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Chapter 1

Notices

1.1 Notices

1.1.1 Notice of General Order – Ontario Instrument 33-507 Exemption from Underwriting Conflicts Disclosure Requirements (Interim Class Order)

NOTICE OF GENERAL ORDER

ONTARIO INSTRUMENT 33-507

EXEMPTION FROM UNDERWRITING CONFLICTS DISCLOSURE REQUIREMENTS (INTERIM CLASS ORDER)

The Ontario Securities Commission (the **Commission**) has made an order under subsection 143.11(2) of the *Securities Act* (Ontario)(the **Act**) providing an exemption from certain conflicts of interest disclosure requirements in connection with private placements of certain foreign securities to institutional investors in Ontario.

Description of Order

The Commission has made Ontario Instrument 33-507 *Exemption from Underwriting Conflicts Disclosure Requirements (Interim Class Order)* (the **Class Order**) exempting persons or companies from the underwriting conflicts disclosure requirements in National Instrument 33-105 *Underwriting Conflicts* (**NI 33-105**) if

(a) the distribution is made under an exemption from the prospectus requirement;

(b) the distribution is of a security that is an "eligible foreign security" as defined in NI 33-105; and

(c) each purchaser in Ontario that purchases a security pursuant to the distribution through such person or company is a "permitted client" as defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**).

The Class Order is intended to eliminate the underwriting conflicts disclosure requirements in NI 33-105 in circumstances where foreign securities are offered to institutional investors in Ontario as part of a global offering and thereby facilitate participation by institutional investors in Ontario in such global offerings.

Reasons for the Order

Staff of the Commission have recently been advised by a number of institutional investors in Ontario that the underwriting conflicts disclosure requirement in NI 33-105 creates barriers that prevent institutional investors in Ontario from participating in global offerings on a timely basis.

Staff understand that certain of these institutional investors have also provided similar submissions to the Capital Markets Modernization Taskforce (the **Taskforce**) established by the Government of Ontario in February 2020. On January 22, 2021, the Taskforce published its final report (the **Taskforce Final Report**). The Taskforce Final Report included a recommendation that the Commission provide an exemption from the disclosure of conflicts of interest in connection with private placements to institutional investors.[1]

Having considered the interests of institutional investors in being able to participate in global offerings on a timely basis and the Taskforce recommendation, the Commission is satisfied that it would not be prejudicial to the public interest to provide, on an interim basis, an exemption from the underwriting conflicts disclosure requirements in subsection 2.1(1) of NI 33-105 subject to the conditions of the Class Order.

Day on which the Order Ceases to Have Effect

The Class Order comes into effect on February 18, 2021 (the **Effective Date**) and remains in effect until the earlier of the following:

(a) the date that is 18 months after the date of the Class Order unless extended by the Commission, and

(b) the effective date of an amendment to NI 33-105 that addresses substantially the same subject matter as the Class Order.

[1] See Recommendation No. 33 in the Taskforce Final Report, available at https://www.ontario.ca/document/capital-markets-modernization-taskforce-final-report-january-2021.

1.1.2 CSA Staff Notice 23-328 – Order Protection Rule: Market Share Threshold for the Period April 1, 2021 to March 31, 2022

Canadian Securities Administrators
Autorités canadiennes en valeurs mobilières

CSA Staff Notice 23-328
Order Protection Rule: Market Share Threshold for the Period April 1, 2021 to March 31, 2022

February 25, 2021

Introduction

On June 20, 2016, the Canadian Securities Administrators (the **CSA** or **we**) published a notice[1] (the **2016 Notice**) regarding the implementation of the market share threshold. This notice updates the list of protected and unprotected marketplaces published on February 13, 2020. The updated list will be in effect from April 1, 2021 to March 31, 2022. We note that there are no changes compared to the list published last year.

The text of this notice is available on the websites of the CSA jurisdictions, including:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca
www.fcnb.ca
nssc.novascotia.ca
www.osc.ca
www.fcaa.gov.sk.ca
www.mbsecurities.ca

Purpose

The purpose of this notice is to provide the list of marketplaces that display protected orders (**protected marketplaces**) and marketplaces whose orders will not be protected (**unprotected marketplaces**) for the purposes of National Instrument 23-101 *Trading Rules* (**NI 23-101**) and the order protection rule (**OPR**) for the period April 1, 2021 to March 31, 2022 because they do not:

(i) provide automated trading functionality as they have an intentional order processing delay, and/or

(ii) meet the market share threshold.

The market share threshold has been set at 2.5%.[2]

OPR Requirements

Section 6.1 of NI 23-101 requires marketplaces to establish, maintain and ensure compliance with policies and procedures that are reasonably designed to prevent trade-throughs of better priced protected bids and offers. Section 6.4 of NI 23-101 imposes the same requirement on marketplace participants that assume responsibility for compliance with OPR by entering directed-action orders.

Section 1.1 of NI 23-101 defines protected bids and offers as bids and offers displayed on a marketplace offering automated trading functionality, and about which information is provided to an information processor.

Section 1.1.2.1 of Companion Policy 23-101 *Trading Rules* outlines the circumstances in which a marketplace that introduced an intentional order processing delay would not be considered to be providing automated trading functionality. In those circumstances, the orders on that marketplace would not be protected.

Orders on "dark" marketplaces are not protected as they are not displayed. Therefore, orders on ICX, LiquidNet, MATCHNow, NEO Exchange dark book (NEO-D) and Nasdaq CXD are unprotected for the purposes of OPR.

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[1] CSA Staff Notice 23-316 Order Protection Rule: Implementation of the Market Share Threshold and Amendments to Companion Policy 23-101 *Trading Rules.*
[2] CSA Staff Notice 23-316 includes a description of the calculation of the market share threshold.

List of Protected and Unprotected Marketplaces

Below we have listed the protected and unprotected marketplaces.

The orders displayed on the marketplaces listed in Table 1 below are protected because either the marketplace meets the market share threshold and/or the orders are for securities that are listed by and traded on that marketplace:

Table 1 – Marketplaces that Display Protected Orders

Marketplace	Market Share	Status	Reason Protected
NEO-L	4.98	Protected	Meets market share threshold
CSE	7.46	Protected	Meets market share threshold
Nasdaq CXC	10.95	Protected	Meets market share threshold
Nasdaq CX2	5.25	Protected	Meets market share threshold
Omega	3.79	Protected	Meets market share threshold
TSX	45.34	Protected	Meets market share threshold
TSX Venture	9.63	Protected	Meets market share threshold

Orders displayed on the marketplaces listed on Table 2 below will be unprotected because either the marketplace does not provide automated trading functionality, does not meet the market share threshold or does not display orders:

Table 2 – Marketplaces whose Orders Are Unprotected

Marketplace	Market Share	Status	Reason Unprotected
NEO-N	4.29	Unprotected	Does not provide automated trading functionality
Alpha	8.24	Unprotected	Does not provide automated trading functionality
Lynx	0.07	Unprotected	Does not meet market share threshold
ICX		Unprotected	Does not display orders
LiquidNet		Unprotected	Does not display orders
MATCHNow		Unprotected	Does not display orders
Nasdaq CXD		Unprotected	Does not display orders
NEO-D		Unprotected	Does not display orders

PUBLIC NOTIFICATION

Going forward, this notice will only be published if there are changes to the list of protected and/or unprotected markets.

QUESTIONS

Please refer your questions to any of the following:

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1.1.3 CSA Staff Notice 51-362 – Staff Review of COVID-19 Disclosures and Guide for Disclosure Improvements

Canadian Securities Administrators
Autorités canadiennes en valeurs mobilières

CSA Staff Notice 51-362
Staff Review of COVID-19 Disclosures and Guide for Disclosure Improvements

February 25, 2021

Introduction

The Canadian Securities Administrators (**CSA**) have prepared this Staff Notice (**Notice**) to report the results of recently completed continuous disclosure reviews (**reviews**) conducted by CSA staff (**staff or we**) of the disclosures provided by reporting issuers[1] on the impact of COVID-19 to their business. Since the World Health Organization declared COVID-19 as a pandemic on March 11, 2020, COVID-19 has had a material adverse impact on the economy and is posing widespread business challenges for many issuers, including reporting on and disclosing the business impact of COVID-19.

This issue-oriented review assessed compliance of issuers' disclosures of the current and anticipated impacts related to COVID-19 on their respective operations, financial condition, liquidity and future prospects. The reviews also assessed key financial reporting areas applicable to issuers that may be subject to significant judgement and measurement uncertainty in the current environment.

We recognize that issuers are preparing disclosure in a rapidly changing environment. However, meaningful disclosures about the business impacts and potential uncertainties regarding COVID-19 are needed for investors to make informed investment decisions. This Notice summarizes our key review findings and includes some disclosure examples and guidance to assist reporting issuers and their advisors with disclosing and reporting on the impact of COVID-19 to their business and operations.

We will continue to closely monitor issuers' continuous disclosure (**CD**) filings in relation to the impact of the COVID-19 pandemic as part of our ongoing CSA CD review program. For further details, see CSA Staff Notice 51-312 (revised) *Harmonized Continuous Disclosure Review Program*[2]. An issuer's disclosure relating to the impacts and risk factors of the COVID-19 pandemic may also be assessed as part of staff's review of prospectus filings in connection with public offerings.

Part 1 - Executive Summary

The COVID-19 pandemic has significantly impacted the financial condition, financial performance, operations and cash flows of reporting issuers of varying sizes and industries. This has specific financial reporting implications for issuers.

We were encouraged by the quality of disclosures provided by many issuers significantly impacted by COVID-19. However, we noted certain areas where boiler-plate disclosure was provided regarding the current and expected impact of COVID-19 on an issuer's business with insufficient detail of entity-specific COVID-19 related risks, including but not limited to, the nature and extent of credit risks and liquidity uncertainties. We also observed instances of unbalanced or overly promotional disclosure and isolated non-compliance for non-GAAP financial measures (**NGM**s) and forward-looking information (**FLI**). It is important for issuers to tailor their disclosures to provide investors with an entity-specific level of insight to understand the operational challenges, financial impacts, risk profile and the issuer's operational responses related to the COVID-19 pandemic. Such information is necessary to meet securities requirements and to help foster investor confidence in the current environment.

The reviews have resulted in outcomes where no action was required, requests for prospective disclosure enhancements were made, or communication is ongoing to resolve the identified issues.

At a high level, we emphasize the following for issuers to consider in their upcoming CD filings:

- There is no "one size fits all" model for issuers to follow when assessing the disclosure implications of COVID-19.
- Disclosures are expected to be transparent and balanced.

[1] In this Notice "issuers" means those reporting issuers contemplated in National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**).
[2] Additional regulatory guidance on COVID-19 can be accessed at the CSA COVID-19 Information Hub at https://www.securities-administrators.ca/aboutcsa.aspx?id=1885.

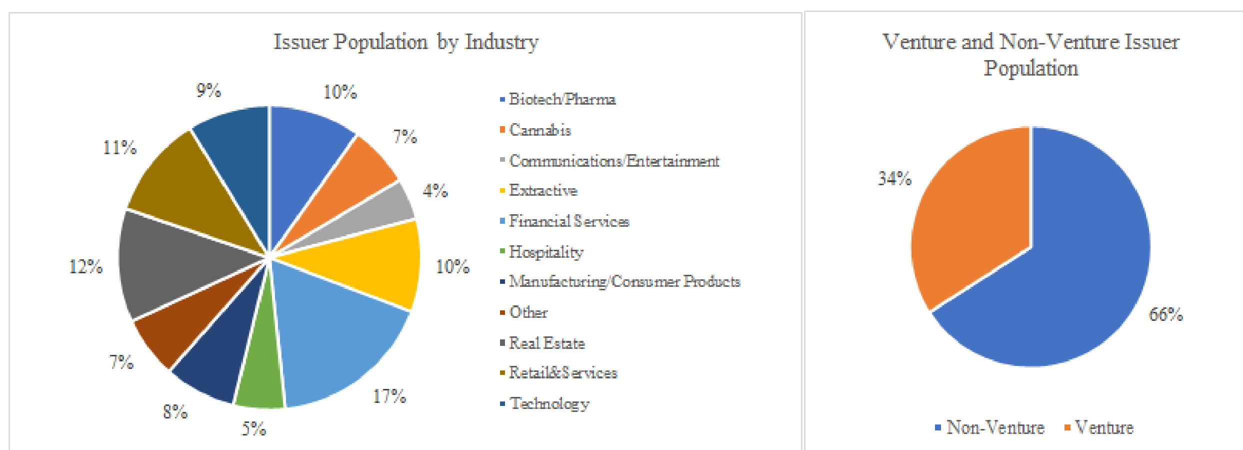
- Provide disclosures on COVID-19 that facilitates an understanding of:
  - The current and expected impact of COVID-19 on the issuer's operations and financial condition, including liquidity and capital resources.
  - The key risks that the COVID-19 pandemic presents to the issuer.
  - Known trends, demands, events or uncertainties related to COVID-19 that management reasonably believes will materially affect the issuer's future revenues, expenses or projects.
  - The operational changes and other measures taken by management in response to COVID-19.
  - How COVID-19 has impacted the issuer's capacity to meet working capital requirements, debt covenants, planned growth or funding of future development activities and capital expenditures.
  - How the COVID-19 pandemic has impacted areas of financial reporting subject to significant judgement and measurement uncertainty in the current environment.
  - How the issuer has assessed impairment of non-financial assets given the extended impact of the COVID-19 pandemic. Where applicable, sensitivity analysis and disclosures relating to key assumptions will be especially important and should be both realistic and supportable.
  - The accounting policy for, and nature and extent of government grants recognized in the financial statements.

Part 2 - Scope and Methodology

Staff took a risk-based approach in the selection of issuers by considering both qualitative and quantitative criteria. Issuers selected for review included those identified as being materially impacted (both positively and adversely) by the COVID-19 pandemic in terms of their operations and financial performance, as well as issuers that appeared to have a higher risk of impairment and/or financial distress.

Staff examined the CD filings of approximately 90 issuers, focusing on the disclosures of the most recent interim reporting period ending September 30, 2020 for issuers with a calendar financial year end. The issuers selected for review varied by size and by industry as illustrated in the charts below:

Figure #1



Our reviews primarily focused on issuers' disclosure obligations under National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**). We also assessed compliance with certain recognition, measurement and disclosure requirements in International Financial Reporting Standards (**IFRS**) and compliance with CSA Staff Notice 52-306 *(Revised) – Non-GAAP Financial Measures* (**SN 52-306**). The following outlines the focus areas of the reviews conducted:

MD&A

- Overall performance and discussion of operations
- Known trends, events and uncertainties
- Liquidity and capital resources
- Debt covenants
- Risk factor disclosure

Financial Statements

- Impairment of non-financial assets
- Going concern
- Significant judgements and measurement uncertainties
- Expected credit losses
- Fair value changes for the real estate industry
- Financial instrument risk disclosures
- Government assistance
- COVID-19 related amendments to IFRS 16 *Leases* for lessees

Other Regulatory Requirements

- NGMs
- FLI
- Material change reporting
- Promotional disclosures

Part 3 - Summary of Results and Key Themes

Our reviews covered a variety of industries and highlighted the diverse impacts of the COVID-19 pandemic on issuers' operations and businesses. Some of these impacts included:

Operational Impacts

- Decrease or increase in demand for products or services
- Modification of operations due to workplace health and safety requirements
- Constraints on human resources
- Operational closures
- Supply or distribution channel disruptions
- Change in prices
- Altered terms with customers/lessees/borrowers
- Inability to continue capital projects

Financial Impacts

- Decrease or increase in revenues
- Restructuring charges
- Asset impairments
- Credit losses
- Loan loss and receivable provisioning

- Fair value changes
- Increase or decrease in other expenses
- Negative working capital
- Negative cash flow from operations
- Material uncertainties regarding going concern

Issuers adjusted their operations in numerous ways to manage the impact of COVID-19 on their operations and liquidity. Various measures/operational responses disclosed by issuers included:

Measures Taken to Reduce COVID-19 Impact/ Operational Responses

- Government assistance programs
- Change in product or service mix
- Reduction in discretionary expenses
- Change in budget or deferral of capital projects/acquisitions
- Decrease in salaries/director fees
- Employee layoffs
- Additional oversight measures
- Modification of payment terms with suppliers
- New or amended credit agreements
- Change in dividends or distributions
- Accessing third party financing
- Implementation of business continuity plans
- Suspension of issuer share buybacks

Most issuers reviewed were proactive in providing quality and detailed disclosures. For example, we observed several issuers significantly expand their MD&A to provide detailed operational updates addressing the impact of COVID-19 as well as issuers providing additional disclosure addressing debt covenants and related compliance. We also noted most issuers adequately disclosed impairments of non-financial assets due to a deterioration in their business since the onset of the pandemic. However, we identified several areas where disclosure could be improved for many issuers including the following:

Area of Disclosure	Key Observations
MD&A	• **Discussion of measures taken to reduce COVID-19 impact –** Many issuers provided "lists" of measures employed to manage operational and liquidity risks but did not provide an adequate discussion to address the anticipated impact to the issuer. • **Analysis of overall performance and operations –** Most issuers that quantitatively disclosed variances related to COVID-19 (e.g., impact to sales) did not explain the methodology used by management in determining that fluctuations were isolated to COVID-19. • Several issuers provided limited disclosure of known trends or events related to COVID-19 that are likely to affect future performance. • **Liquidity and capital resources –** Many issuers with material liquidity risks did not disclose in detail their ability to meet working capital requirements, planned growth initiatives or to fund developmental activities and capital expenditures. Lack of disclosure regarding trends or expected fluctuations in liquidity taking into account events or uncertainties related to COVID-19 was commonly observed. • **Risk factor disclosure –** Several issuers provided "lists" of risks without discussion or general disclosures that touched on general economic or societal impacts of COVID-19 and did not describe entity-specific COVID-19-related risks.
Financial Statements	• **General –** Some issuers failed to adequately update their disclosures and assumptions impacted by COVID-19 in the context of testing impairments of goodwill and intangible assets, measuring fair value (**FV**) and estimating expected credit losses.

Area of Disclosure	Key Observations
	• **Significant judgements and measurement uncertainties –** Some issuers failed to include entity-specific disclosure for significant judgements or measurement uncertainties or only included this disclosure in their MD&A but not in their financial statements. • **Impairment of non-financial assets –** A few issuers did not identify reasons for impairments or just noted "negative economic impacts of COVID-19" as an impairment indicator for all cash generating units (**CGU**s) but did not elaborate on those impacts. • **Going concern –** Some issuers breached financial covenants during the reporting period but did not disclose the implications of breaches on the issuer's ability to continue as a going concern. Some issuers disclosed "close call" situations but did not disclose the mitigating actions that impacted their determination that there were no material uncertainties that cast significant doubt on the issuer's ability to continue as a going concern (e.g. successful negotiation of credit facilities subsequent to period end). • **Government assistance –** Over half of the issuers we reviewed recognized, or disclosed in subsequent events, COVID-19 related government assistance in their financial statements since the outbreak of the COVID-19 pandemic. Some issuers did not disclose the nature and extent of the government assistance or the accounting policy adopted including the methods of presentation. • **Expected credit losses (ECL) –** Only a few issuers disclosed the use of COVID-19-induced adjustments/overlays to their ECL models. • **Financial Instrument Risk Disclosure –** Some issuers that experienced material adverse impacts of COVID-19 did not provide an entity-specific update to their risk disclosure in the financial statements. • **COVID-19 related amendments to IFRS 16 *Leases* for Lessees –** Certain issuers did not sufficiently disclose whether they applied the practical expedient to either all or some of their rent concessions.
NGMs	• **NGMs adjusted for COVID-19 –** Most issuers did not present NGMs that adjusted for the impact of COVID-19. However, our review found isolated instances of potentially misleading NGMs in relation to COVID-19 (e.g., adjusting for expenses attributable to COVID-19 without adjusting for government subsidies or "normalizing" revenue or expenses for the year-to-date period based on more positive results for one quarter).
FLI	• **FLI related to COVID-19 –** In certain cases, we observed insufficient disclosure of assumptions used to develop FLI and failure to adequately update the MD&A for events and risks that could cause actual results for future periods to differ materially from previously disclosed FLI.
Material Change Reporting	• If COVID-19 has an equal effect throughout an issuer's industry, a material change report may not be required. Only a few issuers reviewed filed material change reports in relation to COVID-19 although in some instances changes to the issuer's business, operations or capital were more unique or more significant to them than to others in their industry.
Promotional Disclosures	• **Potentially misleading disclosures –** Some issuers concentrated in the biotech/pharma industry provided disclosure in relation to COVID-19 that was overly promotional and/or lacked specificity to fully address the issuer's business intentions and expected milestones.

Please refer to **Appendix A – Key Observations and Disclosure Considerations –** for more detail regarding the significant issues identified in our reviews and disclosure guidance. Please refer to **Appendix B – Disclosure Examples** where we have included some examples of deficient disclosure contrasted against improved entity-specific disclosure. The observations and disclosure considerations presented do not represent an exhaustive list and do not represent all the requirements that could apply to a particular issuer's situation. Issuers should consider their specific business and operations and provide clear and transparent disclosure of the impact of COVID-19.

Appendix A – Key Observations and Disclosure Considerations

A.1 MD&A Reporting

MD&A is the cornerstone of a reporting issuer's overall financial disclosure and should provide 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 Form 51-102F1 *Management's Discussion and Analysis* (**Form 51-102F1**).

Some of the observations and considerations below may be relevant for issuers that prepare an annual information form (**AIF**) with reference to Form 51-102F2 *Annual Information Form* (**Form 51-102F2**). Specifically, issuers should consider additional disclosure for COVID-19 under Item 4-*General Development of the Business* and Item 5-*Describe the Business* of Form 51-102F2.

Focus Area	Observations	Considerations
General: Discussion of Operational Status	• Some issuers provided detailed operational updates in press releases but included limited disclosure in MD&A filings. **Useful disclosure observed:** • Many affected issuers significantly expanded their MD&A to explain the impact of COVID-19 to the issuer's industry, operations, customers, suppliers etc. Several issuers disclosed industry and relevant operational information to help users frame and understand the effects on the issuer's financial results.	• Provide a detailed and transparent discussion on how COVID-19 has altered the issuer's industry and day to day operations. Insight should be provided into the issuer's current operating status and the operational challenges that management is monitoring. This will vary materially by issuer and by industry. • MD&A is a standalone document. Material operational updates should be reflected in MD&A filings to provide additional context for analyzing financial results. Having a separate "COVID-19" section in the MD&A preceding the discussion of financial results may provide a useful framework in understanding the issuer's analysis of financial performance, financial condition and liquidity. **Issuers should consider:** • Impact of health and safety guidelines on operations and on how the issuer conducts its business • How the current environment has altered demand or ability to provide products and services (both adversely and positively) • Details of operational closures and restrictions • Providing information to understand the impact of shutdowns and closures • Disclosing relevant industry data that assists with understanding restrictions and other impacts to the issuer's business • Discussing how customers and suppliers have been impacted and the effect on the issuer • Providing a discussion for each segment or geographic location to the extent operations are impacted differently • Explaining how industry and economic factors have uniquely impacted the issuer **Reference: Part 1, Item 1.2, Item 1.4 of Form 51-102F1**
General: Discussion of Operational Responses	• The majority of issuers included qualitative disclosure of the measures taken in response to COVID-19. However, some issuers only listed measures taken without providing sufficient detail to understand the impact to the issuer.	• It is important for investors to understand operational measures taken in response to COVID-19 that have had a material impact on operations and that may reasonably affect future performance. This includes disclosing in sufficient detail cost saving measures, restructuring

Focus Area	Observations	Considerations
	Useful disclosure observed: • Discussion of the measures taken, the current and expected impact to revenue or expenses and the anticipated time period such measures will remain in effect.	initiatives or realignments of operational and financial resources in response to COVID-19. **Issuers should consider:** • Discuss the impact of operational measures taken that may increase costs (e.g., salary premiums) • Describe how operational responses change as conditions evolve **Reference: Part 1, Item 1.2, Item 1.4 of Form 51-102F1**

Analysis of Overall Performance and Operations	• Approximately 20% of issuers disclosed COVID-19 as the reason for period over period variances without analyzing entity-specific factors.
	• It was unclear for some issuers how certain costs, in particular restructuring costs, were fully attributable to COVID-19 when the issuer had pre-existing operational issues.
	• Most issuers that quantitatively disclosed variances related to COVID-19 (e.g., impact to sales) did not explain the methodology used by management in determining that fluctuations were isolated to COVID-19.
	• Some issuers did not disclose the impacts that government assistance attributable to COVID-19 had on their performance, operations and cash flows.
	
	Industry observations:
	• We observed additional disclosures to assist in understanding COVID-19 impacts. For example:
	  ○ **Retail/service industry** – details of store closures, # of weeks operating, ecommerce sales vs in store sales
	  ○ **Real estate industry** - an analysis of space leased by customers that were negatively affected/unaffected/ positively affected by the pandemic and the proportion of tenants that have applied for government assistance
		• Avoid simply making statements attributing negative results to COVID-19. Instead, provide a meaningful discussion on the material impacts (both positive and negative) of COVID-19 on the issuer's operations. Disclose issuer-specific impacts on both revenues and expenses and provide disclosure by segment.
		• Issuers must have a basis for attributing costs to COVID-19, especially when certain conditions existed prior to COVID-19. Other reasons for material fluctuations not related to COVID-19 should be disclosed with equal prominence.
		• Quantification of material factors, where practicable, can provide an understanding of an issuer's performance. However, it may be difficult for an issuer to determine with accuracy the quantitative impact of COVID-19. In order to avoid misleading investors, issuers should explain the methodology used in their calculation and provide information about the judgements and estimations made by management when quantifying impacts.
		• An understanding of the amounts of government assistance received and where such funding is recorded in the financial statements may be necessary to understand historical results and future trends, when material. Issuers are reminded to provide balanced disclosure of both the positive and adverse impacts to operations, financial condition and cash flows. Also see "*Appendix A.2– Key Observations and Considerations on Financial Statements.*"
		
		Issuers should consider:
		• How decreases or increases in demand for products and services impacted financial results
		• Impact of operational closures
		• How costs, including changes in prices, influenced results
		• Effect of altered terms with customers / lessees / borrowers
		• Impact on customers' supply chains or distribution channels
		• Changes to planned projects and development activities
		• Impact of government support
		• Reasons for fair value changes/impairment charges/credit losses

Focus Area	Observations	Considerations
		• Details of restructuring plans and related costs • Material variations in other expenses related to COVID-19 • A discussion of any breaches of material contracts • Explaining any changes in use of proceeds from financing as compared to prior disclosures and the impact on the issuer's ability to achieve business objectives/milestones **Reference: Item 1.2, Item 1.4 of Form 51-102F1**
Known Trends and Events that are Reasonably Likely to Affect Future Performance	• Approximately one third of issuers provided boilerplate disclosure in this area. Some issuers cited the degree of uncertainty related to COVID-19 making it too difficult to predict the overall impact of COVID-19 on the issuer's future performance. **Useful disclosure observed:** • "Outlook" sections discussing the anticipated medium to longer term impact of a continuing pandemic to the issuer's business and industry. • Disclosure of how operations may be impacted post-COVID-19 due to anticipated economic impacts or anticipated changes in consumer behaviour.	• In times of uncertainty, there may be less investor focus on historical information and more focus on known trends, and uncertainties that are likely to impact future performance. As the COVID-19 pandemic evolves, insightful disclosure how COVID-19 may impact future operations will be important to investors. **Issuers should consider:** • How future periods may be impacted differently in comparison to the current period • Impacts to the issuer's business or industry that may continue post COVID-19 • Whether the issuer anticipates material restructuring charges going forward • Future operating plans as issuers plan for recovery from the COVID-19 pandemic Also see "Appendix A.3 – *Key Observations and Considerations on Other Regulatory Matters - FLI*" **Reference: Item 1.2, Item 1.4 of Form 51-102F1**
Liquidity and Capital Resources	• The majority of issuers reviewed had indicators of liquidity risk. However, approximately 25% of issuers did not adequately disclose their ability to meet working capital requirements or planned growth initiatives, or to fund developmental activities and capital expenditures. • A common deficiency was the lack of disclosure regarding trends or expected fluctuations in an issuer's liquidity and capital resources, taking into account events or uncertainties related to COVID-19. • Many issuers discussed a wide range of remedies to address liquidity uncertainties. However, some issuers did not quantify the impact or discuss how long certain remedies will remain in effect. **Industry Observations**: • We observed additional disclosure regarding customers/tenants to help understand the issuer's liquidity risk	• COVID-19 has had a significant impact on the liquidity and capital resources of many issuers creating unique challenges and the need for new financing resources. It is important for issuers to provide a comprehensive discussion of their initiatives to manage current and expected liquidity and funding risks. • Issuers that have material liquidity risks might consider disclosing: their most current working capital amount, significant obligations that are maturing in the short term, their cash burn rate on a monthly or quarterly basis, the period of time that they expect to be able to fund operations and how they intend to prioritize expenditures in the short term. **Issuers should:** • Provide a clear picture of the issuers working capital, working capital needs and how those needs relate to business plans and milestones • Detail liquidity risks including risk of default or arrears on distributions, lease and debt payments • Discuss the impact of altered payment terms with customers and lessees

Focus Area	Observations	Considerations
	and future trends. For example: some real estate issuers disclosed % of tenants undergoing restructuring, cash rents received during the period and categorized their tenant base based on management's assessment of risk.	• Discuss whether the issuer's cost or access to capital has changed • Quantify the impact of remedies where possible • Discuss how financing sources (e.g., public/private offerings, unused lines of credit) meet the issuers immediate and longer-term liquidity needs • Discuss how long other remedies to address liquidity concerns are anticipated to be in effect and the risks to the issuer when remedies expire • Consider what additional information management is monitoring in relation to liquidity that may be useful information to investors • Discuss known trends or events that may impact future liquidity and capital resources (e.g., what events or uncertainties may impact ability to service debt, meet other financial obligations or access financing?) • Update material factors impacting liquidity and capital resources up to the date of the MD&A **Reference: Item1.6 and Item 1.7 of Form 51-102F1**
Debt Covenants	• While issuers generally disclosed compliance with debt covenants, disclosure varied in relation to providing the details of covenants applicable to the issuer. • Many issuers disclosed amendments to credit agreements including changes to covenants, covenant forgiveness for certain periods and additional restrictions placed on the issuer. **Useful disclosure observed:** • Additional disclosure to facilitate understanding of debt covenants including quantitative disclosure of covenant terms and related compliance.	• We encourage issuers with debt covenants to discuss the terms and conditions of the debt covenants, especially when a breach of the covenant could trigger a material funding requirement or early repayment. • If an issuer is close to breaching covenants or at risk of default in future periods, this is material information to be disclosed. • Discuss any additional requirements in agreements with lenders that may restrict the issuer's business or access to other financing. **Other considerations:** • Amended credit agreements may be a material contract. **Reference: Item 1.6 of Form 51-102F1, Item 12.2 of NI 51-102**
Risk Factor Disclosure	• Most issuers updated their risk factors in their MD&A from disclosure provided in annual filings to include COVID-19 related disclosure. • Over 30% of issuers provided "lists" of risks or disclosures that only touched on general economic or societal impacts of COVID-19 and did not describe entity-specific COVID-19-related risks. **Useful disclosure observed:** • Some issuers provided useful disclosure by distinguishing between short term risks and anticipated	• Provide entity specific risk factor disclosure related to COVID-19 in enough detail to understand the current and potential impact of COVID-19 on the issuer's business. • Disclosure of risks in the order of seriousness from the most serious to least serious helps investors understand how management views the importance of such risks. (Note that this is a requirement for disclosure of risks in an issuer's AIF). **Issuers should consider the impacts of:** • Disruptions to day-day operations resulting from health and safety measures and government-imposed closures • Human resource/staff constraints

Focus Area	Observations	Considerations
	longer term risks related to the pandemic.	• Cybersecurity or information technology risks that may be heightened with the pandemic • Ability to sustain changes in revenues/expenses/negative cash flow from operations • Changes in consumer demand • Ability to access government funding • Requirements under lending agreements • Changes in commodity prices • Volatility in the capital markets and access to financing and capital on reasonable terms • Limitations on the ability of issuers' customers to perform and make timely payments • Reliance on major customers that have decreased operations • Disruption to supply chains • Temporary or longer-term delays to projects and development plans • Financial statement impacts related to restructuring, impairment and measurement uncertainty • Change to consumer behaviour resulting from the pandemic and impact to future operations • Additional litigation risks resulting from the pandemic • The issuer's ability to recover from the pandemic that may be unique to the issuer or its industry **Reference: Part 1, Item 1.4 of Form 51-102F1, Item 5.2 of Form 51-102F2**

A.2 Financial Statements

The impact of COVID-19 could be significant for many businesses. Given the continued impact of COVID-19, there is a higher degree of uncertainty in determining reasonable and supportable assumptions used in preparing financial statements. Management should carefully consider the impact of COVID-19 on each of the following key aspects in the financial statements.

Focus Area	Observations	Considerations
Impairment of Non-financial Assets	• Events and circumstances most commonly identified by issuers as indications of impairment and that led to the recognition of impairment losses in connection with COVID-19 included: decreased demand for the issuer's products or services, significant customers experiencing financial difficulties and increased costs/business interruption due to supply chain issues. • A few issuers did not identify the events or circumstances that led to an impairment or simply noted "negative economic impacts of COVID-19" as an impairment indicator for all CGUs but did not elaborate on those impacts. • Approximately 10% of the issuers we reviewed did not disclose or	• Disclose the key assumptions on which management based its determination of the recoverable amount. • Consider whether using probability weighted scenarios in making estimates of fair value or value in use is more appropriate than a single best estimate. **For issuers with investments in associates or joint ventures accounted for using equity method** • Issuers should carefully analyze the impact of COVID-19 on the operations and financial conditions of their associates and joint ventures to consider whether there is a 'loss event' that has an impact on the future cash flows of the investment. **Other considerations:** • Whether there is any indication that an asset has been impaired in an interim period, which would then require the issuer to estimate the recoverable amount of the

Focus Area	Observations	Considerations
	update the disclosure of the key assumptions used in their impairment calculations.	asset in the period (e.g., a significant decrease in an issuer's share price during the reporting period such that market capitalization is lower than carrying value). • Disclosure may be required for changes in key assumptions used to determine recoverable amount of a CGU that contains goodwill or intangible assets with indefinite useful lives. **Reference: International Accounting Standards (IAS) 36 *Impairment of assets,* para. 41A of IAS 28 *Investments in Associates and Joint Ventures***

Going Concern	• A few issuers identified material uncertainties that cast significant doubt on their ability to continue as a going concern in light of a deterioration in their business since the onset of the pandemic.
	• Some issuers disclosed "close call" situations but did not disclose the mitigating actions that impacted their determination that there were no material uncertainties that cast significant doubt on the issuer's ability to continue as a going concern.
	• Some issuers breached financial covenants during the reporting periods but did not:
	  ○ disclose how the breaches will impact the company's ability to continue as a going concern, or
	  ○ reclassify the loan as a current liability.
		• If issuers breach debt covenants prior to the financial statement date and the lender has the right to demand repayment, the issuer is required to reclassify the loan as current and should discuss the implications of such breach on their ability to continue as a going concern.
		• If an issuer is working with its lenders to change terms of existing debt agreements or to obtain waivers for debt covenants, it should closely examine changes to its debt agreements to assess whether they are subject to modification or extinguishment accounting, as required by IFRS 9 *Financial Instruments*
		• When management is aware of material uncertainties in relation to COVID-19 that may cast significant doubt upon the issuer's ability to continue as a going concern, those uncertainties are required to be disclosed.
		• If management determined there were no material uncertainties that cast significant doubt on the issuer's ability to continue as a going concern, but there were significant doubts about going concern that were addressed by mitigating actions judged sufficient to conclude the going concern basis of accounting is appropriate, then such situations are commonly referred to as a "close call". In these situations, issuers are required to disclose the significant judgments to support their determination that going concern is appropriate, including those mitigating actions that impacted their determination that material uncertainties have been addressed (i.e., successful negotiations of credit facilities subsequent to period end or the identification of other feasible sources of financing).
		
		References: para. 25 and 122 of IAS 1 *Presentation of Financial Statements,* IFRS 9 *Financial Instruments*

Significant Judgements and Measurement Uncertainties	• While many issuers updated their disclosure since March 2020 regarding significant judgements and measurement uncertainties, notably with respect to the impairment of non-financial assets, going concern analysis and the estimate of credit losses and credit risks, a number of issuers only	• Issuers that operate in sectors that are significantly affected by COVID-19 are expected to update the following disclosure in their interim and annual financial statements: ○ timely and entity-specific disclosure of significant judgements and measurement uncertainties pertaining to the amounts recognized in the financial statements in light of the rapidly changing environment and the

Focus Area	Observations	Considerations
	stated in their interim financial statements that the significant judgements and measurement uncertainties remained the same as those disclosed in the issuers' most recent annual financial statements. • About 30% of the issuers we reviewed with material sources of measurement uncertainty related to COVID-19 did not disclose the expected resolutions of the uncertainty or the range of reasonably possible outcomes within the next financial year. • Some issuers only disclosed significant judgements in their MD&A but not in their financial statements.	extended impact of COVID-19 (e.g., estimate of credit loss and valuation of non-financial assets); and ○ explanation of the nature of estimation uncertainty and sensitivity analysis to help investors fully understand the potential impact of estimates made in the financial statements. • While issuers are expected to supplement their discussion of significant judgments and measurement uncertainty in the MD&A (critical accounting estimates, risk factors, forward looking information) the discussion of significant judgements and measurement uncertainty is required in the notes to the annual financial statements. **References: para 122 and 125 of IAS 1 *Presentation of Financial Statements***
Expected Credit Losses (ECL)	**Financial Institutions** • Some issuers disclosed an elevated level of credit risk on their material financial assets by each asset class in light of the outbreak of COVID-19 and updated the key assumptions considered by management and their strategies to strengthen their risk profile (e.g., through temporarily reducing risk appetite for certain asset classes or increasing loan-to-value ratios). • Some issuers disclosed increased ECL or provided an adequate explanation regarding their expectation that COVID-19 will not significantly impair their capital position and credit quality. • Many issuers that provided loan deferral programs/payment holidays to borrowers during COVID-19 pandemic also discussed the impact of these changes on risk of default and discussed the impact of these deferrals, including that the deferral of payments may not immediately or always result in a significant increase in credit risk (SICR). • Some issuers did not update their sensitivity analysis or disclose adjustments/overlays to the ECL model in their financial statements that may have been necessary due to COVID-19 pandemic. **Useful disclosure observed:** • Some issuers used sensitivity analysis with respect to the ECL model by providing multi-factor sensitivities to show the impact of possible changes in multiple	Issuers are required to disclose the following: • An explanation of the inputs, assumptions and judgments made in estimating ECL • The quantitative and qualitative factors taken into account in determining what constitutes a SICR • An issuer's definitions of default, including the reasons for selecting those definitions • An issuer's write-off policy, including the indicators that there is no reasonable expectation of recovery • How forward-looking information has been incorporated into the determination of ECL. Forward-looking information can include macroeconomic information, for example: unemployment rate, GDP growth rate, housing price index/home price index growth rate, and interest rate forecasts. Staff expect that forward-looking information should take COVID-19 impacts into consideration. • Information about credit risk management practices and any significant changes to credit risk exposure, which may in part be due to the impact of COVID-19. **Other considerations:** • Relying solely on historic loss rates in determining ECL would not be appropriate if the entity has been, or is expected to be, impacted by the pandemic. • It may be difficult at this time to incorporate the specific effects of the pandemic (e.g. government support and customer relief measures) into the ECL models as systems may not be calibrated to address the impacts of COVID-19. When it is not possible to reflect such information in models, issuers should consider post-model overlays or adjustments, and provide adequate disclosure of those overlays and adjustments. • Other disclosure considerations include: ○ The values of the key macroeconomic inputs used in the multiple economic scenario analysis and the probability weights of these scenarios.

Focus Area	Observations	Considerations
	assumptions affecting the ECL allowance. • A few issuers tailored the forward-looking information incorporated in determining their ECL to reflect the changes in characteristics of individual loan books (e.g., changes of credit risk in loans provided to borrowers in vulnerable sectors/geographic regions or of higher downgrade sensitivity) **Issuers Applying the "simplified" ECL model** • Over 20% of the issuers we reviewed did not disclose ECL/allowance for doubtful accounts for their significant accounts receivable balance, or did not provide sufficiently detailed updates to the measurement of ECL due to the COVID-19 outbreak (e.g., the adjustment for key assumptions and change in grouping of trade receivables).	○ The assumptions used to determine how the different challenges for specific sectors and regions have been taken into account. ○ If material, issuers may consider disclosing further details about payment deferral programs such as the amount and nature of the total principal balance outstanding within payment deferral/payment holiday programs provided to borrowers as a result of COVID-19. Issuers may also consider disclosing total mortgages previously included in payment deferral programs that are now included in total mortgage arrears to provide investors with timely and transparent disclosure of the impact of such programs. **Reference: para 5.5.11 of IFRS 9 *Financial Instruments, IFRS 7* Financial Instruments: Disclosure**
FV Changes for Real Estate Industry	• Some issuers did not disclose in sufficient detail the inputs used in determining FV or discuss the sensitivity of level 3 fair value measurements to changes in unobservable inputs.	• Issuers are required to disclose the extent to which the FV of an investment property has been independently valued (or the fact that there has been no such independent valuation). • Issuers should consider disclosing qualitative factors impacting the fair values of commercial properties, including, for example: ○ Possible changes in consumer preferences between retail and online shopping ○ Changes in the financial condition of existing tenants ○ Restructuring of agreements with tenants. **Issuers with material assets measured using level 3 inputs** • Issuers are required include a narrative description of the sensitivity of recurring fair value measurements to changes in unobservable level 3 inputs if a change in those inputs might result in a significantly higher or lower fair value measurement. Examples of unobservable inputs may include discount rates, interest rates on loans, and terminal capitalization rates. **Reference: para. 93(h)(i) of IFRS 13 *Fair Value Measurement,* IAS 40 *Investment Property***
Financial Instrument Risk Disclosures	• We noted issuers that disclosed material impacts of COVID-19 on their business operations in their MD&A appeared to have increased their liquidity/market/credit risk but did not provide an entity-specific	• Issuers should carefully consider whether there have been changes to their credit risk. The following factors may be taken into consideration in assessing credit risk: ○ Risk concentrations ○ Significant risk in ECL (i.e., financial condition of specific lenders/clients)

Focus Area	Observations	Considerations
	update to their risk disclosure in the financial statements.	○ Significant assumptions underlying ECL measurement Issuers should also consider updating the disclosure of their credit risk management practices accordingly. **References: para. 35A of IFRS 7 *Financial instruments: Disclosures***
Government Assistance	• Over half of the issuers we reviewed recognized, or disclosed in subsequent events, COVID-19 related government grants in their financial statements since the outbreak of COVID-19 pandemic, including but not limited to, CEWS, Canada Emergency Commercial Rent Assistance (CECRA), etc. • Only some issuers included separate note disclosure in their financial statements in connection with the COVID-19 related government grants. • Some issuers only disclosed that they have received government grants for pandemic expenses without identifying the amount received, naming the specific assistance program or disclosing the accounting policy for recognizing government grants.	• Issuers are required to disclose the following in connection with the government assistance received during the period: ○ The accounting policy adopted for government grants, including the method of presentation adopted in the financial statements (e.g. offsetting against expenses or presenting as a separate financial statement line item) ○ The nature and extent of government grants recognized in the financial statements ○ Unfulfilled conditions and other contingencies attaching to government assistance that has been recognized • For issuers that received government loans with forgiveness options, issuers are required to disclose the terms and conditions of the government assistance. **Reference: para. 39 of IAS 20 *Accounting for Government Grants and Disclosure of Government Assistance***
COVID-19 Related Amendments to IFRS 16 Leases for Lessees	The IASB issued amendments to IFRS 16 *Leases* to provide a practical expedient that allows lessees to elect not to assess whether a rent concession is a lease modification. The application of the practical expedient is permitted, but not required. In order to apply the practical expedient, certain conditions specified in IFRS 16 need to be met. • The vast majority of the issuers we reviewed with material rent concessions met the required conditions, but some did not sufficiently disclose whether they applied the practical expedient to all their rent concessions or only to some of them, or the amount recognised in profit or loss as a result of applying the practical expedient	• When the practical expedient is elected and applied, a lessee is required to disclose: ○ it has applied the practical expedient to all its rent concessions that meet the conditions, or if not applied to all such rent concessions, information about the nature of the contracts to which it has applied the practical expedient. ○ the amount recognised in profit or loss for the reporting period to reflect changes in lease payments arising from such rent concessions to which the lessee has applied the practical expedient. **Reference: para 46A,46B and 60A of IFRS 16 *Leases***

A.3 Other Regulatory Matters

Disclosure related to the COVID-19 pandemic may also result in consideration of other regulatory requirements including the requirements and/or guidance related to the following:

Focus Area	Observations	Considerations
NGMs Adjusted for Impacts Related to COVID-19[3]	• Less than 5% of the issuers we reviewed disclosed NGMs adjusted for impacts related to COVID-19. • In certain cases where a NGM was disclosed, issuers did not adequately explain how adjustments were attributable to the pandemic and/or were non-recurring. • CSA staff found a few instances where the disclosure of NGMs was potentially misleading as the issuer: adjusted for expenses attributable to COVID-19 without adjusting for government subsidies or attempted to "normalize" revenue or expenses for the year-to-date period based on more positive results for one quarter.	• Before presenting NGMs adjusted for COVID-19 impacts, consider how it assists investors, how management uses the measure and why management believes it is a useful and meaningful alternative to explain the impact of COVID-19. • Consider whether the adjustment matches the corresponding usefulness of the NGM and the disclosure is balanced (i.e., whether both positive and negative components are disclosed). • As the pandemic continues, there may be a limited basis for management to conclude that an adjustment is non-recurring, infrequent or unusual even if the item is directly related to COVID-19. • Be specific in describing adjustments (and not simply disclose, for instance, "other costs related to COVID". • If disclosing NGMs adjusted for COVID-19, include balanced adjustments and consider the impacts of government subsidies, insurance recoveries and relief from landlords. • All adjustments should be based on actual results. Adjustments that attempt to estimate or forecast results as if the pandemic had not occurred are not appropriate. **Reference: SN 52-306**
FLI in Effect During COVID-19	• Most issuers that disclosed financial outlooks prior to COVID-19, withdrew their FLI. • Some issuers provided detailed and meaningful disclosure including "outlook" sections with FLI discussing the anticipated medium to longer term impact of COVID-19 to the issuer's business and industry. • However, we also observed isolated instances of insufficient disclosure of assumptions and risks related to FLI and failure to update the MD&A for events that are likely to cause actual results for future periods to differ materially from previously disclosed FLI.	• FLI can provide useful insight into how management anticipates how COVID-19 will impact the issuer's future operations and liquidity positions. However, the issuer must have a reasonable basis for providing the FLI in the current environment and provide sufficient disclosure for investors to understand how the FLI was derived and the related risks. • With rapidly changing circumstances, it is essential that issuers update their MD&A to discuss the events or circumstances that are reasonably likely to cause actual results to differ from previously disclosed FLI. **Issuers should consider:** • If internal processes are in place to monitor and update FLI as conditions change **References: Parts 4A, 4B and section 5.8 of NI 51-102; and Part 4A of Companion Policy 51-102CP**

[3] To improve the disclosure surrounding non-GAAP financial measures and certain other financial measures, the CSA is intending to replace SN 52-306 with 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 (e.g., 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.

Focus Area	Observations	Considerations
Material Change Reporting	• Many issuers issued news releases in relation to changes to their business, operations or capital as a result of COVID-19. • A few issuers filed material change reports in relation to COVID-19 although in some instances changes to the issuer's business, operations or capital were unique or more significant to them than to others in their industry.	• The term "material change" is generally defined in each jurisdiction's securities legislation and is usually based on a market impact test. Issuers should refer to their principal regulator's applicable securities legislation for the definition of "material change". • If COVID-19 has an equal effect throughout an issuer's industry, a material change report may not be required. • Issuers should be aware of the impact of COVID-19, or resulting governmental or regulatory policies, that may be unique or more significant to them than to others in their industry as the pandemic evolves. **Examples of potentially material information includes:** • Material changes in distributions or dividends • Changes in credit arrangements • Significant disruptions to an issuer's workforce or operations • Negative changes in markets, economy or laws • Supply chain delays or disruptions that are critical to an issuer's business • Increased cost of goods or services • Suspension of exports **References: Part 7 of NI 51-102, Form 51- 102F3 *Material Change Report*.**
Promotional Disclosure	• Some issuers concentrated in the biotech/pharma industry provided disclosure in relation to COVID-19 that was overly promotional in nature and often lacked specificity necessary to enable a full understanding of the issuer's business intentions and expected milestones. • In these instances, issuers filed numerous press releases that either overstated the positive impact on the business of the issuer or were at such an early stage that the true impact was unknown and/or dependent upon too many variables to realistically determine if COVID-19 would positively affect the issuer or its business. • In one instance, an issuer failed to disclose material facts that caused the issuer to have a misrepresentation in its public disclosure record.	• Issuers are prohibited from making false or misleading statements or omitting facts from a statement necessary to make that statement true or not misleading. • Disclosure should be complete, balanced and focused on material information. Both positive and negative news should be given equal prominence. • Establishing good disclosure practices can help avoid the above situations. We recommend that companies look to Part 6 of National Policy 51-201 *Disclosure Standards* to assist them in setting up practices that assist them in complying with the law and ensuring investors have the best disclosure about their company in a concise manner. **References: National Policy 51-201 *Disclosure Standards*.**

Appendix B – Disclosure Examples

B.1 MD&A Disclosure Examples

Below are examples of useful disclosure focused on a few aspects of certain disclosure requirements. Issuers should determine how specific securities requirements may apply to them.

B.1.1 Discussion of Operations and the Impact of COVID-19

Example of deficient disclosure

EXAMPLE B.1.1(a)

- Did not describe the specific operational factors contributing to the decline in revenue and expenses
- Did not describe the judgements and estimations made by management in determining the impact of COVID-19

Revenue decreased by 30% in Q3 2020 as compared to the prior period primarily due to the negative impact of the COVID-19 pandemic.

Selling, general and administrative expenses decreased by $5M in Q3, 2020 due to management's efforts to reduce costs due to COVID-19.

Example of improved disclosure

EXAMPLE B.1.1(b)

- Provides an entity-specific analysis to explain variances
- Describes the methodology used to estimate the impact of COVID-19

As described above, we shut down 25 locations country-wide in mid-September, and these locations remain closed as at the date of this MD&A. 14 locations remained open during the quarter for take-out only. In order to mitigate the impacts of store closures and reduced revenues, we have temporarily laid off certain staff. Our mitigating efforts are described in further detail in the Recent Developments section.

- Revenue decreased by 30% from Q3, 2019 due to an estimated loss of sales of $7M from restaurants negatively affected by COVID-19. The closures noted above were in effect for 2 weeks during the reporting period. Based on our estimate for each location, the loss in revenues due to store closures was approximately $3M for Q3, 2020 (based on a 2-week average sales at those stores in prior periods). A further reduction of revenue of $4M is estimated from locations that remained open as take-out only or were subject to reduced capacity limits for Q3, 2020 due to a reduction in revenue/hour from the loss of customers dining in and shorter operating times.
- Selling, general and administrative (SG&A) expenses decreased by $5M from Q3, 2019:
- The decrease reflects an estimated $2M in rent savings and a decrease in $2M of wages based on management's calculation of the impact of location closures and reduced capacity limits.
- In Q3 2020, the Company also benefitted from $1.5M due to the Canadian Emergency Wage Subsidy Program, of which $1M was recorded as a reduction to SG&A expenses, and $500K as a reduction to cost of sales which allows the Company to maintain a comparable gross margin to the prior period.

B.1.2 Discussion of Measures Taken to Reduce the Impact of COVID-19

Example of deficient disclosure

EXAMPLE B.1.2(a)

- Did not explain the impact of measures taken to reduce the impact of COVID-19

The Company has implemented a series of cost reduction measures in response to COVID-19. These measures include the following: suspension of the quarterly dividend, reduced compensation, reduction of discretionary spending, delayed capital projects, sales of assets and taking advantage of the Canadian Emergency Wage Subsidy Program. The Company is monitoring the situation and will adjust these measures as the situation evolves.

Example of improved disclosure

EXAMPLE B.1.2(b)

- Discussed specific measures taken and effect on the issuer discussed specific measures taken and effect on the issuer

The Company has implemented several operational responses to address the reduced current demand and the high degree of uncertainty in future sales. These strategies include an estimated annual reduction of $25M in expenses, a reduction of capital spending and generating $10M in cash from non-core asset sales. The Company has completed the following actions to reduce costs and meet its stated targets as at September 30, 2020:

- Suspension of the quarterly dividend commencing in Q2, 2020 (anticipated to remain in effect until at least Q2 2021).
- Reduced Board of Director compensation by 40% and executive compensation by 25% resulting in an estimated reduction in compensation costs of $3M for fiscal 2020.
- Elimination of all non-essential travel, entertainment and other discretionary spending estimated to reduce annual costs by $8M
- Reduction of purchases of property, plant and equipment to approximately $30.0 million over the next 12 months
- Sales of non-core assets of $5M in Q3, 2020 with additional sales of non-core assets of $5M anticipated to be completed in Q4, 2020.
- Taking advantage of the Canadian Emergency Wage Subsidy Program (CEWS) to help offset the reduction in revenues. The Company realized $6M under this program for Q3, 2020 which is recorded as a reduction in SG&A expenses. The Company expects it will continue to qualify for this program for the balance of 2020.

B.1.3 Liquidity and Capital Resources

Example of boilerplate disclosure

EXAMPLE B.1.3(b)

- Provided quantitative and qualitative disclosure to understand compliance with financial covenants and related liquidity risk

The Company's lending agreements require the Company to comply with the following covenants: maximum leverage ratio of 4.5 and minimum interest coverage ratio of 2.75. Calculation of financial covenants for Q3 2020 is as follows:

	September 30, 2020	September 30, 2019
Interest Coverage Ratio	3.0	5.0
Total Leverage Ratio	4.0	3.0

The Company now expects that the combination of lower expected EBITDA in 2020 combined with the Company's current debt profile and the ongoing uncertainty created by the COVID-19 pandemic, may impact compliance with the total leverage ratio and interest coverage covenants at December 31, 2020. Management has been negotiating with its syndicate of lenders and has entered into an amended agreement under its credit facility. Under the amended agreement, the Company is subject to a maximum leverage ratio of 5.5 and minimum interest coverage ratio of 2.5 from Q4, 2020 to Q2, 2021. The Company has incurred fees and expenses of $1 million to date to implement these amendments and expects to incur another $0.5 million in Q4 2020.

B.1.4 Risk Factor Disclosure

Example of deficient disclosure

EXAMPLE B.1.4(a) • Disclosure was generic and did not provide any information on the risks specific to the issuer
On March 11, 2020, the World Health Organization declared the outbreak of COVID-19 to be a pandemic. Governments have imposed measures to contain the outbreak, including business closures, travel restrictions, quarantines and social distancing measures. The spread of the COVID-19 virus has resulted in a sharp decline in global economic growth as well as causing increased volatility in financial markets. If the COVID-19 pandemic is prolonged, the adverse impact on the global economy could worsen. Accordingly, the full impact of the COVID-19 is uncertain and may have a material adverse effect on the Company.

Examples of improved disclosure

EXAMPLE B.1.4(b) • Provided entity-specific disclosure of risks and impacts to the issuer
Based on events and circumstances known to us to date, we believe that the Company may be subject the following risks beyond Q3 2020: • Consumer demand will continue to be the Company's most significant risk due to the uncertainty in the global economy, negatively impacting our retail stores. Many of our stores are located in areas that historically have had higher densities of tourism and will experience a greater negative impact and slower recovery than perhaps other retailers. While eCommerce sales have increased, we expect to continue to incur significant sales losses as overall customer demand and consumer spending is expected to continue to decline, as compared to prior year, in response to COVID-19 and the related global economic impacts. • Social distancing restrictions to protect the safety of our customers and employees may limit both the number of customers we can serve at our retail stores, and the volume of goods we are able to fulfill through our distribution centre. More severe government-imposed restrictions, including store capacity restrictions and lockdowns, could further restrict our ability to service our customers. See also "Subsequent Events" for further discussion on store closures in relation to COVID-19. • We may also face supply chain challenges if there are disruptions in service at our distribution centre, suppliers, or logistics providers. Increased market demand for logistic providers may continue to increase our operating costs and/or limit our ability to fulfill sales. • The costs of operating our stores and distribution centre may continue to increase due to enhanced health and safety measures taken to protect our employees, including the increased costs of personal protective equipment. • Access to government financial assistance programs may place restrictions on our business and operations, including our ability to deploy capital or return capital to our shareholders. While the full-extent of the impact of COVID-19 on the Company's business remains uncertain, we believe that the cost reductions and liquidity management strategies employed will partially mitigate the above risks as further described under "Recent Developments".

B.2 Financial Statements Examples

Below are examples of useful disclosure focused on a few aspects of certain IFRS requirements. Issuers should determine how specific IFRS requirements may apply to them.

B.2.1 Impairment of Non-Financial Assets

Example of deficient disclosure

EXAMPLE B.2.1(a) • Did not identify reasons for impairments • Did not disclose the key assumptions used in estimating the recoverable amount
The Company recognized for the quarter ended September 30, 2020, costs related to the write-down of assets totalling $XXX mainly due to the impairment of PP&E.

Example of improved disclosure

EXAMPLE B.2.1(b)

- Identified impairment indicators as the government-imposed closures and significant decrease in the issuer's market capitalization
- Adequately disclosed supportable assumptions used to determine fair value less costs of disposal with the implications of COVID-19

The majority of the Company's operations in segment XYZ were closed, and currently remain closed or are operating at a reduced occupancy as a result of mandatory closure orders from various government authorities. In light of this temporary closure and a material decrease in the Company's market value due to a sharp decline in its share price, the Company concluded that this segment, which is a cash generating unit ("CGU"), should be tested for impairment at period end. The Company did not identify any further indicators of impairment or impairment reversals for its other CGU's.

The recoverable amount for the CGU has been estimated using a discounted cash flow (value in use) model. The Company calculates value in use using a five-year discounted cash flow method based on the most recent financial budget forecasts approved by management. The future cash flows are based on a range of estimates and assumptions, including growth in average sales from XX% to XX% for the period 2020-202X to reflect a staged reopening and other scenarios and a pre-tax discount rate of XX% (which represents the weighted average cost of capital). For the nine months ended September 30, 2020, the Company recorded a total impairment charge of $XXX million relating to the entire goodwill balance allocated to this CGU of $XX million and an impairment on the PP&E in this CGU of $XXX million. The recoverable amount of the Company's impaired CGU at September 30, 2020 was $XXX million.

The Company conducts sensitivity analyses by varying the pre-tax discount rate upward by X% and the growth rates down by X%. Such sensitivity analyses demonstrate that a reasonable change in assumptions would not result in the CGU's carrying value exceeding its value in use.

B.2.2 Going Concern

Example of deficient disclosure

EXAMPLE B.2.2(a)

- Did not provide entity-specific disclosure in connection with the issuer's financial condition considering the impact of COVID-19 outbreak

As at September 30, 2020, the Company is not able to finance day to day activities through operations. The continued operations of the Company are dependent on future profitable operations, management's ability to manage costs, and the future availability of equity or debt financing. Whether and when the Company can generate sufficient operating cash flows to pay for its expenditures and settle its obligations as they fall due is uncertain.

Example of improved disclosure

EXAMPLE B.2.2(b)

- Included disclosure indicating there was a "close call" situation where significant judgement was applied in concluding there were no material uncertainties that might cast significant doubt on the Issuer's ability to continue as a going concern
- Disclosed factors used in the decision to conclude the Issuer will continue as a going concern

The spread of COVID-19 in all relevant jurisdictions has impacted the Company's supply chain and consumer base and uncertainty regarding the extent, duration and severity of business disruptions are having a material impact on all aspects of the Company's operations. Currently, the Company is not generating sufficient funds from operations to support its day-to-day activities. These conditions call into question the Company's ability to continue as a going concern.

In response to the uncertainty caused by the COVID-19 global pandemic, the Company has taken or plans to take several actions including:

- announced that it will not be paying dividends in the foreseeable future until conditions improve
- actively monitoring cash flow forecasts and results, which has resulted in significant cost savings in the short-term
- subsequent to period end, the Company successfully negotiated an increase to its credit facility that included revised covenants

Based on these actions, its diversified business and current backlog, the Company expects to generate sufficient cash flows to fund its operations, working capital requirements and capital program for the next 12 months.

As a result, after considering all relevant information, including its actions completed to date and its future plans, management has concluded that there are no material uncertainties related to events or conditions that may cast significant doubt upon the

Company's ability to continue as a going concern for a period of 12 months from the consolidated balance sheet date.

The estimates used by management in reaching this conclusion are based on information available as of the date these financial statements were authorized for issuance and include internally generated cash flow forecasts. Accordingly, actual results could differ from these estimates and resulting variances may be material to management's assessment.

B.2.3 Government Assistance

Example of deficient disclosure

EXAMPLE B.2.3(a)
Did not disclose:

- The accounting policy adopted for government grants, including the methods of presentation adopted in the financial statements
- The nature and extent of government grants recognized in the financial statements
- Unfulfilled conditions and other contingencies attaching to government assistance that has been recognized

The Canada Emergency Wage Subsidy ("CEWS") was put in place by government of Canada to provide a wage subsidy to eligible employers to help get Canadians hired back quickly as provincial and territorial economies began to reopen. The Company recognized $XXX and $XXX of CEWS during the three and six months ended Q3 2020 as subsidy.

Example of improved disclosure

EXAMPLE B.2.3(b)

- Provided all the required disclosure under IAS 20

In response to the negative economic impact of COVID-19, the Government of Canada announced the Canada Emergency Wage Subsidy ("CEWS") program in April 2020, retroactive to March 15, 2020. CEWS provides a wage subsidy to eligible employers based on certain criteria, including demonstration of revenue declines as result of COVID-19.

The Company has determined that it has qualified for this subsidy from March 15, 2020 through September 30, 2020 and has, accordingly, applied for, and for certain periods received, the CEWS. The Company also intends to apply for the CEWS in subsequent application periods it is available, subject to continuing to meet the applicable qualification criteria.

For the three and nine month ended September 30, 2020, the Company has recognized $XXX and $XXX from the CEWS program, respectively, and has recorded it as a reduction to the eligible remuneration expense in selling, general and administrative expenses. As of September 30, 2020, the Company has received $XXX from the CEWS program and expects to receive the remaining recognized subsidy in the following fiscal quarter.

B.3 Other Regulatory Matters Examples

Below is an example that focuses on certain disclosure requirements relating to NGMs. Issuers should determine how specific securities requirements may apply to them.

B.3.1 Non-GAAP Financial Measures

Example of deficient disclosure

EXAMPLE B.3.1(a)

- Did not explain how increased costs are related to COVID-19 and the nature of such costs
- Did not explain why this measure provides useful information to investors and the additional purposes, if any, management uses the NGM.
- In this case, the Company also benefitted from government assistance which was not included as an adjustment, making the measure potentially misleading

NGMs in a News Release

COMPANY ABC REPORTS NET EARNINGS OF $5 MILLION AND ADJUSTED EBITDA OF $14 M

- Net Earnings decreased 58% from the same period in the prior year to $5M
- Adjusted EBITDA decreased 12% from the same period in the prior year to $14M.

*Adjusted EBITDA is a non-GAAP financial measure that is adjusted to exclude amounts that are outside the Company's normal activities. For more information, refer to the section on Non-GAAP Financial Measures at the end of this news release, and below for a reconciliation of adjusted EBITDA to the most comparable GAAP measure.

	XX, 2020	XX, 2019
Net earnings	$5M	$12M
Interest	$2M	$1M
Depreciation	$3M	$3M
EBITDA	$10M	$16M
Increased costs due to COVID-19 (1)	$4M	-
ADJUSTED EBITDA	**$14M**	**$16M**

1. The increased costs are due to the COVID-19 pandemic.

Example of improved disclosure

EXAMPLE B.3.1(b)

- The below focuses on a few aspects of the expectations for NGMs.
- Issuers should refer to the guidance in SN 52-306 in preparing disclosure documents

NGMs in a News Release

COMPANY ABC REPORTS NET EARNINGS OF $5 MILLION AND ADJUSTED EBITDA OF $14 MILLION

- Net Earnings decreased 58% from the same period in the prior year to $5M
- Adjusted EBITDA decreased 12% from the same period in the prior year to $14M.

* Adjusted EBITDA is a Non-GAAP Financial Measure adjusted to exclude amounts that are outside the Company's normal activities. For more information, refer to the section on Non-GAAP Financial Measures at the end of this news release, and below for a reconciliation of adjusted EBITDA to the most comparable GAAP measure.

	XX, 2020	XX, 2019
Net earnings	$5M	$12M
Interest	$2M	$1M
Depreciation	$3M	$3M
EBITDA	$10M	$16M
Restructuring costs related to COVID-19 (1)	$4M	-
Government subsidies (2)	$(2M)	-
ADJUSTED EBITDA	**$12M**	**$16M**

1. As a result of the COVID-19 pandemic, management expects decreased demand for our products for the remainder of 2020 and 2021. As a result, management has reorganized its operations to streamline production and reduce head office staff. These restructuring costs include the cost of laying off XX employees and the cost of shifting the majority of the production to manufacturing plant A. Additional restructuring costs are expected in Q1,2021, although the majority of the restructuring costs have already been incurred. Please refer to the COVID-19 impact section of the company's MD&A and the restructuring costs note in the financial statements, filed concurrently with this news release, for additional details on the impact of COVID-19 on the company's operations.

2. The Company received government assistance from the Canada Emergency Wage Subsidy program (CEWS). During Q3, 2020, the Company recorded $2M of wage subsidies as a reduction of salary expenses. More information about government assistance is included in the MD&A.

Questions

Please refer your questions to any of the following:

Jodie Hancock Senior Accountant, Corporate Finance Ontario Securities Commission 416-593-2316 jhancock@osc.gov.on.ca	Stacy Cao Accountant, Corporate Finance Ontario Securities Commission 416-597-7246 scao@osc.gov.on.ca
Allan Lim Manager British Columbia Securities Commission 604-899-6780 alim@bcsc.bc.ca	Anthony Potter Manager, Corporate Disclosure & Financial Analysis Alberta Securities Commission 403-297-7960 Anthony.Potter@asc.ca
Heather Kuchuran Director, Corporate Finance Financial and Consumer Affairs Authority of Saskatchewan 306-787-1009 heather.kuchuran@gov.sk.ca	Wayne Bridgeman Deputy Director, Corporate Finance Manitoba Securities Commission 204-945-4905 wayne.bridgeman@gov.mb.ca
Nadine Gamelin Senior Analyst, Financial Information Autorité des marchés financiers 514-395-0337, ext. 4417 nadine.gamelin@lautorite.qc.ca	Geneviève Laporte Analyst, Financial Information Autorité des marchés financiers 514-395-0337 genevieve.laporte@lautorite.qc.ca
Frank McBrearty Senior Legal Counsel Financial and Consumer Services Commission (New Brunswick) 506-658-3119 Frank.McBrearty@fcnb.ca	Junjie (Jack) Jiang Securities Analyst, Corporate Finance Nova Scotia Securities Commission 902-424-7059 jack.jiang@novascotia.ca

1.2 Notices of Hearing

1.2.1 Krystal Jean Vanlandschoot – ss. 8, 21.7

FILE NO.: 2021-6

IN THE MATTER OF
KRYSTAL JEAN VANLANDSCHOOT

NOTICE OF HEARING
Sections 8 and 21.7 of the *Securities Act,* RSO 1990, c S.5

PROCEEDING TYPE: Hearing and Review

HEARING DATE AND TIME: March 4, 2021 at 10:00 a.m.

LOCATION: By teleconference

PURPOSE

The purpose of this proceeding is to consider the Application dated February 5, 2021 made by the party named above to review a decision of the Mutual Fund Dealers Association of Canada dated December 16, 2020.

The hearing set for the date and time indicated above is the first attendance in this proceeding, as described in subsection 6(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 18th day of February, 2021.

"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.

1.2.2 Alvin Jones – ss. 8, 21.7

FILE NO.: 2021-5

IN THE MATTER OF
ALVIN JONES

NOTICE OF HEARING
Sections 8 and 21.7 of the *Securities Act,* RSO 1990, c S.5

PROCEEDING TYPE: Hearing and Review

HEARING DATE AND TIME: March 11, 2021 at 10:00 a.m.

LOCATION: By teleconference

PURPOSE

The purpose of this proceeding is to consider the Application dated December 24, 2020 made by the party named above to review a decision of the Investment Industry Regulatory Organization of Canada dated December 10, 2020.

The hearing set for the date and time indicated above is the first attendance in this proceeding, as described in subsection 6(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

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Dated at Toronto this 19th day of February, 2021.

"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 Moskowitz Capital Management Inc. and Brian Moskowitz – ss. 127, 127.1

FILE NO.: 2021-04

IN THE MATTER OF
MOSKOWITZ CAPITAL MANAGEMENT INC. AND
BRIAN MOSKOWITZ

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

PROCEEDING TYPE: Public Settlement Hearing

HEARING DATE AND TIME: In writing

PURPOSE

The purpose of this hearing is to consider whether it is in the public interest for the Commission to approve the Settlement Agreement dated February 17, 2021, between Staff of the Commission and Moskowitz Capital Management Inc. and Brian Moskowitz in respect of the Statement of Allegations filed by Staff of the Commission dated February 17, 2021.

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 19th day of February, 2021

"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
MOSKOWITZ CAPITAL MANAGEMENT INC. AND
BRIAN MOSKOWITZ

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

A. OVERVIEW

1. Strong housing prices and low interest rates in traditional investment products such as GICs and annuities have fueled interest in real estate securities in the exempt market over the last decade. As investor interest in these investments has increased, it has become even more critical that mortgage investment entities (**MIEs**) and others offering these investments comply with their obligations under Ontario securities law in order to ensure adequate protection for investors and promote confidence in Ontario's capital markets.

2. Moskowitz Capital Management Inc. (**MCMI**) is a mortgage broker and administrator based in Ontario. During the Material Time, MCMI distributed preferred shares in the MIEs under its management to investors without first obtaining registration as a dealer as required under Ontario securities law. MCMI raised approximately $32 million from these distributions to 113 investors in the exempt market. In doing so, MCMI engaged in the business of trading in securities without being registered as a dealer, contrary to subsection 25(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**).

3. Brian Moskowitz (**Moskowitz**) founded MCMI and has been its directing mind since inception. Moskowitz authorized and permitted MCMI's unregistered dealing activities and, as a result, breached Ontario securities law pursuant to section 129.2 of the Act.

4. Registration is a cornerstone of Ontario securities law. The registration requirement serves an important gate-keeping function by ensuring that only properly qualified and suitable persons are permitted to engage in the business of trading securities with the public. Registrants under the Act are subject to a robust regulatory regime that requires applicants to submit to a detailed application process for registration as well as to ongoing oversight by the Commission and other important safeguards designed to protect investors.

5. The Canadian Securities Administrators (**CSA**) released CSA Staff Notice 31-323 *Guidance Relating to the Registration Obligations of Mortgage Investment Entities* in 2011 to clarify the registration requirements that apply to MIEs in each of the CSA Jurisdictions. Since that time, the Commission has continued to communicate these requirements to the industry including through news releases, industry outreach and enforcement actions. Staff will continue to take appropriate action against MIEs that fail to comply with their obligations under Ontario securities law.

B. FACTS

Staff of the Enforcement Branch (**Enforcement Staff**) of the Ontario Securities Commission (the **Commission** or **OSC**) make the following allegations of fact:

UNREGISTERED TRADING

6. MCMI is a licensed mortgage brokerage and mortgage administrator based in Toronto. Between June 2009 and April 2019 (the **Material Time**), MCMI distributed preferred shares in the MIEs under its management to investors without obtaining dealer registration as required under Ontario securities law.

7. MCMI manages the Moskowitz Capital Mortgage Fund II Inc. (**MCM Fund II**). MCMI originates, structures, underwrites and funds residential and commercial mortgages on behalf of MCM Fund II, in Atlantic Canada, Ontario, Alberta and Saskatchewan. In order to fund these mortgages, MCMI primarily raises capital from investors in the exempt market.

8. During the Material Time, MCMI directly raised approximately $31.7 million from 113 investors through the distribution of preferred shares of Moskowitz Capital Mortgage Fund Inc. (**MCM Fund I**) and MCM Fund II (together, the **MCM Funds**).[1] These distributions were all made pursuant to the accredited investor exemption from the prospectus requirement under Ontario securities law. These distributions are the subject of this proceeding.

9. MCMI carried on its unregistered capital raising activities with repetition, regularity and continuity, raising an average of approximately $3.2 million from 11 investors per year through these direct distributions.

[1] MCM Fund I and MCM Fund II amalgamated on June 30, 2011.

10. MCMI provided slide decks to potential investors upon request that included historical performance information of the MCM Funds and testimonials from borrowers and investors, which amounted to solicitations to invest in the MCM Funds. MCMI also included this same information on its website during the Material Time.

11. MCMI has never been registered with the Commission.

12. As a result of the above, MCMI engaged in the business of trading in securities without being registered as a dealer under Ontario securities law.

13. Moskowitz is the President and sole director of MCMI and held these positions throughout the Material Time.

14. As MCMI's President, Moskowitz was responsible for engaging with investors in the MCM Funds and ultimately responsible for the content of MCMI's website and the slide decks provided to potential investors.

15. Moskowitz authorized and permitted MCMI's unregistered dealing activities and as a result is deemed to have breached Ontario securities law pursuant to section 129.2 of the Act.

16. During the Material Time, MCMI also raised capital for the MCM Funds from investors through the sale of preferred shares through registered investment dealers and exempt market dealers. Staff has not taken issue with these distributions.

17. In the spring of 2019, MCMI stopped the unregistered dealing activities, removed the statements deemed to be solicitations from its website and self-reported to the Commission. MCMI has since submitted an application for registration as an exempt market dealer to the Commission.

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

Enforcement Staff allege the following breaches of Ontario securities law and/or conduct contrary to the public interest:

18. MCMI engaged in or held itself out as engaging in the business of trading in securities, without being registered in accordance with Ontario securities law as a dealer, where no exemption to the registration requirement was available, contrary to subsection 25(1) of the Act;

19. Moskowitz authorized, permitted or acquiesced in MCMI's failure to comply with subsection 25(1) of the Act, contrary to section 129.2 of the Act; and

20. The Respondents acted in a manner contrary to the public interest.

D. ORDER SOUGHT

21. Enforcement Staff request that the Commission make an order pursuant to subsection 127(1) and section 127.1 of the Act to approve the settlement agreement dated February 17, 2021 between the Respondents and Enforcement Staff.

22. Enforcement Staff reserve the right to amend these allegations and to make such further and other allegations as Enforcement Staff may advise and the Commission may permit.

DATED this 17th day of February, 2021.

ONTARIO SECURITIES COMMISSION
20 Queen Street West, 22nd Floor
Toronto, ON M5H

Carlo Rossi
Email: crossi@osc.gov.on.ca

Tel: (416) 204-8987

1.4 Notices from the Office of the Secretary

1.4.1 Trevor Rosborough et al.

FOR IMMEDIATE RELEASE
February 18, 2021

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

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

A copy of the Order dated February 18, 2021 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

1.4.2 Krystal Jean Vanlandschoot

FOR IMMEDIATE RELEASE
February 18, 2021

KRYSTAL JEAN VANLANDSCHOOT,
File No. 2021-6

TORONTO – The Office of the Secretary issued a Notice of Hearing to consider the Application dated February 5, 2021 made by the party named above to review a decision of the Mutual Fund Dealers Association of Canada dated December 16, 2020.

The hearing will be held on March 4, 2021 at 10:00 a.m.

A copy of the Notice of Hearing dated February 18, 2021 and the Application dated February 5, 2021 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

1.4.3 Alvin Jones

FOR IMMEDIATE RELEASE
February 19, 2021

ALVIN JONES,
File No. 2021-5

TORONTO – The Ontario Securities Commission will hold a hearing to consider the Application dated December 24, 2020 made by the party named above to review a decision of the Investment Industry Regulatory Organization of Canada.

A preliminary attendance will be held on March 11, 2021 at 10:00 a.m.

A copy of the Notice of Hearing dated February 19, 2021 and the Application dated December 24, 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

1.4.4 Moskowitz Capital Management Inc. and Brian Moskowitz

FOR IMMEDIATE RELEASE
February 19, 2021

MOSKOWITZ CAPITAL MANAGEMENT INC. AND BRIAN MOSKOWITZ,
File No. 2021-4

TORONTO – The Office of the Secretary issued a Notice of Hearing for a hearing to consider whether it is in the public interest to approve a settlement agreement entered into by Staff of the Commission and Moskowitz Capital Management Inc. and Brian Moskowitz in the above named matter.

A copy of the Notice of Hearing dated February 19, 2021 and Statement of Allegations dated February 17, 2021 are available at www.osc.gov.on.ca

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1.4.5 Daniel Sheehan

FOR IMMEDIATE RELEASE
February 22, 2021

DANIEL SHEEHAN,
File No. 2020-38

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

A copy of the Order dated February 22, 2021 is available at www.osc.gov.on.ca.

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1.4.6 Moskowitz Capital Management Inc. and Brian Moskowitz

FOR IMMEDIATE RELEASE
February 22, 2021

MOSKOWITZ CAPITAL MANAGEMENT INC. AND BRIAN MOSKOWITZ, File No. 2021-4

TORONTO – Following a written hearing, the Commission issued an Order in the above named matter approving the Settlement Agreement reached between Staff of the Commission and Moskowitz Capital Management Inc. and Brian Moskowitz.

A copy of the Order dated February 22, 2021, Settlement Agreement dated February 17, 2021, and Reasons and Decision for Approval of a Settlement dated February 22, 2021 are available at www.osc.gov.on.ca.

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

1.5.1 Solar Income Fund Inc. et al.

FOR IMMEDIATE RELEASE
February 23, 2021

SOLAR INCOME FUND INC.,
ALLAN GROSSMAN,
CHARLES MAZZACATO, AND
KENNETH KADONOFF,
File No. 2019-35

TORONTO – Staff of the Ontario Securities Commission filed an Amended Statement of Allegations dated February 18, 2021 with the Office of the Secretary in the above noted matter.

A copy of the Amended Statement of Allegations dated February 18, 2021 is available at www.osc.ca.

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IN THE MATTER OF
SOLAR INCOME FUND INC.,
ALLAN GROSSMAN,
CHARLES MAZZACATO, and
KENNETH KADONOFF

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

A. OVERVIEW

1. This proceeding involves managers of a fund who used their positions to mislead and defraud investors.

2. Allan Grossman and Solar Income Fund Inc. created and managed a fund called SIF Solar Energy Income & Growth Fund to raise money in the exempt market. Grossman, Charles Mazzacato and Kenneth Kadonoff were shareholders, directors and directing minds of SIF Inc. The fund's offering memorandum promised investors that SIF Inc. would spend all of their money on the "acquisition, development, and operation" of solar energy installations, and would charge investors a "development fee" to do so. The offering memorandum led investors to believe that all of their invested funds would be used to buy, develop and operate physical assets that would produce a return on investment through the sale of solar energy.

3. In fact, Grossman, Mazzacato, Kadonoff and SIF Inc. used SIF Solar Energy Income & Growth Fund as a kind of "slush fund", distributing a substantial portion of its cash to other funds managed by them in exchange for unsecured notes. Certain of the Respondents partly owned some of the entities receiving the funds. The Respondents' diversion of funds meant that investors in SIF Solar Energy Income & Growth Fund were deprived of the opportunity to invest in physical assets as they had been promised and were instead left with unsecured notes, over $5 million of which were never paid back. SIF Inc. also charged these investors over $3 million in development fees, from which the Respondents personally benefitted, despite not using all of investors' funds for development purposes as SIF Inc. had promised. Finally, the Respondents fraudulently used investors' funds to make distributions to investors in another co-managed fund, and to pay fees owed to that fund's exempt market dealers.

4. Investors are entitled to expect that their funds will be used for purposes described in an exempt market offering memorandum. When managers use investor funds in a way that is contrary to the representations made to investors, and particularly when the use of funds provides a direct or indirect benefit to the managers of an exempt market issuer, Staff will not hesitate to take action.

B. FACTS

Staff of the Enforcement Branch of the Ontario Securities Commission ("**Enforcement Staff**") makes the following allegations of fact:

5. SIF Solar Energy Income & Growth Fund ("**SIF #1**") is an open-end investment trust created on February 4, 2013 and governed by the laws of the Province of Alberta. During the relevant time and prior to December 22, 2017, SIF #1 was managed by ~~SIF~~ Solar Income Fund Inc. ("**SIF Inc.**"). Grossman, Mazzacato, and Kadonoff were officers, directors and/or directing minds of SIF Inc. for part or all of the Material Time defined below.

6. During the period March 6, 2013 to October 21, 2014, SIF #1 raised approximately $57 million through the sale of units in SIF #1 (the "**Offering**"). The SIF #1 offering memorandum (the "**OM**") and its amendments represented to investors that the proceeds of the Offering would be used to invest in subsidiaries to acquire, develop, and operate solar energy power installations.

7. However, from March 6, 2013 to December 31, 2016 (the "**Material Time**"), SIF Inc. caused over $20 million of the proceeds raised in SIF #1 to be used for purposes other than those represented to investors in SIF #1's OM. In particular, during the Material Time,

   (i) SIF Inc. caused SIF #1 to transfer approximately $8.35 million to SIF Capital Canada Inc. ("**SIF Capital**"), a company managed and partly owned by SIF Inc. SIF Capital used almost all of these funds to redeem existing debentures of SIF Capital. SIF #1 loaned a further $965,000 to ~~SIF Capital for the expansion of~~ the Whitewater solar project ("**Whitewater**") for its expansion before SIF #1 owned any stake in this project;

   (ii) Between August 2014 and April 2015, SIF Inc. caused SIF #1 to loan $898,000 to other projects managed by SIF Inc. and in which various entities or trusts related to officers and/or directors of SIF Inc. had an interest; and

   (iii) SIF Inc. caused SIF #1 to loan $9.8 million to SIF #2 Solar Income & Growth ("**SIF #2**"), another open-end investment trust managed by SIF Inc. SIF Inc. caused SIF #2 to use these loans to fund solar energy projects

owned by SIF #2, to pay development and other fees it owed to SIF Inc., to pay fees it owed to exempt market dealers, and to make distributions to SIF #2 investors that SIF #2 could not otherwise afford to pay.

8. SIF Inc. recorded all of these transactions as either debentures or loans. In each case, the debentures and loans were unsecured and had no fixed term.

9. By engaging in this conduct, the Respondents caused SIF #1 to make statements and/or to omit information related to the use of funds that a reasonable investor would consider relevant in deciding whether to enter into or maintain a trading relationship, which statements were untrue or omitted information necessary to prevent the statements from being false or misleading in the circumstances in which they were made.

10. Further, by causing SIF #2 to pay exempt market dealer fees and distributions to SIF #2 investors using SIF #1 funds, Grossman, Mazzacato and SIF Inc. engaged in conduct that they knew or ought to have known perpetrated a fraud, and deprived SIF #1 investors of their capital and/or put their capital at risk.

11. In addition, the Respondents acted contrary to the public interest.

The corporate Respondent

12. SIF Inc. was incorporated on December 18, 2009. It was a privately held Ontario corporation focused on the development and management of solar energy power generation installations. During the Material Time, SIF Inc. managed SIF #1 under a management agreement and an amended management agreement.

13. SIF Inc. managed other solar energy related entities and business ventures, some of which were directly or indirectly owned by SIF Inc. and/or entities or trusts related to its officers and directors.

The individual Respondents

14. Grossman is a Chartered Accountant. He co-founded SIF Inc. Grossman's family trust was a shareholder and Grossman was a directing mind of SIF Inc. during all of the Material Time. Grossman became the Chief Operating Officer of SIF Inc. commencing December 18, 2009. On November 25, 2013, he became a director of SIF Inc. and its Chief Financial Officer. On or about June 10, 2014, Grossman's position changed to VP Finance of SIF Inc., a position he retained until August 31, 2015, when he became Executive Vice President. He remained a director and/or officer throughout the remainder of the Material Time.

15. Kadonoff was an indirect shareholder of SIF Inc. during the Material Time. On March 6, 2013, he ~~became~~ was the Director of Business Development with SIF Inc. On or about May 15, 2014, he became a director and the VP General Counsel. On August 31, 2015, he resigned as a director and officer. Kadonoff remained a consultant to SIF Inc. until he was formally terminated in February 2016.

16. Mazzacato became an indirect shareholder of SIF Inc. in or about September 2014. Effective May 15, 2014, he became a director and the Chief Technology Officer, VP Project Development of SIF Inc. In August 2015, Mazzacato's position changed to President, which he held for the remainder of the Material Time.

SIF #1's Offering Memorandum and Declaration of Trust

17. SIF Inc. established SIF #1 and prepared an OM as well as the Declaration of Trust for SIF #1. Various exempt market dealers distributed the OM to investors. The OM and the Declaration of Trust for SIF #1 provided that the business and purpose of SIF #1 was:

> to invest in Subsidiaries[1] which will in turn invest in the acquisition, development, financing and operation of solar energy powered installations ("Installations") and other ancillary or incidental business activities (the "Business").

18. The long-term objectives of SIF #1 were described in the OM using almost identical language:

> The Fund's long-term objective is to invest in Subsidiaries which will in turn invest in the acquisition, development, financing and operation of Installations, as more particularly described under Item 2.2 – Our Business.

[1] Subsidiary as defined in the SIF #1 March 6, 2013 OM "means any company, partnership, trust or other entity either controlled, directly or indirectly, by the Fund or in which the Fund holds more than 50% of the outstanding equity securities." The SIF #1 March 6, 2013 OM also stated: "The Fund expects to create a Subsidiary trust to be the sole limited partner of one or more limited partnerships to be formed to conduct the Business. The general partners of such limited partnerships are expected to be owned, directly or indirectly by the Fund or by SIF [Inc.]".

19. The OM advised investors under a section entitled "Use of Available Funds" that all of the available funds raised in the Offering would be used to "develop or acquire" solar installations, to pay fees associated with this objective, or as cash reserves. No allocation was made in the "Use of Available Funds" section for loans or transfers to other entities.

20. The OM also advised investors, in a section entitled "Short Term Objectives and How We Intend to Achieve Them" that SIF #1 had two short-term objectives over the subsequent 12-month period:

    (i) to "[r]aise capital through the Offering" and,

    (ii) the "[a]cquisition and/or development and operation of approximately 20 Megawatts…of solar energy Installations on designated lands and/or rooftops" resulting in "[t]he equivalent of approximately 25,000,000 Kilowatt hours of solar energy production hours to be generated annually and sold under long-term Power Purchase Agreements."

21. Under a subheading entitled "What we must do and how we will do it", the OM provided an allocation of the total amount to be raised from investors in the Offering, and represented that all of the proceeds from the Offering would be allocated to the costs of the capital raise and to the "acquisition and/or development and operation" of solar installations by and for the benefit of SIF #1. No allocation was made in the "Short Term Objectives" section for loans or transfers to other entities.

22. The OM was amended four times. None of the amendments modified the original description of the business, purpose, use of funds and long-term and short-term objectives of SIF #1.

The Development Fee

23. SIF Inc. received compensation for the "acquisition and/or development and operation" of solar installations by and for the benefit of SIF #1. As confirmed in the OM, SIF Inc. was to provide consulting, development and administrative services to SIF #1 and its subsidiaries under a management agreement. The consideration payable to SIF Inc. for its services included a "development fee" of $1,620,000 (plus tax) payable over the first 12 months of SIF #1's operation, a period described as "the appropriate time delay for substantial completion of SIF's services to the Fund for Installations not currently operating." The duties and services to be provided by SIF Inc. for which it would receive compensation included services related directly to the "acquisition, development and/or operation" of solar projects by SIF #1. Further, the OM described the development fee as part of the "costs to acquire and/or develop and operate the Installations". Not included among the services the OM attributed to the development fee were activities related to financing, nor the making of loans or transfers to other entities.

24. On January 13, 2014, SIF Inc. caused SIF #1 to issue an amendment to the OM that increased the maximum offering to investors from $30 million to $60 million. As with the original OM, the January amendment provided that the available funds raised by SIF #1 in the Offering (net of capital raise costs) would be used to "develop or acquire Installations", for cash reserves, various fees and costs. Due to the increase in the maximum offering, SIF Inc. was ultimately paid a "development fee" of approximately $3.1 million as at December 31, 2015, despite the fact that a significant portion of the total funds raised by SIF #1 was loaned to other entities managed by SIF Inc. and not used to acquire, develop or operate solar assets for SIF #1.

Flow of funds from SIF #1 to the benefit of other, non-affiliated entities

25. As set out below, during the Material Time, SIF Inc. caused SIF #1 to transfer funds to entities in which SIF Inc. and/or its directing minds held an ownership interest, or for the benefit of investors in entities controlled by SIF Inc. and/or its directing minds.

26. By causing SIF #1 to use investors' funds for purposes contrary to the representations in SIF #1's OMs, SIF Inc. authorized, permitted or acquiesced in SIF #1 making false, inaccurate or misleading statements and omitting important facts to investors. This, in some cases, caused actual losses to SIF #1 investors. Grossman, Mazzacato, and Kadonoff authorized, permitted or acquiesced to SIF Inc.'s conduct during the time when each was a directing mind of SIF Inc.

(a) $8.35 million in transfers to SIF Capital

27. In 2013, SIF Inc. was the sole Class B voting shareholder and manager of SIF Capital. Grossman became a director of SIF Capital on April 30, 2014.

28. On ~~November 10~~October 31, 2013 and December 6~~15~~, 2013, SIF Inc. caused SIF #1 to transfer $350,000 to SIF Capital, which SIF Inc. characterized as an unsecured loan bearing 9% interest, with no fixed term, and due on demand.

29. On January 15~~3~~, 2014, after SIF #1 had raised approximately $25 million from investors under the terms of the OM, SIF Inc. caused SIF #1 to transfer another $8 million to SIF Capital. SIF Inc., as manager of SIF Capital, used the SIF #1 funds to redeem approximately $8 million in outstanding 10.75% debentures held by investors in SIF Capital. SIF Inc. ~~then~~ caused SIF Capital to issue an unsecured debenture note to SIF #1 bearing an annual interest rate of 9%, with no fixed term, and due on demand.

30. On January 15~~3~~, 2014, SIF Capital was not a Subsidiary of SIF #1 (as defined in the SIF #1 OM) or a limited partnership for which SIF #1 was the sole limited partner. In addition, none of these transfers furthered SIF #1's short term objective to "acqui[re] and/or develop[] and operat[e]… approximately 20 Megawatts of solar energy Installations on designated lands and/or rooftops." Rather the transferred SIF #1 funds were used by SIF Inc. to redeem prior investments in SIF Capital.

31. SIF Inc. never demanded repayment of the debenture note on behalf of SIF #1, and although interest was accrued on the debenture note, it was never paid. As recorded in the audited December 31, 2014 SIF #1 consolidated financial statements, SIF #1 recognized an impairment loss of $438,189 on the interest receivable on the debenture note due to uncertainty regarding SIF Capital's cash flows.

32. On or about July 24, 2014, SIF Inc. obtained a valuation of SIF Capital as of April 30, 2014 which determined that after accounting for SIF Capital's liabilities, including the amounts owed to SIF #1, SIF Capital had a negative value. Despite this valuation, on January 1, 2015, SIF Inc. caused SIF #1 to acquire 100% of SIF Inc.'s Class B voting shares in SIF Capital for $84,722, approximately the same price SIF Inc. originally paid for its shares.

33. After SIF #1's acquisition of SIF Capital, the remaining receivable amount of the unsecured loan and the $8 million debenture on the books of SIF #1 were offset by the corresponding debt and liabilities on the books of SIF Capital upon consolidation.

34. At the time of the $8.35 million in transfers, Grossman and Kadonoff were officers and/or directors and directing minds of SIF Inc.

(b) Over $9.8 million in transfers to SIF #2

35. On October 9, 2014, SIF Inc. created SIF #2, another unincorporated open-end investment trust. SIF #2 had nearly identical investment objectives and management structure as SIF #1 (including similar development fees payable to SIF Inc.), and was commonly managed by SIF Inc. SIF #1 did not have an ownership interest in SIF #2 or its assets.

36. SIF #2 sought to raise $30 million. However, it only raised approximately $7 million during the Material Time. Beginning in June 2015, SIF Inc. caused SIF #1 to advance funds to SIF #2. By the end of December 2015, these transfers totalled approximately $5.2 million. A "Grid Promissory Note" signed by Grossman and Kadonoff characterized these transfers of funds as a debt owing to SIF #1. The note bore 15% annual interest, was unsecured, and was payable on demand with no maturity date.

37. SIF Inc. continued to transfer funds from SIF #1 to SIF #2 throughout 2016. On January 22, 2016, SIF Inc. created a second "Grid Promissory Note", signed by Grossman and Mazzacato, to replace the first note, reducing the interest payable to SIF #1 from 15% to 10%. Although the new grid promissory note reflected small repayments of the advances, the amount owing to SIF #1 reached a high of $9.8 million on August 16, 2016. According to SIF #2's audited financial statements, the amount SIF #2 owed to SIF #1 as at December 31, 2016 was approximately $9.2~~8.3~~ million. The December 31, 2018 audited consolidated SIF #2 financial statements indicated a write down of the amounts due to SIF #1 of $4.2 million and accrued interest of $877,000, ~~as at~~during the year-ended December 31, 2017.

38. At no time from June 2015 to December 2016 was SIF #2 a subsidiary of SIF #1 or a limited partnership of which SIF #1 was the sole limited partner. In addition, the transfers were made contrary to SIF #1's representation that it would use all of the investor proceeds from the Offering to "acqui[re] and/or develop[] and operat[e]… solar energy Installations."

39. Rather, the transferred SIF #1 funds were used by SIF Inc., among other things, to:

    (i) acquire, develop and/or operate solar installations for the benefit of SIF #2;

    (ii) pay more than $1.8 million from SIF #2 to SIF Inc. and CPE Inc., a subsidiary of SIF Inc., which included at least $870,000 in development fees;

    (iii) pay over $200,000 in distributions to SIF #2 investors; and

    (iv) pay fees to exempt market dealers involved in raising capital for SIF #2.

40. In addition to using SIF #1 funds to benefit SIF #2, its investors and exempt market dealers, the Respondents used the funds to benefit themselves. Between 2014 and 2016, SIF #2 paid development fees to SIF Inc., some of which consisted of funds provided by SIF #1 to SIF #2. Approximately $1.3 million of the development fees paid by SIF #2 to SIF Inc. were "prepaid" to SIF Inc. as at December 31, 2016. By that time, SIF Inc. did not expect to develop or acquire any additional projects for SIF #2. Rather than refunding the prepaid fees to SIF #2 (and SIF #2 subsequently using the refund to repay its loans from SIF #1), SIF Inc. kept the prepaid fees and caused SIF #2 to write them off as an expense without any value accruing to SIF #2.

41. For some or all of the time of these transfers, Grossman, Mazzacato, and Kadonoff were officers and/or directors, and directing minds, of SIF Inc. For the transfers in which SIF #1 funds were used to pay distributions to SIF #2 investors and fees to exempt market dealers, Grossman, Kadonoff and Mazzacato were officers and/or directors and directing minds of SIF Inc.

(c) Over $2.2 million in transfers to other parties

42. Between 2013 and 2015, SIF Inc. caused SIF #1 to make transfers to four additional entities in which SIF Inc. and/or Grossman and Kadonoff held an ownership interest, or for the benefit of investors in entities controlled by SIF Inc. and/or Grossman and Kadonoff. At the time of these transfers, none of these entities was a Subsidiary of SIF #1 or a limited partnership of which SIF #1 was the sole limited partner.

(i) $578,000 transferred to High Quality

43. During 2014 and 2015, High Quality Solar Projects #22 ("**High Quality**") was a general partner of SIF International 2013 LP ("**SIF International**"). High Quality purportedly was involved in the development of a solar project in Romania. During this time, SIF International was under common management by SIF Inc. Grossman and Kadonoff had an indirect ownership interest in SIF International.

44. In 2014 and 2015, SIF Inc. caused SIF #1 to loan to High Quality approximately $578,000.

45. SIF #1's transfers to High Quality were supported by a "Grid Promissory Note", signed by Grossman and Kadonoff, and bearing interest of 11% per annum. The note provided for no security or maturity date.

46. At no time in 2014 and 2015 was High Quality a Subsidiary of SIF #1 or a limited partnership of which SIF #1 was the sole limited partner. In addition, the transfers were made contrary to SIF #1's representation that it would use all of the investor proceeds from the Offering to "acqui[re] and/or develop[] and operat[e]… solar energy Installations."

47. High Quality did not successfully develop any solar projects in Romania and did not have the financial resources to repay SIF #1 the amounts owing under the Grid Promissory Note. Although the amounts were ultimately fully repaid, with interest, by Grossman, Kadonoff and other shareholders of SIF Inc. on December 15, 2015, SIF #1 investors' funds were used in a manner contrary to the representations made to them.

48. At the time of the transfers to High Quality, Grossman, Kadonoff and Mazzacato were officers and/or directors and directing minds of SIF Inc.

(ii) $965,000 in transfers to Whitewater

49. In 2013, Whitewater was a project 80% owned by SIF Capital, which was in turn partially owned and managed by SIF Inc.

50. On November 27, 2013, SIF Inc. caused SIF #1 to transfer $350,000 to Whitewater. In 2014, SIF Inc. caused SIF #1 to make additional transfers to Whitewater such that, the end of 2014 a total of $965,000 was transferred from SIF #1 to Whitewater.

51. The transfers were acknowledged by promissory notes signed by Grossman on behalf of ~~SIF Capital~~ Whitewater which provided no security, required payment on demand, and set an annual interest rate of 9%.

52. On ~~February 1~~April 30, 2014, SIF Inc. caused SIF #1 to acquire a 20% interest in Whitewater although this interest did not qualify Whitewater as a Subsidiary under the SIF #1 OMs.

53. At no time in 2013 and 2014 was Whitewater a Subsidiary of SIF #1 or a limited partnership of which SIF #1 was the sole limited partner. In addition, the transfers were made contrary to SIF #1's representation that it would use all of the investor proceeds from the Offering to "acqui[re] and/or develop[] and operat[e]… solar energy Installations."

54. As referred to above, on January 1, 2015, SIF Inc. caused SIF #1 to acquire 100% of SIF Inc.'s Class B voting shares in SIF Capital. The effect of SIF #1's acquisition of SIF Capital (which owned the remaining 80% of Whitewater) was that, on a consolidated basis, the entire debt owing by Whitewater to SIF #1 was eliminated.

55. For some or all of these transfers, Grossman, Mazzacato and Kadonoff were officers and/or directors and directing minds of SIF Inc.

(iii) $320,000 in transfers to LP #3

56. In 2014, Grossman and Kadonoff held an ownership interest in Solar Income Fund LP #3 ("**LP #3**"), which was managed by SIF Inc. LP #3 owned a solar energy project named Paddock Green.

57. In 2014, SIF Inc. caused SIF #1 to transfer funds to LP #3 such that as at December 31, 2014 a total of $320,386 had been transferred to LP #3. These transfers were acknowledged in SIF #1's financial statements for the year-ended December 31, 2014. These financial statements indicate that the amount due from LP #3 has "no specified terms of repayment, are unsecured, and bear[s] interest at…10%."~~by a promissory note which provided no security, required payment on demand, and set an annual interest rate of 10%.~~

58. At no time in 2014 was LP #3 a Subsidiary of SIF #1 or a limited partnership of which SIF #1 was the sole limited partner. In addition, the transfers were made contrary to SIF #1's representation that it would use all of the investor proceeds from the Offering to "acqui[re] and/or develop[] and operat[e]… solar energy Installations."

59. For some or all of these transfers, Grossman, Kadonoff and Mazzacato were officers and/or directors and directing minds of SIF Inc.

(iv) $430,000 in transfers to SIF Inc.

60. In 2014 and 2015, SIF Inc. caused SIF #1 to transfer funds to itself over and above the funds owed to it by SIF #1. By December 31, 2015, these excess payments totalled approximately $430,000. These transfers were acknowledged in SIF #1's financial statements for the year-ended December 31, 2015. These financial statements indicate that the amount due from SIF Inc. is "unsecured, payable on demand and bear[s] interest at…10%."~~recorded as a promissory note which provided no security, required payment on demand, and bore an annual interest rate of 10%.~~

61. For some or all of these transfers, Grossman, Kadonoff and Mazzacato were officers and/or directors and directing minds of SIF Inc.

Summary

62. All of the Respondents have breached subsection 44(2) of the *Securities Act*, RSO 1990, c.S.5 (the "Act") by making or causing SIF #1 to make statements related to SIF #1's use of funds that a reasonable investor would consider relevant in deciding whether to enter into or maintain a trading relationship, which statements were untrue or omitted information necessary to prevent the statements from being false or misleading in the circumstances in which they were made.

63. All of the Respondents have breached subsection 126.1(1)(b) of the Act by using funds of SIF #1 in a way that was contrary to the purpose and the short-term and long-term objectives of SIF #1 as provided in its OM, thereby directly or indirectly engaging in or participating in a course of conduct relating to securities which they each knew or reasonably ought to have known perpetrated a fraud on investors. In particular, the Respondents caused SIF #1 to transfer funds to SIF #2 to pay distributions to SIF #2 investors, and fees payable to SIF #2's exempt market dealers, which was contrary to statements provided in SIF #1's OM. By doing so, the Respondents exposed SIF #1 investors to risks not disclosed to them, and in some cases, caused actual losses to SIF #1 investors.

64. All of the Respondents have also acted contrary to the public interest.

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

65. Enforcement Staff alleges the following breaches of Ontario securities law and/or conduct contrary to the public interest during the Material Time:

    (a) SIF Inc. made or caused SIF #1 and/or others to make statements that a reasonable investor would consider relevant in deciding whether to enter into or maintain a trading or advising relationship, which statements were untrue or omitted information necessary to prevent the statements from being false or misleading in the circumstances in which they were made, contrary to subsection 44(2) of the Act;

    (b) Each of the individual Respondents as officers and/or directors of SIF Inc. authorized, permitted or acquiesced in the breaches by SIF Inc. set out in (a) above and, in doing so, are deemed to have not complied with Ontario securities law pursuant to section 129.2 of the Act;

(c) Grossman, Mazzacato, Kadonoff and SIF Inc. directly or indirectly engaged in or participated in acts, practices or courses of conduct relating to securities that they each knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to s. 126.1(1)(b) of the Act, by causing SIF #1 to transfer funds to SIF #2 for the payment of distributions to SIF #2 investors, and fees payable to SIF #2's exempt market dealers, which was contrary to statements provided in SIF #1's OM; and

(d) The Respondents have engaged in activity that is contrary to the public interest.

66. Enforcement Staff reserves the right to amend these allegations and to make such further and other allegations as Enforcement Staff may advise and the Commission may permit.

D. ORDERS SOUGHT:

67. Enforcement Staff requests that the Commission make the following orders:

As against ***Solar Income Fund Inc.****:*

(i) that it cease trading in any securities or derivatives permanently or for such period as is specified by the Commission, pursuant to paragraph 2 of subsection 127(1) of the Act;

(ii) that it be prohibited from acquiring any securities permanently or for such period as is specified by the Commission, pursuant to paragraph 2.1 of subsection 127(1) of the Act;

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

(iv) that it be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

(v) that it be prohibited from becoming or acting as a registrant or promoter, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

(vi) that it 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;

(vii) that it 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;

(viii) that it pay costs of the Commission investigation and the hearing, pursuant to section 127.1 of the Act; and

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

As against ***Allan Grossman, Charles Mazzacato and Kenneth Kadonoff****:*

(i) that he cease trading in any securities or derivatives permanently or for such period as is specified by the Commission, pursuant to paragraph 2 of subsection 127(1) of the Act;

(ii) that he be prohibited from acquiring any securities permanently or for such period as is specified by the Commission, pursuant to paragraph 2.1 of subsection 127(1) of the Act;

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

(iv) that he be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

(v) that he resign any position he may hold as a director or officer of an issuer permanently or for such period as is specified by the Commission, pursuant to paragraph 7 of subsection 127(1) of the Act;

(vi) that he be prohibited from becoming or acting as a director or officer of any issuer permanently or for such period as is specified by the Commission, pursuant to paragraph 8 of subsection 127(1) of the Act;

(vii) that he resign any positions that he may hold as a director or officer of a registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;

(viii) that he be prohibited from becoming or acting as a director or officer of a registrant, pursuant to paragraph 8.2 of subsection 127(1) of the Act;

(ix) that he be prohibited from becoming or acting as a registrant or promoter, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

(x) that he 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;

(xi) that he 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;

(xii) that he pay costs of the Commission investigation and the hearing, pursuant to section 127.1 of the Act; and

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

DATED this 18th day of February, 2021 ~~26th day of September, 2019~~

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Flagship Communities Real Estate Investment Trust

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption granted from the requirement to file a BAR for an acquisition that is not significant to the Filer from a practical, commercial, business, or financial perspective.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 8.4 and 13.1.

February 17, 2021

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
FLAGSHIP COMMUNITIES REAL ESTATE INVESTMENT TRUST
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer (the **Application**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for relief (a) pursuant to Section 13.1 of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) exempting the Filer from the requirement in Part 8 of NI 51-102 to file a business acquisition report (a **BAR**) in respect of the acquisition of three manufactured housing communities and related assets in Evansville, Indiana for a purchase price (subject to closing adjustments) of approximately US$9.0 million (the "**Evansville Acquisition**") on December 16, 2020 and the acquisition of two manufactured housing communities and related assets in Dry Ridge, Kentucky for a purchase price (subject to closing adjustments) of approximately US$2.5 million (the "**Dry Ridge Acquisition**" and, together with the Evansville Acquisition, the "**Acquisitions**") on December 18, 2020 and (b) pursuant to Section 8.1 of National Instrument 44-101 – Short Form Prospectus exempting the Filer from any requirement under Item 10 of Form 44-101F1 *Short Form Prospectus* (**44-101F1**) to disclose each Acquisition as a "significant" acquisition in a short form prospectus (collectively, the **Exemption Sought**).

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

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

(b) the Filer has provided notice that it intends to rely upon Section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) for each equivalent provision in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Yukon, the Northwest Territories and Nunavut.

Interpretation

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

Representations

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

The Filer

1. The Filer is an unincorporated, open-ended real estate investment trust established under the laws of the Province of Ontario pursuant to a declaration of trust dated as of August 12, 2020, as may be amended and/or amended and restated from time to time.

2. The Filer's head office is located at 467 Erlanger Road, Erlanger, Kentucky, U.S.A., 41018.

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

4. The Filer is a reporting issuer or the equivalent thereof in each Jurisdiction and is not in default of any requirement of Canadian securities legislation.

5. On September 28, 2020, the Ontario Securities Commission issued a receipt for a final long form prospectus (the **Final Prospectus**) qualifying the initial public offering (**IPO**) of 6,250,000 trust units of the Filer (**Units**) in the Jurisdictions, upon which the Filer became a reporting issuer under the securities legislation in each of the Jurisdictions.

6. The closing of the IPO occurred on or about October 7, 2020 and, between such date and November 2, 2020, the Filer acquired 45 manufactured housing communities, comprising 8,255 lots, a fleet of approximately 600 manufactured homes available for lease, together with certain ancillary and head office assets (the **Initial Portfolio**).

7. On October 22, 2020, pursuant to the exercise of the over-allotment option granted to the underwriters in connection with the IPO, the Filer issued an additional 937,500 Units.

8. The Units are listed and posted for trading on the Toronto Stock Exchange under the symbol "MHC.U".

9. On December 16, 2020, the Filer completed the Evansville Acquisition, being an acquisition of three manufactured housing communities and related assets in Evansville, Indiana for a purchase price (subject to closing adjustments) of approximately US$9.0 million.

10. On December 18, 2020, the Filer completed the Dry Ridge Acquisition, being an acquisition two manufactured housing communities and related assets in Dry Ridge, Kentucky for a purchase price (subject to closing adjustments) of approximately US$2.5 million.

11. The Acquisitions were unconnected transactions involving unrelated businesses and separate vendors, the completion of each of which was not cross conditional upon the other.

Financial Statements

12. The Filer was formed on August 12, 2020 and, accordingly, will not have completed a full fiscal year until December 31, 2021. The applicable audited historical financial statements of the Filer in the Final Prospectus, as well as the Filer's interim financial statements for the period from the date of its formation to September 30, 2020 (as filed under the Filer's profile on SEDAR on November 12, 2020, the **Q3 Financial Statements**), only reflect assets of US$10.00, unitholders' capital of US$10.00 and financing activities of US$10.00 as a result of the issuance of the initial Unit upon its formation and prior to the completion of the IPO (the **Nominal Financials**).

13. The Final Prospectus includes certain audited annual financial statements of the Initial Portfolio, including an unaudited *pro forma* consolidated statement of income and comprehensive income for the year ended December 31, 2019 and the six month period ended June 30, 2020 giving effect to the acquisition of the Initial Portfolio as if it occurred on January 1, 2019 and January 1, 2020, respectively.

14. As of November 2, 2020, upon completion of the acquisition of the Initial Portfolio, the Filer had consolidated assets of (the **Filer's Actual Assets**) approximately US$438.9 million (i.e., the total assets set out in the Final Prospectus in the unaudited *pro forma* consolidated statement of financial position as at June 30, 2020 giving effect to the Initial Portfolio's acquisition as if it occurred on January 1, 2020).

Significance

15. Under Part 8 of NI 51-102, the Filer is required to file a BAR for any completed business acquisition that is determined to be significant based on the tests set out therein.

16. Under Item 10 of 44-101F1, in certain circumstances, an issuer must provide certain disclosure in a short form prospectus (including a shelf prospectus) concerning a completed or probable business acquisition that is considered significant for the purposes of Part 8 of NI 51-102.

17. The purchase price for the Evansville Acquisition represents only 2.1% of the Filer's Actual Assets, while approximately US$9.0 million of "consolidated assets" (as understood for purposes of Part 8 of NI 51-102) were acquired pursuant to the Evansville Acquisition, also representing only 2.1% of the Filer's Actual Assets.

18. The purchase price for the Dry Ridge Acquisition represents only 0.6% of the Filer's Actual Assets, while approximately US$2.5 million of "consolidated assets" (as understood for purposes of Part 8 of NI 51-102) were acquired pursuant to the Dry Ridge Acquisition, also representing only 0.6% of the Filer's Actual Assets.

19. Further, the Evansville Acquisition comprises 197 lots, representing only 2.4% of the 8,255 lots comprising the Initial Portfolio, while the Dry Ridge Acquisition comprises 101 lots, representing only 1.2% of the 8,255 lots comprising the Initial Portfolio.

20. The most recent set of financial statements for the Filer filed pursuant to NI 51-102 are the Q3 Financial Statements, which reflect the operation of the Filer for the period from its formation on August 12, 2020 to September 30, 2020, but for which the IPO and acquisition of the Initial Portfolio are a subsequent event. Therefore, the Q3 Financial Statements are similar to the Nominal Financials.

21. As the Filer has not yet filed financial statements reflecting the closing of the IPO and the Initial Portfolio's acquisition (rather than just the US$10 contribution to acquire the initial Unit), each of the Acquisitions will constitute a "significant acquisition" of the Filer for the purposes of Part 8 of NI 51-102, requiring the Filer to file a BAR pursuant to Part 8 of NI 51-102.

22. The Filer does not believe that either of the Acquisitions is significant to it from a practical, commercial, business or financial perspective.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted.

"Winnie Sanjoto"
Manager, Corporate Finance
Ontario Securities Commission

2.1.2 Horizons ETFs Management (Canada) Inc. and Horizons Global Risk Parity ETF

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of exchange traded mutual fund reorganization pursuant to section 5.5(1)(b) of National Instrument 81-102 Investment Funds required because the reorganization does not meet criteria for pre-approval – existing fund and continuing fund do not have substantially similar investment objectives, fee structures – reorganization from mutual fund trust to multi-class corporate class structure – reorganization otherwise complies with pre-approval criteria, including securityholder vote, IRC approval – securityholders provided with timely and adequate disclosure regarding the reorganization – relief also granted from paragraphs 2.2(1)(a), 2.5(2)(a), (a.1) and (c) of NI 81-102 to allow the continuing fund to continue to hold all of the remaining securities of the predecessor fund after it has ceased to be reporting issuers – relief subject to terms and conditions based on investment restrictions of NI 81-102.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.2(1)(a), 2.5(2)(a.1), 2.5(2)(c), 5.5(1)(b), 5.7(1)(b) and 9.1(2).

July 14, 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
HORIZONS ETFS MANAGEMENT (CANADA) INC.
(the Filer)**

AND

**HORIZONS GLOBAL RISK PARITY ETF
(the Horizons ETF or Existing Fund)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of the Horizons ETF, for:

(a) a decision under the securities legislation of the Jurisdiction (the **Legislation**) for approval under clause 5.5(1)(b) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) of the proposed reorganization (the **Proposed Reorganization**) of the Horizons ETF into the Horizons ReSolve Adaptive Asset Allocation ETF (the **Continuing Fund**), a class of shares of Horizons ETF Corp. (the **Approval Sought**); and

(b) an exemption from:

  (i) paragraph 2.2(1)(a) of NI 81-102 to permit the Continuing Fund to continue to hold securities of the Horizons Private Trust (as defined below) such that, following the Proposed Reorganization, the Continuing Fund would continue to hold securities representing 100% of: (a) the votes attaching to the outstanding voting securities of the Horizons Private Trust or (b) the outstanding equity securities of the Horizons Private Trust (the **Control Relief**); and

  (ii) paragraph 2.5(2)(a.1) of NI 81-102 and paragraph 2.5(2)(c) of NI 81-102 to permit the Continuing Fund, following the Proposed Reorganization, to continue to hold the securities of the Horizons Private Trust after the Horizons Private Trust ceases to be a reporting issuer (the **Fund of Fund Restriction Relief**) (together with the Control Relief, collectively, the **Exemption Sought**).

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

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

(b) the Filer has provided notice that section 4.7(1)(c) 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 the Jurisdiction (together with the Jurisdiction, the **Canadian Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions* (**NI 14-101**), MI 11-102 and NI 81-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

The Filer and the Horizons ETF

1. The Filer is a corporation existing under the laws of Canada, with its head office located in Toronto, Ontario. The Filer is a wholly-owned subsidiary of Mirae Asset Global Investments Co., Ltd.

2. The Filer is registered as (a) an investment fund manager in Newfoundland and Labrador, Ontario and Québec, (b) a portfolio manager in Alberta, British Columbia, Ontario and Québec (c) a dealer in the category of exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan, (d) a commodity trading adviser in Ontario and (e) a commodity trading manager in Ontario.

3. The Filer is the investment fund manager and trustee of the Horizons ETF and shall be the investment fund manager of the Continuing Fund.

4. The Filer's primary business is to act as investment fund manager for the Horizons ETF and other exchange traded funds in Canada.

5. The Horizons ETF is an exchange traded mutual fund established under the laws of the Province of Ontario.

6. Securities of the Horizons ETF are distributed in each of the Canadian Jurisdictions under a long form prospectus and ETF facts documents prepared in accordance with the requirements of NI 41-101, Form 41-101F2, Form 41-101F4 and NI 81-102, as applicable.

7. The Horizons ETF is a reporting issuer under the applicable securities legislation of each of the Canadian Jurisdictions.

8. The Horizons ETF is subject to, among other laws and regulations, NI 81-102, NI 81-106 and National Instrument 81-107 *Independent Review Committee for Investment Funds.*

9. As the Filer intends to cease distribution of the Existing Fund following the Proposed Reorganization, it does not intend to renew the Existing Fund's prospectus under subsection 62(2) of the Act.

10. Neither the Filer nor the Horizons ETF are in default of applicable securities legislation in any of the Canadian Jurisdictions.

Horizons ETF Corp. and the Continuing Fund

11. Horizons ETF Corp. (**Horizons MFC**) is a mutual fund corporation established under the laws of Canada. The authorized capital of Horizons MFC includes an unlimited number of non-cumulative, redeemable, non-voting classes of shares (each, a **Corporate Class**), issuable in an unlimited number of series, and one class of voting shares designated as "Class J Shares". As of the date hereof, Horizons MFC currently offers 47 Corporate Classes operating as exchange traded funds in Canada.

12. The Continuing Fund will be established as an exchange traded alternative mutual fund being a separate Corporate Class, consisting of a single series of exchange traded fund shares (**ETF Shares**) of Horizons MFC.

13. The Continuing Fund will be an alternative mutual fund as defined in NI 81-102.

14. The Continuing Fund will be managed by the Filer and sub-advised by ReSolve Asset Management Inc. (the same sub-advisor of the Existing Fund).

15. Securities of the Continuing Fund will be distributed in each of the Canadian Jurisdictions under a long form prospectus and ETF facts documents prepared in accordance with the requirements of NI 41-101, Form 41-101F2, Form 41-101F4 and NI 81-102, as applicable, subject to any exemptions obtained therefrom.

16. The Continuing Fund will be a reporting issuer under the applicable securities legislation of each of the Canadian Jurisdictions.

17. The Continuing Fund will be subject to, among other laws and regulations, NI 81-102, NI 81-106 and NI 81-107 and any exemptions therefrom that have been granted by the securities regulatory authorities.

18. The Filer filed the preliminary prospectus and preliminary ETF facts document with respect to the Continuing Fund on June 19, 2020.

19. The Filer will not begin distribution of ETF Shares of the Continuing Fund prior to the completion of the Proposed Reorganization.

Horizons Private Trust

20. As a result of the Proposed Reorganization and for the reasons described below, the Continuing Fund will become the holder of 100% of the outstanding voting units of the Horizons ETF, which following the Proposed Reorganization shall be a private investment trust (the **Horizons Private Trust**).

21. Following the Proposed Reorganization, it is anticipated that the Horizons Private Trust will apply to cease to be a reporting issuer under the simplified procedure.

22. The Continuing Fund wishes to have the ability to hold 100% of the outstanding voting units of the Horizons Private Trust once the Horizons Private Trust ceases to be a reporting issuer.

23. The Continuing Fund does not intend to hold more than 10% of its net asset value in the Horizons Private Trust, and the Filer does not anticipate that the Continuing Fund will hold more than 10% of its net asset value in securities of the Horizons Private Trust.

24. The holding by the Continuing Fund of securities of the Horizons Private Trust will be the result of the implementation of the Proposed Reorganization, which shall only proceed if the Approval Sought is granted and if approved by unitholders, and the continued holding by the Continuing Fund in securities of the Horizons Private Trust represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Continuing Fund and its securityholders.

25. Following the Proposed Reorganization:

    (a) the Horizons Private Trust shall cease to offer units to the public and holders of the Horizons ETF structured as a trust shall become holders of shares of the Continuing Fund, and Horizons MFC (on behalf of the Continuing Fund) shall become the sole unitholder of the Horizons Private Trust;

    (b) the Horizons Private Trust will not carry on any active business;

    (c) although units of the Horizons Private Trust will not be listed or quoted on any public exchange or market, units of the Horizons Private Trust will continue to be liquid as they are redeemable daily on demand by the Continuing Fund; and

    (d) units of the Horizons Private Trust will not be available for purchase or issuance and it is currently anticipated that no additional units of the Horizons Private Trust shall be issued in the future.

26. As the Horizons Private Trust will not carry on any business following the Proposed Reorganization, the Horizons Private Trust will operate in compliance with NI 81-102, with the exception of Part 12 – *Compliance Reports*, and will not make any new investments.

27. As the Horizons Private Trust will not charge any management fees or incentive fees following the Proposed Reorganization, the Continuing Fund will not pay any management or incentive fees which to a reasonable person would duplicate a fee payable by the Horizons Private Trust for the same service.

28. If the Continuing Fund trades in securities of the Horizons Private Trust with or through the Filer acting as dealer, the Filer will comply with its obligations under NI 81-107 in respect of any proposed related party transactions. These related party transactions will be disclosed to securityholders of the Continuing Fund in its management report of fund performance.

29. In connection with the Proposed Reorganization, and as will be disclosed in the Circular (as defined below), the Filer will apply to the Canadian securities administrators for the Horizons Private Trust to cease being a reporting issuer to avoid the unnecessary costs associated with meeting certain continuous disclosure obligations.

Reason for Approval Sought

30. The Filer and the Existing Fund require regulatory approval of the Proposed Reorganization because they cannot rely on section 5.6(1) of NI 81-102 for the following reasons:

    1. contrary to section 5.6(1)(a)(ii), a reasonable person would not consider the Continuing Fund to have substantially similar fundamental investment objectives as the Existing Fund. The Circular (as defined below) provided to unitholders of the Existing Fund in connection with seeking their approval of the Proposed Reorganization will describe the differences in the fundamental investment objectives of the Continuing Fund as compared to the Existing Fund.

    2. contrary to section 5.6(1)(a)(ii), a reasonable person would not consider the Continuing Fund to have a substantially similar fee structure as the Existing Fund. The Circular (as defined below) provided to unitholders of the Existing Fund in connection with seeking their approval of the Proposed Reorganization will describe the differences in the fee structure of the Continuing Fund as compared to the Existing Fund.

    3. contrary to section 5.6(1)(c), it is not anticipated that the Existing Fund will be wound-up after the Proposed Reorganization because the Filer believes that leaving the Existing Fund and its assets in place may be necessary to defer the unnecessary realization of taxable income or gains that might otherwise occur on a wind-up of the Existing Fund, and it may otherwise be beneficial to the Existing Fund's unitholders not to wind it up. The Existing Fund will retain its current unit trust structure but will not be offered to the public and its continued existence will confer no direct benefit on the Filer; and

    4. contrary to sections 5.6(1)(f)(ii) and 5.6(1)(f)(iii)(A)(IV) and (V), the most recently filed ETF Facts document, the most recently filed annual financial statements and interim financial reports and the most recently filed annual and interim management reports of fund performance for the Continuing Fund will not be sent to unitholders of the Existing Fund, since that information will not be available for the Continuing Fund as the Continuing Fund will be newly created. Instead, the Filer will make available to each unitholder of the Existing Fund the Circular (as defined below) containing information and documents necessary for investors of the Existing Fund to consider the Proposed Reorganization, the income tax considerations of the Proposed Reorganization to unitholders, the investment objectives and investment strategies of the Existing Fund and the Continuing Fund, the fee structure of the Existing Fund and the Continuing Fund, as well as a summary of the decision of the Independent Review Committee (the **IRC**) with respect to the Proposed Reorganization. The Circular will also disclose that the Filer anticipates that the risk rating for the Continuing Fund will be "High", whereas the Filer has rated the risk rating for the Existing Fund as "Low to Medium".

31. Except for sections 5.6(1)(a)(ii), 5.6(1)(c), 5.6(1)(f)(ii) and 5.6(1)(f)(iii)(A)(IV) and (V), the Proposed Reorganization would satisfy the other criteria in section 5.6(1) for pre-approved reorganizations and transfers.

32. The investment objectives of the Existing Fund would not be considered by a reasonable person to be substantially similar to the investment objectives of the Continuing Fund. The investment objectives of the Existing Fund are and the investment objectives of the Continuing Fund shall be as follows:

Existing Fund	Existing Fund Investment Objective	Continuing Fund	Investment Objective
Horizons Global Risk Parity ETF	The investment objective of the Existing Fund is to seek long term capital appreciation through the use of asset allocation. The Existing Fund will primarily use exchange traded products to gain exposure to a portfolio of global asset classes with a focus on the forecasted amount of risk that each investment contributes.	Horizons ReSolve Adaptive Asset Allocation ETF	The investment objective of the Continuing Fund is to seek long-term capital appreciation by investing, directly or indirectly, in major global asset classes including but not limited to equity indexes, fixed income indexes, interest rates, commodities and currencies.

33. The fee structure of the Existing Fund would not be considered by a reasonable person to be substantially similar to the fee structure of the Continuing Fund because the Continuing Fund introduces a new performance fee that shall become payable to the Filer if certain performance criteria are met.

The Proposed Reorganization

34. On June 12, 2020, the Filer issued a press release and filed a material change report announcing the Proposed Reorganization and the special meeting of unitholders of the Horizons ETF (the **Meeting**) that will be held to approve the Proposed Reorganization, including the change in investment objectives and fee structure resulting therefrom.

35. The Continuing Fund will be structured as a Corporate Class of shares of Horizons MFC for purposes of implementing the Proposed Reorganization. As a result:

    (a) the unitholders of the Existing Fund will have rights as shareholders of the Continuing Fund that are substantially similar in all material respects to the rights they had as unitholders of the Existing Fund;

    (b) the unitholders of the Existing Fund will become holders of a corresponding Corporate Class of shares of the Continuing Fund, with the same aggregate net asset value as they held before the Proposed Reorganization as unitholders of the Existing Fund;

    (c) As of the date hereof, the Existing Fund is expected to make a distribution of income of up to approximately $0.05 per unit to its unitholders in connection with the Proposed Reorganization, however the Proposed Reorganization is not otherwise expected to be a taxable event for Canadian income tax purposes for unitholders of the Existing Fund provided that, in the case of Canadian resident unitholders who hold units of the Existing Fund in taxable accounts, such unitholders make a joint election with Horizons MFC under section 85 of the *Income Tax Act* (Canada) to defer recognition of any gain that may otherwise arise for Canadian income tax purposes on the exchange of their units of the Existing Fund for shares of a class of the Continuing Fund;

    (d) the Continuing Fund will have valuation procedures that are substantially similar to the valuation procedures of the Existing Fund; and

    (e) The Filer will continue to be the investment fund manager of the Continuing Fund,

    all of which is further described in an information circular dated June 12, 2020 that was made available to unitholders of the Existing Fund (the **Circular**).

36. The Continuing Fund will be managed in a manner which is substantially similar to the manner in which the Existing Fund has been managed, and will be managed, to the effective date of the Proposed Reorganization.

37. It is anticipated that substantially all of the assets of the Existing Fund will be transferred to the Continuing Fund in connection with the implementation of the Proposed Reorganization, and/or may be left in the Existing Fund for the exclusive benefit of the Continuing Fund.

38. The Proposed Reorganization is expected to be completed in the third quarter of 2020, subject to receiving all necessary unitholder, regulatory and other third party approvals.

39. As a result of the Proposed Reorganization, all material agreements regarding the administration of the Horizons ETF will either be amended to include the Continuing Fund, or the Continuing Fund will enter into new agreements with the relevant service providers, as required.

40. The unitholders of the Existing Fund immediately before the Proposed Reorganization will be the shareholders of the Continuing Fund immediately after the Proposed Reorganization.

41. It is expected that the sole unitholder of the Existing Fund following the Proposed Reorganization will be Horizons MFC, on behalf of the Continuing Fund and its shareholders (which shall be the same holders of units of the Existing Fund immediately prior to the Proposed Reorganization).

42. The Horizons ETF's IRC has reviewed the conflicts of interests matters associated with the Proposed Reorganization, including the process to be followed in connection with such Proposed Reorganization and the preservation of the Existing Fund for the benefit of the holders of the Continuing Fund, and after reasonable inquiry has advised Horizons that, in its determination, if implemented, the Proposed Reorganization achieves a fair and reasonable result for the Existing Fund.

43. In addition to the press release mentioned above and the corresponding material change report, investors in the Horizons ETF will have been made aware of the Proposed Reorganization through amendments to the final prospectus of the Horizons ETF, which will be filed on the System for Electronic Document Analysis and Retrieval (**SEDAR**).

44. Pursuant to NI 81-102, the Meeting will be held on or about July 14, 2020. At the Meeting, unitholders of the Existing Fund will be asked to approve the Proposed Reorganization, including the change in investment objectives and fee structure resulting therefrom.

45. The Notice-and-Access Document and voting instruction forms or forms of proxy, as applicable, in respect of the Meeting (the **Meeting Materials**) describing the Proposed Reorganization was sent to unitholders of the Existing Fund on June 12, 2020 and copies thereof were filed on SEDAR following the mailing in accordance with applicable securities legislation and exemptive relief obtained by the Filer on November 4, 2016 permitting the Horizons ETF to use Notice-and-Access to send proxy-related materials to beneficial unitholders.

46. The Meeting Materials contain a detailed description of the Proposed Reorganization, including the change in investment objectives and fee structure resulting therefrom, the income tax considerations of the Proposed Reorganization to unitholders, the investment objectives and investment strategies of the Existing Fund and the Continuing Fund, the fee structure of the Existing Fund and the Continuing Fund, a summary of the decision of the IRC with respect to the Proposed Reorganization, as well as the material differences between being a unitholder of a trust and a shareholder of a corporation.

47. The Meeting Materials contain sufficient information regarding the business, management and operations of the Horizons ETF and all information necessary to allow unitholders to make an informed decision about the Proposed Reorganization. All other required information and documents necessary to comply with applicable proxy solicitation requirements of securities legislation for the Meetings will be mailed to unitholders of the Horizons ETF.

48. At the Meeting, the affirmative vote of not less than a majority of the votes cast by unitholders of the Existing Fund present in person or represented by proxy at the Meeting is required for approval of the Proposed Reorganization. It is expected that the Proposed Reorganization will be implemented if approved by the unitholders of the Existing Fund.

49. Subject to receipt of unitholder and regulatory approvals, the Proposed Reorganization will occur as soon as reasonably practicable following receipt of all required unitholder and regulatory approvals, subject to the discretion of the Filer to not proceed with the Proposed Reorganization if considered in the best interests of the Existing Fund.

50. The reasons for the Proposed Reorganization are as follows:

    (a) The Proposed Reorganization follows a lengthy and extensive review by the Filer of the activities and current tax position of the Existing Fund, upon which the Filer has determined that it would be in the best interests of the unitholders of the Existing Fund, currently structured as a trust, to merge into Horizons MFC, which would permit the Continuing Fund to improve operational efficiency, aggregate all future gains and losses be they on income or capital account, and substantially reduce the likelihood of distributions.

    (b) The Proposed Reorganization will provide unitholders of the Continuing Fund with continued exposure to a portfolio of global asset classes that is managed by ReSolve Asset Management Inc. (the same sub-advisor of the Existing Fund), with the added potential to enhance returns through the use of leverage and other strategies available to it as an alternative mutual fund, which is an investment strategy not currently available to the Existing Fund.

    (c) The Proposed Reorganization will eliminate similar fund offerings, thereby reducing the administrative and regulatory costs of operating the Existing Fund and the Continuing Fund as separate funds. In addition, as the Continuing Fund will also continuously offer its shares as an exchange traded fund, the Continuing Fund, when combined with the assets of the Existing Fund, will have the potential to achieve the benefits of economies of scale by spreading its operating costs over more shares.

    (d) Other than the increased management fee and the introduction of a performance fee, the Continuing Fund will have substantially similar operating expenses per class as compared to the Existing Fund. The expenses attributable to the Continuing Fund will continue to be borne by that class of shares of Horizons MFC. To the extent operating expenses are common to Horizons MFC, such expenses will be shared among the classes based on their respective net asset values, or otherwise on a fair and equitable basis as determined by Horizons.

    (e) The Existing Fund currently incurs significant annual expenses to maintain its status as a mutual fund trust, which is treated as a flow-through entity for tax purposes, but which is also required to separately comply with the tax rules applicable thereto. The Filer has determined that significant operational efficiencies can be achieved by combining the Existing Fund into Horizons MFC rather than incurring the foregoing duplicative annual expenses.

    (f) Upon completion of the Proposed Reorganization, the Continuing Fund is expected to be on a level playing field with the tax and operational efficiencies currently enjoyed by Horizons MFC and other mutual fund corporations.

(g) Following completion of the Proposed Reorganization, the Continuing Fund is expected to preserve, and potentially enhance through the use of leverage and other strategies available to it as an alternative mutual fund, the fundamental investment mandate offered by the Existing Fund.

51. No commission or other fee will be charged to unitholders of the Existing Fund on the issue or exchange of securities of the Continuing Fund.

52. The steps for implementing the Proposed Reorganization are substantially as follows:

(a) The declaration of trust governing the Existing Fund will be amended to, among other matters: (i) require that every unitholder of the Existing Fund transfer each of his or her units of the Existing Fund to Horizons MFC in return for an equivalent number of shares of an equivalent series of the Continuing Fund, (ii) otherwise facilitate the Proposed Reorganization and the implementation of the steps and transactions involved as described in the Circular, and (iii) authorize the Filer, as manager and trustee of the Existing Fund, to execute all such instruments as may be necessary or desirable to give effect to the Proposed Reorganization.

(b) The Existing Fund will settle all or part of its outstanding derivative instruments and dispose of certain portfolio assets such that on the date of the Proposed Reorganization, the Existing Fund will hold only cash and/or cash equivalents.

(c) The Existing Fund will distribute its net income and net realized capital gains, if any, for its current taxation year to the extent necessary to eliminate its liability for non-refundable income tax.

(d) Each unitholder of the Existing Fund will transfer each of his or her units of the Existing Fund to Horizons MFC in exchange for an equivalent number of shares of an equivalent series of the Continuing Fund.

(e) Subsequent to the transfer of all the units of the Existing Fund to Horizons MFC per paragraph (b) above, the Existing Fund will transfer to Horizons MFC (for the benefit of the Continuing Fund), as a return of capital or otherwise, all or part of its assets, and Horizons MFC will assume the Existing Fund's remaining liabilities, if any.

(f) Once the Existing Fund has transferred all of its assets to Horizons MFC per paragraph (c) above, the Existing Fund will be wound up. Assets retained within the Existing Fund following the Proposed Reorganization, if any, will be held for the exclusive benefit of the Continuing Fund and its shareholders.

Control and Fund of Fund Restriction Relief

53. Following implementation of the Proposed Reorganization, the Filer anticipates applying on behalf of the Horizons Private Trust to cease to be a reporting issuer using the simplified procedure.

54. Absent the Control Relief, once the Horizons Private Trust ceases to be a reporting issuer, the Continuing Fund would be prohibited under paragraph 2.2(1)(a) of NI 81-102 from maintaining its proposed holding in the Horizons Private Trust, because Horizons MFC (on behalf of the Continuing Fund) will hold, as a result of the Proposed Reorganization, 100% of the voting units of the Horizons Private Trust, and would not qualify for the exemption contained in paragraph 2.2(1.1)(a) of NI 81-102, as not all of the requirements for the Continuing Fund to invest in the Horizons Private Trust pursuant to section 2.5 of NI 81-102 will be met.

55. Absent the Fund of Fund Restriction Relief, the Horizons Private Trust cannot cease to be a reporting issuer because the continued investment by Horizons MFC, on behalf of the Continuing Fund, in 100% of the outstanding voting securities of the Horizons Private Trust would be prohibited under paragraph 2.5(2)(a.1) and under paragraph 2.5(2)(c) of NI 81-102, since the Horizons Private Trust would no longer be subject to NI 81-102 and the Horizons Private Trust would no longer be a reporting issuer.

56. As disclosed in the Circular, preserving the existence of the Horizons Private Trust is beneficial to investors in the Continuing Fund by deferring an unnecessary realization of taxable income or gains that may arise on a wind-up of the Horizons Private Trust and a distribution of its assets to the Continuing Fund, and/or by potentially preserving value in the Horizons Private Trust for the benefit of the shareholders of the Continuing Fund.

57. The Filer does not, and will not, obtain any direct benefit from the continued existence of the Horizons Private Trust, or from the continued investment by Horizons MFC in the Horizons Private Trust.

58. Any value that may ultimately be realized through the Horizons Private Trust shall be for the benefit of the Continuing Fund and its shareholders.

59. There is limited or no downside risk to shareholders of the Continuing Fund in permitting the Continuing Fund to remain invested in the Horizons Private Trust, because the Continuing Fund will remain the sole holders of voting units of the Horizons Private Trust and the Horizons Private Trust does not, and will not, carry on any business. Furthermore, in managing the affairs of the Horizons Private Trust, the Filer will only be taking actions in accordance with its fiduciary obligations to the holders of units of the Horizons Private Trust, being the Continuing Fund.

60. Once the Horizons Private Trust ceases to be a reporting issuer, the Continuing Fund will be unable to divest itself, in a commercially reasonable manner, of the securities of the Horizons Private Trust held in excess of the limits described in paragraph 2.2(1)(a) of NI 81-102 in a manner that would preserve the deferral of any unnecessary realization of taxable income or gains that would arise on a disposition of those units, and/or otherwise preserve value in the Horizons Private Trust for the benefit of the shareholders of the Continuing Fund. As the Horizons Private Trust (i) shall carry on no other business, (ii) shall have a single unitholder, and (iii) shall no longer issue any units following the Proposed Reorganization, there is no market for the units of the Horizons Private Trust held by Horizons MFC.

61. While the Filer could maintain the reporting issuer status of the Horizons Private Trust if required to do so, doing so would not be beneficial to investors and would require the Filer to incur significant costs to satisfy the regulatory obligations associated with maintaining reporting issuer status.

62. The only material differences between the Horizons Private Trust and other types of mutual funds governed by NI 81-102 is that the Horizons Private Trust (i) shall not be in continuous distribution, as it will not issue additional securities, (ii) shall not invest its portfolio in any securities and (iii) intends not to be a reporting issuer.

Decision

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

The decision of the principal regulator under the Legislation is that the Approval Sought is granted, provided that before implementing the Proposed Reorganization, the Filer obtains the prior approval of the unitholders of the Horizons ETF at a special meeting held for that purpose.

The decision of the principal regulator under the Legislation is that the Control Relief and the Fund of Fund Restriction Relief is granted, provided that:

(i) the Horizons Private Trust does not issue any new securities;

(ii) the investment of the Continuing Fund in securities of the Horizons Private Trust otherwise complies with section 2.5 of NI 81-102, with the exception of paragraphs 2.5(2)(a) and 2.5(2)(c) of NI 81-102;

(iii) the Horizons Private Trust will remain in compliance with NI 81-102, with the exception of Part 12 – *Compliance Reports*, and will not make any new investments; and

(iv) the prospectus of the Continuing Fund discloses, or will disclose at the time of its next renewal, the fact that the Continuing Fund has obtained the Control Relief and the Fund of Fund Restriction Relief to permit the relevant transactions on the terms described in this decision.

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

2.1.3 PIMCO Canada Corp. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to mutual funds for extensions of lapse dates of their prospectuses – Filer will combine two prospectuses into one prospectus at renewal – Lapse date extension will not affect the currency or accuracy of the information in the current prospectuses.

Applicable Legislative Provisions

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

December 14, 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)

AND

IN THE MATTER OF
PIMCO MANAGED CONSERVATIVE BOND POOL
PIMCO MANAGED CORE BOND POOL
(the Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the time limits for the renewal of the simplified prospectus of the Funds dated February 3, 2020 (as amended and restated on November 23, 2020) (the **Prospectus**) be extended to the time limits that would apply if the lapse date of the Prospectus was June 25, 2021 (the **Exemption Sought**).

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

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

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

Interpretation

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

Representations

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

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

2. The Filer is registered as an investment fund manager in Ontario, Quebec and Newfoundland and Labrador, a portfolio manager and an exempt market dealer in each of the provinces of Canada, a commodity trading manager in Ontario and an adviser in Manitoba.

3. The Filer is the investment fund manager of each of the Funds. The Filer is also the investment fund manager of the mutual funds listed in Schedule A (the **Other Funds**) that are offered in each of the Canadian Jurisdictions under a simplified prospectus dated June 25, 2020, as amended and restated on August 20, 2020 (the **Other Funds Prospectus**), and so have a lapse date of June 25, 2021.

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

5. Each of the Funds is an open-ended mutual fund trust established under the laws of Ontario. Each of the Funds is a reporting issuer in each of the Canadian Jurisdictions.

6. Securities of the Funds are currently qualified for distribution in each of the Canadian Jurisdictions under the Prospectus.

7. Pursuant to subsection 62(1) of the *Securities Act* (Ontario) (the **Act**), the lapse date of the Prospectus is February 3, 2021 (the **Current Lapse Date**). Accordingly, under subsection 62(2) of the Act, the distribution of securities of each of the Funds would have to cease on the Current Lapse Date unless: (i) the Funds file a *pro forma* simplified prospectus at least 30 days prior to the Current Lapse Date; (ii) the final simplified prospectus is filed no later than 10 days after the Current Lapse Date; and (iii) a receipt for the final simplified prospectus is obtained within 20 days after the Current Lapse Date.

8. The Filer wishes to combine the Prospectus with the Other Funds Prospectus in order to reduce renewal, printing and related costs. Offering the Funds under the same renewal simplified prospectus and annual information form (the **Prospectus Documents**) as the Other Funds would facilitate the distribution of the Funds in the Canadian Jurisdictions under the same prospectus and enable the Filer to streamline disclosure across the Filer's fund platform. The Funds share many common operational and administrative features with the Other Funds and combining them in the same simplified prospectuses will allow investors to more easily compare the features of the Other Funds and the Funds.

9. The Filer may make changes to the features of the Other Funds as part of the process of renewing the Other Funds' Prospectus Documents. The ability to file the Prospectus Documents of the Funds with those of the Other Funds will ensure that the Filer can make the operational and administrative features of the Funds and the Other Funds consistent with each other, if necessary.

10. If the Exemption Sought is not granted, it will be necessary to renew the Prospectus Documents of the Funds twice within a short period of time in order to consolidate the Prospectus Documents of the Funds with the Prospectus Documents of the Other Funds, and it would be unreasonable for the Filer to incur the costs and expenses associated therewith, given investors would not be prejudiced by the Exemption Sought.

11. There have been no material changes in the affairs of the Funds since the date of the Prospectus. Accordingly, the Prospectus continues to provide accurate information regarding the Funds.

12. Given the disclosure obligations of the Filer and the Funds, should any material change in the business, operations or affairs of the Funds occur, the Prospectus and current fund facts document(s) of the applicable Fund(s) will be amended as required under the Act.

13. New investors of the Funds will receive delivery of the most recently filed fund facts document(s) of the applicable Fund(s). The Prospectus of the Funds will remain available to investors upon request.

14. The Exemption Sought will not affect the accuracy of the information contained in the Prospectus or the respective fund facts document(s) of each of the Funds, and will therefore not be prejudicial to the public interest.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted.

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

Schedule A

The Other Funds

PIMCO Canadian Total Return Bond Fund

PIMCO Monthly Income Fund (Canada)

PIMCO Flexible Global Bond Fund (Canada)

PIMCO Unconstrained Bond Fund (Canada)

PIMCO Investment Grade Credit Fund (Canada)

PIMCO Global Short Maturity Fund (Canada)

PIMCO Low Duration Monthly Income Fund (Canada)

2.1.4 Horizons ETFS Management (Canada) Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of exchange traded mutual fund reorganization pursuant to section 5.5(1)(b) of National Instrument 81-102 Investment Funds required because the reorganization does not meet criteria for pre-approval – reorganization from mutual fund trust structure to multi-class mutual fund corporation structure – relief also granted to the existing funds for extension of the lapse date of their prospectus as funds will cease distribution shortly after the reorganization – relief also granted from sections 15.3(2), 15.3(4)(c), 15.6(1)(a)(i), 15.6(1)(d)(i), 15.8(2)(a), 15.8(3)(a) and 15.9(2)(d) of NI 81-102 to permit the new continuing funds to include in their sales communications performance data from the existing funds – relief also granted from section 15.1.1 of NI 81-102 to use performance data from the existing funds to calculate the continuing funds' investment risk level in accordance with Appendix F Investment Risk Classification Methodology – relief also granted from National Instrument 41-101 General Prospectus Disclosure to permit the new continuing funds to include in their respective ETF facts documents the past performance data, expenses and fees, risk levels for their respective terminating funds – relief also granted from National Instrument 81-106 Investment Fund Continuous Disclosure to permit the continuing funds to include in annual and interim management reports of fund performance the financial highlights and past performance of the funds that are derived from the funds' annual financial statements that pertain to their respective terminating funds – relief to include past performance data from the existing funds in the disclosure documents of the continuing fund is subject to terms and conditions – relief also granted from paragraphs 2.2(1)(a), 2.5(2)(a), (a.1) and (c) of NI 81-102 to allow continuing funds to continue to hold all of the remaining securities of their predecessor funds after they have ceased to be reporting issuers – relief subject to terms and conditions based on investment restrictions of NI 81-102.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.2(1)(a), 2.5(2)(a), 2.5(2)(a.1), 2.5(2)(c), 5.5(1)(b), 5.7(1)(b), 15.1.1(a), 15.1.1(b), 15.6(1)(a)(i), 15.6(1)(d)(i), 15.8(2)(a), 15.8(3)(a), 15.9(2)(d), 19.1, and 19.1(2), and Items 2 and 4 of Appendix F Investment Risk Classification Methodology to NI 81-102.
National Instrument 41-101 General Prospectus Requirements, ss. 3B.2 and 17.1.
Item 17.2 of Form 41-101F2 Information Required in an Investment Fund Prospectus.
Items 2, 4(2)(a) and 5, Part I and Items 1.3 and 1.4, Part 2 of Form 41-101F4 Information Required in an ETF Facts Document.
National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 2.1, 2.3, 4.4 and 17.1.
Items 3.1(1), 3.1(7), 3.1(8), 4.1(1), 4.1(2), 4.2(1), 4.2(2) and 4.3(1)(a) and 4.3(2) of Part B of Form 81-106F1 and Items 3(1) and 4 of Part C of Form 81-106F1 Contents of Annual and Interim Management Report of Fund Performance.
Securities Act, R.S.O. 1990, c. S.5, as am., ss. 62(5).

June 19, 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
HORIZONS ETFS MANAGEMENT (CANADA) INC.
(the Filer)

AND

HORIZONS MORNINGSTAR HEDGE FUND INDEX ETF
HORIZONS ABSOLUTE RETURN GLOBAL CURRENCY ETF
(the Horizons ETFs)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of the Horizons ETFs, for:

(a) a decision under the securities legislation of the Jurisdiction (the **Legislation**) for approval under clause 5.5(1)(b) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) of the proposed reorganization (the **Proposed Reorganization**) of each of the Horizons ETFs (the **Existing Funds**) into a corresponding class of shares (the **Continuing Funds**) of Horizons ETF Corp. (the **Approval Sought**); and

(b) an extension of the time limits for the renewal of the long form prospectus of the Horizons ETFs (dated May 9, 2019) (the **Prospectus**) to those time limits that would apply if the lapse date of the Prospectus was August 9, 2020 pursuant to subsection 62(5) of the *Securities Act* (Ontario) (the **Act**) (the **Lapse Date Extension**);

(c) an exemption from:

(i) item 17.2 of Form 41-101F2 *Information Required in an Investment Fund Prospectus* to permit the Continuing Funds to disclose the trading price and volume information required thereunder of the respective Existing Funds as their trading price and volume information (the **Prior Sales Data**);

(ii) section 3B.2 of National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**) for the purposes of the relief requested herein from Form 41-101F4 *Information Required in an ETF Facts Document* (**Form 41-101F4**);

(iii) item 2 of Part 1 of Form 41-101F4 to permit the Continuing Funds to disclose the Quick Facts, Trading Information and Pricing Information of the respective Existing Funds as their Quick Facts, Trading Information and Pricing Information in the ETF facts document;

(iv) item 5 of Part 1 of Form 41-101F4 to permit the Continuing Funds to use performance data of the respective Existing Funds in the Year-by-year returns, Best and worst 3-month returns and Average return in the ETF facts document;

(v) items 1.3 and 1.4 of Part 2 of Form 41-101F4 to permit the Continuing Funds to use the information about the expenses and fees of the respective Existing Funds in the ETF facts document;

(vi) sections 15.3(2), 15.3(4)(c), 15.6(1)(a)(i), 15.6(1)(d)(i), 15.8(2)(a), 15.8(3)(a) and 15.9(2)(d) of NI 81-102 to permit the Continuing Funds to use performance data of the respective Existing Funds in sales communications and reports to shareholders (collectively, the **Fund Communications**);

(vii) section 15.1.1(a) of NI 81-102 and items 2 and 4 of Appendix F *Investment Risk Classification Methodology* to NI 81-102 (**Appendix F**) to permit the Continuing Funds to include performance data of the respective Existing Funds in determining its investment risk level in accordance with Appendix F;

(viii) section 15.1.1(b) of NI 81-102, item 4(2)(a) of Part I and the Instruction to Item 4, Part I of Form 41-101F4 to permit the Continuing Funds to disclose its investment risk level as determined by including performance data of the respective Existing Funds in accordance with Appendix F;

(ix) section 4.4 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) for the purposes of the relief requested from Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* (**Form 81-106F1**) for the Continuing Funds;

(x) sections 2.1 and 2.3 of NI 81-106 to permit the Continuing Funds to use the information required to be included in the financial statements of the Existing Funds in the Continuing Funds' annual and interim financial statements;

(xi) items 3.1(1), 3.1(7), 3.1(8), 4.1(1) in respect of the requirement to comply with subsections 15.3(2) and 15.9(2)(d) of NI 81-102, 4.1(2), 4.2(1), 4.2(2) and 4.3(1)(a) of Part B of Form 81-106F1 and items 3(1) and 4 of Part C of Form 81-106F1 to permit the Continuing Funds to include in their annual and interim management reports of fund performance (**MRFP**), the performance data and information derived from the financial statements, or otherwise derived, as applicable (collectively, the **Financial Data**) of their respective Existing Funds;

(collectively, the **Past Performance Relief**);

(xii) paragraph 2.2(1)(a) of NI 81-102 to permit each Continuing Fund to continue to hold securities of its corresponding Horizons Private Trust (as defined below) such that, following the Proposed

Reorganization, a Continuing Fund would continue to hold securities representing 100% of: (a) the votes attaching to the outstanding voting securities of the corresponding Horizons Private Trust or (b) the outstanding equity securities of the corresponding Horizons Private Trust (the **Control Relief**); and

(xiii) paragraph 2.5(2)(a) of NI 81-102 (in respect of each Continuing Fund that is a mutual fund, other than an alternative mutual fund), paragraph 2.5(2)(a.1) of NI 81-102 (in respect of each Continuing Fund that is an alternative mutual fund) and paragraph 2.5(2)(c) of NI 81-102 to permit each Continuing Fund, following the Proposed Reorganization, to continue to hold the securities of its corresponding Horizons Private Trust after the Horizons Private Trust ceases to be a reporting issuer (the **Fund of Fund Restriction Relief**)

(together with the Lapse Date Extension, the Past Performance Relief, and the Control Relief, collectively, the **Exemption Sought**).

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

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

(b) the Filer has provided notice that section 4.7(1)(c) 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 the Jurisdiction (together with the Jurisdiction, the **Canadian Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions* (**NI 14-101**), MI 11-102 and NI 81-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

The Filer and the Horizons ETFs

1. The Filer is a corporation existing under the laws of Canada, with its head office located in Toronto, Ontario. The Filer is a wholly-owned subsidiary of Mirae Asset Global Investments Co., Ltd.

2. The Filer is registered as (a) an investment fund manager in Newfoundland and Labrador, Ontario and Québec, (b) a portfolio manager in Alberta, British Columbia, Ontario and Québec (c) a dealer in the category of exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan, (d) a commodity trading adviser in Ontario and (e) a commodity trading manager in Ontario.

3. The Filer is the investment fund manager and trustee of the Horizons ETFs and shall be the investment fund manager of the Continuing Funds.

4. The Filer's primary business is to act as investment fund manager for the Horizons ETFs and other exchange traded funds in Canada.

5. Each of the Horizons ETFs is an exchange traded mutual fund or alternative mutual fund established under the laws of the Province of Ontario.

6. Securities of the Horizons ETFs are distributed in each of the Canadian Jurisdictions under the Prospectus and ETF facts documents prepared in accordance with the requirements of NI 41-101, Form 41-101F2, Form 41-101F4 and NI 81-102, as applicable.

7. Each Horizons ETF is a reporting issuer under the applicable securities legislation of each of the Canadian Jurisdictions.

8. The Horizons ETFs are subject to, among other laws and regulations, NI 81-102, NI 81-106 and National Instrument 81-107 *Independent Review Committee for Investment Funds.*

9. As the Filer intends to cease distribution of the Existing Funds following the Proposed Reorganization, it does not intend to renew the Existing Funds' prospectus under subsection 62(2) of the Act.

10. None of the Filer or the Horizons ETFs are in default of applicable securities legislation in any of the Canadian Jurisdictions.

Horizons ETF Corp. and the Continuing Funds

11. Horizons ETF Corp. (**Horizons MFC**) is a mutual fund corporation established under the laws of Canada. The authorized capital of Horizons MFC includes an unlimited number of non-cumulative, redeemable, non-voting classes of shares (each, a **Corporate Class**), issuable in an unlimited number of series, and one class of voting shares designated as "Class J Shares". As of the date hereof, Horizons MFC currently offers 47 Corporate Classes operating as exchange traded funds in Canada.

12. Each Continuing Fund will be established as a separate Corporate Class, consisting of a single series of exchange traded fund shares (**ETF Shares**) of Horizons MFC.

13. Securities of the Continuing Funds will be distributed in each of the Canadian Jurisdictions under long form prospectuses and ETF facts documents prepared in accordance with the requirements of NI 41-101, Form 41-101F2, Form 41-101F4 and NI 81-102, as applicable, subject to any exemptions obtained therefrom.

14. Each Continuing Fund will be a reporting issuer under the applicable securities legislation of each of the Canadian Jurisdictions.

15. The Continuing Funds will be subject to, among other laws and regulations, NI 81-102, NI 81-106 and NI 81-107 and any exemptions therefrom that have been granted by the securities regulatory authorities.

16. On May 26, 2020, the Filer filed preliminary prospectuses and preliminary ETF facts documents with respect to the Continuing Funds.

17. As the Continuing Funds are new, the funds will not have their own past performance, price or trading data on the date the Proposed Reorganization is implemented.

18. The Filer will not begin distribution of ETF Shares of the Continuing Funds prior to the completion of the Proposed Reorganization.

Horizons Private Trusts

19. As a result of the Proposed Reorganization and for the reasons described below, each Continuing Fund will become the holder of 100% of the outstanding voting units of its corresponding Horizons ETF, which following the Proposed Reorganization shall each be private investment trusts (each a **Horizons Private Trust**, collectively the **Horizons Private Trusts**).

20. Following the Proposed Reorganization, it is anticipated that each Horizons Private Trust will apply to cease to be a reporting issuer under the simplified procedure.

21. Each Continuing Fund wishes to have the ability to hold 100% of the outstanding voting units of its corresponding Horizons Private Trust once the Horizons Private Trusts cease to be reporting issuers.

22. Each Continuing Fund does not intend to hold more than 10% of its net asset value in a Horizons Private Trust, and the Filer does not anticipate that any Continuing Fund will hold more than 10% of its net asset value in securities of a Horizons Private Trust.

23. The holding by each Continuing Fund of securities of the corresponding Horizons Private Trust will be the result of the implementation of the Proposed Reorganization, which shall only proceed if the Approval Sought is granted and if approved by unitholders, and the continued holding by each Continuing Fund in securities of the corresponding Horizons Private Trust represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Continuing Funds and their shareholders.

24. Following the Proposed Reorganization:

    (a) the Horizons Private Trusts shall cease to offer units to the public and holders of the Horizons ETFs structured as trusts shall become holders of shares of the corresponding Continuing Fund, and Horizons MFC (on behalf of the corresponding Continuing Fund) shall become the sole unitholder of each Horizons Private Trust;

    (b) the Horizons Private Trusts will not carry on any active business;

    (c) although units of the Horizons Private Trusts will not be listed or quoted on any public exchange or market, units of the Horizons Private Trusts will continue to be liquid as they are redeemable daily on demand by the Continuing Funds; and

(d) units of the Horizons Private Trusts will not be available for purchase or issuance and it is currently anticipated that no additional units of the Horizons Private Trusts shall be issued in the future.

25. As the Horizons Private Trusts will not carry on any business following the Proposed Reorganization, the Horizons Private Trusts will operate in compliance with NI 81-102, with the exception of Part 12 – *Compliance Reports*, and will not make any new investments.

26. As the Horizons Private Trusts will not charge any management fees or incentive fees following the Proposed Reorganization, no Continuing Fund will pay any management or incentive fees which to a reasonable person would duplicate a fee payable by the corresponding Horizons Private Trust for the same service.

27. If a Continuing Fund trades in securities of a Horizons Private Trust with or through the Filer acting as dealer, the Filer will comply with its obligations under NI 81-107 in respect of any proposed related party transactions. These related party transactions will be disclosed to shareholders of the applicable Continuing Fund in its MRFP.

28. In connection with the Proposed Reorganization, and as will be disclosed in the Circular (as defined below), the Filer will apply to the Canadian securities administrators for the Horizons Private Trusts to cease being reporting issuers to avoid the unnecessary costs associated with meeting certain continuous disclosure obligations.

Reason for Approval Sought

29. The Filer and the Existing Funds require regulatory approval of the Proposed Reorganization because they cannot rely on section 5.6(1) of NI 81-102 for the following reasons:

(a) contrary to section 5.6(1)(c), it is not anticipated that the Existing Funds will be wound-up after the Proposed Reorganization because the Filer believes that leaving the Existing Funds and their assets in place may be necessary to defer the unnecessary realization of taxable income or gains that might otherwise occur on a wind-up of an Existing Fund, and it may otherwise be beneficial to such Existing Funds' unitholders not to wind them up. The Existing Funds that are not wound up following the effective date of the Proposed Reorganization will retain their current unit trust structure but will not be offered to the public and their continued existence will confer no direct benefit on the Filer; and

(b) contrary to sections 5.6(1)(f)(ii) and 5.6(1)(f)(iii)(A)(IV) and (V), the most recently filed ETF facts documents, the most recently filed annual financial statements and interim financial reports and the most recently filed annual and interim MRFPs for the Continuing Funds will not be sent to unitholders of the Existing Funds, since that information will not be available for the Continuing Funds as each Continuing Fund will be newly created. Instead, the Filer will make available to each unitholder of an Existing Fund the Circular (as defined below) containing information and documents necessary for investors of the Existing Funds to consider the Proposed Reorganization, including a full description of the Proposed Reorganization, the income tax considerations of the Proposed Reorganization to unitholders, the investment objectives and investment strategies of the Existing Funds and the Continuing Funds, as well as a summary of the decision of the Independent Review Committee (the **IRC**) with respect to the Proposed Reorganization.

30. Except for sections 5.6(1)(c), 5.6(1)(f)(ii) and 5.6(1)(f)(iii)(A)(IV) and (V), the Proposed Reorganization would satisfy the other criteria in section 5.6(1) of NI 81-102 for pre-approved reorganizations and transfers.

The Proposed Reorganization

31. On May 22, 2020, the Filer issued a press release and filed a material change report announcing the Proposed Reorganization and the special meetings of unitholders of the Horizons ETFs (the **Meetings**) that will be held to approve the Proposed Reorganization.

32. Each Continuing Fund will be structured as a separate Corporate Class of shares of Horizons MFC for purposes of implementing the Proposed Reorganization. As a result:

(a) the unitholders of the Existing Funds will have rights as shareholders of the Continuing Funds that are substantially similar in all material respects to the rights they had as unitholders of the Existing Funds;

(b) the unitholders of the Existing Funds will become holders of a corresponding Corporate Class of shares of the relevant Continuing Fund, with the same aggregate net asset value as they held before the Proposed Reorganization as unitholders of the relevant Existing Fund;

(c) the Proposed Reorganization is not expected to be a taxable event for Canadian income tax purposes for unitholders of the Existing Funds provided that, in the case of Canadian resident unitholders who hold units of the Existing Funds in taxable accounts (**Section 85 Eligible Holders**), such unitholders make a joint election

with Horizons MFC under section 85 of the *Income Tax Act* (Canada) (the **Tax Act**) to defer recognition of any gain that may otherwise arise for Canadian income tax purposes on the exchange of their units of an Existing Fund for shares of a class of the Continuing Fund;

(d) the Continuing Funds will have fundamental investment objectives, as well as investment strategies, that are substantially similar in all material respects to the fundamental investment objectives and investment strategies of the corresponding Existing Funds;

(e) the Continuing Funds will have fee structures and valuation procedures that are substantially similar to the fee structures and valuation procedures of the corresponding Existing Funds; and

(f) The Filer will continue to be the investment fund manager of the Continuing Funds,

all of which is described in an information circular dated May 18, 2020 that was made available to unitholders of the Existing Funds (the **Circular**).

33. The Continuing Funds will be managed in a manner which is substantially similar to the manner in which the Existing Funds have been managed, and will be managed, to the effective date of the Proposed Reorganization.

34. It is anticipated that substantially all of the assets of each Existing Fund will be transferred to the corresponding Continuing Fund in connection with the implementation of the Proposed Reorganization, and/or may be left in the Existing Fund for the exclusive benefit of the corresponding Continuing Fund.

35. The Proposed Reorganization is expected to be completed before the end of June 2020, subject to receiving all necessary unitholder, regulatory and other third-party approvals.

36. As a result of the Proposed Reorganization, all material agreements regarding the administration of the Horizons ETFs will either be amended to include the Continuing Funds, or the Continuing Funds will enter into new agreements with the relevant service provider, as required.

37. The unitholders of each Existing Fund immediately before the Proposed Reorganization will be the shareholders of the corresponding Continuing Fund immediately after the Proposed Reorganization.

38. It is expected that the sole unitholder of each Existing Fund following the Proposed Reorganization will be Horizons MFC, on behalf of the applicable corresponding Continuing Fund and its shareholders (which shall be the same holders of units of such Existing Fund immediately prior to the Proposed Reorganization).

39. The Horizons ETFs' IRC has reviewed the conflicts of interests matters associated with the Proposed Reorganization, including the process to be followed in connection with such Proposed Reorganization and the preservation of some or all of the Existing Funds for the benefit of the holders of the Continuing Funds, and after reasonable inquiry has advised Horizons that, in its determination, if implemented, the Proposed Reorganization achieves a fair and reasonable result for each of the Existing Funds.

40. In addition to the press release mentioned above and the corresponding material change report, investors in the Horizons ETFs will have been made aware of the Proposed Reorganization through amendments to the final prospectuses of the Horizons ETFs, which will be filed on the System for Electronic Document Analysis and Retrieval (**SEDAR**).

41. Pursuant to NI 81-102, the Meetings will be held on or about June 23, 2020. At the Meetings, unitholders of the Existing Funds will be asked to approve the Proposed Reorganization.

42. The Notice-and-Access Document and voting instruction forms or forms of proxy, as applicable, in respect of the Meetings (the **Meeting Materials**) describing the Proposed Reorganization was sent to unitholders of the Existing Funds on May 22, 2020 and copies thereof were filed on SEDAR following the mailing in accordance with applicable securities legislation and exemptive relief obtained by the Filer on November 4, 2016 permitting the Horizons ETFs to use Notice-and-Access to send proxy-related materials to beneficial unitholders.

43. The Meeting Materials contain a detailed description of the Proposed Reorganization, information about the Existing Funds and the Continuing Funds, income tax considerations for unitholders of the Horizons ETFs applicable to the Proposed Reorganization and the material differences between being a unitholder of a trust and a shareholder of a corporation.

44. The Meeting Materials contain sufficient information regarding the business, management and operations of the Horizons ETFs and all information necessary to allow unitholders to make an informed decision about the Proposed Reorganization. All other required information and documents necessary to comply with applicable proxy solicitation requirements of securities legislation for the Meetings will be mailed to applicable unitholders of the Horizons ETFs.

45. At each Meeting, the affirmative vote of not less than a majority of the votes cast by unitholders of the applicable Existing Fund present in person or represented by proxy at that Meeting is required for approval of the Proposed Reorganization. It is expected that the Proposed Reorganization will be implemented if approved by the unitholders of the applicable Existing Fund, regardless of whether the Proposed Reorganization is approved by unitholders of the other Existing Fund.

46. Subject to receipt of unitholder and regulatory approvals, the Proposed Reorganization will occur as soon as reasonably practicable following receipt of all required unitholder and regulatory approvals, subject to the discretion of the Filer to not proceed with the Proposed Reorganization for one or more Existing Funds if considered in the best interests of the Existing Funds. It is currently anticipated that the Proposed Reorganization will occur before the end of June 2020.

47. The reasons for the Proposed Reorganization are as follows:

    (a) The Proposed Reorganization follows a lengthy and extensive review by the Filer of the activities and current tax positions of the Existing Funds, upon which the Filer has determined that it would be in the best interests of the unitholders of the Existing Funds, currently structured as trusts, to merge into Horizons MFC, which would permit the Continuing Funds to improve operational efficiency, aggregate all future gains and losses be they on income or capital account, and substantially reduce the likelihood of distributions.

    (b) The Existing Funds currently incur significant annual expenses to maintain their status as separate mutual fund trusts, each of which is treated as a flow-through entity for tax purposes, but each of which is also required to separately comply with the tax rules applicable thereto. Horizons has determined that significant operational efficiencies can be achieved by combining the Existing Funds into Horizons MFC rather than incurring the foregoing duplicative annual expenses.

    (c) Upon completion of the Proposed Reorganization, the Continuing Funds are expected to be on a level playing field with the tax and operational efficiencies currently enjoyed by Horizons MFC and other mutual fund corporations.

    (d) Following completion of the Proposed Reorganization, the Continuing Funds are expected to preserve all of the benefits offered by the Existing Funds.

48. No commission or other fee will be charged to unitholders of an Existing Fund on the issue or exchange of securities of the applicable Continuing Fund.

49. The steps for implementing the Proposed Reorganization are substantially as follows:

    (a) The declaration of trust governing each Existing Fund will be amended to, among other matters: (i) require that every unitholder of each Existing Fund transfer each of his or her units of such Existing Fund to Horizons MFC in return for an equivalent number of shares of an equivalent series of the corresponding Continuing Fund, (ii) otherwise facilitate the Proposed Reorganization and the implementation of the steps and transactions involved as described in the Circular, and (iii) authorize the Filer, as manager and trustee of each Existing Fund, to execute all such instruments as may be necessary or desirable to give effect to the Proposed Reorganization.

    (b) Each Existing Fund will settle all or part of its outstanding swaps, forwards or other derivatives, as applicable.

    (c) Each unitholder of an Existing Fund will transfer each of his or her units of that Existing Fund to Horizons MFC in exchange for an equivalent number of shares of an equivalent series of the corresponding Continuing Fund.

    (d) Subsequent to the transfer of all the units of a particular Existing Fund to Horizons MFC per paragraph (d) above, such Existing Fund will transfer to Horizons MFC (for the benefit of the applicable Continuing Fund), as a return of capital or otherwise, all or part of its assets, and Horizons MFC will assume the Existing Fund's remaining liabilities, if any.

    (e) Once an Existing Fund has transferred all of its assets to Horizons MFC, per paragraph (e) above, that Existing Fund will be wound up. Assets retained within an Existing Fund following the Proposed Reorganization, if any, will be held for the exclusive benefit of the corresponding Continuing Fund and its shareholders.

Lapse Date Extension

50. Pursuant to subsection 62(1) of the Act, the lapse date of the Prospectus is May 9, 2020 (the **Lapse Date**). Accordingly, under subsection 62(2) of the Act, the distribution of securities of the Horizons ETFs would have to cease on the applicable Lapse Date unless: (i) each Horizons ETF files a *pro forma* prospectus at least 30 days prior to the Lapse Date; (ii) the final prospectus is filed no later than 10 days after the Lapse Date; and (iii) a receipt for the final prospectus is obtained within 20 days of the Lapse Date.

51. Pursuant to e-mail correspondence with the Principal Regulator on April 7, 2020, the Filer gave notice of its intention to rely on Ontario Instrument 81-503 *Extension of Certain Filing, Delivery and Prospectus Renewal Requirements of Investment Funds* to extend the lapse date of the Prospectus by 45 days. Accordingly, the revised lapse date of the Prospectus is June 23, 2020 (the **Revised Lapse Date**).

52. The Lapse Date Extension will allow the Filer to avoid incurring unnecessary costs in connection with preparing and filing a renewal prospectus for units of the Horizons ETFs (structured as trusts), since subject to regulatory, unitholder and other third party approvals, the Horizons ETFs are expected to shortly thereafter convert into the Corporate Classes of Horizons MFC, at which time they will be distributing ETF Shares under a separately filed prospectus and will not be relying on the Prospectus filed by the trusts.

53. There have been no material changes in the affairs of each Horizons ETF since the date of the Prospectus. Accordingly, the Prospectus and current ETF facts document of each Horizons ETF represents current information regarding such Horizons ETF.

54. Given the disclosure obligations of the Filer and the Horizons ETFs, should any material change in the business, operations or affairs of the Horizons ETFs occur, the Prospectus and the current ETF facts document of each Horizons ETF will be amended as required under the Legislation.

55. The Lapse Date Extension will not affect the accuracy of the information contained in the Prospectus and will therefore not be prejudicial to the public interest.

Past Performance Relief

56. The Continuing Funds will be new funds. However, while the Continuing Funds will each have the same underlying assets and liabilities as the corresponding Existing Funds, as new funds, they will not have their own Financial Data or Prior Sales Data as at the effective date of the Proposed Reorganization. In order for the Proposed Reorganization to be as seamless as possible for unitholders of the Existing Funds, the Filer proposes that:

    (a) the Continuing Funds will prepare annual MRFPs commencing with the year ended December 31, 2020 and interim MRFPs commencing with the six-month period ended June 30, 2021 using the relevant Existing Funds' historical Financial Data; and

    (b) the Continuing Funds will prepare comparative annual financial statements commencing with the year ended December 31, 2020 under section 2.1 of NI 81-106 using the relevant Existing Funds' historical Financial Data.

57. The Financial Data and Prior Sales Data of the Existing Funds is significant information which can assist investors in determining whether to purchase shares of the Continuing Funds. In the absence of the relief requested herein, investors will have no financial information (such as past performance) on which to base such an investment decision.

58. The Filer proposes to include the Prior Sales Data of the Existing Funds in the applicable final prospectuses for the Continuing Funds.

59. The Filer proposes to include the performance data of each of the Existing Funds in the corresponding Continuing Funds' Fund Communications and ETF facts document because the investment objectives and investment strategies employed by the Existing Funds prior to the Proposed Reorganization and the Continuing Funds after the Proposed Reorganization are the same.

60. The Filer proposes to state that the Quick Facts, Trading Information and Pricing Information in the ETF facts document for each of the Continuing Funds is based upon the Quick Facts, Trading Information and Pricing Information of the corresponding Existing Fund.

61. The Filer proposes to use information of the Existing Funds for the purposes of performance data in the Year-by-year returns, Best and worst 3-month returns and Average return in the ETF facts document for each of the Continuing Funds.

62. The Filer proposes to use the information about the expenses and fees of the Existing Funds in the ETF facts document for each of the Continuing Funds.

63. The Filer proposes to use the performance data of the Existing Funds to determine its investment risk level and disclose it in the ETF facts document of each of the Continuing Funds.

64. Each Continuing Fund will be indistinguishable from its corresponding Existing Fund since the investment objectives, investment strategies and management fees attached to each continuing series of each Continuing Fund will be substantially similar in all material respects as the corresponding Existing Fund.

65. The Filer is seeking to make the Proposed Reorganization as seamless as possible for unitholders of the Existing Funds. Accordingly, the Filer submits that treating each Continuing Fund as a continuation of the Existing Fund for purposes of the above-mentioned information would be beneficial to investors and that to do otherwise would cause unnecessary confusion among investors concerning the differences between the Existing Funds and the Continuing Funds. Any such disclosure would note that the performance includes information from the time that the Continuing Fund operated as a trust prior to the Proposed Reorganization.

66. The Filer submits that investors will not be misled if the above mentioned information of each Continuing Fund reflects the information of the corresponding Existing Fund.

Control and Fund of Fund Restriction Relief

67. Following implementation of the Proposed Reorganization, the Filer anticipates applying on behalf of each Horizons Private Trust to cease to be a reporting issuer using the simplified procedure.

68. Absent the Control Relief, once the Horizons Private Trusts cease to be reporting issuers, the Continuing Funds would be prohibited under paragraph 2.2(1)(a) of NI 81-102 from maintaining their proposed holdings in the Horizons Private Trusts, because Horizons MFC (on behalf of each Continuing Fund) will hold, as a result of the Proposed Reorganization, 100% of the voting units of the Horizons Private Trusts, and would not qualify for the exemption contained in paragraph 2.2(1.1)(a) of NI 81-102, as not all of the requirements for a Continuing Fund to invest in a Horizons Private Trust pursuant to section 2.5 of NI 81-102 will be met.

69. Absent the Fund of Fund Restriction Relief, the Horizons Private Trusts cannot cease to be reporting issuers because the continued investment by Horizons MFC, on behalf of the Continuing Funds, in 100% of the outstanding voting securities of the Horizons Private Trusts would be prohibited under paragraph 2.5(2)(a.1) and under paragraph 2.5(2)(c) of NI 81-102, since the Horizons Private Trusts would no longer be subject to NI 81-102 and the Horizons Private Trusts would no longer be reporting issuers.

70. As will be disclosed in the Circular, preserving the existence of the Horizons Private Trusts is beneficial to investors in the Continuing Funds by deferring an unnecessary realization of taxable income or gains that may arise on a wind-up of a Horizons Private Trust and a distribution of its assets to the corresponding Continuing Fund, and/or by potentially preserving value in the Horizons Private Trust for the benefit of the shareholders of the corresponding Continuing Fund.

71. The Filer does not, and will not, obtain any direct benefit from the continued existence of the Horizons Private Trusts, or from the continued investment by Horizons MFC in the Horizons Private Trusts.

72. Any value that may ultimately be realized through the Horizons Private Trusts shall be for the benefit of the Continuing Funds and their respective shareholders.

73. There is limited or no downside risk to shareholders of the Continuing Funds in permitting the Continuing Funds to remain invested in the Horizons Private Trusts, because the Continuing Funds will remain the sole holders of voting units of the Horizons Private Trusts and the Horizons Private Trusts do not, and will not, carry on any business. Furthermore, in managing the affairs of the Horizons Private Trusts, the Filer will only be taking actions in accordance with its fiduciary obligations to the holders of units of the Horizons Private Trusts, being the Continuing Funds.

74. Each Continuing Fund is currently unable to divest itself, in a commercially reasonable manner, of the securities of its corresponding Horizons Private Trust held in excess of the limits described in paragraph 2.2(1)(a) of NI 81-102 in a manner that would preserve the deferral of any unnecessary realization of taxable income or gains that would arise on a disposition of those units, and/or otherwise preserve value in the Horizons Private Trust for the benefit of the shareholders of the corresponding Continuing Fund. As the Horizons Private Trusts (i) shall carry on no other business, (ii) shall have a single unitholder, and (iii) shall no longer issue any units following the Proposed Reorganization, there is no market for the units of the Horizons Private Trusts held by Horizons MFC.

75. While the Filer could maintain the reporting issuer status of each Horizons Private Trust if required to do so, doing so would not be beneficial to investors and would require the Filer to incur significant costs to satisfy the regulatory obligations associated with maintaining reporting issuer status.

76. The only material differences between a Horizons Private Trust and other types of mutual funds governed by NI 81-102 is that the Horizons Private Trusts (i) shall not be in continuous distribution, as they will not issue additional securities, (ii) shall not invest their portfolios in any securities and (iii) intend not to be reporting issuers.

Decision

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

The decision of the principal regulator under the Legislation is that the Approval Sought is granted, provided that before implementing the Proposed Reorganization in respect of a particular Horizons ETF, the Filer obtains the prior approval of the unitholders of that Horizons ETF at a special meeting held for that purpose.

The decision of the principal regulator under the Legislation is that the Lapse Date Extension is granted.

The decision of the principal regulator under the Legislation is that the Past Performance Relief is granted, provided that:

(a) the Continuing Funds' Fund Communications include the applicable performance data of the Existing Funds prepared in accordance with Part 15 of NI 81-102;

(b) the Continuing Funds' prospectuses disclose that the Prior Sales Data is the Prior Sales Data of the corresponding Existing Fund;

(c) the ETF facts document of each Continuing Fund:

(i) states that the Quick Facts, Trading Information and Pricing Information of the Continuing Fund is the Quick Facts, Trading Information and Pricing Information of the corresponding Existing Fund and discloses the applicable Proposed Reorganization;

(ii) includes the performance data of the respective Existing Fund in the Year-by-year returns, Best and worst 3-month returns and Average return prepared in accordance with Part 15 of NI 81-102;

(iii) includes the investment risk level as determined by including the performance data of the respective Existing Fund in accordance with Appendix F;

(iv) includes the information about fees and expenses required by Form 41-101F4 of the respective Existing Fund; and

(d) the MRFPs for each Continuing Fund include the Financial Data of the Existing Funds, pertaining to the corresponding class of the Existing Funds, and disclose the Proposed Reorganization for the relevant time periods.

The decision of the principal regulator under the Legislation is that the Control Relief and the Fund of Fund Restriction Relief is granted, provided that:

(i) the Horizons Private Trusts do not issue any new securities;

(ii) the investment of the Continuing Funds in securities of the corresponding Horizons Private Trust otherwise complies with section 2.5 of NI 81-102, with the exception of paragraphs 2.5(2)(a), 2.5(2)(a.1) and 2.5(2)(c) of NI 81-102;

(iii) the Horizons Private Trusts will remain in compliance with NI 81-102, with the exception of Part 12 – *Compliance Reports*, and will not make any new investments; and

(iv) the prospectus of each Continuing Fund discloses, or will disclose at the time of its next renewal, the fact that a Continuing Fund has obtained the Control Relief and the Fund of Fund Restriction Relief to permit the relevant transactions on the terms described in this decision.

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

2.1.5 Franklin Templeton Investments Corp.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted to permit a non-redeemable investment fund that is not a reporting issuer to transfer certain portfolio assets in specie to a related Luxembourg bottom fund in exchange for units of the Luxembourg bottom fund – relief subject to terms and conditions.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.5(2)(b)(ii), 13.5(2)(b)(iii) and 15.1.

December 14, 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
FRANKLIN TEMPLETON INVESTMENTS 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 of the principal regulator (the **Legislation**) pursuant to section 15.1 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registration Obligations* (**NI 31-103**) exempting the Filer from the prohibitions in sections 13.5(2)(b)(ii) and (iii) of 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 an associate of a responsible person, or from or to the investment portfolio of an investment fund for which a responsible person acts as an adviser (the **Exemption Sought**), in order to permit the Filer, on behalf of Franklin Global Real Assets Fund (**FGRAF**) to transfer certain portfolio securities that are currently held as direct holdings of FGRAF to Franklin Global Real Assets AIV SIF (the **SICAV**), (the **In Specie Transaction**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

(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 each of the other provinces and territories of Canada (together with Ontario, the **Canadian Jurisdictions**).

Interpretation

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

Representations

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

The Filer

1. The Filer is a corporation existing under the laws of the Province of Ontario with its head office located in Toronto, Ontario.

2. The Filer is registered under securities legislation in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland & Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan and Yukon as an adviser in the category of portfolio manager and as a dealer in the categories of mutual fund dealer and exempt market dealer. The Filer is also registered under securities legislation in Alberta, British Columbia, Manitoba, Newfoundland & Labrador, Nova Scotia, Ontario and Quebec as an investment fund manager and is registered in Ontario as a commodity trading manager.

3. The Filer is not a reporting issuer in any of the Canadian Jurisdictions and is not in default of securities legislation in any of the Canadian Jurisdictions.

The Funds

4. The Filer is the investment fund manager and portfolio manager of FGRAF and Franklin Templeton Institutional, LLC (**FTILLC**) is the sub-advisor to the Filer in respect of FGRAF.

5. The SICAV in which FGRAF invests is managed by Franklin Templeton International Services S.a r.l. (**FTIS**) and advised by FTILLC.

6. Both FTIS and FTILLC are foreign affiliates of the Filer.

7. FGRAF is a non-redeemable investment fund established under the laws of Ontario pursuant to a declaration of trust dated March 31, 2017. FGRAF has issued and will issue units exclusively to

investors pursuant to the "accredited investor exemption" or another exemption from the prospectus requirements under applicable Canadian securities laws.

8. Franklin Templeton Specialised Investment Funds (**FTSIF**) is incorporated in Luxembourg under the laws of the Grand Duchy of Luxembourg as a *société anonyme* and qualifies as a *société d'investissement à capital variable - fonds d'investissement spécialisé*. FTSIF was established on June 16, 2016 by notarial deed and it is registered on the official list of specialised investment funds supervised by the Commission de Surveillance du Secteur Financier (**CSSF**) since July 13, 2020, pursuant to the Luxembourg law of February 13, 2007. Shares of FTSIF are issued in different segregated sub-funds. The SICAV is a sub-fund of FTSIF incorporated by CSSF approval on October 11, 2018. Shares of the SICAV are currently exclusively offered to FGRAF.

9. The investment objectives and strategies of FGRAF and the SICAV are, and will be, substantially similar. As such, the investments held by FGRAF are compatible with the investment objectives and strategies of the SICAV, and the investments held by the SICAV will be compatible with the investment objectives and strategies of FGRAF.

10. FGRAF and the SICAV are not reporting issuers in any of the Canadian Jurisdictions nor are they in default of securities legislation in any of the Canadian Jurisdictions.

In Specie Transaction

11. FGRAF invests certain of its holdings indirectly through the SICAV. The Filer has determined that it is in the best interests of FGRAF to transfer certain portfolio securities that are currently held as direct holdings of FGRAF to the SICAV.

12. The Filer wishes to engage in the In Specie Transaction, pursuant to which FGRAF will purchase securities of the SICAV and, as payment for the securities, make good delivery of portfolio securities that meet the investment criteria of the SICAV.

13. The Filer considers an investment by FGRAF in the SICAV to be a more cost effective and efficient way for FGRAF to achieve exposure to the portfolio securities than a direct investment in those securities.

14. The In Specie Transaction is expected to increase the asset base of the SICAV, which is expected to result in additional benefits to FGRAF (as well as the SICAV and other funds investing in the SICAV) including, more favourable pricing and transaction costs on portfolio trades, increased access to investments when there is a minimum subscription or purchase amount and better economies of scale through greater administrative efficiency, all which will allow FGRAF to achieve its investment objectives in a more cost efficient manner.

15. In the circumstances, instead of FGRAF disposing of portfolio securities and the SICAV respectively purchasing the same securities and incurring unnecessary brokerage costs, the portfolio securities will, pursuant to the In Specie Transaction, be acquired by the SICAV.

16. The value of the portfolio securities will be equal to the issue price of the securities of the SICAV for which they are payment, valued as if the securities were portfolio assets of the SICAV.

17. The In Specie Transaction represents the business judgement of the Filer uninfluenced by considerations other than the best interests of FGRAF.

18. It is anticipated that the In Specie Transaction will commence in December 2020, take place in several tranches and will be completed by approximately June 30, 2021.

Reasons for Exemption Sought

19. Due to the fact that FTILLC is an affiliate of the Filer and is the portfolio manager of the SICAV, FTILLC is considered a "responsible person" within the meaning of the applicable provisions of NI 31-103 as it has access to or participates in the formulation of, investment decisions made on behalf of FGRAF. Accordingly, without the Exemption Sought, the Filer would be prohibited from engaging FGRAF in the In Specie Transaction.

20. The Filer has determined that it is in the best interests of FGRAF to be able to effect the In Specie Transaction.

Decision

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

The decision of the principal regulator under the Legislation is that:

The Exemption Sought is granted provided that:

(a) the SICAV will, at the time of payment, be permitted to purchase the portfolio securities delivered in specie by the Filer, on behalf of FGRAF;

(b) the portfolio securities are acceptable to FTILLC, as portfolio adviser of the SICAV, and are consistent with the investment objectives of the SICAV;

(c) the portfolio securities transferred by FGRAF as purchase consideration will be valued (i) on the same valuation day on which the purchase price of the SICAV securities is determined; and (ii) at a value equal to the amount at which those portfolio securities were valued in calculating the NAV used to establish the purchase price of the SICAV's securities, as if the portfolio securities were assets of the SICAV and as if the SICAV was subject to subsection 9.4(2)(b)(iii) of NI 81-102;

(d) each of FGRAF and the SICAV will keep written records of the In Specie Transaction, reflecting details of the portfolio securities delivered to the SICAV, and the value assigned to such portfolio securities, for a period of five years after the end of the fiscal year, and the most recent two years in a reasonably accessible place;

(e) the Filer does not receive any compensation in respect of any sale or redemption of securities of FGRAF and, in respect of any delivery of portfolio securities further to the In Specie Transaction, the only charge paid by FGRAF or the SICAV is the transfer charge; and

(f) should the In Specie Transaction involve the transfer of an "illiquid asset" (as defined in NI 81-102), the Filer will obtain at least one quote for the asset from an independent arm's length purchaser or seller, immediately before effecting the In Specie Transaction.

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

2.1.6 Horizons ETFS Management (Canada) Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – application for lapse date extensions under subsection 62(5) of the Securities Act (Ontario) on behalf of thirteen ETFs under common management distributed under four long form prospectuses – Lapse date extensions of 109 days, 24 days, 65 days and 37 days, respectively, requested to allow the investment fund manager to combine the four prospectuses with other existing prospectuses of other ETFs under common management – Lapse date extension enabling investment fund manager to streamline disclosure across its fund platform and reduce renewal, printing and related costs of the funds.

Applicable Legislative Provisions

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

February 22, 2021

**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
HORIZONS ETFS MANAGEMENT (CANADA) INC.
(the Filer)**

AND

**IN THE MATTER OF
THE FUNDS LISTED IN SCHEDULE A
(the Funds)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the respective time limits for the renewal of the long form prospectus of the Commodity Yield ETFs (as defined in Schedule A) dated March 9, 2020 (the **Commodity Yield Prospectus**), long form prospectus of the Enhanced Income ETFs (as defined in Schedule A) dated May 5, 2020 (the **Enhanced Income Prospectus**), long form prospectus of the June Corporate Class ETFs (as defined in Schedule A) dated June 22, 2020 (the **June 2020 Corporate Class Prospectus**) and long form prospectus of the July Corporate Class ETF (as defined in Schedule A)

dated July 20, 2020 (the **July 2020 Corporate Class Prospectus** and, together with the Commodity Yield Prospectus, the Enhanced Income Prospectus and the June 2020 Corporate Class Prospectus, the **Prospectuses**) be extended to those time limits that would apply if the lapse dates of the Prospectuses were May 29, 2021 (in the case of the Enhanced Income Prospectus), June 26, 2021 (in the case of the Commodity Yield Prospectus) and August 26, 2021 (in the case of the June 2020 Corporate Class Prospectus and the July 2020 Corporate Class Prospectus) (the **Exemption Sought**).

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

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

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

Interpretation

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

Representations

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

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

2. The Filer is registered as a portfolio manager in Alberta, British Columbia, Ontario and Québec, an exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan, a commodity trading manager and a commodity trading adviser in Ontario and an investment fund manager in each of Ontario, Québec and Newfoundland and Labrador.

3. The Filer is the investment fund manager of the Funds.

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

5. Neither the Filer nor any of the Funds are in default of securities legislation in any of the Jurisdictions.

6. The Funds currently distribute securities in the Jurisdictions under the Prospectuses. Securities of each of the Funds trade on the Toronto Stock Exchange.

7. Pursuant to subsection 62(1) of the *Securities Act* (Ontario) (the Act), the respective lapse dates of the Commodity Yield Prospectus, Enhanced Income Prospectus, June 2020 Corporate Class Prospectus and July 2020 Corporate Class Prospectus are March 9, 2021, May 5, 2021, June 22, 2021 and July 20, 2021 (each a Lapse Date, and collectively, the Lapse Dates). Accordingly, under subsection 62(2) of the Act, the distribution of securities of each of the Funds would have to cease on the applicable Lapse Date unless: (i) each of the Funds files a pro forma prospectus at least 30 days prior to the applicable Lapse Date; (ii) the final prospectus is filed no later than 10 days after the applicable Lapse Date; and (iii) a receipt for the final prospectus is obtained within 20 days of the applicable Lapse Date.

8. The Filer is the investment fund manager of (i) eleven other ETFs (the May Funds) that currently distribute their securities to the public under a prospectus that has a lapse date of May 29, 2021 (the May Prospectus) (ii) two other ETFs (the June Funds) that currently distribute their securities to the public under a prospectus that has a lapse date of June 26, 2021 (the June Prospectus) and (iii) eighteen other ETFs (the August Funds) that currently distribute their securities to the public under a prospectus that has a lapse date of August 26, 2021 (the August Prospectus).

9. The Filer wishes to combine the (i) Commodity Yield Prospectus with the June Prospectus, (ii) Enhanced Income Prospectus with the May Prospectus and (iii) the June 2020 Corporate Class Prospectus and the July 2020 Corporate Class Prospectus with the August Prospectus, in order to reduce renewal, printing and related costs of the Funds and the May Funds, June Funds and August Funds, as applicable.

10. Offering (i) the Commodity Yield ETFs and the June Funds under one prospectus, (ii) the Enhanced Income ETFs and the May Funds under one prospectus and (iii) the June 2020 Corporate Class ETFs, July 2020 Corporate Class ETF and the August Funds under one prospectus, would facilitate the distribution of the Funds in the Jurisdictions under the same prospectus and enable the Filer to streamline disclosure across the Filer's fund platform. As the Funds, the May Funds, the June Funds and the August Funds are all managed by the Filer, offering them under three prospectuses (as opposed to seven) will allow investors to more easily compare their features.

11. It would be unreasonable to incur the costs and expenses associated with preparing seven separate renewal prospectuses given how close in proximity the Lapse Dates are to one another.

12. There have been no material changes in the affairs of each Fund since the date of the applicable Prospectus, other than those for which amendments have been filed. Accordingly, the Prospectus and current ETF Facts of each Fund represents current information regarding such Fund.

13. Given the disclosure obligations of the Funds, should a material change in the affairs of any of the Funds occur, the Prospectus and current ETF facts document(s) of the applicable Fund(s) will be amended as required under the Legislation.

14. New investors in the Funds will receive the most recently filed ETF facts document(s) of the applicable Fund(s). The Prospectuses will still be available upon request.

15. The Exemption Sought will not affect the accuracy of the information contained in the Prospectuses and will therefore not be prejudicial to the public interest.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted.

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

Schedule "A"

Commodity Yield ETFs

Horizons Natural Gas Yield ETF
Horizons Gold Yield ETF
(each, a "**Commodity Yield ETF**" and collectively, the "**Commodity Yield ETFs**")

Enhanced Income ETFs

Horizons Enhanced Income Equity ETF
Horizons Enhanced Income Energy ETF
Horizons Enhanced Income Financials ETF
Horizons Enhanced Income Gold Producers ETF
Horizons Enhanced Income US Equity (USD) ETF
Horizons Enhanced Income International Equity ETF
(each, an "**Enhanced Income ETF**" and collectively, the "**Enhanced Income ETFs**")

June 2020 Corporate Class ETFs

Horizons Morningstar Hedge Fund Index ETF
Horizons Absolute Return Global Currency ETF
Horizons USD Cash Maximizer ETF
Horizons Emerging Markets Equity Index ETF
(each, a "**June 2020 Corporate Class ETF**" and collectively, the "**June 2020 Corporate Class ETFs**")

July 2020 Corporate Class ETF

Horizons ReSolve Adaptive Asset Allocation ETF
(the "**July 2020 Corporate Class ETF**")

2.2 Orders

2.2.1 Ontario Instrument 33-507 – Exemption from Underwriting Conflicts Disclosure Requirements (Interim Class Order)

ONTARIO SECURITIES COMMISSION

ONTARIO INSTRUMENT 33-507

EXEMPTION FROM UNDERWRITING CONFLICTS DISCLOSURE REQUIREMENTS (INTERIM CLASS ORDER)

The Ontario Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that effective February 18, 2021, Ontario Instrument 33-507 entitled "Exemption from Underwriting Conflicts Disclosure Requirements (Interim Class Order)" is made.

February 18, 2021

"Tim Moseley"
Vice-Chair

"Frances Kordyback"
Commissioner

Authority under which the order is made:

Act and section: *Securities Act*, subsection 143.11(2)

Ontario Securities Commission

Ontario Instrument 33-507

Exemption from Underwriting Conflicts Disclosure Requirements (Interim Class Order) (the Order)

Interpretation

1. In this Order:

   "**Act**" means the *Securities Act*, R.S.O. 1990, c. S.5, as amended from time to time;

   "**eligible foreign security**" has the meaning ascribed to that term in section 3A.1 of NI 33-105;

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

   "**NI 33-105**" means National Instrument 33-105 *Underwriting Conflicts*;

   "**permitted client**" has the meaning ascribed to that term in section 1.1[*definitions*] of NI 31-103; and

   "**underwriting conflicts of interest disclosure requirement**" means the requirement in subsection 2.1(1) of NI 33-105 that investors be provided with certain conflicts of interest disclosure in circumstances in which there is a direct or indirect relationship between the issuer or selling securityholder and the underwriter that might give rise to a perception that they are not independent of each other in connection with a distribution.

2. Terms defined in the Act or National Instrument 14-101 *Definitions* have the same meaning if used in this Order, unless otherwise defined.

Background

3. Staff of the Commission have recently been advised by a number of institutional investors in Ontario that the underwriting conflicts disclosure requirement in NI 33-105 creates barriers that prevent institutional investors in Ontario from participating in global offerings on a timely basis.

4. Staff understand that certain of these institutional investors have also provided similar submissions to the Capital Markets Modernization Taskforce (the **Taskforce**) established by the Government of Ontario in February 2020. On January 22, 2021, the Taskforce published its final report (the **Taskforce Final Report**). The Taskforce Final Report included a recommendation that the Commission provide an exemption from the disclosure of conflicts of interest in connection with private placements to institutional investors.[1]

Class Orders under the Securities Act

5. Under subsection 143.11(2) of the Act, if the Commission considers that it would not be prejudicial to the public interest to do so, the Commission may, on application by an interested person or company or on its own initiative, make an order exempting a class of persons or companies, trades, intended trades, securities or derivatives from any requirement of Ontario securities law on such terms or conditions as may be set out in the order, effective for a period of no longer than 18 months after the day on which it comes into force unless extended pursuant to paragraph (b) of subsection 143.11(3) of the Act.

6. Having considered the interests of institutional investors in being able to participate in global offerings on a timely basis and the Taskforce recommendation, the Commission is satisfied that it would not be prejudicial to the public interest to provide, on an interim basis, an exemption from the underwriting conflicts disclosure requirements in subsection 2.1(1) of NI 33-105 subject to the conditions of this Order.

Exemption from the Underwriting Conflicts Disclosure Requirements

7. Consequently, this Order provides for the temporary exemption listed below.

8. A person or company is exempt from the underwriting conflicts of interest disclosure requirement in subsection 2.1(1) of NI 33-105 in connection with a distribution provided that:

[1] See Recommendation No. 33 in the Taskforce Final Report, available at https://www.ontario.ca/document/capital-markets-modernization-taskforce-final-report-january-2021.

(a) the distribution is made under an exemption from the prospectus requirement;

(b) the distribution is of a security that is an eligible foreign security; and

(c) each purchaser in Ontario that purchases a security pursuant to the distribution through such person or company is a permitted client.

Effective date and term

9. This decision comes into effect on this 18th day of February, 2021 and will cease to be effective on the earlier of the following:

(a) the date that is 18 months after the date of this Order unless extended by the Commission, and

(b) the effective date of an amendment to NI 33-105 that addresses substantially the same subject matter as this Order.

2.2.2 TMAC Resources Inc.

Headnote

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.O. 1990, c. S.5, as am., s.1(10)(a)(ii).

February 11, 2021

**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
TMAC RESOURCES INC.
(the "Filer")**

ORDER

Background

The Ontario Securities Commission (the "**OSC**") 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 OSC 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 British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Yukon and Nunavut.

Interpretation

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

Representations

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

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

(b) 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;

(c) 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;

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

(e) 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.

"Lina Creta"
Manager, Corporate Finance
Ontario Securities Commission

2.2.3 Monarch Gold Corporation

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Application for an order that the issuer is not a reporting issuer under applicable securities laws – issuer has outstanding warrants exercisable into securities of acquirer and another reporting issuer – warrant holders no longer require public disclosure in respect of the issuer – relief granted.

Applicable Legislative Provisions

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

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
MONARCH GOLD CORPORATION
(the Filer)

ORDER

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**) 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 British Columbia, Alberta and Quebec.

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 a corporation existing under the federal laws of Canada with its head office located in Toronto, Ontario.

2. The Filer is a reporting issuer or the equivalent in each of the Provinces of Québec, British Columbia, Alberta and Ontario and the common shares of the Filer (the **Filer Shares**) were listed and traded on the Toronto Stock Exchange (the **TSX**) under the symbol “MQR”.

3. All of the issued and outstanding Filer Shares are owned by Yamana Gold Inc. (**Yamana**).

4. Yamana, the parent company of the Filer, is a corporation existing under the federal laws of Canada. Yamana is a reporting issuer or the equivalent in all of the Provinces and Territories of Canada, and the common shares of Yamana (the **Yamana Shares**) are listed and traded on the TSX under the symbol “YRI”, on the New York Stock Exchange (**NYSE**) under the symbol “AUY” and on the London Stock Exchange (**LSE**) under the symbol “AUY”.

5. Upon completion of the court approved plan of arrangement (the **Arrangement**) under section 192 of the *Canada Business Corporations Act* (the **CBCA**), that was made effective at 12:01 a.m. (Toronto time) (the **Effective Time**) on January 21, 2021 (the **Effective Date**), pursuant to the arrangement agreement between Yamana and the Filer dated November 1, 2020, as amended (the **Arrangement Agreement**), Yamana acquired all of the outstanding Filer Shares not already held by Yamana, in exchange for: (i) 0.0376 of a Yamana Share; (ii) C$0.192 in cash from Yamana (the **Cash Consideration**); and (iii) 0.2 of a common share (each whole share, a **SpinCo Share**) of Monarch Mining Corporation (**SpinCo**) for each Filer Share (collectively, the **Consideration**).

6. SpinCo is a corporation existing under the federal laws of Canada. SpinCo is a reporting issuer in British Columbia, Alberta, Ontario and Québec. The SpinCo Shares are listed on the TSX under the symbol “GBAR”.

7. Immediately prior to the Effective Time, the Filer had the following issued and outstanding securities: (a) 327,811,090 Filer Shares; (b) 11,975,000 stock options (the **Filer Options**); (c) 11,289,473 common share purchase warrants (the **Filer Certificated Warrants**) expiring between September 17, 2022 and June 10, 2023, each exercisable to acquire one Filer Share at prices ranging from $0.29 to $0.60 per Filer Share, and (d) 10,042,000 common share purchase warrants (the **Filer Indenture Warrants**) expiring on September 17, 2022, each exercisable to acquire one Filer Share at a price of $0.60 per Filer Share.

8. Pursuant to the Arrangement, each outstanding Filer Option that was in-the-money at the Effective

Time was surrendered and cancelled by the Filer in exchange for Filer Shares having a fair market value equal to the in-the-money amount of the Filer Option. Each Filer Option that was not in-the-money at the Effective Time was cancelled without any payment in respect thereof.

9. At the Effective Time, Yamana acquired all of the issued and outstanding Filer Shares, including Filer Shares that were issued in exchange for in-the-money Filer Options, in exchange for the Consideration pursuant to the Arrangement. Pursuant to the Arrangement Agreement, (i) each Filer Certificated Warrant was replaced with a warrant to purchase 0.0376 of a Yamana Share (a **Yamana Replacement Warrant**) and a warrant to purchase 0.2 of a SpinCo Share (a **SpinCo Replacement Warrant**); and (ii) each Filer Indenture Warrant became exercisable to acquire the Consideration, with the value of the Cash Consideration being offset against the exercise price thereof.

10. As was required pursuant to the terms of the Arrangement:

    (a) the resolution approving the Arrangement was approved by the holders of Filer Shares and Filer Options (collectively, the **Filer Securityholders)** at the special meeting of Filer Securityholders held on December 30, 2020 called for such purpose (the **Filer Meeting**) by an affirmative vote of at least 66 2/3% of the votes cast in person or by proxy at the Filer Meeting; and

    (b) the Superior Court of Québec granted its final approval of the Arrangement on January 20, 2021.

11. As a result of the completion of the Arrangement, 11,608,195 additional Yamana Shares were issued and listed and posted for trading on the TSX, NYSE and LSE, up to 95,480 Yamana Shares were reserved for issuance upon exercise of the Yamana Replacement Warrants and up to 288,279 Yamana Shares were reserved for issuance upon exercise of the Filer Indenture Warrants. As a result of the completion of the Arrangement, 66,195,889 SpinCo Shares were issued and listed and posted for trading on the TSX, up to 2,257,893 SpinCo Shares were reserved for issuance upon exercise of the SpinCo Replacement Warrants and up to 2,008,400 SpinCo Shares were reserved for issuance upon exercise of the Filer Indenture Warrants.

12. The Filer Shares were delisted from the TSX at the close of business on January 25, 2021.

13. On completion of the Arrangement, the Filer Indenture Warrants continued to exist as warrants of the Filer, which are the only securities of the Filer that are not held by Yamana. The Filer Indenture Warrants are not, and were not, listed on the TSX for trading.

14. Pursuant to the Arrangement and the terms of the Filer Indenture Warrants, each holder of a Filer Indenture Warrant outstanding immediately prior to the Effective Date, became entitled upon completion of the Arrangement, to receive, upon the exercise of such holder's warrant, in lieu of each Filer Share to which such holder was previously entitled, 0.0376 of a Yamana Share and 0.2 of a SpinCo Share, with the value of the Cash Consideration being offset against the exercise price of each Filer Indenture Warrant. As a result of the Arrangement and the terms of the Filer Indenture Warrants, each of Yamana and SpinCo is now obligated to issue the number of Yamana Shares and SpinCo Shares, respectively, necessary to satisfy, and in lieu of, the Filer's obligations upon the exercise of an Filer Indenture Warrant.

15. To the Filer's knowledge, there are a maximum of 37 beneficial holders of Filer Indenture Warrants. Yamana, on behalf of the Filer, has made diligent enquiry (the **Investigation**) to determine the number and jurisdiction of the beneficial holders of the Filer Indenture Warrants. The Investigation included the review of reports of exempt distribution available online. Based on the Investigation, to the Filer's knowledge: (a) two beneficial holders of Filer Indenture Warrants are resident in British Columbia; (b) four holders of Filer Indenture Warrants are resident in Ontario; and (c) the remaining 31 beneficial holders Filer Indenture Warrants are resident in Quebec.

16. The Filer is not required to remain a reporting issuer in any jurisdiction under any contractual arrangement between the Filer and the holders of the Filer Indenture Warrants.

17. The Filer cannot rely on the exemption available in Section 13.3 of National Instrument 51-102 – *Continuous Disclosure Obligations* (**NI 51-102**) for issuers of exchangeable securities because the Filer Indenture Warrants are not "designated exchangeable securities" as defined in NI 51-102. The Filer Indenture Warrants do not provide their holders with voting rights in respect of Yamana or SpinCo.

18. The Filer is not eligible to surrender its status as a reporting issuer pursuant to the simplified procedure under section 19 of National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* as the Filer Indenture Warrants are not 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.

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

20. 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.

21. The Filer is not a reporting issuer in any jurisdiction of Canada other than the jurisdictions identified in this order. The Filer is applying for an order that it has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer.

22. The Filer, Yamana and SpinCo are not in default of any requirement under securities legislation in any jurisdiction.

23. The Filer has no intention to seek public financing by way of an offering of securities and has no intention of issuing any securities other than the issuance of securities to Yamana or its affiliates.

24. Upon the granting of the Order Sought, the Filer will not be a reporting issuer or the equivalent in any jurisdiction of Canada.

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.

DATED at Toronto on this 13th day of February, 2021.

"Frances Kordyback"
Commissioner
Ontario Securities Commission

"Lawrence Haber"
Commissioner
Ontario Securities Commission

2.2.4 Trevor Rosborough et al.

File No. 2020-33

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

Timothy Moseley, Vice-Chair and Chair of the Panel

February 18, 2021

ORDER

WHEREAS the Ontario Securities Commission held a hearing in writing to consider a motion by Staff of the Commission (**Staff**) seeking permission to amend the Statement of Allegations in this proceeding;

ON READING the materials filed by Staff and on being advised that the respondents Trevor Rosborough and Taylor Carr consent to this order;

IT IS ORDERED, pursuant to Rule 18 of the *Ontario Securities Commission Rules of Procedure and Forms*, (2019), 42 OSCB 9714, that the Statement of Allegations is hereby amended, as reflected in Annex A to this order.

"Timothy Moseley"

ANNEX "A"

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

AMENDED 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, contrary to ss. 76(2) of the Act;

    (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~~ 22nd day of ~~November~~ January, 2021~~0~~.

"~~Vivian Lee~~" "Alvin Qian"
Litigation Counsel
Enforcement Branch

Tel: (416) ~~263-3784~~ 263-3784
Email: ~~vlee~~aqian@osc.gov.on.ca

2.2.5 TMAC Resources Inc. – s. 1(6) of the OBCA

Headnote

Applicant deemed to have ceased to be offering securities to the public under the Business Corporations Act (Ontario).

Applicable Legislative Provisions

Business Corporations Act, R.S.O. 1990, c. B.16, as am., 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
TMAC RESOURCES INC.
(the Applicant)**

**ORDER
(Subsection 1(6) of the OBCA)**

UPON the application of the Applicant 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 UPON the Applicant having represented to the Commission that:

1. The Applicant is an "offering corporation" as defined in subsection 1(1) of the OBCA.

2. The Applicant has no intention to seek public financing by way of an offering of securities.

3. On February 11, 2021 the Applicant was granted an order (the **Reporting Issuer Order**) pursuant to subclause 1(10)(a)(ii) of the *Securities Act* (Ontario) that it is not a reporting issuer in Ontario and is not a reporting issuer or the equivalent in any other jurisdiction in Canada in accordance with the simplified procedure set out in National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications*. The representations set out in the Reporting Issuer Order continue to be true.

AND UPON the Commission being satisfied that to grant this order would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission, pursuant to subsection 1(6) of the OBCA, that the Applicant is deemed to have ceased to be offering its securities to the public for the purpose of the OBCA.

DATED at Toronto, Ontario this 18th day of February, 2021.

"Frances Kordyback"
Commissioner
Ontario Securities Commission

"Raymond Kindiak"
Commissioner
Ontario Securities Commission

2.2.6 ITOK Capital Corp. – s. 144

Headnote

Application by an issuer for a revocation of a cease trade order issued by the Commission – cease trade order issued because the issuer failed to file certain continuous disclosure materials required by Ontario securities law – defaults subsequently remedied by bringing continuous disclosure filings up-to-date – issuer has provided an undertaking to the Commission that it will not complete (a) a restructuring transaction involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada, (b) a reverse takeover with a reverse takeover acquiror that has a direct or indirect, existing or proposed, material underlying business which is not located in Canada, or (c) a significant acquisition involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada, unless the issuer files a preliminary prospectus and a final prospectus with the Ontario Securities Commission and obtains receipts for the preliminary prospectus and the final prospectus from the Director under the Act.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., s. 144.

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

AND

IN THE MATTER OF
ITOK CAPITAL CORP.

ORDER
(Section 144 of the Act)

WHEREAS the securities of ITOK Capital Corp. (the **Filer**) are subject to a temporary cease trade order made by the Director dated May 13, 2013 under paragraph 2 of subsection 127(1) and subsection 127(5) of the Act and a further cease trade order made by the Director dated May 27, 2013 pursuant to subsection 127(1) of the Act (together, the **OSC CTO**) directing that trading in the securities of the Filer cease until the OSC CTO is revoked.

AND WHEREAS the Filer has applied to the Ontario Securities Commission (the **Commission**) pursuant to section 144(1) of the Act for a full revocation of the OSC CTO (the **Application**);

AND UPON the Filer having represented to the Commission that:

1. The Filer was incorporated under the *Business Corporations Act* (Ontario) on January 21, 2005.

2. The Filer's registered and head office is located at 100 King Street West, Suite 6000, 1 First Canadian Place, Toronto, Ontario, M5X 1E2.

3. The Filer is a reporting issuer in Ontario, British Columbia and Alberta. The Filer is not a reporting issuer in any other jurisdiction in Canada.

4. The Filer's authorized share capital consists of an unlimited number of common shares (**Common Shares**) without par value and an unlimited number of non-voting preferred shares without par value. As of the date of this Order, the Filer had 1,333,332 Common Shares issued and outstanding and no non-voting preferred shares outstanding.

5. The Filer was originally a Capital Pool Company as defined in Exchange Policy 2.4 of the TSX Venture Exchange and listed on the TSX Venture Exchange on May 8, 2008. The Filer did not complete its Qualifying Transaction by May 12, 2010, in accordance with the Exchange Policies and its Common Shares were transferred to the NEX Exchange of the TSX Venture Exchange. The Common Shares were subsequently delisted from the NEX Exchange on January 30, 2014, for failure to pay the quarterly listing and maintenance fees. The Common Shares are not currently listed, quoted or traded on any other exchange, marketplace or other facility in Canada or elsewhere.

6. The OSC CTO was issued as a result of the Filer's failure to file its audited annual financial statements for the year ended December 31, 2012 and accompanying management's discussion and analysis (**MD&A**), within the timeframe required under National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) and certifications of the foregoing filings as required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (**NI 52-109**) (collectively, the **Unfiled Documents**).

7. The Unfiled Documents were not filed in a timely manner due to financial difficulties. Subsequent to the failure to file the Unfiled Documents, the Filer also failed to file the following documents as required by Ontario securities law:

   (a) annual audited financial statements, accompanying MD&As and NI 52-109 certificates for the years ended December 31, 2015, December 31, 2016, December 31, 2017, December 31, 2018 and December 31, 2019, as required under NI 51-102; and

   (b) interim unaudited financial reports, accompanying MD&As and NI 52-109 certificates for the interim periods ended June 30, 2015, September 30, 2015, March 31, 2016, June 30, 2016, September 30, 2016, March 31, 2017, June 30, 2017, September 30, 2017, March 31, 2018, June 30, 2018, September 30, 2018, March 31, 2019, June 30, 2019, September 30, 2019 and March 31, 2020 as required under NI 51-102;

   (together with the Unfiled Documents, the **Unfiled Continuous Disclosure**).

8. The Filer is also subject to a cease trade order of the British Columbia Securities Commission (the **BCSC**) dated May 13, 2013 issued in response to the Filer's failure to file its Unfiled Documents (the **BCSC CTO**).

9. The Filer is also subject to a cease trade order of the Alberta Securities Commission (the **ASC**) dated August 26, 2013 issued in response to the Filer's failure to file its Unfiled Documents (the **ASC CTO**, and together with the OSC CTO and the BCSC CTO, the **CTOs**).

10. The Filer has concurrently applied to the BCSC and ASC for an order for revocation of the BCSC CTO and ASC CTO, respectively.

11. Since the issuance of the OSC CTO, the Filer has filed the following Unfiled Continuous Disclosure on the System for Electronic Document Analysis and Retrieval (**SEDAR**):

    (a) annual audited financial statements, accompanying MD&As and NI 52-109 certificates for the financial years ended December 31, 2016, December 31, 2017, December 31, 2018 and December 31, 2019;

    (b) interim unaudited financial reports, accompanying MD&As and NI 52-109 certificates for the interim periods ended March 31, 2019, June 30, 2019, September 30, 2019 and March 31, 2020;

    (c) Form 51-102F6V *Statement of Executive Compensation* (Venture Issuers) for the financial years ended December 31, 2018 and December 31, 2019.

12. The Filer has not filed the following:

    (a) annual audited financial statements, accompanying MD&A and NI 52-109 certificates for the financial year ended December 31, 2015; and

    (b) interim unaudited financial reports, accompanying MD&As and NI 52-109 certificates for the interim periods ended June 30, 2015, September 30, 2015, March 31, 2016, June 30, 2016, September 30, 2016, March 31, 2017, June 30, 2017, September 30, 2017, March 31, 2018, June 30, 2018, and September 30, 2018 (collectively, the **Outstanding Filings**).

13. The Filer has requested that the Commission exercise its discretion in accordance with sections 6 and 7 of National Policy 12-202 *Revocation of a Compliance-Related Cease Trade Order* (**NP 12-202**) and elect not to require the Filer to file the Outstanding Filings.

14. The Filer has filed all continuous disclosure that it is required to file under Ontario securities law, except for the Outstanding Filings and any other continuous disclosure that the Commission elects not to require as contemplated under section 6 of NP 12-202.

15. Since the issuance of the CTOs, there have been no material changes in the business, operations or affairs of the Filer which have not been disclosed by the Filer via news release and/or material change report and filed on SEDAR.

16. The Filer has paid all outstanding activity, participation and late filing fees that are required to be paid to the Commission and has filed all forms associated with such payments.

17. The Filer's SEDAR and System for Electronic Disclosure by Insiders profiles are up-to-date.

18. Except for the failure to file the Outstanding Filings, the Filer is (i) up-to-date with all of its other continuous disclosure obligations; (ii) is not in default of any of its obligations under the OSC CTO, the ASC CTO and the BCSC CTO; and (iii) is not in default of any requirements under the Act or the rules and regulations made pursuant thereto.

19. The Filer has provided the Commission with a written undertaking that it will:

    (a) hold an annual meeting of shareholders within three months after the date on which the OSC CTO is revoked; and

    (b) not complete:

        i. a restructuring transaction involving, directly or indirectly, an existing, or proposed, material underlying business which is not located in Canada,

        ii. a reverse takeover with a reverse takeover acquirer that has a direct or indirect, existing or proposed, material underlying business, which is not located in Canada, or

        iii. a significant acquisition involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada,

    unless,

        a. the Filer files a preliminary prospectus and a final prospectus with the Commission and obtains receipts for the preliminary and final prospectus from the Director under the Act,

        b. the Filer files or delivers with the preliminary prospectus and the final prospectus the documents required by Part 9 of National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**) including a completed personal information form and authorization in the form set out in Appendix A of NI 41-101 for each current and incoming director, executive officer and promoter of the Filer, and

        c. the preliminary prospectus and final prospectus contain the information required by applicable securities legislation, including the information required for a probable restructuring transaction, reverse takeover or significant acquisition (as applicable).

20. Upon issuance of this order, the Filer will issue a news release announcing the revocation of the CTOs. As other material events transpire, the Filer will issue appropriate news releases and file material change reports as applicable.

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

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to revoke the OSC CTO;

IT IS ORDERED, pursuant to section 144 of the Act, that the OSC CTO is revoked.

DATED at Toronto, Ontario on this 22nd day of January, 2021.

"Winnie Sanjoto"
Manager, Corporate Finance
Ontario Securities Commission

2.2.7 Daniel Sheehan

File No. 2020-38

IN THE MATTER OF
DANIEL SHEEHAN

Wendy Berman, Vice-Chair and Chair of the Panel

February 22, 2021

ORDER

WHEREAS on February 22, 2021, the Ontario Securities Commission (the **Commission**) held a hearing by teleconference;

ON HEARING the submissions of the representatives for Staff of the Commission (**Staff**) and for Daniel Sheehan (the **Respondent**);

IT IS ORDERED THAT:

1. the Respondent shall file and serve a witness list, and serve a summary of each witness' anticipated evidence on Staff, and indicate any intention to call an expert witness, and if so, provide the expert's name and the issues on which the expert will give evidence, by 4:30 p.m. on April 5, 2021; and

2. a further attendance in this matter is scheduled for April 12, 2021 at 10:00 a.m., by teleconference, or on such other date and time as may be agreed to by the parties and set by the Office of the Secretary.

"Wendy Berman"

2.3 Orders with Related Settlement Agreements

2.3.1 Moskowitz Capital Management Inc. and Brian Moskowitz – ss. 127, 127.1

File No. 2021-4

**IN THE MATTER OF
MOSKOWITZ CAPITAL MANAGEMENT INC. AND
BRIAN MOSKOWITZ**

Lawrence Haber, Commissioner and Chair of the Panel
Cathy Singer, Commissioner
Garnet W. Fenn, Commissioner

February 22, 2021

**ORDER
(Sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5)**

WHEREAS the Ontario Securities Commission (the **Commission**) held a hearing in writing to consider the approval of a settlement agreement dated February 17, 2021 (the **Settlement Agreement**) between the respondents Moskowitz Capital Management Inc. (**MCMI**) and Brian Moskowitz (**Moskowitz**) (collectively, the **Respondents**) and Staff (**Staff**) of the Commission (**Commission**);

AND WHEREAS MCMI has given an undertaking to the Commission, in the form attached as Annex I to this Order (the **Undertaking**);

ON READING the Joint Application for a Settlement Hearing, including the Statement of Allegations dated February 17, 2021 and the Settlement Agreement, and on receiving the submissions of the representatives of each of the parties, and on considering the Undertaking;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;

2. the Respondents shall pay an administrative penalty in the amount of $350,000, on a joint and several basis, pursuant to paragraph 9 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**), which amount is designated for allocation or use by the Commission in accordance with paragraph 3.4(2)(b) of the Act; and

3. MCMI shall pay costs to the Commission in the amount of $25,000, pursuant to section 127.1 of the Act.

“Lawrence Haber”

“Cathy Singer”

“Garnet W. Fenn”

ANNEX I

UNDERTAKING OF MOSKOWITZ CAPITAL MANAGEMENT INC.

IN THE MATTER OF
MOSKOWITZ CAPITAL MANAGEMENT INC. AND
BRIAN MOSKOWITZ

UNDERTAKING TO THE ONTARIO SECURITIES COMMISSION

1. This Undertaking is given in connection with the settlement agreement dated February 17, 2021 (the **Settlement Agreement**) between Moskowitz Capital Management Inc. (**MCMI**) and Brian Moskowitz (**Moskowitz** (collectively, the **Respondents**) and Staff ("**Staff**") of the Ontario Securities Commission (the "**Commission**"). All terms shall have the same meanings in this Undertaking as in the Settlement Agreement.

2. MCMI undertakes to do the following:

   (a) conduct any trades of securities of MCM Fund II through or to a firm registered under Ontario securities law in a category that permits such trades, or by MCMI directly only if and when registered to conduct such trades;

   (b) retain an exempt market dealer (**EMD**) to:

      (i) conduct a review of the adequacy of the know-your-client (**KYC**) and suitability documentation obtained by MCMI with respect to its current existing investors who did not purchase securities of the MCM Funds through a registered dealer, to be completed within four months from the date of the Settlement Hearing;

      (ii) to the extent required by the EMD after reviewing MCMI's existing KYC and suitability information, obtain any additional KYC and suitability information as may be required by the EMD to complete its suitability assessment;

      (iii) conduct a suitability analysis in accordance with sections 13.2 and 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) for a random sample of 20 current existing investors, selected by the EMD, who did not purchase securities of the MCM Fund through a registered dealer, to be completed within four months from the date of the Settlement Hearing;

      (iv) if five or more of the 20 investors are identified by the EMD to have made unsuitable investments in the MCM Funds pursuant to paragraph 2(b)(iii) above, conduct suitability analysis in accordance with sections 13.2 and 13.3 of NI 31-103 for all current existing investors who did not purchase securities of the MCM Fund through a registered dealer; and

      (v) report the results of the review to MCMI and Staff.

   (c) once an EMD has been retained pursuant to paragraph 2(b) above, MCMI shall immediately provide Staff with a written authorization granting Staff free and unfettered access to communicate with the EMD with respect to this retainer; and

   (d) redeem the preferred shares held by all investors identified by the EMD to have made an unsuitable investment in the MCM Funds pursuant to paragraph 2(b) above at the issue price of $10 per preferred share, unless the investor(s) informs MCMI in writing that they wish to retain their investments and provided the EMD has first informed the investor in writing of the EMD's opinion that the preferred shares are not a suitable investment for them and the reasons for that opinion in accordance with subsection 13.3(2) of NI 31-103.

DATED at Toronto, Ontario this 17 day of February, 2021.

MOSKOWITZ CAPITAL MANAGEMENT INC.

"Brian Moskowitz"
President

IN THE MATTER OF
MOSKOWITZ CAPITAL MANAGEMENT INC. AND
BRIAN MOSKOWITZ

SETTLEMENT AGREEMENT

PART I - INTRODUCTION

1. Strong housing prices and low interest rates in traditional investment products such as GICs and annuities have fueled interest in real estate securities in the exempt market over the last decade. As investor interest in these investments has increased, it has become even more critical that mortgage investment entities (**MIEs**) and others offering these investments comply with their obligations under Ontario securities law in order to ensure adequate protection for investors and promote confidence in Ontario's capital markets.

2. Moskowitz Capital Management Inc. (**MCMI**) is a mortgage broker and administrator based in Ontario. During the Material Time, MCMI distributed preferred shares in the MIEs under its management to investors without first obtaining registration as a dealer as required under Ontario securities law. MCMI raised approximately $32 million from these distributions to 113 investors in the exempt market. In doing so, MCMI admits that it engaged in the business of trading in securities without being registered as a dealer, contrary to subsection 25(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**).

3. Brian Moskowitz (**Moskowitz**) founded MCMI and has been its directing mind since inception. Moskowitz admits that he authorized and permitted MCMI's unregistered dealing activities and, as a result, breached Ontario securities law pursuant to section 129.2 of the Act.

4. Registration is a cornerstone of Ontario securities law. The registration requirement serves an important gate-keeping function by ensuring that only properly qualified and suitable persons are permitted to engage in the business of trading securities with the public. Registrants under the Act are subject to a robust regulatory regime that requires applicants to submit to a detailed application process for registration as well as to ongoing oversight by the Commission and other important safeguards designed to protect investors.

5. The Canadian Securities Administrators (**CSA**) released CSA Staff Notice 31-323 *Guidance Relating to the Registration Obligations of Mortgage Investment Entities* in 2011 to clarify the registration requirements that apply to MIEs in each of the CSA Jurisdictions. Since that time, the Commission has continued to communicate these requirements to the industry including through news releases, industry outreach and enforcement actions. Staff will continue to take appropriate action against MIEs that fail to comply with their obligations under Ontario securities law.

6. The parties shall jointly file a request that the Commission issue a Notice of Hearing (the **Notice of Hearing**) to announce that it will hold a hearing (**Settlement Hearing**) to consider whether, pursuant to sections 127 and 127.1 of the Act, it is in the public interest for the Commission to make certain orders against MCMI and Moskowitz (the **Respondents**).

PART II - JOINT SETTLEMENT RECOMMENDATION

7. Staff recommend settlement of the proceeding (the **Proceeding**) against the Respondents commenced by the Notice of Hearing, in accordance with the terms and conditions set out in Part VI of this Settlement Agreement. The Respondents consent to the making of an order (the **Order**) substantially in the form attached as Schedule "A" to this Settlement Agreement based on the facts set out herein.

8. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondents agree with the facts set out in Part III of this Settlement Agreement and the conclusions in Part IV of this Settlement Agreement.

PART III - AGREED FACTS

UNREGISTERED TRADING

9. MCMI is a licensed mortgage brokerage and mortgage administrator based in Toronto. Between June 2009 and April 2019 (the **Material Time**), MCMI distributed preferred shares in the MIEs under its management to investors without obtaining dealer registration as required under Ontario securities law.

10. MCMI manages the Moskowitz Capital Mortgage Fund II Inc. (**MCM Fund II**). MCMI originates, structures, underwrites and funds residential and commercial mortgages on behalf of MCM Fund II, in Atlantic Canada, Ontario, Alberta and Saskatchewan. In order to fund these mortgages, MCMI primarily raises capital from investors in the exempt market.

11. During the Material Time, MCMI directly raised approximately $31.7 million from 113 investors through the distribution of preferred shares of Moskowitz Capital Mortgage Fund Inc. (**MCM Fund I**) and MCM Fund II (together, the **MCM Funds**).[1] These distributions were all made pursuant to the accredited investor exemption from the prospectus requirement under Ontario securities law. These distributions are the subject of this proceeding.

12. MCMI carried on its unregistered capital raising activities with repetition, regularity and continuity, raising an average of approximately $3.2 million from 11 investors per year through these direct distributions.

13. MCMI provided slide decks to potential investors upon request that included historical performance information of the MCM Funds and testimonials from borrowers and investors, which amounted to solicitations to invest in the MCM Funds. MCMI also included this same information on its website during the Material Time.

14. MCMI has never been registered with the Commission.

15. As a result of the above, MCMI engaged in the business of trading in securities without being registered as a dealer under Ontario securities law.

16. Moskowitz is the President and sole director of MCMI and held these positions throughout the Material Time.

17. As MCMI's President, Moskowitz was responsible for engaging with investors in the MCM Funds and ultimately responsible for the content of MCMI's website and the slide decks provided to potential investors.

18. Moskowitz authorized and permitted MCMI's unregistered dealing activities and as a result is deemed to have breached Ontario securities law pursuant to section 129.2 of the Act.

19. During the Material Time, MCMI also raised capital for the MCM Funds from investors through the sale of preferred shares through registered investment dealers and exempt market dealers. Staff has not taken issue with these distributions.

20. In the spring of 2019, MCMI stopped the unregistered dealing activities, removed the statements deemed to be solicitations from its website and self-reported to the Commission. MCMI has since submitted an application for registration as an exempt market dealer to the Commission.

MITIGATING FACTORS

21. MCMI and Moskowitz provided substantial cooperation to Staff in its investigation and with respect to the completion of the Settlement Agreement. Most of the investigation in this matter took place during the COVID-19 pandemic and MCMI was proactive and collaborative in ensuring that it produced all relevant information within the timelines requested and provided all assistance requested by Staff during its investigation on a voluntary basis.

22. MCMI self-reported to the Commission and took remedial steps on its own initiative, including:

    (a) MCMI stopped accepting direct investments into MCM Fund II and directed all existing investors seeking to make additional investments into the fund to a registered dealer;

    (b) MCMI removed all information regarding MCM Fund II from its website and stopped responding to direct inquiries from investors about how to invest in the fund;

    (c) In the fall of 2019, MCMI completed an updated know-your-client (**KYC**) and suitability assessment of the investors in the MCM Funds and shared the results of this review and all supporting records with Staff; and

    (d) MCMI made back-filings and paid fees (including late filing fees) to the Commission of approximately $125,000.

23. MCMI earned management fees from managing the MCM Funds but received no direct compensation from the sale of the preferred shares in the MCM Funds. MCMI paid no commissions or other incentives in connection with the sale of preferred shares in the MCM Funds.

24. All the investors in the MCM Funds appear to have qualified for a prospectus exemption.

25. MCMI and Moskowitz have agreed to reach an early resolution of this matter, prior to the commencement of proceedings.

[1] MCM Fund I and MCM Fund II amalgamated on June 30, 2011.

PART IV - NON-COMPLIANCE WITH ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

26. By engaging in the conduct described above, the Respondents acknowledge and admit the following:

    (a) MCMI engaged in or held itself out as engaging in the business of trading in securities, without being registered in accordance with Ontario securities law as a dealer, where no exemption to the registration requirement was available, contrary to subsection 25(1) of the Act;

    (b) Moskowitz authorized, permitted or acquiesced in MCMI's failure to comply with subsection 25(1) of the Act, contrary to section 129.2 of the Act; and

    (c) in so doing, the Respondents acted in a manner contrary to the public interest.

PART V - RESPONDENTS' POSITION

27. The Respondents request that the Settlement Hearing panel consider the following circumstances. Staff do not object to the Respondents putting forward the circumstances set out below.

    (a) The MCM Funds have had positive investment returns since their inception; and

    (b) MCMI has not received any complaints from investors in the MCM Funds.

PART VI - TERMS OF SETTLEMENT

28. The Respondents agree to the terms of settlement set forth below and consent to the Order, to be made by the Commission pursuant to sections 127 and 127.1 of the Act, the terms of which include that:

    (a) this Settlement Agreement be approved;

    (b) the Respondents pay an administrative penalty in the amount of $350,000[2] on a joint and several basis, by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with paragraph 3.4(2)(b) of the Act; and

    (c) MCMI pay costs in the amount of $25,000 by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to section 127.1 of the Act;

29. The Respondents acknowledge that this Settlement Agreement and the Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondents. The Respondents acknowledge that they should contact the securities regulator of any other jurisdiction in which the Respondents intend to engage in any securities- or derivatives-related activities, prior to undertaking such activities.

30. MCMI has given an undertaking (the **Undertaking**) to the Commission in the form attached as Schedule "B" to this Settlement Agreement to do the following:

    (a) conduct any trades of securities of MCM Fund II through or to a firm registered under Ontario securities law in a category that permits such trades, or by MCMI directly only if and when registered to conduct such trades;

    (b) retain an exempt market dealer (**EMD**) to:

        (i) conduct a review of the adequacy of the KYC and suitability documentation obtained by MCMI with respect to its current existing investors who did not purchase securities of the MCM Funds through a registered dealer, to be completed within four months from the date of the Settlement Hearing;

        (ii) to the extent required by the EMD after reviewing MCMI's existing KYC and suitability information, obtain any additional KYC and suitability information as may be required by the EMD to complete its suitability assessment;

        (iii) conduct a suitability analysis in accordance with sections 13.2 and 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) for a random sample of 20 current existing investors, selected by the EMD, who did not purchase securities of the MCM Fund through a registered dealer, to be completed within four months from the date of the Settlement Hearing;

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[2] This amount reflects the parties' joint position on the approximate cost MCMI avoided in connection with the unregistered trading set out in Part III and a 30% discount applied in acknowledgement of the mitigating factors set out in paragraphs 21-25 including MCMI's self-reporting and substantial cooperation during Staff's investigation.

(iv) if five or more of the 20 investors are identified by the EMD to have made unsuitable investments in the MCM Funds pursuant to paragraph 30(b)(iii) above, conduct suitability analysis in accordance with sections 13.2 and 13.3 of NI 31-103 for all current existing investors who did not purchase securities of the MCM Fund through a registered dealer; and

(v) report the results of the review to MCMI and Staff.

(c) once an EMD has been retained pursuant to paragraph 30(b) above, MCMI shall immediately provide Staff with a written authorization granting Staff free and unfettered access to communicate with the EMD with respect to this retainer; and

(d) redeem the preferred shares held by all investors identified by the EMD to have made an unsuitable investment in the MCM Funds pursuant to paragraph 30(b) above at the issue price of $10 per preferred share, unless the investor(s) informs MCMI in writing that they wish to retain their investments and provided the EMD has first informed the investor in writing of the EMD's opinion that the preferred shares are not a suitable investment for them and the reasons for that opinion in accordance with subsection 13.3(2) of NI 31-103.

30. This Settlement Agreement, as well as any failure to satisfy the terms of the Settlement Agreement, including the Undertaking, may be considered as a factor relevant to suitability for registration in any application for registration by any of the Respondents or affiliated companies.

PART VII - FURTHER PROCEEDINGS

31. If the Commission approves this Settlement Agreement, Staff will not commence or continue any proceeding against the Respondents under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, unless one or all of the Respondents fail to comply with any term in this Settlement Agreement (including the Undertaking), in which case Staff may bring proceedings under Ontario securities law against that or those Respondents that may be based on, among other things, the facts set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement.

32. The Respondents acknowledge that, if the Commission approves this Settlement Agreement and any of the Respondents fail to comply with any term in it, Staff or the Commission, as the case may be, is entitled to bring any proceedings necessary to enforce compliance with the terms of the Settlement Agreement.

33. The Respondents waive any defences to a proceeding referenced in paragraph 32 or 33 that are based on the limitation period in the Act, provided that no such proceeding shall be commenced later than six years from the date of the occurrence of the last failure to comply with this Settlement Agreement.

PART VIII - PROCEDURE FOR APPROVAL OF SETTLEMENT

34. The parties will seek approval of this Settlement Agreement at the Settlement Hearing before the Commission, which shall be held on a date determined by the Secretary to the Commission in accordance with this Settlement Agreement and the Commission's *Rules of Procedure* (2019), 42 O.S.C.B. 9714.

35. The parties confirm that this Settlement Agreement sets forth all of the agreed facts that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

36. If the Commission approves this Settlement Agreement:

(a) the Respondents irrevocably waive all rights to a full hearing, judicial review or appeal of this matter under the Act; and

(b) neither Staff nor the Respondents will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the Settlement Hearing.

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

PART IX - DISCLOSURE OF SETTLEMENT AGREEMENT

38. If the Commission does not make the Order or an order substantially in the form attached as Schedule "A" to this Settlement Agreement:

(a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondents before the Settlement Hearing will be without prejudice to Staff and the Respondents; and

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

39. The parties will keep the terms of this Settlement Agreement confidential until the Settlement Hearing, unless they agree in writing not to do so or unless otherwise required by law.

PART X - EXECUTION OF SETTLEMENT AGREEMENT

40. This Settlement Agreement may be signed in one or more counterparts which together constitute a binding agreement.

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

DATED at Toronto, Ontario this 17 day of February, 2021.

“Disha Puri” “Brian Moskowitz”
Witness

MOSKOWITZ CAPITAL MANAGEMENT INC.

“Brian Moskowitz”
President

DATED at Toronto, Ontario this 17 day of February, 2021.

ONTARIO SECURITIES COMMISSION

“Jeff Kehoe”
Director, Enforcement Branch

IN THE MATTER OF
MOSKOWITZ CAPITAL MANAGEMENT INC. AND
BRIAN MOSKOWITZ

File No.____

(Name(s) of Commissioner(s) comprising the panel)

[*Day and date Order made*]

ORDER
(Sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5)

WHEREAS the Ontario Securities Commission (the **Commission**) held a hearing in writing to consider the approval of a settlement agreement dated [date] (the **Settlement Agreement**) between the respondents Moskowitz Capital Management Inc. (**MCMI**) and Brian Moskowitz (**Moskowitz**) (collectively, the **Respondents**) and Staff (**Staff**) of the Commission (**Commission**);.

AND WHEREAS MCMI has given an undertaking to the Commission, in the form attached as Annex I to this Order (the **Undertaking**);

ON READING the Joint Application for a Settlement Hearing, including the Statement of Allegations dated **[date]** and the Settlement Agreement, and on receiving the submissions of the representatives of each of the parties, and on considering the Undertaking;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;

2. the Respondents shall pay an administrative penalty in the amount of $350,000, on a joint and several basis, pursuant to paragraph 9 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**), which amount is designated for allocation or use by the Commission in accordance with paragraph 3.4(2)(b) of the Act; and

3. MCMI shall pay costs to the Commission in the amount of $25,000, pursuant to section 127.1 of the Act;

____
[Chair of the Panel]

_____________________________ _____________________________

[Commissioner] [Commissioner]

ANNEX I

UNDERTAKING OF MOSKOWITZ CAPITAL MANAGEMENT INC.

IN THE MATTER OF
MOSKOWITZ CAPITAL MANAGEMENT INC. AND
BRIAN MOSKOWITZ

UNDERTAKING TO THE ONTARIO SECURITIES COMMISSION

1. This Undertaking is given in connection with the settlement agreement dated February 17, 2021 (the **Settlement Agreement**) between Moskowitz Capital Management Inc. (**MCMI**) and Brian Moskowitz (**Moskowitz** (collectively, the **Respondents**) and Staff ("**Staff**") of the Ontario Securities Commission (the "**Commission**"). All terms shall have the same meanings in this Undertaking as in the Settlement Agreement.

2. MCMI undertakes to do the following:

   (a) conduct any trades of securities of MCM Fund II through or to a firm registered under Ontario securities law in a category that permits such trades, or by MCMI directly only if and when registered to conduct such trades;

   (b) retain an exempt market dealer (**EMD**) to:

      (i) conduct a review of the adequacy of the know-your-client (**KYC**) and suitability documentation obtained by MCMI with respect to its current existing investors who did not purchase securities of the MCM Funds through a registered dealer, to be completed within four months from the date of the Settlement Hearing;

      (ii) to the extent required by the EMD after reviewing MCMI's existing KYC and suitability information, obtain any additional KYC and suitability information as may be required by the EMD to complete its suitability assessment;

      (iii) conduct a suitability analysis in accordance with sections 13.2 and 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) for a random sample of 20 current existing investors, selected by the EMD, who did not purchase securities of the MCM Fund through a registered dealer, to be completed within four months from the date of the Settlement Hearing;

      (iv) if five or more of the 20 investors are identified by the EMD to have made unsuitable investments in the MCM Funds pursuant to paragraph 2(b)(iii) above, conduct suitability analysis in accordance with sections 13.2 and 13.3 of NI 31-103 for all current existing investors who did not purchase securities of the MCM Fund through a registered dealer; and

      (v) report the results of the review to MCMI and Staff.

   (c) once an EMD has been retained pursuant to paragraph 2(b) above, MCMI shall immediately provide Staff with a written authorization granting Staff free and unfettered access to communicate with the EMD with respect to this retainer; and

   (d) redeem the preferred shares held by all investors identified by the EMD to have made an unsuitable investment in the MCM Funds pursuant to paragraph 2(b) above at the issue price of $10 per preferred share, unless the investor(s) informs MCMI in writing that they wish to retain their investments and provided the EMD has first informed the investor in writing of the EMD's opinion that the preferred shares are not a suitable investment for them and the reasons for that opinion in accordance with subsection 13.3(2) of NI 31-103.

DATED at Toronto, Ontario this 17 day of February, 2021.

MOSKOWITZ CAPITAL MANAGEMENT INC.

"Brian Moskowitz"
President

SCHEDULE "B"

UNDERTAKING OF MOSKOWITZ CAPITAL MANAGEMENT INC.

IN THE MATTER OF MOSKOWITZ CAPITAL MANAGEMENT INC. AND BRIAN MOSKOWITZ

UNDERTAKING TO THE ONTARIO SECURITIES COMMISSION

1. This Undertaking is given in connection with the settlement agreement dated February 17, 2021 (the **Settlement Agreement**) between Moskowitz Capital Management Inc. (**MCMI**) and Brian Moskowitz (**Moskowitz** (collectively, the **Respondents**) and Staff ("**Staff**") of the Ontario Securities Commission (the "**Commission**"). All terms shall have the same meanings in this Undertaking as in the Settlement Agreement.

2. MCMI undertakes to do the following:

   (a) conduct any trades of securities of MCM Fund II through or to a firm registered under Ontario securities law in a category that permits such trades, or by MCMI directly only if and when registered to conduct such trades;

   (b) retain an exempt market dealer (**EMD**) to:

      (i) conduct a review of the adequacy of the know-your-client (**KYC**) and suitability documentation obtained by MCMI with respect to its current existing investors who did not purchase securities of the MCM Funds through a registered dealer, to be completed within four months from the date of the Settlement Hearing;

      (ii) to the extent required by the EMD after reviewing MCMI's existing KYC and suitability information, obtain any additional KYC and suitability information as may be required by the EMD to complete its suitability assessment;

      (iii) conduct a suitability analysis in accordance with sections 13.2 and 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) for a random sample of 20 current existing investors, selected by the EMD, who did not purchase securities of the MCM Fund through a registered dealer, to be completed within four months from the date of the Settlement Hearing;

      (iv) if five or more of the 20 investors are identified by the EMD to have made unsuitable investments in the MCM Funds pursuant to paragraph 2(b)(iii) above, conduct suitability analysis in accordance with sections 13.2 and 13.3 of NI 31-103 for all current existing investors who did not purchase securities of the MCM Fund through a registered dealer; and

      (v) report the results of the review to MCMI and Staff.

   (c) once an EMD has been retained pursuant to paragraph 2(b) above, MCMI shall immediately provide Staff with a written authorization granting Staff free and unfettered access to communicate with the EMD with respect to this retainer; and

   (d) redeem the preferred shares held by all investors identified by the EMD to have made an unsuitable investment in the MCM Funds pursuant to paragraph 2(b) above at the issue price of $10 per preferred share, unless the investor(s) informs MCMI in writing that they wish to retain their investments and provided the EMD has first informed the investor in writing of the EMD's opinion that the preferred shares are not a suitable investment for them and the reasons for that opinion in accordance with subsection 13.3(2) of NI 31-103.

DATED at Toronto, Ontario this 17 day of February, 2021.

MOSKOWITZ CAPITAL MANAGEMENT INC.

"Brian Moskowitz"
President

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Moskowitz Capital Management Inc. and Brian Moskowitz – ss. 127, 127.1

Citation: *Moskowitz Capital Management Inc. (Re)*, 2021 ONSEC 6
Date: 2021-02-22
File No.: 2021-4

IN THE MATTER OF
MOSKOWITZ CAPITAL MANAGEMENT INC. and
BRIAN MOSKOWITZ

REASONS AND DECISION FOR APPROVAL OF A SETTLEMENT
(Sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5)

Hearing:	In writing	
Decision:	February 22, 2021	
Panel:	Lawrence Haber	Commissioner and Chair of the Panel
	Cathy Singer	Commissioner
	Garnet W. Fenn	Commissioner
Appearances:	Carlo Rossi	For Staff of the Commission
	Lawrence Ritchie	For Moskowitz Capital Management Inc. and Brian Moskowitz

REASONS AND DECISION

I. OVERVIEW

[1] Staff of the Ontario Securities Commission (**Staff** of the **Commission**) and Moskowitz Capital Management Inc. (**MCMI**) and Brian Moskowitz (**Moskowitz**) (collectively the **Respondents**) have jointly submitted that it would be in the public interest for us to approve a settlement agreement among the parties dated February 17, 2021 (the **Settlement Agreement**) and to issue the requested order.

[2] This matter concerns allegations against the Respondents described in the Statement of Allegations dated February 17, 2021 relating to MCMI engaging in the business of trading in securities without being registered as a dealer contrary to subsection 25(1) of the *Securities Act*[1] and to Moskowitz authorizing and permitting MCMI's unregistered dealing activities, which is a deemed breach of Ontario securities law pursuant to section 129.2 of the *Act*.

[3] After considering the Settlement Agreement and the submissions of the parties, we concluded that it would be in the public interest to approve the Settlement Agreement. These are our reasons.

[1] RSO 1990, c S.5 (the ***Act***)

II. SUMMARY OF THE FACTS

[4] The underlying facts and the specific breaches of Ontario securities laws are set out in the Settlement Agreement, which has been filed with the Commission and is publicly available. Accordingly, we need not repeat them in detail here.

[5] In summary, MCMI is a licensed mortgage broker and administrator based in Ontario. Moskowitz founded MCMI and has been its directing mind since inception. The Respondents admit that between June 2009 and April 2019, MCMI distributed preferred shares in mortgage investment entities (**MIE**) under its management to investors without first obtaining registration as a dealer as required under Ontario securities law. MCMI raised approximately $32 million through the distribution of preferred shares of Moskowitz Capital Mortgage Fund Inc. (**MCM Fund I**) and Moskowitz Capital Mortgage Fund II Inc. (**MCM FUND II**) (together, the **MCM Funds**) to 113 investors in the exempt market.

[6] In the spring of 2019, MCMI stopped the unregistered dealing activities, removed the statements deemed to be solicitations from its website and self-reported to the Commission. MCMI has since submitted an application for registration as an exempt market dealer to the Commission. Staff has advised the Panel that the Respondents provided substantial cooperation to Staff in its investigation and with respect to the completion of the Settlement Agreement.

[7] As part of the Settlement Agreement, the parties agreed to the following:

a. the Respondents will pay an administrative penalty in the amount of $350,000;

b. MCMI will pay costs to the Commission in the amount of $25,000; and

c. MCMI will comply with the terms of an undertaking to retain an exempt market dealer (**EMD**) to complete a know-your-client (**KYC**) and suitability review for the investors in the MCM Funds, in accordance with the process set forth in Schedule “B” to the Settlement Agreement.

[8] The Respondents agreed to pay the administrative penalty and costs, in the total amount of $375,000, in advance of this hearing. Staff confirmed that the Respondents have done so.

III. LAW AND ANALYSIS

[9] The Commission’s role at a settlement hearing is to determine whether the terms of the settlement fall within a range of reasonable outcomes and whether the approval of the settlement is in the public interest.[2]

[10] The Settlement Agreement is the result of lengthy negotiations between Staff and the Respondents, who were ably represented by counsel. The Commission respects the negotiation process and accords significant deference to the resolution reached by the parties.[3]

[11] Settlements serve the public interest in resolving regulatory proceedings promptly, efficiently and with certainty. Settlements avoid the significant resources that would be incurred in a contested proceeding and promote timely statements regarding regulatory requirements and standards to all capital market participants.

[12] We have reviewed the Settlement Agreement in detail and considered the submissions of counsel for the parties. We also conducted a confidential settlement conference with counsel for the parties during which we reviewed the proposed settlement agreement, asked questions of counsel and heard their submissions.

[13] In assessing whether it is in the public interest to approve the settlement, we considered various mitigating factors and determined that the sanctions as set out in the Settlement Agreement were within a range of reasonable outcomes.

[14] The breaches of Ontario securities law in this matter are serious and occurred over a lengthy time period. The requirements that MIEs and those offering the securities of MIEs comply with their obligations under Ontario securities law is critical to ensuring adequate protection of investors and promoting confidence in Ontario’s capital markets.

[15] Registration is a cornerstone of Ontario’s securities regulatory regime. The registration requirement serves an important gate-keeping function by ensuring that only properly qualified and suitable persons are permitted to engage in the business of trading securities with the public. Registrants under the *Act* are subject to a robust regulatory regime that requires applicants to submit to a detailed application process for registration as well as to ongoing oversight by the Commission and other important safeguards designed to protect investors.

[2] *Research in Motion Limited (Re),* 2009 ONSEC 19, (2009) 32 OSCB 4434 (**Research in Motion***)* at paras 45-46
[3] *Katanga Mining Limited (Re)*, 2018 ONSEC 59, (2018) 41 OSCB 9987 at para 18; Research in Motion at para 45

[16] The Canadian Securities Administrators (**CSA**) released CSA Staff Notice 31-323 Guidance Relating to the Registration Obligations of Mortgage Investment Entities in 2011 to clarify the registration requirements that apply to MIEs in each of the CSA Jurisdictions. Since that time, the Commission has continued to communicate these requirements to the industry including through news releases, industry outreach and enforcement actions.

[17] We also considered the following mitigating factors to be particularly relevant:

a. the Respondents provided substantial cooperation to Staff in its investigation and the resolution of this matter;

b. MCMI self-reported to the Commission and took remedial steps on its own initiative, including

(i) MCMI stopped accepting direct investments into MCM Fund II and directed all existing investors seeking to make additional investments into the fund to a registered dealer;

(ii) MCMI removed all information regarding MCM Fund II from its website and stopped responding to direct inquiries from investors about how to invest in the fund;

(iii) in the fall of 2019, MCMI completed an updated KYC and suitability assessment of the investors in the MCM Funds and shared the results of this review and all supporting records with Staff; and

(iv) MCMI made back-filings and paid fees (including late filing fees) to the Commission of approximately $125,000;

c. MCMI earned management fees from managing the MCM Funds but received no direct compensation from the sale of the preferred shares in the MCM Funds and MCMI paid no commissions or other incentives in connection with the sale of preferred shares in the MCM Funds;

d. All the investors in the MCM Funds appear to have qualified for a prospectus exemption; and

e. The Respondents have agreed to reach an early resolution of this matter, prior to the commencement of proceedings.

[18] In addition, we noted the Respondents' position set out in the Settlement Agreement that:

a. the MCM Funds have had positive investment returns since their inception; and

b. MCMI has not received any complaints from investors in the MCM Funds

IV. CONCLUSION

[19] In our view, the terms of the Settlement Agreement fall within a range of reasonable dispositions in the circumstances and will have a significant deterrent effect on the Respondents and others from carrying on business in the Ontario capital market without proper authorization.

[20] In our view the administrative penalty appropriately reflects the principles applicable to sanctions, including the importance of fostering investor protection and confidence in the market, recognition of the seriousness of the misconduct and the need for specific and general deterrence. In addition, the review to be conducted by the Respondents will ensure ongoing robust internal controls and compliance systems designed to avoid future contraventions of Ontario securities laws. This should be further enhanced, if MCMI obtains registration as an EMD, which it is in the process of seeking.

[21] For these reasons, we conclude that the Settlement Agreement is in the public interest. We approve the Settlement Agreement on the terms proposed by the parties and will issue an order substantially in the form requested.

Dated at Toronto this 22nd day of February 2021.

"Lawrence Haber"

"Cathy Singer"

"Garnet W. Fenn"

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
THERE IS NOTHING TO REPORT THIS WEEK.				

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Haltain Developments Corp.	April 5, 2019	February 17, 2021
Sire Bioscience Inc.	February 3, 2021	February 22, 2021

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
Just Energy Group Inc.	February 17, 2021	

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	
Nutritional High International Inc.	December 1, 2020	
Just Energy Group Inc.	February 17, 2021	

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Chapter 7

Insider Reporting

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

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

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 11

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:
Bitcoin ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Feb 12, 2021
NP 11-202 Final Receipt dated Feb 16, 2021
Offering Price and Description:
USD Units and CAD Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3166687

Issuer Name:
CI Galaxy Bitcoin ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Feb 18, 2021
NP 11-202 Preliminary Receipt dated Feb 18, 2021
Offering Price and Description:
ETF US$ Series Units, ETF C$ Hedged Series Units and ETF C$ Unhedged Series Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3174826

Issuer Name:
Dynamic Emerging Markets Equity Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Feb 16, 2021
NP 11-202 Final Receipt dated Feb 16, 2021
Offering Price and Description:
Series I Units, Series F Units, Series FT Units, Series A Units, Series T Units and Series O Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3160864

Issuer Name:
Dynamic Active Retirement Income+ ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Feb 16, 2021
NP 11-202 Preliminary Receipt dated Feb 17, 2021
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3173966

Issuer Name:
Dynamic Active International ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Feb 16, 2021
NP 11-202 Preliminary Receipt dated Feb 17, 2021
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3173964

Issuer Name:
CIBC Canadian Bond Index ETF
CIBC Canadian Equity Index ETF
CIBC Emerging Market Equity Index ETF
CIBC Global Bond ex-Canada Index ETF (CAD-Hedged)
CIBC International Equity Index ETF
CIBC U.S. Equity Index ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Feb 18, 2021
NP 11-202 Preliminary Receipt dated Feb 18, 2021
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3174897

Issuer Name:
IA Clarington Inhance Global Equity SRI Fund
IA Clarington Loomis U.S. All Cap Growth Fund
Principal Regulator – Quebec
Type and Date:
Preliminary Simplified Prospectus dated Feb 19, 2021
NP 11-202 Final Receipt dated Feb 22, 2021
Offering Price and Description:
Series I Units, Series T5 Units, Series F Units, Series E Units, Series A Units, Series L5 Units, Series F5 Units, Series E5 Units and Series L Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3162721

Issuer Name:
AGF Diversified Income Class
AGF Diversified Income Fund
AGF Global Real Assets Class
AGF Global Real Assets Fund
Principal Regulator - Ontario
Type and Date:
Amendment #3 to Final Simplified Prospectus dated February 17, 2021
NP 11-202 Final Receipt dated Feb 19, 2021
Offering Price and Description:
MF Series Securities, Series F Securities, Series I Securities, Series O Securities, Series Q Securities, Series W Securities
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3028319

Issuer Name:
NewGen Focused Alpha Fund
NewGen Alternative Income Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated to Final Simplified Prospectus dated February 9, 2021
NP 11-202 Final Receipt dated Feb 16, 2021
Offering Price and Description:
Class C Founders Units, Class F Units, Class F (USD) Units, Class G Units, Class G (USD) Units and Class I Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3161346

Issuer Name:
iShares Gold Bullion ETF
iShares Silver Bullion ETF
Principal Regulator - Ontario
Type and Date:
Amendment #3 to Final Long Form Prospectus dated February 12, 2021
NP 11-202 Final Receipt dated Feb 16, 2021
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3118154

Issuer Name:
Franklin FTSE Canada All Cap Index ETF
Franklin FTSE U.S. Index ETF
Franklin FTSE Europe ex U.K. Index ETF
Franklin FTSE Japan Index ETF
Principal Regulator - Ontario
Type and Date:
Amendment #2 to Final Long Form Prospectus dated February 11, 2021
NP 11-202 Final Receipt dated Feb 16, 2021
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3018467

Issuer Name:
Desjardins SocieTerra Diversity Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated February 12, 2021
NP 11-202 Final Receipt dated Feb 16, 2021
Offering Price and Description:
A-, C-, F- and D- Class Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3136142

Issuer Name:
Invesco Allocation Fund
Invesco Canada Money Market Fund
Invesco U.S. Money Market Fund
Invesco Active Multi-Sector Credit Fund
Invesco Canadian Core Plus Bond Fund
Invesco Canadian Short-Term Bond Fund
Invesco Global Bond Fund
Invesco Global High Yield Bond Fund
Invesco ESG Canadian Core Plus Bond ETF Fund
Invesco Canadian Premier Balanced Fund
Invesco Canadian Premier Balanced Class
Invesco Diversified Yield Class
Invesco Global Balanced Fund
Invesco Global Balanced Class
Invesco Global Diversified Income Fund
Invesco Global Monthly Income Fund
Invesco Income Growth Fund
Invesco Select Balanced Fund
Invesco Global Diversified Companies Fund
Invesco Global Diversified Companies Class
Invesco Global Endeavour Fund
Invesco Global Endeavour Class
Invesco Global Small Companies Class
Invesco Emerging Markets Select Pool
Principal Regulator - Ontario
Type and Date:
Amendment #4 to Final Simplified Prospectus dated February 19, 2021
NP 11-202 Final Receipt dated Feb 22, 2021
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3069832

Issuer Name:
NBI Equity Income Private Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #4 to Final Simplified Prospectus dated February 11, 2021
NP 11-202 Final Receipt dated Feb 16, 2021
Offering Price and Description:
Advisor, F, F5 and T5 Series
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3031758

Issuer Name:
NewGen Alternative Income Fund
NewGen Focused Alpha Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated to Final Simplified Prospectus dated February 9, 2021
NP 11-202 Final Receipt dated Feb 16, 2021
Offering Price and Description:
Class C Founders Units, Class F (USD) Units, Class F Units, Class G Units, Class G (USD) Units and Class I Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3155148

Issuer Name:
E Split Corp.
Principal Regulator - Alberta (ASC)
Type and Date:
Final Shelf Prospectus (NI 44-102) dated February 19, 2021
NP 11-202 Receipt dated February 19, 2021
Offering Price and Description:
$300,000,000
Preferred Shares and Class A Shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Middlefield Limited
Project #3173089

NON-INVESTMENT FUNDS

Issuer Name:
ABC Technologies Holdings Inc.
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated February 16, 2021 to Final Long Form Prospectus dated February 12, 2021
Received on February 16, 2021
Offering Price and Description:
C$110,000,000.00 -11,000,000 Common Shares
Underwriter(s) or Distributor(s):
SCOTIA CAPITAL INC.
BMO NESBITT BURNS INC.
J.P. MORGAN SECURITIES CANADA INC.
TD SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
HSBC SECURITIES (CANADA) INC.
DESJARDINS SECURITIES INC.
LAURENTIAN BANK SECURITIES INC.
Promoter(s):
-
Project #3164177

Issuer Name:
Alaris Equity Partners Income Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated February 16, 2021
NP 11-202 Preliminary Receipt dated February 16, 2021
Offering Price and Description:
$85,000,000.00 - 5,312,500 Trust Units Price: $16.00 per Trust Unit
Underwriter(s) or Distributor(s):
ACUMEN CAPITAL FINANCE PARTNERS LIMITED
CIBC WORLD MARKETS INC.
CORMARK SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
RBC DOMINION SECURITIES INC.
DESJARDINS SECURITIES INC.
SCOTIA CAPITAL INC.
Promoter(s):
-
Project #3171304

Issuer Name:
Boat Rocker Media Inc.
Principal Regulator - Ontario
Type and Date:
Amendment dated February 17, 2021 to Preliminary Long Form Prospectus dated February 12, 2021
NP 11-202 Preliminary Receipt dated February 17, 2021
Offering Price and Description:
$175,000,000 ([●] Subordinate Voting Shares)
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
TD SECURITIES INC.
J.P. MORGAN SECURITIES CANADA INC.
BMO NESBITT BURNS INC.
SCOTIA CAPITAL INC.
CORMARK SECURITIES INC.
CANACCORD GENUITY CORP.
Promoter(s):
-
Project #3173008

Issuer Name:
Bright Minds Biosciences Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated February 22, 2021
NP 11-202 Preliminary Receipt dated February 22, 2021
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
EIGHT CAPITAL
Promoter(s):
-
Project #3175967

Issuer Name:
Canada Goose Holdings Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated February 17, 2021
NP 11-202 Preliminary Receipt dated February 17, 2021
Offering Price and Description:
US$1,750,000,000.00
Debt Securities
Preferred Shares
Subordinate Voting Shares
Warrants
Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3174265

Issuer Name:
D-Box Technologies Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated February 17, 2021
NP 11-202 Preliminary Receipt dated February 17, 2021
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
ECHELON WEALTH PARTNERS INC.
IA PRIVATE WEALTH INC.
Promoter(s):
-
Project #3174287

Issuer Name:
D-Box Technologies Inc.
Principal Regulator - Quebec
Type and Date:
Amendment dated February 18, 2021 to Preliminary Short Form Prospectus dated February 17, 2021
NP 11-202 Preliminary Receipt dated February 18, 2021
Offering Price and Description:
$5,005,000.00 - 38,500,000 Units
Price: $0.13 per Unit
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
ECHELON WEALTH PARTNERS INC.
IA PRIVATE WEALTH INC.
Promoter(s):
-
Project #3174287

Issuer Name:
DMG Blockchain Solutions Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated February 12, 2021
NP 11-202 Preliminary Receipt dated February 16, 2021
Offering Price and Description:
$100,000,000.00 - Common Shares Warrants Subscription Receipts Units Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3173235

Issuer Name:
Fairchild Gold Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated February 12, 2021
NP 11-202 Preliminary Receipt dated February 16, 2021
Offering Price and Description:
Minimum Offering: $705,000.00 (4,700,000 Common Shares)
Maximum Offering: $900,000.00 (6,000,000 Common Shares)
Price: $0.15 per Common Share
Underwriter(s) or Distributor(s):
Leede Jones Gable Inc.
Promoter(s):
Robert Coltura
Project #3173244

Issuer Name:
good natured Products Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated February 12, 2021
NP 11-202 Preliminary Receipt dated February 16, 2021
Offering Price and Description:
$20,100,000.00 - (16,750,000 Common Shares)
Underwriter(s) or Distributor(s):
BEACON SECURITIES LIMITED
CANACCORD GENUITY CORP.
INTEGRAL WEALTH SECURITIES LIMITED
RAYMOND JAMES LTD.
PARADIGM CAPITAL INC.
Promoter(s):
-
Project #3171237

Issuer Name:
iFabric Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 22, 2021
NP 11-202 Preliminary Receipt dated February 22, 2021
Offering Price and Description:
2,948,717 Units Issuable upon Conversion of 2,948,717 Subscription Receipts
Underwriter(s) or Distributor(s):
STIFEL NICOLAUS CANADA INC.
IA PRIVATE WEALTH INC.
CANACCORD GENUITY CORP.
Promoter(s):
Hylton Karon
Hilton Price
Project #3175894

Issuer Name:
INEO Tech Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated February 16, 2021
NP 11-202 Preliminary Receipt dated February 16, 2021
Offering Price and Description:
Minimum $4,000,000.00 (11,111,111 Units)
Maximum $4,500,000.00 (12,500,000 Units)
Price: $0.36 per Unit
Underwriter(s) or Distributor(s):
BEACON SECURITIES LIMITED
PI FINANCIAL CORP.
HAYWOOD SECURITIES INC.
REGENT CAPITAL PARTNERS INC.
Promoter(s):
-
Project #3173675

Issuer Name:
Nexus Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 16, 2021
NP 11-202 Preliminary Receipt dated February 17, 2021
Offering Price and Description:
$30,340,000.00 - 3,700,000 Units
Price: $8.20 per Unit
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
DESJARDINS SECURITIES INC.
IA PRIVATE WEALTH INC.
NATIONAL BANK FINANCIAL INC.
RBC DOMINION SECURITIES INC.
TD SECURITIES INC.
SCOTIA CAPITAL INC
ECHELON WEALTH PARTNERS INC.
RAYMOND JAMES LTD.
Promoter(s):
-
Project #3171893

Issuer Name:
Nova Royalty Corp.
Principal Regulator - British Columbia
Type and Date:
Amendment dated February 19, 2021 to Final Shelf Prospectus dated October 30, 2020
Received on February 19, 2021
Offering Price and Description:
C$150,000,000.00 - Common Shares, Debt Securities, Warrants, Subscription Receipts, Share Purchase Contracts, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3123252

Issuer Name:
Pivotal Financial Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated February 12, 2021
NP 11-202 Preliminary Receipt dated February 16, 2021
Offering Price and Description:
Minimum of $500,000.00 - 2,500,000 Common Shares
Maximum of $2,000,000.00 - 10,000,000 Common Shares
Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
IA PRIVATE WEALTH INC.
Promoter(s):
-
Project #3173017

Issuer Name:
PlantX Life Inc. (formerly, Vegaste Technologies Corp.)
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated February 16, 2021
NP 11-202 Preliminary Receipt dated February 16, 2021
Offering Price and Description:
MINIMUM OFFERING $● (● OFFERED UNITS) MAXIMUM OFFERING $● (● OFFERED UNITS) PRICE: $● PER OFFERED UNIT
Underwriter(s) or Distributor(s):
MACKIE RESEARCH CAPITAL CORPORATION
Promoter(s):
-
Project #3173657

Issuer Name:
PlantX Life Inc. (formerly, Vegaste Technologies Corp.)
Principal Regulator - British Columbia
Type and Date:
Amendment dated February 17, 2021 to Preliminary Short Form Prospectus dated February 16, 2021
NP 11-202 Preliminary Receipt dated February 17, 2021
Offering Price and Description:
MINIMUM OFFERING $10 MILLION (8,000,000 OFFERED UNITS) MAXIMUM OFFERING $● (● OFFERED UNITS) PRICE: $1.25 PER OFFERED UNIT
Underwriter(s) or Distributor(s):
MACKIE RESEARCH CAPITAL CORPORATION
Promoter(s):
-
Project #3173657

Issuer Name:
Pollard Banknote Limited
Principal Regulator - Manitoba
Type and Date:
Preliminary Short Form Prospectus dated February 15, 2021
NP 11-202 Preliminary Receipt dated February 16, 2021
Offering Price and Description:
$30,003,400.00 - 812,000 Common Shares
Price: $36.95 per Offered Share
Underwriter(s) or Distributor(s):
ACUMEN CAPITAL FINANCE PARTNERS LIMITED
CANACCORD GENUITY CORP.
CORMARK SECURITIES INC.
Promoter(s):
-
Project #3171347

Issuer Name:
Telecure Technologies Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated February 16, 2021
NP 11-202 Preliminary Receipt dated February 17, 2021
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Mackie Research Capital Corporation
Promoter(s):
Harwinder Parmar
Adnan Malik
Muhammad Kashif Akram
Project #3173967

Issuer Name:
The Flowr Corporation (formerly The Needle Capital Corp.)
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 17, 2021
NP 11-202 Preliminary Receipt dated February 17, 2021
Offering Price and Description:
$15,300,000.00 - 30,000,000 Units Price: $0.51 per Unit
Underwriter(s) or Distributor(s):
CANTOR FITZGERALD CANADA CORPORATION
ATB CAPITAL MARKETS INC.
CANACCORD GENUITY CORP.
ECHELON WEALTH PARTNERS INC.
Promoter(s):
-
Project #3171986

Issuer Name:
The Supreme Cannabis Company, Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated February 16, 2021
NP 11-202 Preliminary Receipt dated February 17, 2021
Offering Price and Description:
$150,000,000.00 - Common Shares, Preferred Shares, Debt Securities, Subscription Receipts, Warrants, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3173787

Issuer Name:
TransCanada Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Shelf Prospectus dated February 19, 2021
NP 11-202 Preliminary Receipt dated February 19, 2021
Offering Price and Description:
$2,000,000,000.00
Trust Notes guaranteed on a subordinated basis by TRANSCANADA PIPELINES LIMITED
Underwriter(s) or Distributor(s):
-
Promoter(s):
TransCanada Pipelines Limited
Project #3175426

Issuer Name:
WeedMD Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 17, 2021
NP 11-202 Preliminary Receipt dated February 18, 2021
Offering Price and Description:
$17,500,440.00 -21,342,000 Units Price: $0.82 per Unit
Underwriter(s) or Distributor(s):
EIGHT CAPITAL
CANACCORD GENUITY CORP.
INFOR FINANCIAL INC.
Promoter(s):
-
Project #3172045

Issuer Name:
ABC Technologies Holdings Inc.
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated February 16, 2021 to Final Long Form Prospectus dated February 12, 2021
NP 11-202 Receipt dated February 16, 2021
Offering Price and Description:
C$110,000,000.00 - 11,000,000 Common Shares
Underwriter(s) or Distributor(s):
SCOTIA CAPITAL INC.
BMO NESBITT BURNS INC.
J.P. MORGAN SECURITIES CANADA INC.
TD SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
HSBC SECURITIES (CANADA) INC.
DESJARDINS SECURITIES INC.
LAURENTIAN BANK SECURITIES INC.
Promoter(s):
-
Project #3164177

Issuer Name:
AF2 Capital Corp.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated February 17, 2021
NP 11-202 Receipt dated February 18, 2021
Offering Price and Description:
$300,000.00 (3,000,000 Common Shares)
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
HAYWOOD SECURITIES INC.
Promoter(s):
-
Project #3167168

Issuer Name:
Alpha Lithium Corporation
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated February 12, 2021
NP 11-202 Receipt dated February 16, 2021
Offering Price and Description:
$20,007,000.00
24,700,000 Units
Consisting of 24,700,000 Common Shares and 24,700,000 Warrants
Price: $0.81 per Unit
Underwriter(s) or Distributor(s):
Echelon Wealth Partners Inc.
Leede Jones Gable Inc.
Promoter(s):
-
Project #3165945

Issuer Name:
Ballard Power Systems Inc.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated February 18, 2021
NP 11-202 Receipt dated February 18, 2021
Offering Price and Description:
US$550,190,000.00 - 14,870,000 Common Shares
Price: US$37.00 per Offered Share
Underwriter(s) or Distributor(s):
TD SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
Promoter(s):
-
Project #3171226

Issuer Name:
Blackrock Gold Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated February 16, 2021
NP 11-202 Receipt dated February 16, 2021
Offering Price and Description:
$9,000,000.00 - 12,500,000 Units $0.72 per Unit
Underwriter(s) or Distributor(s):
RED CLOUD SECURITIES INC.
CANACCORD GENUITY CORP.
MACKIE RESEARCH CAPITAL CORPORATION
PI FINANCIAL CORP.
Promoter(s):
-
Project #3169841

Issuer Name:
E Split Corp.
Principal Regulator - Alberta
Type and Date:
Final Shelf Prospectus dated February 19, 2021
NP 11-202 Receipt dated February 19, 2021
Offering Price and Description:
$300,000,000 - Preferred Shares, Class A Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
Middlefield Limited
Project #3173089

Issuer Name:
Goodfood Market Corp. (formerly Mira VII Acquisition Corp.)
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated February 17, 2021
NP 11-202 Receipt dated February 17, 2021
Offering Price and Description:
$60,000,000.00 - 4,800,000 Common Shares
Price: $12.50 per Offered Share
Underwriter(s) or Distributor(s):
DESJARDINS SECURITIES INC.
RBC DOMINION SECURITIES INC.
STIFEL NICOLAUS CANADA INC.
NATIONAL BANK FINANCIAL INC.
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
RAYMOND JAMES LTD.
CANACCORD GENUITY CORP.
EIGHT CAPITAL
Promoter(s):
-
Project #3169867

Issuer Name:
High Tide Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated February 16, 2021
NP 11-202 Receipt dated February 17, 2021
Offering Price and Description:
$20,000,000.00 - 41,666,666 Units
$0.48 per Unit
Underwriter(s) or Distributor(s):
ATB CAPITAL MARKETS INC.
ECHELON WEALTH PARTNERS INC.
BEACON SECURITIES LIMITED
DESJARDINS SECURITIES INC.
Promoter(s):
-
Project #3168350

Issuer Name:
Loop Energy Inc.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated February 18, 2021
NP 11-202 Receipt dated February 18, 2021
Offering Price and Description:
6,250,000 COMMON SHARES $100,000,000.00
Price: $16.00 per Offered Share
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
CIBC WORLD MARKETS INC.
RAYMOND JAMES LTD.
CANACCORD GENUITY CORP.
CORMARK SECURITIES INC.
Promoter(s):
-
Project #3170145

Issuer Name:
Medexus Pharmaceuticals Inc. (formerly Pediapharm Inc.)
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated February 17, 2021
NP 11-202 Receipt dated February 17, 2021
Offering Price and Description:
$28,286,954.00 - 3,984,078 Units
Price: $7.10 per Unit
Underwriter(s) or Distributor(s):
RAYMOND JAMES LTD.
STIFEL NICOLAUS CANADA INC.
ROTH CANADA, ULC
BLOOM BURTON SECURITIES INC.
MACKIE RESEARCH CAPITAL CORPORATION
Promoter(s):
-
Project #3168912

Issuer Name:
Nova Royalty Corp.
Principal Regulator - British Columbia
Type and Date:
Amendment dated February 19, 2021 to Final Shelf Prospectus dated October 30, 2020
NP 11-202 Receipt dated February 19, 2021
Offering Price and Description:
C$150,000,000.00
Common Shares
Debt Securities
Warrants
Subscription Receipts
Share Purchase Contracts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3123252

Issuer Name:
Opsens Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated February 19, 2021
NP 11-202 Receipt dated February 19, 2021
Offering Price and Description:
$25,000,000.00 -13,888,889 Common Shares Price: $1.80 per Common Share
Underwriter(s) or Distributor(s):
STIFEL NICOLAUS CANADA INC
PARADIGM CAPITAL INC.
RAYMOND JAMES LTD.
RBC DOMINION SECURITIES INC.
M PARTNERS INC.
Promoter(s):
-
Project #3171631

Issuer Name:
Optimi Health Corp.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated February 12, 2021
NP 11-202 Receipt dated February 16, 2021
Offering Price and Description:
Minimum: $15,000,000.00 -20,000,000 Units
Maximum: $18,000,000.00 - 24,000,000 Units
Price: $0.75
Underwriter(s) or Distributor(s):
MACKIE RESEARCH CAPITAL CORP.
CANACCORD GENUITY CORP.
STIFEL NICOLAUS CANADA INC.
Promoter(s):
-
Project #3156324

Issuer Name:
Palladium One Mining Inc.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated February 18, 2021
NP 11-202 Receipt dated February 18, 2021
Offering Price and Description:
$12,499,000.00 - 43,100,000 Units
Price: $0.29 per Unit
Underwriter(s) or Distributor(s):
Sprott Capital Partners LP
Mackie Research Capital Corp.
Promoter(s):
-
Project #3163170

Issuer Name:
Polaris Infrastructure Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated February 18, 2021
NP 11-202 Receipt dated February 18, 2021
Offering Price and Description:
$45,015,750.00
2,223,000 Common Shares
Price: $20.25 per Offered Share
Underwriter(s) or Distributor(s):
CORMARK SECURITIES INC.
CLARUS SECURITIES INC.
RAYMOND JAMES LTD.
IA PRIVATE WEALTH INC.
BEACON SECURITIES LIMITED
Promoter(s):
-
Project #3169898

Issuer Name:
QYOU Media Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated February 22, 2021
NP 11-202 Receipt dated February 22, 2021
Offering Price and Description:
$10,000,032.00 - $0.28 35,714,400 Units
Underwriter(s) or Distributor(s):
CLARUS SECURITIES INC.
CANACCORD GENUITY CORP.
GRAVITAS SECURITIES INC.
Promoter(s):
-
Project #3168988

Issuer Name:
Red Light Holland Corp. (formerly, Added Capital Inc.)
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated February 17, 2021
NP 11-202 Receipt dated February 17, 2021
Offering Price and Description:
$10,120,000.00 - 23,000,000 Units
PRICE: $0.44 PER UNIT
Underwriter(s) or Distributor(s):
Eight Capital
Promoter(s):
Todd Shapiro
Project #3171108

Issuer Name:
Silver Tiger Metals Inc. (formerly Oceanus Resources Corp)
Principal Regulator - Nova Scotia
Type and Date:
Final Short Form Prospectus dated February 22, 2021
NP 11-202 Receipt dated February 22, 2021
Offering Price and Description:
$20,000,000.40 - 33,333,334 Common Shares
Price: $0.60 per Offered Share
Underwriter(s) or Distributor(s):
SPROTT CAPITAL PARTNERS LP by its general partner,
SPROTT CAPITAL PARTNERS GP INC.
ECHELON WEALTH PARTNERS INC.
STIFEL NICOLAUS CANADA INC.
EIGHT CAPITAL
BEACON SECURITIES LIMITED.
RED CLOUD SECURITIES INC.
Promoter(s):
-
Project #3170613

Issuer Name:
Titan Medical Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated February 18, 2021
NP 11-202 Receipt dated February 19, 2021
Offering Price and Description:
$12,499,000.00 - 43,100,000 Units
Price: $0.29 per Unit
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3169357

Issuer Name:
Victory Square Technologies Inc.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated February 12, 2021
NP 11-202 Receipt dated February 16, 2021
Offering Price and Description:
$6,090,787.56 (11,713,053 Unit Shares and 5,856,526 Unit Warrants issuable on deemed exercise of 11,713,053 Special Warrants)
Underwriter(s) or Distributor(s):
GRAVITAS SECURITIES INC.
Promoter(s):
-
Project #3157249

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Suspend (Regulatory Action)	J. Priest Investment Management Inc.	Portfolio Manager and Exempt Market Dealer	February 17, 2021
New Registration	Acreage Inc.	Exempt Market Dealer	February 18, 2021
Change of Registration Category	Jarislowsky, Fraser Limited	From: Investment Fund Manager, Portfolio Manager and Commodity Trading Manager To: Investment Fund Manager, Portfolio Manager, Commodity Trading Manager and Exempt Market Dealer	February 18, 2021
Change of Registration Category	Global Alpha Capital Management Ltd.	From: Investment Fund Manager and Portfolio Manager To: Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	February 18, 2021
New Registration	OneSixtyTwo Capital Ltd.	Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	February 22, 2021

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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 Margin Requirements for Structured Products – Request for Comment

REQUEST FOR COMMENT

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

NOTICE OF PROPOSED MARGIN REQUIREMENTS FOR STRUCTURED PRODUCTS

IIROC is publishing for public comment proposed amendments to the Dealer Member Rules (**DMR**) that would allow margining of structured products using either a fixed rate or an alternative component margining methodology (**Proposed Amendments**).

The main purpose of the Proposed Amendments is to formally recognize a margin methodology for structured notes as the current DMR do not specifically address margin requirements for these products.

A copy of the IIROC Notice, including the text of the Proposed Amendments, is also published on our website at www.osc.ca. The comment period ends on April 12, 2021.

13.3 Clearing Agencies

13.3.1 CDS Clearing and Depository Services Inc. (CDS) – Revised Proposal: Proposed Significant Change to Eliminate CDS Fee Rebates and Proposed Amendments to Eliminate Network Connectivity Fees and to Eliminate Report File Transmission Fees – OSC Staff Notice of Request for Comment

OSC STAFF NOTICE OF REQUEST FOR COMMENT

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS)

REVISED PROPOSAL: PROPOSED SIGNIFICANT CHANGE TO ELIMINATE CDS FEE REBATES

AND

PROPOSED AMENDMENTS TO ELIMINATE NETWORK CONNECTIVITY FEES AND TO ELIMINATE REPORT FILE TRANSMISSION FEES

The Ontario Securities Commission is publishing for a 30 day public comment period a revised proposal of significant changes to the CDS fee model. In response to feedback received, CDS has made changes resulting in this amended proposal and withdrew the original application published on December 19, 2019.

Consistent with the original application, the revised proposal would eliminate the two CDS fee rebates. The revised proposal would also eliminate network connectivity fees and fees charged for report file transmissions (collectively, the **Amendments**).

Details of the proposed Amendments are as follows:

- the permanent elimination of the two fee rebates (50/50 rebate and fixed rebate) that are paid annually to participants on a pro-rata basis based on their use of certain CDS services. Rebates would be eliminated only after the post-trade modernization project goes live;
- the permanent elimination of network connectivity fees currently paid by participants; and
- the elimination of fees charged for report file transmissions for reports that are generated by CDS at the request of participants.

The comment period ends March 29, 2021.

A copy of the **CDS Notice** is published on our website at www.osc.ca.

13.3.2 CDS Clearing and Depository Services Inc. – Proposed Significant Change to Eliminate CDS Fee Rebates and Proposed Amendments to Eliminate Network Connectivity Fees – Notice of Withdrawal

CDS CLEARING AND DEPOSITORY SERVICES INC.

PROPOSED SIGNIFICANT CHANGE TO ELIMINATE CDS FEE REBATES

AND

PROPOSED AMENDMENTS TO ELIMINATE NETWORK CONNECTIVITY FEES

NOTICE OF WITHDRAWAL

In accordance with the provisions of the rule protocol between the Ontario Securities Commission ("OSC") and CDS Clearing and Depository Services Inc. ("CDS®"), and pursuant to a request from CDS's principal regulators, CDS hereby officially withdraws its submission of the proposed significant change to eliminate CDS fee rebates and proposed amendments to eliminate network connectivity fees. The proposed amendments were submitted for regulatory review on November 25, 2019, and published on December 19, 2019.

Catherine De Giusti
Director, Corporate, Securities & Transactions
CDS Clearing and Depository Services Inc.

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