that is resident or domiciled in the United States and is not a responsible person, and (iii) over which an affiliate of the Filer has discretionary authority;

(bb) **U.S. Clients** means, together, the U.S. Funds and the U.S. Client Accounts;

(cc) **U.S. Funds** means, together, the 40 Act Funds and the U.S. Pooled Funds;

(dd) **U.S. Inter-Fund Trading Rules** means Rule 17a-7 under the 40 Act and other applicable laws governing inter-fund trading in the United States; and

(ee) **U.S. Pooled Funds** means, together, the Existing U.S. Pooled Funds and the Future U.S. Pooled Funds.

Representations

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

The Filer

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

2. The Filer is currently registered under the securities legislation in:

   (a) all the provinces as a portfolio manager and exempt market dealer;

   (b) Ontario, Québec, and Newfoundland and Labrador as an investment fund manager; and

   (c) Ontario and Manitoba as a commodity trading manager under the *Commodity Futures Act* (Ontario) and an adviser under the *Commodity Futures Act* (Manitoba), respectively.

3. The Filer is, or will be, the manager of the Canadian Funds.

4. The Filer is, or will be, the portfolio manager of the Canadian Funds. The Filer may also appoint sub-advisers for the Canadian Funds.

5. The Filer may be the trustee of a future Canadian Fund that is a Trust Fund.

6. The Filer is not in default of securities legislation in any of the Jurisdictions.

The Canadian Funds

7. Each NI 81-102 Fund is, or will be, established under the laws of Ontario or Canada as an investment fund that is a trust, a class of shares of a mutual fund corporation or limited partnership and is, or will be, a reporting issuer in one or more of the Jurisdictions.

8. The securities of each NI 81-102 Fund are, or will be, qualified for distribution in one or more of the Jurisdictions under, as applicable, a prospectus, simplified prospectus, annual information form, fund facts and/or ETF facts, prepared and filed in accordance with the securities legislation of such Jurisdictions. Each NI 81-102 Fund is, or will be, subject to the provisions of NI 81-102.

9. Each Canadian Pooled Fund is, or will be, an investment fund established under the laws of Ontario or Canada as a trust, corporation or limited partnership that is not and will not be a reporting issuer in any of the Jurisdictions.

10. The securities of the Canadian Pooled Funds will be distributed on a private placement basis pursuant to available exemptions from the prospectus requirement under applicable securities laws in the Jurisdictions. Other than as may be required pursuant to exemptive relief granted by the Canadian securities administrators, the Canadian Pooled Funds are not, and will not be, subject to NI 81-102.

11. The existing Canadian Funds are not in default of securities legislation in any of the Jurisdictions.

Canadian Client Accounts

12. The Filer offers discretionary investment management services to investors in Canada through the Canadian Client Accounts.

13. Each Canadian Client wishing to receive the discretionary investment management services from the Filer has entered into, or will enter into, a written agreement (an **Investment Management Agreement**) whereby the client appoints the Filer to act as portfolio manager in connection with an investment portfolio of the client with full discretionary authority to trade in securities for the Canadian Client Account without obtaining the specific consent of the client to execute each trade.

14. Each Investment Management Agreement or other documentation in respect of each Canadian Client Account will contain authorization from the client for the portfolio manager of the Canadian Client Account to make Inter-Fund Trades.

PIMCO LLC

15. PIMCO LLC is a Delaware limited liability company having its head office in Newport Beach, California.

16. PIMCO LLC is registered with the U.S. Securities and Exchange Commission (the **SEC**) as an investment adviser under the U.S. *Investment Advisers Act of 1940* (the **Advisers Act**).

17. In the United States, all managers of U.S. registered investment companies are registered under, and subject to the requirements of, the Advisers Act. In addition, with respect to their management of registered investment companies, registered investment advisers are subject to the requirements of the 40 Act.

18. The Filer is an indirect wholly-owned subsidiary of PIMCO LLC. As of March 31, 2020, PIMCO worldwide had approximately US$1.78 trillion in assets under management.

19. PIMCO LLC, or another affiliate of the Filer, is, or will be, the manager of the U.S. Funds. PIMCO LLC and other affiliates of the Filer provide advisory services to the U.S. Funds. PIMCO LLC or another affiliate of the Filer may also appoint sub-advisers for the U.S. Funds. Any affiliate of the Filer providing advisory services to a U.S. Fund is appropriately registered to act in such manner.

20. PIMCO LLC and other affiliates of the Filer offer discretionary investment management services to investors in the United States through U.S. Client Accounts.

21. The Filer understands that trades between Canadian Funds and U.S. Client Accounts are not subject to the prohibitions in sections 13.5(2)(b)(ii) and (iii) of NI 31-103.

U.S. Funds

22. Each 40 Act Fund is, or will be, an investment fund established under the laws of a U.S. jurisdiction, the securities of which are, or will be, registered under the 40 Act.

23. The securities of each 40 Act Fund are, or will be, registered pursuant to a registration statement prepared and filed in accordance with the 40 Act. Each 40 Act Fund is, or will be, subject to the provisions of the 40 Act.

24. Each U.S. Pooled Fund is, or will be, an investment fund established under the laws of a U.S. jurisdiction as a trust, corporation, limited liability company or limited partnership that is exempt from the requirements of the 40 Act.

25. The securities of the U.S. Pooled Funds are, or will be, distributed on a private placement basis pursuant to available exemptions from the registration requirement under the 40 Act (or other applicable securities laws in the United States). The Existing U.S. Pooled Funds are not, and the Future U.S. Pooled Funds will not be, subject to the 40 Act.

Inter-Fund Trading

26. The Filer wishes to be able to permit any Canadian Fund or Canadian Client Account to engage in Inter-Fund Trades of portfolio securities with a Fund.

27. NI 31-103, NI 81-102 and NI 81-107 restrict inter-fund trading. Absent the Exemption Sought, neither the Canadian Funds nor Canadian Client Accounts, nor the Filer on their behalf, will be permitted to engage in Cross-Border Inter-Fund Trades as contemplated in this decision.

28. The Filer is a responsible person for the purpose of section 13.5(2)(b) of NI 31-103 and, absent exemptive relief, is prohibited from effecting any Inter-Fund Trades between Canadian Funds or Canadian Client Accounts and (i) Trust Funds that are an associate of the Filer or other responsible person, and (ii) other Funds that are investment funds for which the Filer, or other responsible person, acts as an adviser.

29. Absent exemptive relief, each NI 81-102 Fund is prohibited under section 4.2(1) of NI 81-102 from purchasing a security from or selling a security to certain Trust Funds (if an associate of the Filer or a portfolio adviser to the NI 81-102 Fund) and would also be prohibited under section 4.2(1) of NI 81-102 from purchasing a security from or selling a security to a Fund established in the future under a corporate structure that would be an affiliate of the Filer.

30. The exception in section 4.3(1) of NI 81-102 which permits certain inter-fund trades of securities subject to public quotations is not available for any Inter-Fund Trades of debt securities because debt securities are typically not subject to public quotations.

31. The exception in section 4.3(2) which permits certain inter-fund trades of debt securities is not available for any Inter-Fund Trades of debt securities between:

    (a) NI 81-102 Funds and Canadian Pooled Funds; and

(b) NI 81-102 Funds and U.S. Funds.

In both instances, that exemption only applies where the investment funds on both sides of the inter-fund trade are investment funds subject to NI 81-107. The Canadian Pooled Funds and U.S. Funds are not subject to NI 81-107.

32. The Filer cannot rely on the exception in subsection 6.1 of NI 81-107 for the Inter-Fund Trades unless each party to the transaction is a reporting issuer and the Inter-Fund Trade occurs at the "current market price of the security" which, in the case of exchange-traded securities, includes the Closing Sale Price but not the Last Sale Price.

33. Each Inter-Fund Trade will be consistent with the investment objectives of the Fund or Canadian Client Account, as applicable.

34. The Original Decision was obtained to permit Inter-Fund Trades in unlisted debt securities between a NI 81-102 Fund and a Canadian Pooled Fund. For Inter-Fund Trades involving a Canadian Pooled Fund, the Original Decision requires that an IRC be established for the Canadian Pooled Funds in order to review such Inter-Fund Trades. For Canadian Client Accounts, which are not subject to an IRC approval process, the Original Decision requires client authorization of Canadian Inter-Fund Trades in the Investment Management Agreement or other documentation.

35. The Filer, PIMCO LLC, and all other affiliates of the Filer are subject to cross trade and other applicable policies (the **Applicable Inter-Fund Trading Policies**). Such Applicable Inter-Fund Trading Policies include a Canadian specific policy which ensures that Canadian Inter-Fund Trades are conducted in accordance with the requirements of applicable securities legislation, including NI 81-102 and NI 81-107 and the Original Decision.

36. At the time of a Canadian Inter-Fund Trade, the Filer will have policies and procedures in place to enable the Canadian Funds and Canadian Client Accounts to engage in Canadian Inter-Fund Trades.

37. At the time of a Cross-Border Inter-Fund Trade, the Filer will have policies and procedures in place to enable the Canadian Funds and Canadian Client Accounts to engage in Cross-Border Inter-Fund Trades.

38. In respect of each NI 81-102 Fund, the Filer, as manager, has established or will establish an IRC in accordance with the requirements of NI 81-107.

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

40. In respect of each Canadian Pooled Fund, the Filer, as manager, has established or will establish an IRC (which may also be the IRC of the NI 81-102 Funds) to review and approve, including by way of standing instructions, any proposed Inter-Fund Trade involving a Canadian Pooled Fund.

41. The mandate of the IRC of a Canadian Pooled Fund includes or will include, approving Inter-Fund Trades. The IRC of a Canadian Pooled Fund is, or will be, created by the Filer, as manager of a Canadian Pooled Fund, in accordance with the requirements of section 3.7 of NI 81-107 and complies, or will comply, with the standard of care set out in section 3.9 of NI 81-107. The IRC of the Canadian Pooled Funds will not approve any Inter-Fund Trade involving a Canadian Pooled Fund unless it has made the determination set out in subsection 5.2(2) of NI 81-107.

42. The mandate of the IRC of the NI 81-102 Funds and the Canadian Pooled Funds will be expanded to include approval of Cross-Border Inter-Fund Trades between a Canadian Fund and a U.S. Fund.

43. Prior to the Filer engaging in Inter-Fund Trades on behalf of a Canadian Client Account, each Investment Management Agreement or other documentation will contain the authorization of the client for the Filer, as portfolio manager of the Canadian Client Account, to engage in Inter-Fund Trades.

44. When the Filer engages in an Inter-Fund Trade of securities between Funds or between a Canadian Client Account and a Fund, including a Cross-Border Inter-Fund Trade, each will comply with the following procedures:

(a) the portfolio manager of the Client, or their designee, will deliver the trade instructions in respect of a purchase or a sale of a security by the Client to the applicable trading desk of the Filer or PIMCO LLC;

(b) the specialist trading desk for the instrument to be traded will determine whether the instrument is eligible to be crossed with any pending purchase or sell orders, as applicable;

(c) the specialist portfolio manager is responsible for obtaining pricing for the Inter-Fund Trade in accordance with PIMCO's Global Cross-Trading Policy and related procedures;

(d) the specialist portfolio manager will review and provide approval for the price of the proposed Inter-Fund Trade;

(e) the portfolio managers of the selling and purchasing Clients will provide their respective approval of the Inter-Fund Trade;

(f) the proposed Inter-Fund Trade will be reviewed by PIMCO's Compliance team;

(g) once all approvals have been provided, the order will be executed on a timely basis in accordance with the requirements of paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107 provided that, for exchange-traded securities the Inter-Fund Trade may be executed at the Last Sale Price of the security prior to the execution of the trade; and

(h) the Filer's policies and procedures applicable to the Inter-Fund Trades will require that:

(i) each Inter-Fund Trade is executed in accordance with the investment policies and investment restrictions of each participant in the Inter-Fund Trade;

(ii) each Inter-Fund Trade is in the best interests of both the selling and purchasing Client;

(iii) Inter-Fund Trades will be executed for no consideration other than cash payment against prompt delivery of a security;

(iv) no brokerage commission, fee or other remuneration will be paid in connection with an Inter-Fund Trade other than the nominal cost to print or otherwise display the Inter-Fund Trade; and

(v) the Inter-Fund Trade complies with all other requirements of applicable law.

45. If the IRC of a Canadian Fund becomes aware of an instance where the Filer did not comply with the terms of any decision document issued in connection with the Inter-Fund Trades, including any Cross-Border Inter-Fund Trades, or a condition imposed by securities legislation or the IRC in its approval, the IRC of the Canadian Fund will, as soon as practicable, notify in writing the securities regulatory authority or regulator which is the Canadian Fund's principal regulator.

46. The Filer has not applied for any changes to the *In Specie* Transfer Relief as defined in the Original Decision. Accordingly, the Revocation does not apply to the *In Specie* Transfer Relief.

Benefits of the Exemption Sought

47. The securities regulatory authorities in the Jurisdictions granted the Original Decision on the basis that it is in the best interests of the Canadian Clients.

48. The Filer has determined that it would be in the best interests of all Clients to permit Inter-Fund Trades, including Cross-Border Inter-Fund Trades, for the following reasons:

(a) because of the various investment objectives and investment strategies that are or will be utilized by the Clients, it may be appropriate for different investment portfolios to acquire or dispose of the same securities. The Filer has determined that engaging in these Inter-Fund Trades directly rather than with a third party has potential benefits such as maintaining access to attractive investment opportunities, lower trading costs, reduced market disruption and quicker execution;

(b) making all Clients subject to similar sets of rules governing the execution of transactions will result in cost and timing efficiencies in respect of the execution of transactions for all Clients, for example reducing market exposure risk due to delayed execution and improving liquidity for thinly traded securities; and

(c) making all Clients subject to similar sets of rules governing the execution of transactions will result in less complicated and more reliable compliance procedures, as well as simplified and more efficient monitoring thereof in connection with execution of transactions on behalf of all Clients.

49. The foregoing benefits are currently enjoyed by the Canadian Clients pursuant to existing regulatory exceptions and the Original Decision. The Filer has determined that the Exemption Sought is in the best interests of the Canadian

Clients because it would extend these benefits to Cross-Border Inter-Fund Trades with U.S. Clients, significantly broadening the pool of potential inter-fund trading counterparties.

50. U.S. Funds currently conduct inter-fund trading pursuant to the Applicable Inter-Fund Trading Policies that comply with U.S. Inter-Fund Trading Rules. From a procedural perspective, inter-fund trades involving 40 Act Funds are subject to reporting to the applicable U.S. fund board. Also, in order to comply with SEC rules governing inter-fund trades and the Applicable Inter-Fund Trading Policies as noted above, it is explicitly required that no brokerage commission, fee or other remuneration be paid by the accounts in connection with the transaction. Cross-Border Inter-Fund Trades would be conducted on PIMCO's portfolio management systems, which are reviewed by an integrated compliance group.

51. U.S. Inter-Fund Trading Rules impose similar requirements to the regulatory exceptions, and the Original Decision respecting appropriate consideration, policies and procedures, governance and review, recordkeeping and pricing for inter-fund trades. Because the Original Decision permits Canadian Inter-Fund Trades with respect to exchange-traded securities to be executed at the Last Sale Price instead of the Closing Sale Price, the Filer has determined that there is no material difference between the pricing requirements that apply to Canadian Inter-Fund Trades under the Original Decision and the pricing requirements that apply to inter-fund trades in the United States.

52. The Filer has determined that similar regulatory requirements applicable to inter-fund trading in Canada and the United States, together with PIMCO's integrated portfolio management systems and compliance group, creates a framework for conducting Cross-Border Inter-Fund Trades in a manner that minimizes conflicts of interest and promotes fairness for all Clients.

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 is that:

1. the Revocation is granted;

2. the Section 4.2(1) Relief is granted provided that the following conditions are satisfied:

    (a) the Inter-Fund Trade is consistent with the investment objectives of each of the Funds involved in the trade;

    (b) the IRC of the Canadian Fund involved in the trade has approved the transaction in respect of that Canadian Fund in accordance with the terms of section 5.2 of NI 81-107;

    (c) where a U.S. Fund is involved as a counterparty to the Inter-Fund Trade:

        (i) if the U.S. Fund is a 40 Act Fund, the board of directors of the U.S. Fund (where the U.S. Fund is an incorporated entity) or the board of trustees (where the U.S. Fund is a trust), as applicable, of the U.S. Fund has approved policies and procedures that permit Cross-Border Inter-Fund Trades that require compliance with Rule 17a-7 under the 40 Act; and

        (ii) if the U.S. fund is a U.S. Pooled Fund, the Cross-Border Inter-Fund Trade is made in accordance with policies and procedures that (A) are similar to the requirements of Rule 17a-7 of the 40 Act, and (B) have been approved by PIMCO LLC; and

    (d) the Inter-Fund Trade complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107; and

3. the Inter-Fund Trading Relief is granted provided that the following conditions are satisfied:

    (a) the Inter-Fund Trade is consistent with the investment objectives of each of the Clients involved in the trade;

    (b) the Filer, as manager of a Canadian Fund, refers the Inter-Fund Trade involving such Canadian Fund to the IRC of that Canadian Fund in the manner contemplated by section 5.1 of NI 81-107 and the Filer, and the IRC of the Canadian Fund comply with section 5.4 of NI 81-107 in respect of any standing instructions the IRC provides in connection with the Inter-Fund Trade;

    (c) in the case of an Inter-Fund Trade between Canadian Funds:

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

(ii) the Inter-Fund Trade complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107, except that for the purposes of paragraph (e) of subsection 6.1(2) of NI 81-107 in respect of exchange-traded securities, the current market price of the securities may be the Last Sale Price;

(d) in the case of an Inter-Fund Trade between a Canadian Client Account and a Canadian Fund:

(i) the IRC of the Canadian Fund has approved the Inter-Fund Trade in respect of the Canadian Fund in accordance with the terms of section 5.2(2) of NI 81-107;

(ii) the investment management agreement or other documentation in respect of the Canadian Client Account authorizes the Inter-Fund Trade; and

(iii) the Inter-Fund Trade complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107, except that for the purposes of paragraph (e) of subsection 6.1(2) of NI 81-107 in respect of exchange-traded securities, the current market price of the securities may be the Last Sale Price;

(e) in the case of an Inter-Fund Trade between a Canadian Fund and a U.S. Fund:

(i) the IRC of the Canadian Fund has approved the Inter-Fund Trade in respect of the Canadian Fund in accordance with the terms of section 5.2(2) of NI 81-107;

(ii) where the U.S. Fund:

(A) is a 40 Act Fund, the board of directors of the U.S. Fund (where the U.S. Fund is an incorporated entity) or the board of trustees (where the U.S. Fund is a trust), as applicable, of the U.S. Fund involved in the trade has approved policies and procedures that permit Cross-Border Inter-Fund Trades that require compliance with Rule 17a-7 under the 40 Act; and

(B) is a U.S. Pooled Fund, the Cross-Border Inter-Fund Trade is made in accordance with policies and procedures that (I) are similar to the requirements of Rule 17a-7 of the 40 Act, and (II) have been approved by PIMCO LLC;

(iii) the Inter-Fund Trade complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107, except that for the purposes of paragraph (e) of subsection 6.1(2) of NI 81-107 in respect of exchange-traded securities, the current market price of the securities may be the Last Sale Price;

(iv) the Inter-Fund Trade shall only be executed for orders with a quantity of more than 50 standard trading units; and

(v) the Inter-Fund Trade shall comply with the market integrity requirements as defined in section 6.1(1)(b) of NI 81-107; and

(f) in the case of an Inter-Fund Trade between a Canadian Client Account and a U.S. Fund:

(i) the investment management agreement or other documentation in respect of the Canadian Client Account authorizes the Inter-Fund Trade;

(ii) where the U.S. Fund:

(A) is a 40 Act Fund, the board of directors of the U.S. Fund (where the U.S. Fund is an incorporated entity) or the board of trustees (where the U.S. Fund is a trust), as applicable, of the U.S. Fund involved in the trade has approved policies and procedures that permit Cross-Border Inter-Fund Trades that require compliance with Rule 17a-7 under the 40 Act; and

(B) is a U.S. Pooled Fund, the Cross-Border Inter-Fund Trade is made in accordance with policies and procedures that (I) are similar to the requirements of Rule 17a-7 of the 40 Act, and (II) have been approved by PIMCO LLC; and

(iii) the Inter-Fund Trade complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107, except that for the purposes of paragraph (e) of subsection 6.1(2) of NI 81-107 in respect of exchange-traded securities, the current market price of the securities may be the Last Sale;

(iv) the Inter-Fund Trade shall only be executed for orders with a quantity of more than 50 standard trading units;

(v) the Inter-Fund Trade shall comply with the market integrity requirements as defined in section 6.1(1)(b) of NI 81-107; and

(g) with respect to Cross-Border Inter-Fund Trades only, this decision will cease to be operative three years from the date of such decision.

"Darren McKall"
Investment Funds & Structured Products Branch
Ontario Securities Commission

2.2 Orders

2.2.1 BNS Split Corp. II

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – relief granted to terminating split share corporation to cease to be a reporting issuer in all jurisdictions of Canada where it is a reporting issuer – relief granted under the simplified procedure.

Applicable Legislative Provisions

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications, s. 19.
Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(10)(a)(ii).

November 3, 2020

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

AND

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

AND

IN THE MATTER OF
BNS SPLIT CORP. II
(the Filer)

ORDER

Background

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

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

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

(b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in all of the Provinces and Territories of Canada (other than Ontario).

Interpretation

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

Representations

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

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

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

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

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

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

Order

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

The decision of the principal regulator under the Legislation is that the Order Sought is granted.

“Darren McKall”
Manager, Investment Funds and
Structured Products
ONTARIO SECURITIES COMMISSION

2.2.2 BNS Split Corp. II – s. 1(6) of the OBCA

Headnote

Relief Granted under Subsection 1(6) of the Business Corporations Act (Ontario) for a split-share corporation to be deemed to have ceased to be offering securities to the public – relief not subject to conditions.

Statutes Cited

Business Corporations Act (Ontario), R.S.O. 1990, c. B.16, s. 1(6).

IN THE MATTER OF
THE BUSINESS CORPORATIONS ACT (ONTARIO)
R.S.O. 1990, c. B.16, AS AMENDED
(the OBCA)

AND

IN THE MATTER OF
BNS SPLIT CORP. II
(the Applicant)

ORDER
(Subsection 1(6) of the OBCA)

WHEREAS the Applicant has applied to the Ontario Securities Commission (the **Commission**) for an order pursuant to subsection 1(6) of the OBCA to be deemed to have ceased to be offering its securities to the public;

AND WHEREAS the Applicant has represented to the Commission that:

1. the Applicant is an "offering corporation" as defined in the OBCA;

2. the Applicant's registered address is located at 150 King Street West, 18th Floor, Box 4085, Station A, Toronto, Ontario, M5W 2X6;

3. the issued and outstanding Class A Capital Shares ("Capital Shares") and Class B Preferred Shares, Series 2 ("Preferred Shares") of the Applicant were redeemed on September 22, 2020;

4. following the redemption, the only issued and outstanding shares are now owned by BNS Split II Holdings Corp. (Class J Shares) and Scotia Managed Companies Administration Inc. (Class S Shares), and no other shares are currently issued and outstanding;

5. the Applicant's Capital Shares and Preferred Shares were de-listed from the TSX effective the close of trading on September 22, 2020;

6. the Applicant has no intention to seek public financing by way of an offering of securities;

7. on November 3, 2020 the Commission granted an application under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* and ordered, pursuant to subclause 1(10) (a) (ii) of the *Securities Act* (Ontario) that the Applicant is not a reporting issuer; and

8. as a result of the Commission's order, the Applicant is not a reporting issuer or the equivalent in any jurisdiction of Canada.

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

IT IS ORDERED by the Commission pursuant to subsection 1(6) of the OBCA, that the Filer is deemed to have ceased to be offering its securities to the public.

DATED at Toronto on November 6, 2020.

"Mary Anne De Monte-Whelan"
Commissioner

"Cathey Singer"
Commissioner

ONTARIO SECURITIES COMMISSION

2.2.3 Vatic Ventures Corp.

Headnote

Section 144 of the Securities Act (Ontario) – application for a partial revocation of a cease trade order – issuer cease traded due to failure to file audited annual financial statements – issuer has applied for a partial revocation of the cease trade order to permit the issuer to proceed with a private placement under prospectus exemptions – issuer will use proceeds from private placement to prepare and file continuous disclosure documents and pay related fees – partial revocation granted subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am. ss. 127, 144.
National Policy 11-207 Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions.

Citation: 2020 BCSECCOM 433

Partial Revocation Order

Vatic Ventures Corp.

Under the securities legislation of
British Columbia and
Ontario
(the Legislation)

Background

¶ 1 Vatic Ventures Corp. (the Issuer) is subject to a failure-to-file cease trade order (the FFCTO) issued by the regulator of the British Columbia Securities Commission (the Principal Regulator) and Ontario (each a Decision Maker) respectively on August 18, 2020

¶ 2 The Issuer has applied to each of the Decision Makers for a partial revocation order of the FFCTO.

¶ 3 This order is the order of the Principal Regulator and evidences the decision of the Decision Maker in Ontario.

Interpretation

¶ 4 Terms defined in National Instrument 14-101 Definitions or in National Policy 11-207 *Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions* have the same meaning if used in this order, unless otherwise defined.

Representations

¶ 5 This decision is based on the following facts represented by the Issuer:

a. The issuer was incorporated under the *Business Corporations Act* (British Columbia) on October 30, 2007.

b. The Issuer's head office is in Vancouver, British Columbia.

c. The Issuer is currently a reporting issuer in British Columbia, Alberta and Ontario.

d. The Issuer's authorized share capital consists of an unlimited number of common shares without par value. The Issuer currently has 43,823,967 common shares issued and outstanding.

e. The FFCTO was issued due to the failure of the Issuer to file its annual audited financial statements, annual management's discussion and analysis and certificate of annual filings for the year ended February 29, 2020 (the Unfiled Documents).

f. Subsequent to the failure to file the Unfiled Documents, the Issuer has not filed any further financial statements or any continuous disclosure documents required by applicable securities legislation (together with the Unfiled Documents, the Unfiled Continuous Disclosure).

g. Other than the failure to file the Unfiled Continuous Disclosure, the Issuer is not in default of the securities legislation in any jurisdiction and the Issuer's SEDAR and SEDI filings are up to date.

h. The Issuer is seeking a partial revocation of the FFCTO in order to complete a convertible debenture financing (the Convertible Debenture) of 1,016 convertible debentures, with a price of $100 per debenture, at a conversion rate equal to a 15% discount to the price at which the Issuer completes its next financing at no additional cost to the holder per debenture, for gross proceeds of $101,600. The Convertible Debenture may only be converted after the full revocation of the FFCTO.

i. The Convertible Debenture will be offered to various subscribers in British Columbia, Alberta, and Ontario relying on the accredited investor exemption contained in section 2.3 of National Instrument 45-106 *Prospectus Exemptions* (NI 45-106) and the family, friends, and business associates exemption contained in section 2.5 of NI 45-106.

j. Finder's fees in connection with the convertible debenture financing may be paid in the amount of 10% cash and 10% finder's warrants. Any finder's warrants issued pursuant to the Convertible Debenture may only be converted after the full revocation of the FFCTO.

k. The Convertible Debenture will not result in the creation of a new control person of the Issuer.

l. The Issuer seeks to conduct the Convertible Debenture to raise sufficient funds to prepare and file all outstanding financial statements and continuous disclosure records, obtain TSXV approval of the Convertible Debenture, pay accounts payable necessary to keep the Issuer operational, and provide the Issuer with sufficient working capital to continue its operations until it can apply for and receive a full revocation of the FFCTO.

m. The Issuer intends to use the proceeds from the Convertible Debenture as follows:

Description	Estimated Amount
Auditor fees	$52,000
Legal fees, accounting fees, and general administrative expenses related to the filing of all outstanding continuous disclosure documents	$22,900
Transfer agent and stock exchange fees	$9,500
Regulatory late filing and participations fees	$17,200
Total	**$101,600**

n. As the Convertible Debenture would involve a trade of securities and acts in furtherance of trades, the Convertible Debenture cannot be completed without a partial revocation of the FFCTO.

o. The Issuer reasonably expects that the proceeds raised from the Convertible Debenture will be sufficient to bring its continuous disclosure up to date and to apply for a full revocation of the FFCTO and pay all outstanding fees.

p. The Convertible Debenture will be completed in accordance with all applicable laws.

q. Upon issuance of this order, the Issuer will issue a press release announcing the order and the intention to complete the Convertible Debenture. Upon completion of the Convertible Debenture, the Issuer will issue a press release and file a material change report. As other material events transpire, the issuer will issue appropriate press releases and file material change reports as applicable.

Order

¶ 6 Each of the Decision Makers is satisfied that a partial revocation order of the FFCTO meets the test set out in the Legislation for the Principal Regulator to make the decision.

¶ 7 The decision of the Decision Makers under the Legislation is that the FFCTO is partially revoked as it applies to the Issuer solely to permit the Convertible Debenture, provided that prior to the completion of the Convertible Debenture, the Issuer will:

(i) provide each investor in the Convertible Debenture with a copy of the FFCTO;

(ii) provide each investor in the Convertible Debenture with a copy of this Partial Revocation Order; and

(iii) obtain a signed and dated acknowledgement from each investor in the Convertible Debenture clearly states that the Convertible Debenture will remain subject to the FFCTO until a full revocation order is granted, and that a partial revocation of the FFCTO does not guarantee the issuance of a full revocation order in the future.

¶ 8 October 28, 2020

"Allan Lim"
Manager
Corporate Finance

2.2.4 Toscana Energy Income Corporation

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer – issuer deemed to be no longer a reporting issuer under securities legislation.

Application for an order that the issuer is not a reporting issuer under applicable securities laws – requested relief granted.

Applicable Legislative Provisions

Securities Act, R.S.A. 2000, c.S-4, ss.1(10)(a)(ii), 153.

Citation: *Re Toscana Energy Income Corporation*, 2020 ABASC 176

Date: November 10, 2020

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

AND

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

AND

IN THE MATTER OF
TOSCANA ENERGY INCOME CORPORATION
(the Filer)

ORDER

Background

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

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

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

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

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

Interpretation

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

Representations

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

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

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

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

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

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

Order

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

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

"Timothy Robson"
Manager, Legal
Corporate Finance
Alberta Securities Commission

2.2.5 VRK Forex & Investments Inc. and Radhakrishna Namburi

IN THE MATTER OF
VRK FOREX & INVESTMENTS INC. and
RADHAKRISHNA NAMBURI

File No. 2019-40

Wendy Berman, Vice-Chair and Chair of the Panel

November 16, 2020

ORDER

WHEREAS on November 16, 2020, the Ontario Securities Commission held a hearing by teleconference;

ON HEARING the submissions of the representatives for Staff of the Commission (**Staff**) and for VRK Forex & Investments Inc. and Radhakrishna Namburi (together, the **Respondents**);

IT IS ORDERED THAT:

1. the merits hearing shall commence by videoconference on February 1, 2021 at 10:00 a.m. and continue on February 3, 4, 5, 8, 9, 10, 11 and 12, 2021 at 10:00 a.m. on each day, or on such other dates and times as may be agreed to by the parties and set by the Office of the Secretary;

2. the Respondents shall serve and file any affidavit evidence for the merits hearing by no later than December 7, 2020;

3. the Respondents shall serve Staff with their completed hearing brief containing copies of the documents, and identifying all other things, that the Respondents intend to produce or enter as evidence at the merits hearing by no later than December 21, 2020; and

4. a further attendance in this proceeding is scheduled for January 7, 2021 at 9:00 a.m., by teleconference, or on such other date and time as may be agreed to be the parties and set by the Office of the Secretary.

"Wendy Berman"

2.2.6 Douglas John Eley – s. 8(4)

IN THE MATTER OF
DOUGLAS JOHN ELEY

File No. 2020-35

Wendy Berman, Vice-Chair and Chair of the Panel

November 16, 2020

ORDER
(Section 8(4) of the *Securities Act*, RSO 1990, c S.5)

WHEREAS on November 9, 2020, the Ontario Securities Commission (the **Commission**) held a hearing by videoconference to consider a motion brought by Douglas John Eley (**Eley**) for a stay of decisions of the Investment Industry Regulatory Organization of Canada (**IIROC**) dated January 28, 2020 and October 6, 2020, respectively (the **IIROC Decisions**) pending disposition of the application brought by Eley for a hearing and review of the IIROC Decisions by the Commission (the **Application**);

ON READING the materials of the parties and on hearing the submissions of the representatives for Eley, Staff of IIROC and Staff of the Commission;

IT IS ORDERED, for reasons to follow, that:

1. the IIROC Decisions are stayed pending the disposition of the Application or further order of the Commission, subject to the following conditions:

   a. the registration of Eley shall be subject to close supervision by his sponsoring firm; and

   b. Eley's sponsoring firm must submit monthly close supervision reports (in the form specified in Appendix "A") to IIROC. These reports must be submitted within 15 calendar days after the end of each month.

"Wendy Berman"

Appendix "A"

Close Supervision Report

I hereby certify that supervision has been conducted for the month ending _____, 202_ of the trading activities of Douglas John Eley (the **Approved Person**) by the undersigned. I further certify the following:

1. a review of all trading activity in client accounts and the internal and external personal accounts of the Approved Person has been conducted by a qualified supervisor on a daily basis;

2. no orders have been made in any client account until all material documentation was in place;

3. all applicable fees have been appropriately disclosed to the client prior to the order being placed;

4. the trading activity in client accounts have been reviewed with reference to IIROC's Rules regarding account supervision and for investment suitability, including the suitability of leveraging, if any, and any recent amendments to Know Your Client information;

5. any transfers and/or deposits of securities between any client accounts have been authorized by the client in writing and reviewed and approved by a qualified supervisor;

6. there has been no handling by the Approved Person of any client funds or securities and no issuance of cheques to any clients without management approval;

7. no client complaints of any nature have been received during the preceding month. If there have been any reportable complaints, an outline of the nature of the complaint and the firm's response or action taken is attached; and

8. reasons for the inability to comply with any of the above and disclosure of any issues or concerns identified during the period of the stay have been provided to IIROC.

Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
THERE IS NOTHING TO REPORT THIS WEEK.				

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Altair Resources Inc.	September 18, 2020	November 10, 2020
Enfield Exploration Corp.	August 18, 2020	November 10, 2020
Mountain Lake Minerals Inc.	November 5, 2020	November 10, 2020
Tantalex Resources Corporation	August 19, 2020	November 13, 2020

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
THERE IS NOTHING TO REPORT THIS WEEK.		

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Expire	Date of Issuer Temporary Order
Performance Sports Group Ltd.	19 October 2016	31 October 2016	31 October 2016		

Company Name	Date of Order	Date of Lapse
Agrios Global Holdings Ltd.	September 17, 2020	

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Chapter 5

Rules and Policies

5.1.1 Amendments to National Instrument 51-102 Continuous Disclosure Obligations Related to Business Acquisition Report Requirements

AMENDMENTS TO
NATIONAL INSTRUMENT 51-102 *CONTINUOUS DISCLOSURE OBLIGATIONS*

1. National Instrument 51-102 Continuous Disclosure Obligations is amended by this Instrument.

2. Subsection 8.3(1) is amended by replacing "subsection (3) and subsections 8.10(1) and 8.10(2)***" with "***subsection (5) and subsections 8.10(1) and (2)***".***

3. Paragraph 8.3(1)(a) is amended by replacing "any of the three***" with "***2 or more of the***".***

4. In the following provisions, "20***" is replaced with "***30***":***

(a) paragraph (b) of subsection 8.3(1);

(b) paragraphs (a), (b) and (c) of subsection 8.3(2);

(c) paragraph (b) of subsection 8.3(3);

(d) paragraphs (a), (b) and (c) of subsection 8.3(4).

5. Subsection 8.3(5) is replaced with the following:

(5) Despite subsection (1) and for the purposes of subsection (3), an acquisition of a business or related businesses is not a significant acquisition,

(a) for a reporting issuer that is not a venture issuer, if the acquisition does not satisfy at least two of the optional significance tests under subsection (4); or

(b) for a venture issuer, if the acquisition would not satisfy the optional significance tests set out in paragraphs (4) (a) and (b) if "30 percent" were read as "100 percent"..

6. (1) This Instrument comes into force on November 18, 2020.

(2) In Saskatchewan, despite subsection (1), if these regulations are filed with the Registrar of Regulations after November 18, 2020, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

5.1.2 Changes to Companion Policy 51-102CP Continuous Disclosure Obligations Related to Business Acquisition Report Requirements

CHANGES TO
COMPANION POLICY 51-102CP *CONTINUOUS DISCLOSURE OBLIGATIONS*

1. Companion Policy 51-102CP Continuous Disclosure Obligations is changed by this Document.

2. Subsection 8.1(4) is changed by adding the following at the end of the subsection:

Reporting issuers are reminded that an acquisition may constitute the acquisition of a business for securities legislation purposes, even if the acquired set of activities or assets does not meet the definition of a "business" for accounting purposes..

3. Subsection 8.2(1) is replaced with the following:

8.2 Significance Tests

(1) **Application of Significance Tests –** Subsection 8.3(2) of the Instrument sets out the required significance tests for determining whether an acquisition of a business by a reporting issuer is a "significant acquisition". The application of the significance tests depends on the status of the reporting issuer such that:

(a) if the reporting issuer is not a venture issuer, an acquisition is significant if it satisfies two or more of the significance tests at a 30% threshold; or

(b) if the reporting issuer is a venture issuer, an acquisition is significant if it satisfies either of the asset or investment test at a 100% threshold.

The test must be applied as at the acquisition date using the most recent audited annual financial statements of the reporting issuer and the business..

4. Paragraph 8.6(4)(b) is replaced with the following:

(b) When complete financial records of the business acquired do not exist, carve-out financial statements should be prepared..

5. These changes become effective on November 18, 2020.

5.1.3 Changes to Companion Policy to National Instrument 41-101 General Prospectus Requirements Related to Business Acquisition Report Requirements

CHANGES TO
COMPANION POLICY TO NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS*

1. Companion Policy to National Instrument 41-101 General Prospectus Requirements is changed by this Document.

2. Subsection 5.9(5) is changed by replacing the text of the first bullet with:

if the indirect acquisition would be considered a significant acquisition under subsection 35.1(4) of Form 41-101F1 if the issuer applied those provisions to its proportionate interest in the indirect acquisition of the business;**.**

3. This change becomes effective on November 18, 2020.

5.1.4 Changes to Companion Policy to National Instrument 44-101 Short Form Prospectus Distributions Related to Business Acquisition Report Requirements

CHANGES TO
COMPANION POLICY TO NATIONAL INSTRUMENT *44-101 SHORT FORM PROSPECTUS DISTRIBUTIONS*

1. Companion Policy to National Instrument 44-101 Short Form Prospectus Distributions is changed by this Document.

2. Subsection 4.9(3) is changed by replacing the text of the first bullet with:

if the indirect acquisition would be considered a significant acquisition under Part 8 of NI 51-102 if the issuer applied those provisions to its proportionate interest in the indirect acquisition of the business; and***.***

3. This change becomes effective on November 18, 2020.

Chapter 7

Insider Reporting

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

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

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 11

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:
CI Galaxy Bitcoin Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated November 16, 2020
NP 11-202 Preliminary Receipt dated November 16, 2020
Offering Price and Description:
Maximum Offer: $* - Class A Units and/or Class F Units
Minimum Offering: $20,000,000
Price: US$10.00 per Class A Unit and US$10.00 per Class F Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Canaccord Genuity Corp.
Industrial Alliance Securities Inc.
Richardson GMP Limited
Echelon Wealthy Partners Inc.
Hampton Securities Limited
Leede Jones Gable Inc.
Mackie Research Capital Corporation
PI Financial Corp.
Promoter(s):
CI Investments Inc.
Project #3135996

Issuer Name:
Tangerine Balanced ETF Portfolio
Tangerine Balanced Growth ETF Portfolio
Tangerine Equity Growth ETF Portfolio
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Nov 10, 2020
NP 11-202 Final Receipt dated Nov 11, 2020
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3121816

Issuer Name:
Manulife Smart Core Bond ETF
Manulife Smart Corporate Bond ETF
Manulife Smart Dividend ETF
Manulife Smart Short-Term Bond ETF
Manulife Smart U.S. Dividend ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Nov 10, 2020
NP 11-202 Final Receipt dated Nov 11, 2020
Offering Price and Description:
Common Units, Unhedged Units and Hedged Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3121810

Issuer Name:
Imperial International Equity Pool
Imperial Overseas Equity Pool
Principal Regulator – Ontario
Type and Date:
Amendment #3 to Final Simplified Prospectus dated November 5, 2020
NP 11-202 Final Receipt dated Nov 10, 2020
Offering Price and Description:
Class A Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2979153

Issuer Name:
Renaissance U.S. Equity Growth Fund
Renaissance U.S. Equity Growth Currency Neutral Fund
Renaissance U.S. Equity Fund
Renaissance Global Focus Fund
Renaissance Global Focus Currency Neutral Fund
Renaissance International Equity Private Pool
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated November 5, 2020
NP 11-202 Final Receipt dated Nov 10, 2020
Offering Price and Description:
Class A units, Class C units, Class F units, Class F-Premium T4 units, Class F-Premium T6 units, Class F-Premium units, Class FH-Premium T4 units, Class FHPremium T6 units, Class FH-Premium units, Class H Premium units, Class H-Premium T4 units, Class H-Premium T6 units, Class I units, Class N-Premium T4 units, Class N-Premium T6 units,
Class N-Premium units, Class NH-Premium T4 units, Class NH-Premium T6 units, Class NHPremium units, Class O units, Class OH units, Premium Class units, Premium-T4 Class units and Premium-T6 Class units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3071450

Issuer Name:
Mackenzie Global Equity Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated November 9, 2020
NP 11-202 Final Receipt dated Nov 16, 2020
Offering Price and Description:
Series A securities, Series AR securities, Series D securities, Series F securities, Series F5 securities, Series F8 securities, Series FB securities, Series FB5 securities, Series I securities, Series O securities, Series PW securities,
Series PWFB securities, Series PWFB5 securities, Series PWR securities, Series PWT5 securities, Series PWT8 securities, Series PWX securities, Series PWX8 securities, Series T5 securities and Series T8 securities
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3093522

Issuer Name:
CIBC Global Bond Fund
CIBC Global Monthly Income Fund
CIBC International Equity Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated November 5, 2020
NP 11-202 Final Receipt dated Nov 10, 2020
Offering Price and Description:
Class A units, Class F units, Class O units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3052709

Issuer Name:
Horizons Active High Yield Bond ETF
Principal Regulator – Ontario
Type and Date:
Amendment #3 to Final Long Form Prospectus dated November 5, 2020
NP 11-202 Final Receipt dated Nov 10, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3005535

NON-INVESTMENT FUNDS

Issuer Name:
Avicanna Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 12, 2020
NP 11-202 Preliminary Receipt dated November 12, 2020
Offering Price and Description:
$*
* Units
Price: $* per Unit
Underwriter(s) or Distributor(s):
ECHELON WEALTH PARTNERS INC.
BEACON SECURITIES LIMITED
CANACCORD GENUITY CORP.
Promoter(s):
-
Project #3134441

Issuer Name:
BIGG Digital Assets Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 10, 2020
NP 11-202 Preliminary Receipt dated November 10, 2020
Offering Price and Description:
$5,000,000.00
[*] Units
$[*] per Unit
Underwriter(s) or Distributor(s):
PI FINANCIAL CORP.
CANACCORD GENUITY CORP.
ECHELON WEALTH PARTNERS
HAYWOOD SECURITIES INC.
M PARTNERS INC.
Promoter(s):
-
Project #3133173

Issuer Name:
BIGG Digital Assets Inc.
Principal Regulator - British Columbia
Type and Date:
Amendment dated November 11, 2020 to Preliminary Short Form Prospectus dated November 10, 2020
NP 11-202 Preliminary Receipt dated November 12, 2020
Offering Price and Description:
$4,020,000.00
16,750,000 Units
$0.24 per Unit
Underwriter(s) or Distributor(s):
PI FINANCIAL CORP.
CANACCORD GENUITY CORP.
ECHELON WEALTH PARTNERS
HAYWOOD SECURITIES INC.
M PARTNERS INC.
Promoter(s):
-
Project #3133173

Issuer Name:
BIGG Digital Assets Inc.
Principal Regulator - British Columbia
Type and Date:
Amendment dated November 12, 2020 to Preliminary Short Form Prospectus dated November 11, 2020
NP 11-202 Preliminary Receipt dated November 13, 2020
Offering Price and Description:
$6,000,000.00
25,000,000 Units
$0.24 per Unit
Underwriter(s) or Distributor(s):
PI FINANCIAL CORP.
CANACCORD GENUITY CORP.
ECHELON WEALTH PARTNERS
HAYWOOD SECURITIES INC.
M PARTNERS INC.
Promoter(s):
-
Project #3133173

Issuer Name:
Copper Mountain Mining Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 10, 2020
NP 11-202 Preliminary Receipt dated November 10, 2020
Offering Price and Description:
$15,000,002.00
13,043,480 Common Shares
Price: $1.15 per Share
Underwriter(s) or Distributor(s):
INDUSTRIAL ALLIANCE SECURITIES INC.
CORMARK SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
BMO NESBITT BURNS INC.
HAYWOOD SECURITIES INC.
Promoter(s):
-
Project #3133105

Issuer Name:
Dye & Durham Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated November 13, 2020
NP 11-202 Preliminary Receipt dated November 13, 2020
Offering Price and Description:
$1,000,000,000.00
Common Shares
Debt Securities
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
PLANTRO LTD.
SEASTONE INVEST LIMITED
Project #3133975

Issuer Name:
E2Gold Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated November 10, 2020
NP 11-202 Preliminary Receipt dated November 11, 2020
Offering Price and Description:
Minimum of $3,000,000.00
* FLOW-THROUGH COMMON SHARES
* UNITS
$* PER FLOW-THROUGH COMMON SHARE
$* PER UNIT
Underwriter(s) or Distributor(s):
Beacon Securities Limited
Promoter(s):
Eric Owens
Project #3133282

Issuer Name:
Engine Media Holdings, Inc. (formerly Torque Esports Corp.)
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated November 16, 2020
NP 11-202 Preliminary Receipt dated November 16, 2020
Offering Price and Description:
US$200,000,000.00
Common Shares
Preference Shares
Warrants
Debt Securities
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3136018

Issuer Name:
Firm Capital Mortgage Investment Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 16, 2020
NP 11-202 Preliminary Receipt dated November 16, 2020
Offering Price and Description:
$22,506,000.00
1,860,000 Common Shares
Offering Price: $12.10 per Offered Share
Underwriter(s) or Distributor(s):
TD SECURITIES INC.
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
RBC DOMINION SECURITIES INC.
ECHELON WEALTH PARTNERS INC.
INDUSTRIAL ALLIANCE SECURITIES INC.
RAYMOND JAMES LTD.
Promoter(s):
-
Project #3133439

Issuer Name:
Fronsac Real Estate Investment Trust
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated November 10, 2020
NP 11-202 Preliminary Receipt dated November 10, 2020
Offering Price and Description:
$15,000,000.00 of Units
Price: $* Per Unit
Underwriter(s) or Distributor(s):
PARADIGM CAPITAL INC.
CANACCORD GENUITY CORP.
Promoter(s):
-
Project #3133115

Issuer Name:
goeasy Ltd. (formerly, easyhome Ltd.)
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated November 11, 2020
NP 11-202 Preliminary Receipt dated November 11, 2020
Offering Price and Description:
$300,000,000.00
Debt Securities
Preference Shares
Common Shares
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3133726

Issuer Name:
Haivision Systems Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Long Form Prospectus dated November 13, 2020
NP 11-202 Preliminary Receipt dated November 13, 2020
Offering Price and Description:
$45,000,000.00
* Common Shares
Price: $* per common share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Desjardins Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
Beacon Securities Limited
Promoter(s):
-
Project #3135398

Issuer Name:
Indus Holdings, Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated November 12, 2020
NP 11-202 Preliminary Receipt dated November 12, 2020
Offering Price and Description:
$100,000,000.00
Subordinate Voting Shares
Preferred Shares
Debt Securities
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3134322

Issuer Name:
Khiron Life Sciences Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 13, 2020
NP 11-202 Preliminary Receipt dated November 13, 2020
Offering Price and Description:
$12,600,000.00
28,000,000 UNITS
Price: $0.45 per Unit
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
ATB CAPITAL MARKETS INC.
LEEDE JONES GABLE INC.
Promoter(s):
-
Project #3135245

Issuer Name:
Leaf Mobile Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 10, 2020
NP 11-202 Preliminary Receipt dated November 10, 2020
Offering Price and Description:
$54,000,000.00
240,000,000 Subscription Receipts
Price: $0.225 per Subscription Receipt
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3133186

Issuer Name:
Pinehurst Capital III Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated November 10, 2020
NP 11-202 Preliminary Receipt dated November 10, 2020
Offering Price and Description:
$266,000.00 (2,660,000 Common Shares)
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
M Partners Inc
Promoter(s):
Ilana Prussky
Project #3133140

Issuer Name:
PopReach Corporation (formerly, Mithrandir Capital Corp.)
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 13, 2020
NP 11-202 Preliminary Receipt dated November 13, 2020
Offering Price and Description:
$15,000,000.00
12,000,000 Common Shares
Price: $1.25 per Common Share
Underwriter(s) or Distributor(s):
BEACON SECURITIES LIMITED
CANACCORD GENUITY CORP.
ECHELON WEALTH PARTNERS INC.
EIGHT CAPITAL
Promoter(s):
-
Project #3132191

Issuer Name:
Premium Brands Holdings Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 13, 2020
NP 11-202 Preliminary Receipt dated November 13, 2020
Offering Price and Description:
$200,075,050.00
2,051,000 Common Shares
Price: $97.55
Underwriter(s) or Distributor(s):
CORMARK SECURITIES INC.
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
DESJARDINS SECURITIES INC.
INDUSTRIAL ALLIANCE SECURITIES INC.
MERRILL LYNCH CANADA INC.
WELLS FARGO SECURITIES CANADA, LTD.
Promoter(s):
-
Project #3132498

Issuer Name:
Stowe One Investments Corp.
Principal Regulator - Ontario
Type and Date:
Amendment dated November 13, 2020 to Preliminary Long Form Prospectus dated August 14, 2020
NP 11-202 Preliminary Receipt dated November 16, 2020
Offering Price and Description:
No securities are being offered pursuant to this prospectus.
Underwriter(s) or Distributor(s):
-
Promoter(s):
Raymond Pomroy
Project #3097889

Issuer Name:
TriSummit Utilities Inc. (formerly AltaGas Canada Inc.)
Principal Regulator - Alberta
Type and Date:
Preliminary Shelf Prospectus dated November 10, 2020
NP 11-202 Preliminary Receipt dated November 10, 2020
Offering Price and Description:
$1,000,000,000.00
Preferred Shares
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3133103

Issuer Name:
Troilus Gold Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 13, 2020
NP 11-202 Preliminary Receipt dated November 16, 2020
Offering Price and Description:
$10,502,400.00
5,470,000 Flow-Through Shares
Underwriter(s) or Distributor(s):
CORMARK SECURITIES INC.
STIFEL NICOLAUS CANADA INC.
HAYWOOD SECURITIES INC.
CANACCORD GENUITY CORP.
SCOTIA CAPITAL INC.
BMO NESBITT BURNS INC.
LAURENTIAN BANK SECURITIES INC.
RED CLOUD SECURITIES INC.
Promoter(s):
-
Project #3132419

Issuer Name:
TRYP Therapeutics Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated November 12, 2020
NP 11-202 Preliminary Receipt dated November 13, 2020
Offering Price and Description:
$4,000,000.00 / * Units
Price: $* Per Unit
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
William Garner
James Kuo
Project #3135401

Issuer Name:
VIQ Solutions Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 11, 2020
NP 11-202 Preliminary Receipt dated November 11, 2020
Offering Price and Description:
$20,000,075.00
4,705,900 Common Shares
Price: $4.25 per Common Share
Underwriter(s) or Distributor(s):
PARADIGM CAPITAL INC.
ACUMEN CAPITAL FINANCE PARTNERS LIMITED
Promoter(s):
-
Project #3131410

Issuer Name:
Voyager Digital Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 12, 2020
NP 11-202 Preliminary Receipt dated November 16, 2020
Offering Price and Description:
6,266,600 Units Issuable upon Exercise of 6,266,600 Special Warrants
Underwriter(s) or Distributor(s):
STIFEL NICOLAUS CANADA INC.
EIGHT CAPITAL
Promoter(s):
-
Project #3135243

Issuer Name:
Bragg Gaming Group Inc. (formerly Breaking Data Corp.)
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 13, 2020
NP 11-202 Receipt dated November 13, 2020
Offering Price and Description:
$18,000,500.00 - 25,715,000 Units
Price: $0.70 per Unit
Underwriter(s) or Distributor(s):
CORMARK SECURITIES INC.
CANACCORD GENUITY CORP.
HAYWOOD SECURITIES INC.
PARADIGM CAPITAL INC.
EIGHT CAPITAL
Promoter(s):
-
Project #3126410

Issuer Name:
CB2 Insights Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 13, 2020
NP 11-202 Receipt dated November 13, 2020
Offering Price and Description:
$5,000,800.00
10,640,000 Common Shares
Price: $0.47 per Common Share
Underwriter(s) or Distributor(s):
ECHELON WEALTH PARTNERS INC.
BEACON SECURITIES LIMITED
CANACCORD GENUITY CORP.
MACKIE RESEARCH CAPITAL CORP.
LEEDE JONES GABLE INC.
PI FINANCIAL CORP.
Promoter(s):
Pradyum Sekar
Kashaf Qureshi
Project #3130750

Issuer Name:
Cuspis Capital II Ltd.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated November 11, 2020
NP 11-202 Receipt dated November 13, 2020
Offering Price and Description:
Minimum of $500,000.00
2,500,000 Common Shares
Maximum of $1,500,000.00
7,500,000 Common Shares
Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
INDUSTRIAL ALLIANCE SECURITIES INC.
Promoter(s):
-
Project #3120003

Issuer Name:
Eat Beyond Global Holdings Inc.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated November 6, 2020
NP 11-202 Receipt dated November 12, 2020
Offering Price and Description:
3,362,640 Common Shares on exercise or deemed exercise, for no additional consideration, of 3,362,640 Special Warrants purchased at a price of $0.50 per Special Warrant
Underwriter(s) or Distributor(s):
-
Promoter(s):
Karamveer Singh Thakur
Project #3062086

Issuer Name:
HAW Capital 2 Corp.
Principal Regulator - Alberta
Type and Date:
Final CPC Prospectus dated November 12, 2020
NP 11-202 Receipt dated November 16, 2020
Offering Price and Description:
$400,000.00
(4,000,000 COMMON SHARES)
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
RICHARDSON GMP LIMITED
Promoter(s):
Scott McGregor
Project #3119108

Issuer Name:
Summit Industrial Income REIT
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 10, 2020 to Final Shelf Prospectus dated May 28, 2019
NP 11-202 Receipt dated November 11, 2020
Offering Price and Description:
$1,750,000,000.00
Units
Debt Securities
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2914151

Issuer Name:
Vitalhub Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 11, 2020
NP 11-202 Receipt dated November 12, 2020
Offering Price and Description:
$15,000,250.00
5,172,500 Common Shares
Price: $2.90 per Common Share
Underwriter(s) or Distributor(s):
CORMARK SECURITIES INC.
CANACCORD GENUITY CORP.
BEACON SECURITIES LIMITED
EIGHT CAPITAL
PARADIGM CAPITAL INC.
Promoter(s):
-
Project #3128072

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change in Registration Category	NorthPoint Investment Partners Limited	From: Commodity Trading Manager, Investment Fund Manager and Portfolio Manager To: Investment Fund Manager and Portfolio Manager	November 10, 2020
Change in Registration Category	BCV Asset Management Inc.	From: Portfolio Manager To: Exempt Market Dealer, Investment Fund Manager and Portfolio Manager	November 10, 2020
Consent to Suspension (Pending Surrender)	Queensville Global Securities Inc.	Exempt Market Dealer	November 13, 2020
Name Change	From: Timbercreek Investment Management Inc. To: Hazelview Securities inc.	Exempt Market Dealer, Investment Fund Manager and Portfolio Manager	November 5, 2020
New Registration	Frontfundr Financial Services Inc.	Exempt Market Dealer	November 16, 2020

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.1 SROs

13.1.1 Investment Industry Regulatory Organization of Canada (IIROC) – Notice of Proposed Client Focused Reforms Rule Amendments for Public Comment – Request for Comment

REQUEST FOR COMMENT

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

NOTICE OF PROPOSED CLIENT FOCUSED REFORMS RULE AMENDMENTS FOR PUBLIC COMMENT

IIROC is publishing for public comment proposed rule amendments to make IIROC requirements uniform in all material respects with the reforms to enhance the client-registrant relationship (**Client Focused Reforms** or **CFRs**) made to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) by the Canadian Securities Administrators (**CSA CFRs**)[1]. A copy of the IIROC Notice of Request For Comment, including text of the proposed rule amendments for public comment, is published on our website at http://www.osc.gov.on.ca. The comment period ends on January 18, 2021.

IIROC has also made housekeeping rule amendments[2] to conform IIROC's rules to the CSA CFRs. The housekeeping rule amendments have been deemed to be approved and will be in effect on a date to be determined by IIROC which will align with the implementation dates of the CSA CFRs[3]. The Notice of Commission Deemed Approval and a copy of IIROC Notice of Approval/Implementation for the housekeeping rule amendments, including text of the housekeeping rule amendments, are also published on our website at http://www.osc.gov.on.ca.

[1] See CSA Notice entitled "Notice of Amendments to NI 31-103 and Companion Policy 31-103CP: Reforms to Enhance the Client-Registrant Relationships (Client Focused Reforms)", dated October 3, 2019 and the CSA Relief Orders extending the effective dates of the CSA CFRs relating to conflicts of interest and relationship disclosure provisions, dated April 16, 2020.

[2] Under IIROC's Joint Rule Review Protocol with the CSA, housekeeping rule changes are not published for comment, and will be effective on the date designated by IIROC in its filing. Housekeeping rule changes have no material impact on investors, issuers, members, registrants or the capital markets in any province or territory of Canada and, among others, are necessary to conform to applicable securities legislation.

[3] The CSA CFRs relating to conflicts of interest will take effect on June 30, 2021 and the remaining reforms will take effect on December 31, 2021.

13.1.2 Investment Industry Regulatory Organization of Canada (IIROC) – Housekeeping Amendments Respecting Client Focused Reforms – Notice of Commission Deemed Approval

NOTICE OF COMMISSION DEEMED APPROVAL

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

HOUSEKEEPING AMENDMENTS RESPECTING CLIENT FOCUSED REFORMS

The Ontario Securities Commission did not object to the classification of IIROC's proposed housekeeping amendments to conform IIROC's rules to the reforms to enhance the client-registrant relationship (**Client Focused Reforms** or **CFRs**) made to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) by the Canadian Securities Administrators (**CSA CFRs**)[1]. As a result, the proposed housekeeping amendments are deemed to be approved and will be in effect on a date to be determined by IIROC which will align with the implementation dates of the CSA CFRs[2].

In addition, the Alberta Securities Commission, the Autorité des marchés financiers, the British Columbia Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan, the Financial and Consumer Services Commission of New Brunswick, the Manitoba Securities Commission, the Northwest Territories Office of the Superintendent of Securities, the Nova Scotia Securities Commission, the Nunavut Securities Office, the Office of the Superintendent of Securities, Service Newfoundland and Labrador, the Office of the Yukon Superintendent of Securities, and the Prince Edward Island Office of the Superintendent of Securities did not object to the housekeeping amendments.

A copy of the IIROC Notice of Approval/Implementation, including text of the approved amendments, can be found at www.osc.gov.on.ca.

1 See CSA Notice entitled "Notice of Amendments to NI 31-103 and Companion Policy 31-103CP: Reforms to Enhance the Client-Registrant Relationships (Client Focused Reforms)", dated October 3, 2019 and the CSA Relief Orders extending the effective dates of the CSA CFRs relating to conflicts of interest and relationship disclosure provisions, dated April 16, 2020.

2 The CSA CFRs relating to conflicts of interest will take effect on June 30, 2021 and the remaining reforms will take effect on December 31, 2021.

13.1.3 Mutual Fund Dealers Association of Canada (MFDA) – Notice of Proposed Client Focused Reforms Rule Amendments for Public Comment – Request for Comment

REQUEST FOR COMMENT

MUTUAL FUND DEALERS ASSOCIATION OF CANADA (MFDA)

NOTICE OF PROPOSED CLIENT FOCUSED REFORMS RULE AMENDMENTS FOR PUBLIC COMMENT

The MFDA is publishing for public comment proposed rule amendments to make the MFDA requirements uniform in all material respects with the reforms to enhance the client-registrant relationship (**Client Focused Reforms** or **CFRs**) made to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) by the Canadian Securities Administrators (**CSA CFRs**)[1]. A copy of the MFDA Notice, including text of the proposed rule amendments for public comment, is published on our website at http://www.osc.gov.on.ca. The comment period ends on January 18, 2021.

The MFDA has also made housekeeping rule amendments[2] to conform the MFDA's rules to the CSA CFRs. The housekeeping rule amendments have been deemed to be approved and will be in effect on a date to be determined by the MFDA which will align with the implementation dates of the CSA CFRs[3]. The Notice of Commission Deemed Approval and a copy of the MFDA notice for the housekeeping rule amendments, including text of the housekeeping rule amendments, are also published on our website at http://www.osc.gov.on.ca.

1 See CSA Notice entitled "Notice of Amendments to NI 31-103 and Companion Policy 31-103CP: Reforms to Enhance the Client-Registrant Relationships (Client Focused Reforms)", dated October 3, 2019 and the CSA Relief Orders extending the effective dates of the CSA CFRs relating to conflicts of interest and relationship disclosure provisions, dated April 16, 2020.

2 Under the MFDA's Joint Rule Review Protocol with the CSA, housekeeping rule changes are not published for comment, and will be effective on the date designated by the MFDA in its filing. Housekeeping rule changes have no material impact on investors, issuers, members, registrants or the capital markets in any province or territory of Canada and, among others, are necessary to conform to applicable securities legislation.

3 The CSA CFRs relating to conflicts of interest will take effect on June 30, 2021 and the remaining reforms will take effect on December 31, 2021.

13.1.4 Mutual Fund Dealers Association of Canada (MFDA) – Housekeeping Amendments Respecting Client Focused Reforms – Notice of Commission Deemed Approval

NOTICE OF COMMISSION DEEMED APPROVAL

MUTUAL FUND DEALERS ASSOCIATION OF CANADA
(MFDA)

HOUSEKEEPING AMENDMENTS RESPECTING CLIENT FOCUSED REFORMS

The Ontario Securities Commission did not object to the classification of the MFDA's proposed housekeeping amendments to conform the MFDA's rules to the reforms to enhance the client-registrant relationship (**Client Focused Reforms** or **CFRs**) made to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) by the Canadian Securities Administrators (**CSA CFRs**)[1]. As a result, the proposed housekeeping amendments are deemed to be approved and will be in effect on a date to be determined by the MFDA which will align with the implementation dates of the CSA CFRs[2].

In addition, the Alberta Securities Commission, the British Columbia Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan, the Financial and Consumer Services Commission of New Brunswick, the Manitoba Securities Commission, the Nova Scotia Securities Commission, and the Prince Edward Island Office of the Superintendent of Securities did not object to the housekeeping amendments.

A copy of the MFDA Notice, including the text of the approved amendments, can be found at www.osc.gov.on.ca.

1 See CSA Notice entitled "Notice of Amendments to NI 31-103 and Companion Policy 31-103CP: Reforms to Enhance the Client-Registrant Relationships (Client Focused Reforms)", dated October 3, 2019 and the CSA Relief Orders extending the effective dates of the CSA CFRs relating to conflicts of interest and relationship disclosure provisions, dated April 16, 2020.

2 The CSA CFRs relating to conflicts of interest will take effect on June 30, 2021 and the remaining reforms will take effect on December 31, 2021.

13.3 Clearing Agencies

13.3.1 CDS Clearing and Depository Services Inc. – Material Amendments to CDS Rules Related to Tiered Participation Information Sharing – Notice of Commission Approval

NOTICE OF COMMISSION APPROVAL

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

MATERIAL AMENDMENTS TO CDS RULES RELATED TO TIERED PARTICIPATION INFORMATION SHARING

In accordance with the Rule Protocol between the Ontario Securities Commission (Commission) and CDS Clearing and Depository Services Inc. (CDS), the Commission approved on October 09, 2020 Material Amendments to CDS Rules related to tired participation information sharing.

A copy of the CDS notice was published for comment on November 7, 2019 on the Commission's website at: http://www.osc.gov.on.ca. No comments were received.

13.3.2 CDS Clearing and Depository Services Inc. – Proposed Amendments to CDS Participant Rules – Clean-Up Review – Notice of Commission Approval

NOTICE OF COMMISSION APPROVAL

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS)

PROPOSED AMENDMENTS TO CDS PARTICIPANT RULES – CLEAN-UP REVIEW

In accordance with the Rule Protocol between the Ontario Securities Commission (Commission) and CDS Clearing and Depository Services Inc. (CDS), the Commission approved proposed amendments to Rule 5 of the CDS Participant Rules (CDS Rules) on October 28, 2020. A copy of the CDS Notice regarding the proposed amendments was published for comment on the Commission's website on June 11, 2020 at http://www.osc.gov.on.ca. No comments were received.

The approved amendments reflect the replacement of the Canadian Bankers Association with the CDS Extenders' Council in coordinating the request of an Extender of Credit to temporarily increase its own system-operating cap, or to decrease the system-operating cap of another Extender.

As described in the CDS Notice, the approved amendments are part of a broader package of non-material, housekeeping amendments to "clean up" the CDS Rules, in order to lay the groundwork for more material rule and procedure amendments in support of the CDS Post-Trade Modernization (PTM) initiative.

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