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Commodity Futures Act of Ontario (R.S.O. 1990, c. C.20)

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Chapter 1

Notices

1.1 Notices

1.1.1 OSC Staff Notice 11-739 (Revised) – Policy Reformulation Table of Concordance and List of New Instruments

OSC STAFF NOTICE 11-739 (REVISED)

POLICY REFORMULATION TABLE OF CONCORDANCE AND LIST OF NEW INSTRUMENTS

The following revisions have been made to the Table of Concordance and List of New Instruments. A full version of the Table of Concordance and List of New Instruments as of March 31, 2022, has been posted to the OSC Website at www.osc.gov.on.ca.

Table of Concordance

Item Key
The third digit of each instrument represents the following: 1-National/Multilateral Instrument; 2-National/Multilateral Policy; 3-CSA Notice; 4-CSA Concept Release; 5-Local Rule; 6-Local Policy; 7-Local Notice; 8-Implementing Instrument; 9-Miscellaneous

Reformulation		
Instrument	**Title**	**Status**
52-108	Amendments to NI 52-108 Auditor Oversight Changes to Companion Policy 52-108 Auditor Oversight	***Commission approval of amendments published January 13, 2022***
11-742	Securities Advisory Committee	***Notice published January 13, 2022***
41-101	Amendments to NI 41-101 General Prospectus Requirements	***Commission approval of amendments published January 13, 2022***
81-106	Amendments to NI 81-106 Independent Review Committee for Investment Funds	***Commission approval of amendments published January 13, 2022***
81-107	Amendments to NI 81-107 Independent Review Committee for Investment Funds	***Commission approval of amendments published January 13, 2022***
81-101	Amendments to NI 81-101 Mutual Fund Prospectus Disclosure	***Commission approval of amendments published January 13, 2022***
11-501	Amendments to OSC Rule 11-501 Electronic Delivery of Documents to the Ontario Securities Commission	***Commission approval of amendments published January 13, 2022***
14-501	Amendments to OSC Rule 14-501 Definitions	***Commission approval of amendments published January 13, 2022***
11-601	Amendments to OSC Policy11-601 The Securities Advisory Committee	***Commission approval of amendments published January 13, 2022***
15-601	Amendments to OSC Policy 15-601 Whistleblower Program	***Commission approval of amendments published January 13, 2022***
51-601	Amendments to OSC Policy 51-601 Reporting Issuer Defaults	***Commission approval of amendments published January 13, 2022***
91-507	Amendments to CP 91-507 Trade Repositories and Derivatives Data Reporting	***Commission approval of amendments published January 13, 2022***
81-334	ESG-Related Investment Fund Disclosure	***Notice published January 20, 2022***

Reformulation		
Instrument	**Title**	**Status**
51-733	Extension of Comment Period – Consultation: Climate-related Disclosure Update and CSA Notice and Request for Comment Proposed national Instrument 51-107 Disclosure of Climate-related matters	***Notice published January 20, 2022***
93-101	Derivatives: NI 93-101 Business Conduct	***Third request for comment published January 20, 2022***
94-101	Amendments to NI 94-101 Mandatory Central Counterparty Clearing of Derivatives	***Commission approval of amendments published January 27, 2022***
41-101	Amendments to NI 41-101 General Prospectus Requirements	***Initial request for comment published January 27, 2022***
81-101	Amendments to NI 81-101 Mutual Fund Prospectus Disclosure	***Initial request for comment published January 27, 2022***
81-106	Amendments to NI 81-106 Investment Fund Continuous Disclosure	***Initial request for comment published January 27, 2022***
41-101CP	Amendments to 41-101CP General Prospectus Requirements	***Initial request for comment published January 27, 2022***
81-101CP	Amendments to 81-101CP Mutual Fund Prospectus Disclosure	***Initial request for comment published January 27, 2022***
24-318	Preparing for the Implementation of T+1 Settlement	***Notice published February 3, 2022***
81-507	Extension to Ontario Instrument 81-506 Temporary Exemptions from National Instrument NI 81-104 Alternative Mutual Funds	***Order published February 24, 2022***
13-502	Amendments to OSC Rule 13-502 Fees	***Initial publication for comment published February 24, 2022***
13-503	Amendments to OSC Rule 13-503 (Commodity Futures Act) Fees	***Initial publication for comment published February 24, 2022***
33-109	Amendments to NI 33-109 Registration Information	***Notice of coming into force published March 3, 2022***
31-103	Amendments to NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations	***Notice of coming into force published March 3, 2022***
33-506	Amendments to OSC Rule 33-506 (Commodity Futures Act) Registration Information	***Notice of coming into force published March 3, 2022***
33-508	OSC Rule 33-508 Extension to Ontario Instrument 33-507 Exemption from Underwriting Conflict Disclosure Requirements	***Commission approval published March 3, 2022***
41-101	Amendments to NI 41-101 General Prospectus Requirements	***Notice of coming into force published March 17, 2022***
81-106	Amendments to NI 81-106 Investment Fund Continuous Disclosure	***Notice of coming into force published March 17, 2022***
81-107	Amendments to NI 81-107 Independent Review Committee for Investment Funds	***Notice of coming into force published March 17, 2022***

Reformulation		
Instrument	**Title**	**Status**
52-108	Amendments to NI 52-108 Auditor Oversight Changes to Companion Policy 52-108 Auditor Oversight	***Notice of ministerial approval of amendments published March 31, 2022***

For further information, contact:

Darlene Watson
Business and Corporate Project Manager
Ontario Securities Commission
416-593-8148

April 7, 2022

1.1.2 The Asian Infrastructure Investment Bank – Notice of Correction

The Asian Infrastructure Investment Bank, dated March 4, 2022, was published on March 24, 2022 at (2022), 45 OSCB 3046. The incorrect titles were used for the signatories and should be as follows:

"Tim Moseley"
Vice-Chair
Ontario Securities Commission

"Mary Anne De Monte-Whelan"
Commissioner
Ontario Securities Commission

1.3 Notices of Hearing with Related Statements of Allegations

1.3.1 Go-To Developments Holdings Inc. et al. – ss. 127(1), 127.1

File No.: 2022-8

IN THE MATTER OF
GO-TO DEVELOPMENTS HOLDINGS INC.,
GO-TO SPADINA ADELAIDE SQUARE INC.,
FURTADO HOLDINGS INC., AND
OSCAR FURTADO

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

PROCEEDING TYPE: Enforcement Proceeding

HEARING DATE AND TIME: April 20, 2022 at 10:00 a.m.

LOCATION: By videoconference

PURPOSE

The purpose of this proceeding is to consider whether it is in the public interest for the Commission to make the orders requested in the Statement of Allegations filed by Staff of the Commission on March 30, 2022.

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

REPRESENTATION

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

FAILURE TO ATTEND

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

FRENCH HEARING

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

AVIS EN FRANÇAIS

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

Dated at Toronto this 31st day of March, 2022

Grace Knakowski
Secretary to the Commission

For more information

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

IN THE MATTER OF
GO-TO DEVELOPMENTS HOLDINGS INC.,
GO-TO SPADINA ADELAIDE SQUARE INC.,
FURTADO HOLDINGS INC., AND
OSCAR FURTADO

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

A. OVERVIEW:

1. This proceeding involves an unregistered principal of a property development group who defrauded investors for his own gain and misled Staff of the Enforcement Branch of the Commission (**Staff**) during the investigation.

2. Oscar Furtado (**Furtado**) misled investors and used his control over the other respondents to obtain undisclosed personal gains, including over $6 million in payments arising from the acquisition of properties bought with investor and other funds. When questioned during the investigation, Furtado misled Staff by claiming he could not recall the reason for these payments and by subsequently providing misleading information to Staff about these payments.

3. Furtado used the money he fraudulently obtained to make investments, pay personal expenses, and fund the operations of other real estate projects, including to pay amounts due to investors on those other projects.

4. In December 2021, to safeguard the interests of investors and other stakeholders, and for the due administration of Ontario securities law, the Commission applied for and had a receiver-manager appointed over Go-To Developments Holdings Inc. (**GTDH**) and its affiliates.

5. Protecting investors from unfair, improper, or fraudulent practices is a fundamental purpose of Ontario securities law. Persons who mislead investors and reap undisclosed personal gains violate investors' trust, place their interests at risk, and undermine confidence in the capital markets. Those who are not truthful and forthcoming with investors and Staff should be held accountable. Additionally, persons who engage in the business of unregistered trading undermine investor protection by evading the high standards imposed by registration, including proficiency and integrity.

FACTS:

6. Staff make the following allegations of fact:

The Go-To Businesses

7. Between May 2016 and June 2020, Furtado and GTDH raised almost $80 million from the sale of limited partnership (**LP**) units in connection with nine real estate projects (**Go-To Projects**). The units are "securities" as defined in subsection 1(1) of the *Securities Act,* RSO 1990, c S.5 (the **Act**).

8. For each project, GTDH set up an LP (**Go-To LP**) and incorporated a subsidiary to serve as the general partner (**GP**).[1] Furtado was the directing mind of each of the GPs. Go-To Spadina Adelaide Square Inc. (**Adelaide GP**) is the GP for Go-To Spadina Adelaide Square LP (**Adelaide LP**).

9. Furtado Holdings Inc. (**Furtado Holdings**) is Furtado's holding company. Furtado is the founder and sole officer and director of all the corporate Respondents.

Misleading Statements, Fraudulent and Dishonest Conduct

10. The Respondents misled and perpetrated a fraud on investors and the Adelaide LP, benefitting Furtado. They acted dishonestly towards the Adelaide LP and its investors. Their misconduct includes misrepresentations, acting contrary to representations made, and omissions, as well as unauthorized and hidden uses of investor funds and Go-To LP assets. Further, or alternatively, given the obligations of the Adelaide GP to the Adelaide LP, Furtado and Furtado Holdings acted dishonestly in accepting shares and funds from Adelaide Square Developments Inc. (**ASD**). The Respondents' misconduct harmed the Adelaide LP, exposed investors to undisclosed risks, and put their economic interests at risk.

Adelaide Square Project: Background

11. In 2018, Furtado learned about a project involving the redevelopment of 355 Adelaide Street West and 46 Charlotte Street in downtown Toronto (together, the **Properties**) (**Adelaide Square Project**). Furtado learned about the Adelaide

[1] For one of the nine projects, GTDH set up two Go-To LPs.

Square Project from an individual (**ASD Representative**) who was Furtado's "go-to brokerage person" to arrange debt financings for the Go-To Projects.

12. The ASD Representative had obtained, in the names of two entities, the rights to purchase the Properties. Eventually, ASD held the rights to purchase the Properties.

13. From October 2018 to April 2019, Furtado and the ASD Representative discussed various options for a Go-To LP to acquire the Properties. They expected, intended, and planned that:

    a) the Adelaide LP would acquire the Properties, via ASD, at a total price higher than the amounts due to then-owners under the existing agreements of purchase and sale; and

    b) they, including Furtado, would personally benefit from the acquisition of the Properties via what they referred to as a "lift" payment, or otherwise receive benefits from ASD.

14. By February 2019, Furtado and GTDH began soliciting investors for the Adelaide LP. Between February 2019 and April 2, 2019, units in the Adelaide LP (**Adelaide LP Units**) totalling approximately $25.25 million were sold to 16 investors.

15. In December 2018, the Adelaide LP and ASD entered a purchase and sale agreement for the Properties for a price of $74.25 million. However, that transaction was not completed. Instead, in March and April 2019, Furtado caused the Adelaide LP to enter agreements under which $74.25 million was payable on closing ($53.3 million to the owners of the Properties and $20.95 million to ASD as an assignment fee (**Assignment Fee**)), and further payments of between $1.95 million to $7.15 million (**Density Bonus**) would be payable in relation to one of the Properties at a later time.

16. On or about April 4, 2019, the Adelaide LP acquired the Properties (**Acquisition**) and paid the Assignment Fee.

Representations to Investors Prior to the Acquisition

17. Investors and potential investors in the Adelaide LP received oral presentations from Furtado, or others directed by him, and written materials, including brochures, documents projecting returns, subscription agreements, and an LP agreement (**Adelaide LP Agreement**) (collectively, **Investor Documents**).

18. The Investor Documents and oral presentations touted the Adelaide Square Project, GTDH's existing projects and experience, and Furtado's experience, integrity and trustworthiness. Further representations were made to investors, including:

    a) the business of the Adelaide LP was purchasing, holding an interest in, conducting pre-development planning with respect to, development and/or construction of the Properties;

    b) money was needed to buy the Properties and to fund soft costs;

    c) the total purchase price for both Properties was $74.25 million;

    d) Furtado, GTDH and its affiliates, including the Adelaide GP, would and/or could earn certain types of fees from the Adelaide LP;

    e) the Adelaide GP would "control and have full and exclusive power, authority and responsibility for the business of" the Adelaide LP; and

    f) the Adelaide GP would act prudently, reasonably, honestly, in good faith and in the best interests of the Adelaide LP and would exercise the care, diligence and skill of a reasonably prudent general partner, in carrying out the business of the Adelaide LP and managing its affairs and assets.

19. Furtado, GTDH, and the Adelaide GP withheld important information from investors that Furtado expected, intended, and/or planned to receive, directly or indirectly, a "lift" payment or otherwise receive benefits from ASD as a result of the Acquisition.

Undisclosed Benefits to Furtado Holdings from ASD

20. Within two weeks of the Acquisition, the following benefits were received by Furtado Holdings from ASD, none of which were disclosed to investors:

    a) on April 15, 2019, Furtado Holdings received 11 Class A shares in ASD at a stated price of $1 per share; and

    b) on April 16, 2019, Furtado Holdings received $388,087.33 from the Assignment Fee.

21. On the same days Furtado Holdings received the shares and payment above, a company of which the ASD Representative's spouse is the sole director (**Spouse Company**) received 11 Class B shares in ASD and $388,087.33 from the Assignment Fee.

22. As set out below, Furtado Holdings received a further undisclosed dividend of $6 million from ASD on October 1, 2019, as did the Spouse Company.

Other Conduct Contrary to Representations Made to Investors

23. In carrying out the scheme, Furtado, GTDH and the Adelaide GP also disregarded other representations made to investors in the Adelaide LP and to investors in two other Go-To LPs.

24. The Adelaide LP Agreement represented that investor returns would be paid pro-rata and no investor could require the return of any capital contributions until the dissolution, winding up or liquidation of the partnership. Contrary to that representation, within days of the Acquisition, Furtado arranged for and allowed the redemption of $16.8 million in units of one investor (**Investor A**) together with a return of $2.7 million.

25. The redemption and return to Investor A, totalling $19.5 million, were paid out of the Assignment Fee proceeds pursuant to a direction from ASD, as was a $300,000 payment to a company connected to the ASD Representative, purportedly for referring Investor A to the Adelaide LP. In turn, Furtado caused the Adelaide LP to enter a demand loan agreement dated April 4, 2019 for $19.8 million payable to ASD (**Demand Loan**). None of these facts were disclosed to investors.

26. As set out below, a subsequent payment on the Demand Loan was used to fund further payments from ASD to Furtado Holdings and the Spouse Company in October 2019.

27. In addition, Furtado disregarded representations made to investors in two other Go-To LPs, when he used their assets to secure obligations of the Adelaide LP relating to the Acquisition. In particular, Furtado caused the GPs for those Go-To LPs to:

    a) agree to, among other things, the registration of a $7.15 million collateral charge on the property of Go-To Stoney Creek Elfrida LP (**Elfrida LP**) and certain restrictions on the Elfrida LP until the Density Bonus was paid; and

    b) agree to the registration of a $13,712,500 charge on the property of Go-To Niagara Falls Eagle Valley LP (**Eagle Valley LP**), as collateral for a mortgage lender to the Adelaide LP.[2]

28. Pledging the Elfrida LP's and the Eagle Valley LP's assets to secure obligations of the Adelaide LP was contrary to representations made in the applicable LP agreements. Also, Furtado did not obtain any benefit for the Elfrida LP or the Eagle Valley LP in exchange for their provision of such security. In contrast, when Furtado provided a personal guarantee for an obligation of a Go-To LP, he charged the Go-To LP fees in the range of 1% to 5% of the indebtedness. By the end of December 2020, Furtado had purported to charge the Go-To LPs over $2.2 million in personal guarantee fees.

29. The charges placed on the Elfrida and Eagle Valley LP properties were not disclosed to investors in those Go-To LPs for more than a year, and only after Staff raised the issue in an examination of Furtado.

Further Capital Raising in the Fall of 2019

30. From the time of the Acquisition to the fall of 2019, Furtado, GTDH, and the Adelaide GP solicited and raised an additional $14.65 million from the sale of Adelaide LP Units to six investors, including $12 million from two entities owned by Investor A.

31. During the further capital raising, Furtado, GTDH, and the Adelaide GP continued to make representations to investors as set out in paragraph 18 and to withhold from investors disclosure of the facts set out in paragraphs 19 and 20.

32. In raising further capital, Furtado, GTDH, and the Adelaide GP made additional misrepresentations and/or misleading statements to Investor A, including that:

    a) the Adelaide LP needed and/or would use the funds raised to advance the Adelaide Square Project. In fact, Furtado paid $12 million from the equity raised in September 2019 towards the Demand Loan, which was not due, did not advance the Adelaide Square Project, and was not disclosed to investors; and

[2] These charges were removed from the Elfrida LP and Eagle Valley LP properties in 2021.

b) "Go-To Developments and its partners in the Project … have collectively invested approximately $19.8 million" of equity in the Project, including a $16.8 million equity investment by "Adelaide Square Developments". In fact, when investors were being solicited in the fall of 2019:

i) no Go-To entity had invested in the Adelaide LP;[3] and

ii) "Adelaide Square Developments" had not owned and did not own any equity in the Adelaide LP.

33. In August 2019, Furtado began soliciting Investor A to invest again in the Adelaide LP. When funds were solicited and received from Investor A, Furtado knew that ASD intended to pay Furtado Holdings a $6 million dividend once it had the funds to do so. Furtado did not tell Investor A that their companies' $12 million investment would be used to pay down a loan from an entity from which Furtado Holdings expected to receive a dividend.

34. Between September 26 and 30, 2019, the Adelaide LP received $13 million of the $14.65 million in new investments, including $12 million from Investor A's companies.

Further Benefit Flowing to Furtado Holdings

35. On October 1, 2019, Furtado caused the Adelaide LP to pay $12 million towards the purported Demand Loan. The same day, Furtado Holdings received a dividend of $6 million on its shares in ASD, as did the Spouse Company.

36. When Furtado caused the Adelaide LP to pay $12 million towards the Demand Loan:

a) no payment was due, and none had been demanded. In fact, the Demand Loan was interest-only and the principal was not due until April 2023;

b) the "interest" payments on the Demand Loan were fixed regardless of the principal outstanding. The $12 million payment did not reduce the "interest" payments owing by the Adelaide LP; and

c) Furtado expected to receive a dividend of $6 million once ASD had sufficient funds.

37. Furtado, GTDH and the Adelaide GP concealed the facts in the preceding two paragraphs from investors.

38. Furtado used the proceeds of the $6 million dividend to make investments, pay personal expenses, and fund the operations of other Go-To Projects, including to pay interest and/or returns due to investors of other Go-To LPs.

Furtado Misled Staff

39. During the investigation, Furtado made false and misleading statements to Staff about the payments and benefits received by Furtado Holdings and regarding his relationship and dealings with ASD and the ASD Representative.

40. Furtado was examined by Staff on September 24, 2020, November 5, 2020, and July 7, 2021. During these examinations, Furtado misled Staff by claiming that:

a) initially, he could not recall why Furtado Holdings received a payment of $6 million. In a subsequent examination, he asserted that such payment was a dividend on ASD shares which shares Furtado Holdings received unexpectedly, as "a thank you", and for no consideration after the Acquisition; and

b) initially, he could not recall why Furtado Holdings received a payment of $388,087.33. Subsequently, he asserted that such payment was a return owed to Furtado Holdings by ASD because the Adelaide LP had paid an $800,000 non-refundable deposit for one of the Properties, but Furtado Holdings had "assumed the risk" of that deposit. Furtado further asserted that had the deposit been forfeited, he or Furtado Holdings would have repaid the amount to the Adelaide LP.

41. Contrary to Furtado's misleading statements:

a) Furtado expected, intended, and planned to receive a personal benefit directly or indirectly as a result of the Acquisition; and

b) the $388,087.33 payment to Furtado Holdings was dividend income.

42. In addition, Furtado misled Staff during the examinations by initially claiming that his discussions with ASD, including about Furtado Holdings' receipt of ASD shares and the payments above, were with the registered director of ASD.

[3] No Go-To entity invested in the Adelaide LP until December 2019, when the Adelaide GP subscribed for two units for a total of $100,000.

Furtado later acknowledged that discussions about the shareholding and the payments all involved the ASD Representative, who was directing the discussions for ASD.

Trading Without Registration

43. Further, in raising almost $80 million from approximately 85 Ontario residents via approximately 140 distributions of units of 10 Go-To LPs between May 2016 and June 2020, Furtado and GTDH engaged in the business of trading without registration.

44. Furtado met with numerous potential and actual investors about Go-To investment opportunities. Furtado and GTDH prepared or directed the preparation of various marketing materials and used those materials to solicit investments. They also arranged for payments to people who referred investors for Go-To LPs.

45. Subscription documents for units of the Go-To LPs were prepared at Furtado's direction. He was responsible for signing and accepting all subscriptions on behalf of the respective Go-To LPs and their GPs.

46. GTDH charged administration and other fees to the Go-To LPs and was responsible for Furtado's salary. The administrative services provided by GTDH included managing tasks relating to unitholders.

47. Furtado also charged fees to most of the Go-To LPs, including guarantee fees for providing personal guarantees for some Go-To LP obligations.

48. At all relevant times, neither Furtado nor GTDH were registered with the Commission to engage in the business of trading in securities and no exemptions from the registration requirement were available.

BREACHES AND CONDUCT CONTRARY TO THE PUBLIC INTEREST:

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

    a) the Respondents engaged or participated in acts, practices, or courses of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to subsection 126.1(1)(b) of the Act;

    b) Furtado, GTDH, and the Adelaide GP made untrue statements about matters that a reasonable investor would consider relevant in deciding whether to enter into or maintain a trading or advising relationship and/or omitted information necessary to prevent statements from being false or misleading in the circumstances in which they were made, contrary to subsection 44(2) of the Act;

    c) Furtado and GTDH engaged in, and held themselves out as engaging in, the business of trading in securities without being registered to do so and without an applicable exemption from the registration requirement, contrary to subsection 25(1) of the Act;

    d) Furtado misled Staff by making 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 subsection 122(1)(a) of the Act; and

    e) Furtado, as the sole officer and director of all of the corporate Respondents, authorized, permitted or acquiesced in their breaches of the Act above and is thereby liable for such breaches pursuant to section 129.2 of the Act.

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

ORDERS SOUGHT:

51. Staff request that the Commission make the following orders:

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

    b) that the Respondents 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;

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

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

e) that Furtado resign one or more positions that he holds as a director or officer of any issuer or registrant pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act;

f) that Furtado be prohibited from becoming or acting as a director or officer of any issuer or registrant, pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act;

g) that the Respondents be prohibited from becoming or acting as a registrant or promoter permanently or for such period as is specified by the Commission, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

h) that the Respondents each 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;

i) that the Respondents 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;

j) that the Respondents pay costs of the Commission investigation and hearing, pursuant to section 127.1 of the Act; and

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

DATED this 30th day of March, 2022.

ONTARIO SECURITIES COMMISSION
20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S8

“Erin Hoult”
Senior Litigation Counsel, Enforcement Branch
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1.3.2 HRU Mortgage Investment Corporation et al. – ss. 127, 127.1

File No.: 2022-10

IN THE MATTER OF
HRU MORTGAGE INVESTMENT CORPORATION,
HRU FINANCIALS LTD.,
YAU LING (PATRICK) LAM,
QINGYANG (MICHAEL) XIA, AND
ZICHAO (MARSHALL) LIANG

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

PROCEEDING TYPE: Public Settlement Hearing

HEARING DATE AND TIME: April 8, 2022, at 10:00 a.m.

LOCATION: By videoconference

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 March 30, 2022, between Staff of the Commission and HRU Mortgage Investment Corporation, HRU Financials Ltd., Yau Ling (Patrick) Lam, Qingyang (Michael) Xia and Zichao (Marshall) Liang in respect of the Statement of Allegations filed by Staff of the Commission dated March 31, 2022.

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 31st day of March, 2022

Grace Knakowski
Secretary to the Commission

For more information

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

IN THE MATTER OF
HRU MORTGAGE INVESTMENT CORPORATION,
HRU FINANCIALS LTD.,
YAU LING (PATRICK) LAM,
QINGYANG (MICHAEL) XIA, AND
ZICHAO (MARSHALL) LIANG

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

A. OVERVIEW

1. Mortgage investment entities (**MIEs**) must be registered to engage in the business of trading in securities with the public. For the past decade, the Commission has communicated this message to the MIE industry through news releases, industry outreach and enforcement actions. When MIEs fail to comply with the registration requirement or promote that they are registered when they are not, they undermine the important gate-keeping function served by registration to protect investors. This conduct is even more concerning when it involves former registrants.

2. Between September 2017 and November 2020 (the **Material Time**), HRU Mortgage Investment Corporation (**HRUMIC**), a MIE based in Ontario, and HRU Financials Ltd., a related Ontario company that acts as manager for HRUMIC (**HRUFL**, together with HRUMIC, **HRU**) raised approximately $13 million from 80 investors in the exempt market without being registered as a dealer. Despite not being registered, HRU promoted itself as being registered and/or recognized by the Commission, made untrue statements about the registration of one of its directors, and made misleading statements as to its regulation by other Canadian regulators and supervisory bodies. In doing so, HRU and its principals breached sections 25, 44 and 46 of the *Securities Act*, RSO 1990, c S.5 (the **Act**).

3. Yau Ling (Patrick) Lam (**Lam**), Qingyang (Michael) Xia (**Xia**) and Zichao (Marshall) Liang (**Liang**) are directors and officers of HRU. Lam, Xia and Liang engaged in the business of trading, were involved in the misleading and prohibited representations in HRU's marketing materials, and authorized and permitted HRU's breaches of Ontario securities law. As former registrants, Lam, Xia and Liang knew or ought to have known the importance of registration and the requirement to provide accurate and truthful information to investors.

B. FACTS

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

Directing Minds of HRU are Former Registrants

4. HRUMIC and HRUFL have three principal directing minds – Lam, Xia and Liang – who are all former registrants:

   a) Lam, an Ontario resident, is the Chief Executive Officer of HRUMIC and Managing Director of HRUFL. Lam has been a director and officer of HRUMIC and HRUFL since October 17, 2018. Lam was previously registered in Ontario as a salesperson with two different registered scholarship plan dealers. He is not presently registered and was not registered during the Material Time.

   b) Xia, an Ontario resident, is the Chief Information Officer and Managing Director of HRUMIC and the President of HRUFL. Xia has been a director and officer of HRUFL since May 1, 2017 and an officer and director of HRUMIC since October 17, 2018 and June 1, 2017, respectively. Xia was previously registered in Ontario as a dealing representative for a Mutual Fund Dealer. He is not presently registered and was not registered during the Material Time.

   c) Liang, an Ontario resident, is the Treasurer of both HRUMIC and HRUFL, the Managing Director of HRUFL, as well as the Chief Operating Officer and Chief Compliance Officer of HRUMIC. Liang has been a director and officer of HRUFL and HRUMIC since May 1, 2017 and June 1, 2017, respectively. Liang was previously registered in Ontario as a dealing representative for an Exempt Market Dealer (**EMD**). He is not presently registered and was not registered during the Material Time.

Unregistered Trading

5. During the Material Time, the Respondents engaged in the business of trading in securities without being registered under Ontario securities law.

6. HRU raised approximately $13 million from the sale of HRUMIC Class B preferred shares to 80 investors primarily located in Ontario and invested those funds in mortgages secured by Ontario real estate.

7. HRU raised capital on a regular and continuous basis. Over 100 distributions took place in approximately 30 of the 40 months of the Material Time. Distributions of HRUMIC preferred shares were conducted, at a minimum, quarterly until November 2020.

8. HRU conducted its own sales and did not use a registered EMD.

9. HRU promoted itself and its investment offerings in multiple ways: through its website, on Facebook, flyers, local Chinese-language radio commercials, at least three Offering Memoranda (**OMs**) and through a referral network. In addition to Lam, Xia and Liang, HRU also employed a dedicated Director of Sales and an Officer of Sales and Revenue.

10. Lam, Xia and Liang engaged in acts in furtherance of the sale of HRUMIC preferred shares by, among other things, soliciting investments, answering investor questions, providing investors with agreements or forms, distributing promotional materials concerning potential investments, issuing and signing share certificates, receiving, handling or depositing funds from investors and approving content for HRU OMs, brochures, website pages, radio advertisements and flyers.

Prohibited Representations

(i) Prohibited Untrue Statements Regarding Registration

11. On its website, HRU made representations that the HRUMIC securities and Liang were registered with the Commission when this was not true.

(ii) Prohibited Misleading and/or Untrue Statements

12. On its website and in its marketing materials, HRU made a variety of representations that were misleading and/or untrue, including that HRU filed monthly and quarterly compliance reports with the Commission, that HRU was in full compliance with Canadian securities laws and regulatory standards, and that HRU was regulated by other Canadian regulatory entities such as the "Federal Securities Commission", "OSFI, CDIC, CMHC, and Insurance Compliances".

(iii) Prohibited Statements Regarding Commission Approval

13. On its website and in its marketing materials, including radio station advertisements and presentations to investors, HRU made a variety of prohibited representations that the Commission approved of HRU or its product. For example, HRU stated that HRU was recognized by the Commission as a "Qualified Investment", that HRU offered a "OSC regulated and recognized investment solution," and used the Commission's logo in its marketing materials.

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

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

14. HRUMIC, HRUFL, Lam, Xia and Liang engaged in or held themselves out as engaging in the business of trading in securities without being registered in accordance with Ontario securities law as a dealer, contrary to subsection 25(1) of the Act;

15. HRUMIC, HRUFL, Lam, Xia and Liang made untrue representations regarding registration contrary to subsection 44(1) of the Act;

16. HRUMIC, HRUFL, Lam, Xia and Liang made prohibited misleading or untrue statements, contrary to subsection 44(2) of the Act;

17. HRUMIC, HRUFL, Lam, Xia and Liang made prohibited statements regarding Commission approval, contrary to section 46 of the Act;

18. Lam, Xia and Liang authorized, permitted or acquiesced in HRU's non-compliance set out in sub-paragraphs (a) to (d) above, contrary to section 129.2 of the Act; and

19. HRUMIC, HRUFL, Lam, Xia and Liang engaged in conduct contrary to the public interest.

D. ORDER SOUGHT

20. 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 March 30, 2022 between the Respondents and Staff;

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

DATED this 31st day of March, 2022.

ONTARIO SECURITIES COMMISSION
20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S8

"Sarah McLeod"
Email: smcleod@osc.gov.on.ca
Tel: (416) 597-7809

Staff of the Enforcement Branch

1.3.3 Bridging Finance Inc. et al – ss. 127, 127.1

File No.: 2022-9

IN THE MATTER OF
BRIDGING FINANCE INC.,
DAVID SHARPE,
NATASHA SHARPE AND
ANDREW MUSHORE

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

PROCEEDING TYPE: Enforcement Proceeding

HEARING DATE AND TIME: April 27, 2022 at 10:00 a.m.

LOCATION: By videoconference

PURPOSE

The purpose of this proceeding is to consider whether it is in the public interest for the Commission to make the orders requested in the Statement of Allegations filed by Staff of the Commission on March 31, 2022.

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

REPRESENTATION

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

FAILURE TO ATTEND

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

FRENCH HEARING

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

AVIS EN FRANÇAIS

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

Dated at Toronto this 31st day of March, 2022

Grace Knakowski
Secretary to the Commission

For more information

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

IN THE MATTER OF
BRIDGING FINANCE INC.,
DAVID SHARPE,
NATASHA SHARPE AND
ANDREW MUSHORE

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

A. OVERVIEW

1. David and Natasha Sharpe defrauded institutional and retail investors out of millions of dollars through their dishonesty and deceit. The Sharpes exploited their positions of trust for their own personal gain. Staff of the Ontario Securities Commission will take decisive action to permanently remove such persons from Ontario's capital markets.

2. The Sharpes were registrants and the most senior leaders at Bridging Finance Inc., which managed investment vehicles focused on making short-term loans to borrowers. Through their relationships with three borrowers and with the assistance of Bridging's Chief Compliance Officer, Andrew Mushore, the Sharpes funnelled investor funds to themselves and Bridging, then concealed their wrongdoing from investors.

3. The Sharpes then obstructed Staff's investigation to try to cover their tracks. Together with Mushore, they destroyed, concealed and altered Bridging records, misled Staff after swearing to tell the truth, and, in the case of David Sharpe, intimidated witnesses.

FACTS

4. Enforcement Staff (**Staff**) makes the following allegations of fact.

Background

5. Bridging Finance Inc. (**Bridging**) is a Toronto-based investment management firm with a stated focus on alternative finance. Bridging managed various investment vehicles (each a **Fund**) by virtue of management agreements between Bridging and the respective Fund.

6. Bridging's investors (**Investors**) participated in the Funds through the purchase of limited partnership or trust units. In turn, Bridging originated loans from the Funds to borrowers.

7. The Offering Memoranda for various Funds stated that Bridging pursued an investment strategy "that identifies good companies that are overlooked by the general financing community". All potential loans from the Funds were to be reviewed and approved by a majority vote of Bridging's eight-member credit committee (the **Credit Committee**) as part of Bridging's and the Funds' loan approval process. The Credit Committee included both the Sharpes, Mushore, another Bridging director and executive vice-president, a portfolio manager, a senior credit advisor and two senior managing directors.

8. Bridging was registered with securities regulators across Canada as a restricted portfolio manager and an exempt market dealer. Bridging was also registered as an investment fund manager in Ontario, Quebec and Newfoundland & Labrador.

9. David Sharpe (Natasha Sharpe's spouse) was the most senior decision-maker at Bridging and was involved in every major aspect of Bridging's business. He was Bridging's President and Chief Operating Officer before serving as Chief Executive Officer and Ultimate Designated Person (**UDP**) from December 2016 to May 5, 2021.

10. At all material times, Natasha Sharpe was an indirect Bridging shareholder and was a Bridging director. She was also Bridging's Chief Executive Officer before David Sharpe assumed the role and was Bridging's Chief Investment Officer until August 2020.

11. At all material times, Mushore was Bridging's Chief Compliance Officer. Mushore also became Chief Operating Officer in September 2020.

12. On April 30, 2021, owing to serious misconduct uncovered by Staff during its investigation, the Ontario Securities Commission applied to the Ontario Superior Court of Justice for the appointment of a receiver and manager over all the property of Bridging and the Funds under section 129 of the *Securities Act* (the **Act**). The Court granted the Commission's application and appointed PricewaterhouseCoopers Inc. as receiver and manager over the property of, among other entities, Bridging and the Funds.

13. Also on April 30, 2021, the Commission issued a temporary order (the **Temporary Order**) requiring that all trading in the securities of the Funds cease and that David Sharpe's registration as UDP of Bridging be suspended. The Temporary

Order as it related to the cease trade of securities of the Funds was extended on May 12, 2021. On August 10, 2021, the Commission again extended the crease trade of securities of the Funds (the **August Order**), with minor modifications. The Commission extended the August Order on December 22, 2021, and on March 21, 2022.

Fraud and Conflicts of Interest

14. Through transactions with Bridging borrowers, the Sharpes, with the assistance of Mushore, funnelled Investors' funds to the Sharpes or to Bridging for the Sharpes' ultimate benefit. The relevant borrowers are companies connected to three individuals: Sean McCoshen, Rishi Gautam and Gary Ng.

(a) David and Natasha Sharpe Secretly Received Investors' Funds (McCoshen Loans)

15. David Sharpe orchestrated the secret transfer of millions of Investors' dollars from the Funds to himself through his relationship with Sean McCoshen.

16. David Sharpe and McCoshen have been acquainted since at least 2014. McCoshen owned and controlled the Funds' single largest debtor, Alaska-Alberta Railway Development Corporation (**A2A**), and other companies. Together, McCoshen's companies owe hundreds of millions of dollars to the Funds. McCoshen was also involved in loans Bridging made from the Funds to First Nations communities, including Peguis First Nation (**Peguis**).

17. Between December 11, 2015, and February 23, 2021, Bridging's Credit Committee approved loans totalling more than $145 million from the Funds to A2A. Most of this money was actually advanced to another McCoshen owned and controlled company, 7047747 Manitoba Ltd. (**704 Manitoba**). Another $10 million, from a loan from the Funds to a Gautam-related company, was advanced to 704 Manitoba in November 2018. 704 Manitoba and another McCoshen owned and controlled company were also paid commissions of $2.24 million and $1.91 million, respectively, by Peguis in connection with two $30 million loans Bridging made from the Funds to Peguis in 2017.

18. In turn, McCoshen and 704 Manitoba funnelled approximately $19.5 million of these funds back to David Sharpe through 14 transfers between 2016 and 2019 (the **Secret Payments**).

19. Most of the Secret Payments were made to David Sharpe's personal chequing account just days after McCoshen or one of his companies received amounts that originated from the Funds.

20. David Sharpe used the Secret Payments for his and Natasha Sharpe's personal benefit:

    a) $11.7 million was transferred to investment accounts at BMO Nesbitt Burns and Richardson GMP held by David Sharpe and the 182 Crescent Road Trust (the Sharpes settled and are beneficiaries under this trust);

    b) $228,000 was used for automobile expenses including $127,880 to Tesla Motors and $99,923 to Holand Leasing relating to lease payments on two Bentleys;

    c) $2 million was transferred to personal bank accounts David Sharpe maintained at TD; and

    d) $1.9 million was used to pay for construction on the Sharpe's personal property.

    Additionally, $830,000 of the Secret Payments was transferred to educational institutions or foundations, $440,000 was paid to other Bridging employees, including $180,000 to Mushore, and $670,000 was withdrawn in cash.

21. Finally, in addition to the Secret Payments, Natasha Sharpe received $250,000 of Investors' money from 704 Manitoba in September 2017.

22. Despite the clear conflicts of interest, the Secret Payments, the $180,000 payment to Mushore and the $250,000 received by Natasha Sharpe were not disclosed to Investors.

(b) The Sharpes Misappropriated $40 million from Investors for Bridging's Benefit (Gautam Loans)

23. In September 2018, the Sharpes, with Mushore's knowledge, misappropriated approximately $40 million from the Bridging Mid-Market Debt Fund LP (the **MM Fund**) to complete an acquisition for Bridging's and, ultimately, Natasha Sharpe's benefit. The Sharpes and Mushore attempted to hide this by falsely representing that the funds came from a loan from one of Gautam's companies.

24. Prior to October 2018, Bridging co-managed the Bridging Income Fund LP (the **Income Fund**), then named the Sprott Bridging Income Fund LP, with Ninepoint Partners LP (**Ninepoint**). Bridging made all investment management decisions in relation to the Income Fund.

25. In August 2018, Bridging agreed to purchase Ninepoint's management interest in the Income Fund (the **Management Interest**) for $45 million, including $35 million cash at closing. However, financing for the acquisition was required.

26. It would be contrary to Ontario securities law and a conflict of interest for Bridging to borrow from the MM Fund to fund the Management Interest acquisition. However, this is exactly what the Sharpes and Mushore engineered. The Sharpes convinced Gautam to help them funnel Investors' funds from the MM Fund to Bridging through two entities Gautam controlled: 3319891 Nova Scotia Company (**331 Nova Scotia**) and River Cities Investments I, LLC (**River Cities**). The plan called for a back-to-back loan, with Bridging loaning amounts from the Funds to River Cities, and then 331 Nova Scotia loaning most of those same funds back to Bridging.

27. To obtain approval to transfer Investors' funds out of the MM Fund, the Sharpes and Mushore had the Credit Committee approve a $39.75 million loan to River Cities, with $36.75 million purportedly being for working capital needs and general corporate purposes. After the Credit Committee approved the loan on that basis, David Sharpe and Mushore, with others, created a false record purporting to show that the Credit Committee was told that the River Cities loan could ultimately finance the Management Interest purchase.

28. Even though Bridging had signed an agreement to borrow from 331 Nova Scotia, in fact, no funds were ever sent to or received from 331 Nova Scotia. Bridging simply transferred $38 million from the MM Fund to River Cities' counsel, who then transferred $35 million to Ninepoint and $3 million to River Cities. Bridging even paid itself a $450,000 work fee with Investors' money in connection with the transaction.

29. The Sharpes manipulated documents to perpetuate the false narrative that Bridging had borrowed funds from 331 Nova Scotia to purchase the Management Interest. For example, when Bridging obtained a loan from a BlackRock Inc. affiliate (the **BlackRock Loan**) in November 2019, David Sharpe directed Bridging personnel to manipulate records to indicate that Bridging used the BlackRock Loan to repay 331 Nova Scotia. In reality, Bridging used $32 million from the BlackRock Loan to repay the MM Fund.

30. However, this still left a shortfall in the MM Fund that had grown to approximately $6.8 million by late February 2020. To clear this final balance, Bridging papered a $12,827,394 loan from the MM Fund to A2A dated February 24, 2020, but only advanced $6 million from the MM Fund under the loan. In essence, Bridging simply made an accounting entry that treated $6.8 million that Bridging misappropriated from the MM Fund as an outstanding liability of A2A.

31. It was not disclosed to MM Fund Investors that Bridging used Investors' funds to acquire the Management Interest despite the clear conflict of interest. To the contrary, the Sharpes directed Bridging personnel to falsify Bridging's records to conceal the true source of the funds that Bridging used to acquire the Management Interest in the Income Fund.

(c) The Sharpes Covertly Facilitated the use of Investor Funds to Purchase Bridging Shares and Make Secret Loans to a Bridging Shareholder (Ng Loans)

Investor Funds are used to Purchase Bridging Shares

32. In June 2019, the Sharpes pushed a $32 million loan from the Funds to an Ng owned and controlled company through the Credit Committee. At that time, Ng had contractually committed to buy 50% of Bridging for $50 million. The Sharpes knew or ought to have known the loan would be used by Ng to purchase 50% of Bridging's shares from the existing Bridging shareholders, including Natasha Sharpe.

33. With the Sharpes and Mushore's knowledge and approval, Bridging began making loans from the Funds to companies owned and controlled by Ng (**Ng Companies**) in March 2018. In or around November 2018, David Sharpe began leading negotiations for Ng to purchase 50% of Bridging (the **Ng Acquisition**).

34. Ng filed a Notice relating to the Ng Acquisition (the **11.9 Notice**) with the Commission[1] on or around April 29, 2019. The 11.9 Notice stated that the Ng Acquisition would not give rise to any material conflicts of interest and did not disclose that, at the time, Bridging had loaned approximately $42 million from the Funds to Ng Companies, including $21 million to 10029947 Manitoba Ltd. (**1002 Manitoba**). The 11.9 Notice included a verification, signed by David Sharpe on behalf of Bridging, that confirmed the truth of the facts in the 11.9 Notice.

35. On May 13, 2019, the Credit Committee, including the Sharpes and Mushore, approved a further $10 million loan from the Funds to 1002 Manitoba.

36. The Bridging shareholders, Bridging, and David Sharpe as "vendors representative", executed a share purchase agreement (the **Ng Acquisition Agreement**) with Ng on May 16, 2019. The Ng Acquisition Agreement called for Ng to buy 50% of Bridging from the Bridging shareholders, including Natasha Sharpe, for $50 million in cash.

[1] Under Ontario securities law, an 11.9 Notice must include all material facts sufficient to enable the Commission to determine if an acquisition is likely to give rise to a conflict of interest.

37. On or around June 20, 2019, the Sharpes directed a Bridging employee to prepare documents for the Credit Committee (the **Credit Committee Submission**) to consider and approve a loan to 10034889 Manitoba Ltd. (**1003 Manitoba**), ostensibly for 1003 Manitoba to purchase "Commercial Real Estate Developers in Canada."

38. The Sharpes did not tell the Credit Committee and the Credit Committee Submission prepared under their direction did not disclose that 1003 Manitoba was wholly owned by Ng nor that the Ng Acquisition Agreement had been signed.

39. The Sharpes, as Credit Committee members, approved a $32 million loan from the Funds to 1003 Manitoba on June 21, 2019 (the **June Loan**).

40. According to the Credit Committee Submission, the security provided by 1003 Manitoba in respect of the June Loan was a securities investment account purportedly held by 1003 Manitoba (the **Investment Account**) worth approximately $90 million.

41. Despite the clear conflict of interest, Bridging and the Sharpes made the June Loan. Furthermore, Bridging and the Sharpes did not disclose the following clear conflicts of interest to Investors: (i) Bridging loaned approximately $50 million from the Funds to Ng Companies while Ng was negotiating to buy half of Bridging; (ii) Bridging loaned 1003 Manitoba $32 million after the Ng Acquisition Agreement was signed; and (iii) Ng intended to use the June Loan to fund the Ng Acquisition.

42. On July 8, 2019, the Ng Acquisition closed and Ng bought 50% of Bridging for $50 million, using $30 million that he borrowed from the Funds under the June Loan. As a result of the Ng Acquisition, Natasha Sharpe received Investors' money for her Bridging shares.

Loans to Ng Companies after Ng became Bridging's largest shareholder

43. In August 2019, the Sharpes orchestrated a second $35 million payment to 1003 Manitoba (the **August Advance**), despite the fact that Ng was, at that time, Bridging's largest shareholder. The August Advance was made in secret and was not approved by the Credit Committee.

44. At the end of July 2019, Ng asked the Sharpes to "upsize" the June Loan with an additional $35 million "as soon as possible." Shortly afterwards, Natasha Sharpe fraudulently altered loan documents relating to the June Loan so that it appeared that the June Loan, as approved in June 2019 before the Ng Acquisition, included a potential second advance of up to $35 million.

45. Bridging also made two additional loans from the Funds to 1002 Manitoba while Ng was Bridging's largest shareholder: a $2 million loan in October 2019 (the **October 2019 Loan**) approved by both Sharpes and Mushore, and a $10 million loan from the MM Fund in February 2020 (the **February 2020 Loan**) approved by both Sharpes.

Ng secretly pays $1 million to the Sharpes

46. In November 2019, David and Natasha Sharpe each received a $500,000 payment from Ng. Neither payment served any legitimate commercial purpose and neither payment was disclosed to Investors despite the clear conflict of interest.

The Sharpes conceal the truth about their and Bridging's relationship with Ng

47. The Sharpes actively sought to conceal that Bridging made loans from the Funds to Ng after he became Bridging's largest shareholder. For example, the Income Fund and MM Fund's audited financial statements for the year ending December 31, 2019 (together, the **2019 Financial Statements**) both disclose the loans to the Ng Companies, including the August Advance, as having been made to "certain entities related to a shareholder of the Advisor". The 2019 Financial Statements state that the Credit Committee approved the loans in the ordinary course of business and that no further loans were made after Ng became a shareholder of Bridging. Both of these statements are untrue.

48. The Sharpes both signed the Income Fund's 2019 Financial Statements on behalf of the Income Fund's general partner, and Natasha Sharpe was a director of the MM Fund's general partner when the MM Fund's 2019 Financial Statements were issued. David Sharpe and Mushore sent a letter to the Funds' auditor dated April 1, 2020, representing to the auditor that, among other things, all information about transactions with related parties had been provided.

49. As noted above, the Investment Account, which Ng represented was worth approximately $90 million, was Bridging's security for the June Loan and the fraudulent August Advance.

50. In late February 2020, the Sharpes discovered that Ng had lied about the Investment Account and that it did not actually exist. Despite knowing this in February 2020, the Sharpes provided false information to the Funds' auditor about the status of the 1003 Manitoba loans during the Funds' 2019 audit in March 2020. Specifically, David Sharpe and Mushore approved a year-end memo prepared in late March 2020 relating to the 1003 Manitoba loans (the **1003 Memo**). The

1003 Memo purported to confirm for the auditor that as of December 31, 2019, the 1003 Manitoba loan was secured by the Investment Account worth approximately $90 million and was "in good standing and performing within the lending parameters as set out in the Credit Agreement."

51. The 1003 Memo was signed by Natasha Sharpe and was provided by Bridging personnel to the Funds' auditor.

Obstruction of Staff's Investigation

52. To conceal the wrongdoing described above, the Sharpes and Mushore attempted to obstruct Staff's investigation in various ways:

a) The Sharpes and Mushore made false and misleading statements, or did not state facts that were necessary to make their statements not misleading, during compelled examinations with Staff;

b) The Sharpes, Mushore and others under the direction of the Sharpes and/or Mushore, created false paper trails by altering or deleting Bridging records or concealing such records from Staff;

c) David Sharpe attempted to intimidate witnesses who were cooperating with Staff's investigation; and

d) Natasha Sharpe unlawfully permitted David Sharpe to listen to her compelled examination with Staff.

(a) Misleading Staff in Examinations

53. As set out below, the Sharpes and Mushore made false and misleading statements to Staff or did not state facts that were necessary to make their statements not misleading.

54. David Sharpe:

a) told Staff that he was not aware of the back-to-back loan arrangement with Gautam for the Management Interest purchase or of River Cities' involvement in the back-to-back loans;

b) repeated the falsehood that Bridging financed the Management Interest purchase with a loan from 331 Nova Scotia, and told Staff that Gautam's former Goldman Sachs colleagues provided the funds to 331 Nova Scotia to make the loan to Bridging;

c) told Staff that Bridging repaid 331 Nova Scotia with the proceeds of the BlackRock Loan;

d) told Staff he did not have any relationships with any Bridging borrowers, or their officers, directors or shareholders, that could be perceived as creating a potential conflict of interest;

e) denied receiving the Secret Payments from McCoshen;

f) told Staff that Bridging made the August Advance to 1003 Manitoba pursuant to a "contractual obligation";

g) told Staff the June Loan and August Advance were for Ng to purchase real estate in Hong Kong; and

h) failed to tell Staff about the October 2019 Loan, the February 2020 Loan, or the $500,000 he received from Ng in November 2019.

55. Natasha Sharpe told Staff that:

a) Bridging approved a $67 million loan to 1003 Manitoba in June 2019 for Ng to purchase real estate in Hong Kong;

b) she did not know how Gautam funded 331 Nova Scotia's purported loan to Bridging;

c) she was not aware of certain transactions involving Ng, including the October 2019 Loan, the February 2020 Loan, and the $500,000 she received from Ng in November 2019; and

d) she drafted the 1003 Memo before she learned that the Investment Account did not exist.

56. Mushore told Staff that:

a) Bridging borrowed $35 million from 331 Nova Scotia to complete its acquisition of Ninepoint's Management Interest; and

b) Bridging approved a $67 million loan to 1003 Manitoba in June 2019 and that he remembered reviewing a falsified Credit Committee Submission at that time even though at that point it did not exist.

(b) Alteration, Exclusion and Destruction of Records

57. The Sharpes and Mushore instructed Bridging employees to falsely alter or exclude documents responsive to Staff's compelled document demands, and to destroy others. Bridging personnel carried out their instructions. Consequently, the documentary record and representations about that record provided to Staff were materially misleading or untrue and were incomplete.

58. Specific examples of alteration, exclusion and/or destruction of records include the following:

a) David Sharpe and Mushore directed a Bridging portfolio manager to work with Bridging's third-party IT service provider to delete emails from Bridging's records based on identified search terms relating to the issues in Staff's investigation, such as "River cities", "7047747" and "Sean McCoshen". Over 34,000 emails were deleted from Bridging's records between October 2020 and December 2020;

b) David Sharpe instructed Mushore and others to alter A2A loan documents in Bridging's files to falsely reflect that A2A, rather than 704 Manitoba, actually received loan proceeds from the Funds;

c) David Sharpe directed and ensured that no records relating to the River Cities loan would be provided to Staff, and he and Mushore instructed others to remove the River Cities loan from schedules listing all Fund loans that were provided to Staff;

d) David Sharpe instructed Mushore to alter Bridging's policies and procedures manual before it was produced to Staff to omit references to the Credit Committee approving loans by email. David Sharpe also instructed Mushore to not produce Credit Committee members' loan approval emails to Staff, and instructed others to remove a column from a spreadsheet that listed which members voted to approve specific loans;

e) When Staff demanded that Bridging produce the Credit Committee Submission for the June Loan to 1003 Manitoba, David Sharpe instructed Mushore to alter the actual Credit Committee Submission so that the version produced to Staff was consistent with the false assertion that the Credit Committee had approved the fraudulent August Advance;

f) David Sharpe and Mushore directed a Bridging portfolio manager to alter Bridging accounting records to delete the October 2019 Loan before the records were produced to Staff; and

g) Natasha Sharpe and Mushore, with David Sharpe's knowledge, attempted to cover up the February 2020 Loan. Natasha Sharpe concocted a story that the February 2020 Loan was an "advance dividend" payable from Bridging to Ng. In February 2020, Natasha Sharpe instructed Mushore to work with Bridging's accounting team to have Bridging "repay" the February 2020 Loan from the MM Fund with corporate funds and to falsify accounting records to be consistent with this false narrative.

(c) Intimidating Witnesses

59. In June and July 2021, while Staff's investigation was ongoing, David Sharpe sent intimidating texts and voicemails to Bridging employees, including Mushore. David Sharpe knew that these individuals were likely to be interviewed by Staff given the information they possessed. These profanity-laden communications contained disparaging insults and threats of physical violence.

(d) Improper Disclosure of Compelled Information

60. Natasha Sharpe unlawfully, and without disclosure to Staff, permitted David Sharpe to listen in to her compelled examination with Staff in October 2020.

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

61. Staff alleges the following breaches of Ontario securities law and/or conduct contrary to the public interest:

a) By engaging in the conduct described in paragraphs 14 to 51, Bridging, David Sharpe and Natasha Sharpe directly or indirectly engaged in or participated in acts, practices, or courses of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to section 126.1(1)(b) of the Act;

b) By engaging in the conduct described in paragraphs 23 to 31, Mushore directly or indirectly engaged in or participated in acts, practices, or courses of conduct relating to securities that he knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to section 126.1(1)(b) of the Act;

c) By engaging in the conduct described in paragraphs 14 to 51, Bridging, David Sharpe, Natasha Sharpe and Mushore failed to comply with Ontario securities law relating to conflicts of interest, including section 13.4 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, contrary to section 32(1)(g) of the Act;

d) By engaging in the conduct described in paragraph 34, Bridging and David Sharpe made statements in materials, evidence or information submitted to the Commission which were, in a material respect and at the time and in the light of the circumstances under which they were made, misleading or untrue or did not state facts that were required to be stated or that are necessary to make the statements not misleading contrary to the prohibition in section 122(1)(a) of the Act and, thereby failed to comply with Ontario securities law and it is in the public interest to issue an order pursuant to section 127 of the Act;

e) By engaging in the conduct described in paragraphs 52 to 58, each of Bridging (paragraphs 57 and 58), David Sharpe (paragraphs 52, 54, 57 and 58), Natasha Sharpe (paragraphs 52, 55, 57 and 58) and Mushore (paragraphs 52 and 56 to 58), made statements in materials, evidence or information submitted to Staff appointed to make an investigation under the Act which were, in a material respect and at the time and in the light of the circumstances under which they were made, misleading or untrue or did not state facts that were required to be stated or that are necessary to make the statements not misleading contrary to the prohibition in section 122(1)(a) of the Act and, thereby, failed to comply with Ontario securities law and it is in the public interest to issue an order pursuant to section 127 of the Act;

f) By engaging in the conduct described in paragraph 60, Natasha Sharpe disclosed questions asked and testimony given under section 13 of the Act contrary to section 16(1)(b) of the Act;

g) David Sharpe, Natasha Sharpe and Mushore authorized, permitted or acquiesced in Bridging's non-compliance with Ontario securities law, contrary to section 129.2 of the Act; and

h) By engaging in the conduct described in paragraphs 52 to 60, each of Bridging (paragraphs 57 and 58), David Sharpe (paragraphs 52, 54 and 57 to 60), Natasha Sharpe (paragraphs 52, 55, 57, 58 and 60) and Mushore (paragraphs 52 and 56 to 58), engaged in conduct such that it is in the public interest for the Commission to issue an order under section 127 of the Act.

62. 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. ORDER SOUGHT

63. Staff requests that the Commission make the following orders:

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

b) that the Respondents 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;

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

d) that David Sharpe, Natasha Sharpe and Mushore resign one or more positions that he or she holds as a director or officer of any issuer, registrant or investment fund manager pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act;

e) that David Sharpe, Natasha Sharpe and Mushore be prohibited from becoming or acting as a director or officer of any issuer, registrant, or investment fund manager pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act;

f) that David Sharpe, Natasha Sharpe and Mushore be prohibited from becoming or acting as a registrant, investment fund manager or promoter permanently or for such period as is specified by the Commission, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

g) that David Sharpe, Natasha Sharpe and Mushore each 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;

h) that David Sharpe, Natasha Sharpe and Mushore 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;

i) that the David Sharpe, Natasha Sharpe and Mushore pay costs of the Commission investigation and the hearing, pursuant to section 127.1 of the Act; and

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

DATE: March 31, 2022

ONTARIO SECURITIES COMMISSION
20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S8

“Mark Bailey “
Email: mbailey@osc.gov.on.ca
Tel: 416-593-8254

“Adam Gotfried”
Email: agotfried@os.gov.on.ca
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Staff of the Enforcement Branch

1.4 Notices from the Office of the Secretary

1.4.1 Fraser Macdougall et al.

FOR IMMEDIATE RELEASE
March 30, 2022

FRASER MACDOUGALL AND
CHRIS BOGART AND
TRYP THERAPEUTICS INC.,
File No. 2022-4

TORONTO – Take notice that an additional hearing date in the above-named matter is scheduled for April 22, 2022. The Application shall be heard on April 11, 13 and 22, 2022 at 12:00 p.m. EDT on each day.

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 David Sharpe et al.

FOR IMMEDIATE RELEASE
March 31, 2022

DAVID SHARPE,
File No. 2021-26

AND

BRIDGING FINANCE INC.,
DAVID SHARPE,
BRIDGING INCOME FUND LP,
BRIDGING MID-MARKET DEBT FUND LP,
BRIDGING INCOME RSP FUND,
BRIDGING MID-MARKET DEBT RSP FUND,
BRIDGING PRIVATE DEBT INSTITUTIONAL LP,
BRIDGING REAL ESTATE LENDING FUND LP,
BRIDGING SMA 1 LP,
BRIDGING INFRASTRUCTURE FUND LP, AND
BRIDGING INDIGENOUS IMPACT FUND,
File No. 2021-15

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

A copy of the Reasons for Decision dated March 30, 2022 is available at www.osc.ca.

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SECRETARY TO THE COMMISSION

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inquiries@osc.gov.on.ca

1.4.3 Go-To Developments Holdings Inc. et al.

FOR IMMEDIATE RELEASE
March 31, 2022

GO-TO DEVELOPMENTS HOLDINGS INC.,
GO-TO SPADINA ADELAIDE SQUARE INC.,
FURTADO HOLDINGS INC., AND
OSCAR FURTADO,
File No. 2022-8

TORONTO – The Office of the Secretary issued a Notice of Hearing on March 31, 2022 setting the matter down to be heard on April 20, 2022 at 10:00 a.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Notice of Hearing dated March 31, 2022 and Statement of Allegations dated March 30, 2022 are available at www.osc.ca.

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inquiries@osc.gov.on.ca

1.4.4 HRU Mortgage Investment Corporation et al.

FOR IMMEDIATE RELEASE
March 31, 2022

HRU MORTGAGE INVESTMENT CORPORATION,
HRU FINANCIALS LTD.,
YAU LING (PATRICK) LAM,
QINGYANG (MICHAEL) XIA, AND
ZICHAO (MARSHALL) LIANG,
File No. 2022-10

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 HRU Mortgage Investment Corporation, HRU Financials Ltd., Yau Ling (Patrick) Lam, Qingyang (Michael) Xia and Zichao (Marshall) Liang in the above named matter.

A copy of the Notice of Hearing dated March 31, 2022 and the Statement of Allegations dated March 31, 2022 are available at www.osc.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For Media Inquiries:

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

1.4.5 Bridging Finance Inc. et al.

FOR IMMEDIATE RELEASE
March 31, 2022

BRIDGING FINANCE INC.,
DAVID SHARPE,
NATASHA SHARPE AND
ANDREW MUSHORE,
File No. 2022-9

TORONTO – The Office of the Secretary issued a Notice of Hearing on March 31, 2022 setting the matter down to be heard on April 27, 2022 at 10:00 a.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Notice of Hearing dated March 31, 2022 and Statement of Allegations dated March 31, 2022 are available at www.osc.ca.

OFFICE OF THE SECRETARY
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inquiries@osc.gov.on.ca

1.4.6 Jiubin Feng and CIM International Group Inc.

FOR IMMEDIATE RELEASE
April 1, 2022

JIUBIN FENG AND
CIM INTERNATIONAL GROUP INC.,
File No. 2021-27

TORONTO – Take notice of the following merits hearing date changes in the above named matter:

(1) the merits hearing scheduled to be heard on September 1, 2, 6, 7, 8, 9 and October 24, 2022 will not proceed as scheduled; and

(2) the merits hearing shall commence on September 14, 2022 and continue on September 15, 16, 19, 20, 21, and 22, 2022 at 10:00 a.m. on each day.

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

1.4.7 Stableview Asset Management Inc. and Colin Fisher

FOR IMMEDIATE RELEASE
April 1, 2022

STABLEVIEW ASSET MANAGEMENT INC. AND COLIN FISHER,
File No. 2020-40

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

A copy of the Order dated April 1, 2022 is available at www.osc.ca.

OFFICE OF THE SECRETARY
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For General Inquiries:

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 1832 Asset Management L.P. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief in Multiple Jurisdictions – Investment funds subject to National Instrument 81-102 Investment Funds that are "qualified institutional buyers" under the United States Securities Act of 1933 (US Securities Act) investing in unregistered fixed income securities pursuant to Rule 144A of the US Securities Act – Rule 144A exempts resales of unregistered securities by and to a "qualified institutional buyer" from the registration requirements of the US Securities Act – Resales of 144A Securities to non-qualified institutional buyer otherwise subject to prescribed holding period – Prescribed holding period causes 144A Securities to be considered restricted securities under part (b) of the definition of "illiquid assets" in s. 1.1 of NI 81-102 notwithstanding that trades of 144A Securities between "qualified institutional buyers" are not subject to holding periods – Funds granted exemption providing that: (i) purchases by a Fund that is a "qualified institutional buyer" of 144A Securities are exempt from part (b) of the definition of "illiquid asset" in s. 1.1 of NI 81-102, and (ii) a Fund's holdings of 144A Securities purchased as a "qualified institutional buyer" are excluded from consideration as an "illiquid asset" for the purposes of the illiquid asset restrictions in s.2.4 of NI 81-102, subject to conditions.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 1.1, 2.4 and 19.1.

January 31, 2022

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
1832 ASSET MANAGEMENT L.P.
AGF INVESTMENTS INC.
BMO ASSET MANAGEMENT INC.
CIBC ASSET MANAGEMENT INC.
CI INVESTMENTS INC.
FRANKLIN TEMPLETON INVESTMENTS CORP.
GUARDIAN CAPITAL LP
HORIZONS ETFS MANAGEMENT (CANADA) INC.
INVESCO CANADA LTD.
MACKENZIE FINANCIAL CORPORATION
MANULIFE INVESTMENT MANAGEMENT LIMITED
PIMCO CANADA CORP.
RBC GLOBAL ASSET MANAGEMENT INC.
TD ASSET MANAGEMENT INC.
(collectively, the Filers, and each, a Filer)

DECISION

The principal regulator in the Jurisdiction has received an application from the Filers on behalf of all current and future investment funds that are, or will be, managed by such Filer or an affiliate of such Filer and to which National Instrument 81-102 *Investment Funds* (**NI 81-102**) applies (collectively, the **Funds**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that grants exemptive relief to the Funds that:

(a) the purchases by a Fund that is a Qualified Institutional Buyer (as defined below) at the time of purchase, of those fixed income securities that qualify for, and may be traded pursuant to, the exemption from the registration requirements of the *Securities Act of 1933*, as amended (the **US Securities Act**), as set out in Rule 144A of the US Securities Act (**Rule 144A**) for resales of certain fixed income securities (**144A Securities**) to Qualified Institutional Buyers, are exempt from part (b) of the definition of an "illiquid asset" in section 1.1 of NI 81-102; and

(b) a Fund's holdings of 144A Securities purchased as a Qualified Institutional Buyer are excluded from consideration as an "illiquid asset" for the purpose of the restrictions in section 2.4 of NI 81-102 (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 Filers have provided notice that Section 4.7(1) of Multilateral Instrument 11-102 Passport System (MI 11-102) is intended to be relied upon, as applicable, in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Québec, Saskatchewan and Yukon (together with Ontario, the **Jurisdictions**).

INTERPRETATION

Terms defined in National Instrument 14-101 Definitions, MI 11-102 and NI 81-102 have the same meaning if used in this decision, unless otherwise defined. In addition to the defined terms used in this decision, capitalized terms used herein have the following meanings:

IRC means the applicable independent review committee of each of the Funds.

Qualified Institutional Buyer has the same meaning given to such term in §230.144A of the US Securities Act.

Registered Securities means securities that have been registered with the United States Securities and Exchange Commission.

Rule 144 means Rule 144 of the US Securities Act.

REPRESENTATIONS

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

The Filers

1. The head office of each Filer is located in Ontario.

2. Each Filer is registered in the category of investment fund manager and portfolio manager in relevant Jurisdictions.

3. Each Filer, or an affiliate of the Filer is, or will be, the investment fund manager of the Funds and the Filer, an affiliate of the Filer or a third-party portfolio manager retained by the Filer is, or will be, the portfolio manager of the Funds.

4. Each Filer is not in default of securities legislation in any of the Jurisdictions.

The Funds

5. Each Fund is, or will be, an investment fund organized and governed by the laws of a Jurisdiction or the laws of Canada.

6. Each Fund is, or will be, governed by the provisions of NI 81-102, subject to any exemption therefrom that has been, or may be, granted by the securities regulatory authorities.

7. No existing Fund is in default of securities legislation in any of the Jurisdictions.

Definition of Illiquid Assets in NI 81-102 and 144A Securities

8. Pursuant to section 1.1 of NI 81-102, an "illiquid asset" is defined as:

   (a) a portfolio asset that cannot be readily disposed of through market facilities on which public quotations in common use are widely available at an amount that at least approximates the amount at which the portfolio asset is valued in calculating the net asset value per security of the investment fund; or

   (b) a restricted security held by an investment fund.

9. Rule 144A provides an exemption from the registration requirements of the US Securities Act for resales of unregistered securities by and to a Qualified Institutional Buyer. Rule 144A also requires that there must be adequate current public information about the issuing company before the sale can be made.

10. The definition of a Qualified Institutional Buyer under §230.144A of the US Securities Act includes several types of entities, but in general, such entities must, in the aggregate, own and invest on a discretionary basis at least USD$100 million in securities of issuers that are not affiliated with such entity.

11. While issuers themselves cannot rely on Rule 144A, as Rule 144A provides an exemption for resales of unregistered securities, the existence of Rule 144A allows financial intermediaries to purchase unregistered securities from issuers and resell them to Qualified Institutional Buyers in transactions that comply with Rule 144A without registering such securities.

12. Pursuant to the terms of the US Securities Act, public resales of 144A Securities to non-Qualified Institutional Buyers must be conducted in reliance upon other available exemptions, such as Rule 144. Rule 144 allows a seller to sell 144A Securities to a purchaser who does not qualify as a Qualified Institutional Buyer after a prescribed period of time (ranging from six months to one year after issuance), if certain other reporting requirements of the issuer are satisfied.

13. Despite the foregoing, 144A Securities are immediately freely tradable among Qualified Institutional Buyers in accordance with Rule 144A without regard to any holding periods. 144A Securities may also be sold to and purchased by non-Qualified Institutional Buyers after registration of the securities, or pursuant to another exemption from registration under the US Securities Act, if any exemption is available at that time.

14. Because public resales of 144A Securities are subject to certain holding periods notwithstanding that Qualified Institutional Buyers may purchase 144A Securities in accordance with Rule 144A which does not require a holding period, they may be considered restricted securities for the purposes of the part (b) definition of an "illiquid asset" under section 1.1 of NI 81-102, and each Fund's holdings of 144A Securities would be subject to the limits on

holdings of illiquid assets in section 2.4 of NI 81-102 (the **Illiquid Asset Restrictions**).

Reasons for the Exemption Sought

15. Each Filer is of the view that certain 144A Securities provide an attractive investment opportunity for the Funds managed by it. Due to the part (b) definition of an "illiquid asset" under section 1.1 of NI 81-102, the Funds may be unable to pursue these investment opportunities without risking a breach of the Illiquid Asset Restrictions.

16. The ability of Qualified Institutional Buyers to freely trade 144A Securities pursuant to Rule 144A has substantially reduced the discounts and illiquidity that were present in unregistered offerings historically. The market for 144A Securities consists of a very deep pool of Qualified Institutional Buyers.

17. The most liquid 144A Securities have traded with comparable volumes to the most liquid corporate debt Registered Securities over the past few years. The segment of the U.S. investment grade corporate bond market that is made up of 144A Securities has grown substantially over the past 15 years. The segment of the U.S. high-yield corporate bond market that is made up of 144A Securities has also grown significantly over the past decade.

18. Daily market quotations are obtained in the same way through fixed income market platforms for 144A Securities as they are for Registered Securities. Real-time price quotes and market trade data are available for 144A Securities. Many fixed income trades including 144A Securities, are reported within minutes into the Trade Reporting and Compliance Engine, a program initially developed by the National Association of Securities Dealers, Inc. (now the Financial Industry Regulatory Authority, Inc.) that provides for the reporting of over-the-counter transactions pertaining to eligible fixed income securities, including 144A Securities, thus meeting market integrity requirements.

19. A Fund that qualifies as a Qualified Institutional Buyer at the time it purchases 144A Securities may trade those 144A Securities to another Qualified Institutional Buyer without further restriction (i.e. not subject to any holding period). Typically, a Fund would sell 144A Securities to other brokers or dealers that are Qualified Institutional Buyers themselves, who would then on-sell the securities to other Qualified Institutional Buyers.

20. A Fund is not required to maintain its Qualified Institutional Buyer status in order to be able to resell its holdings of 144A Securities to another Qualified Institutional Buyer at any time.

21. In the course of determining the potential liquidity of a security, each Filer uses a consistent list of factors. These factors may include, but would not be limited to, market volatility, trending credit quality, current valuation, maturity, size of the tranche or offering, the applicable underwriters, the status of well-covered credit or first-time issuer, index eligibility, and in the case of 144A Securities, whether the security falls under "144A for life" status.

22. Each Filer is of the view that it has the tools, resources and expertise necessary to assess issuances of 144A Securities and to evaluate the creditworthiness of issuers on a per issuance basis. Each Filer has the ability to conduct sufficient analysis and should have the opportunity to invest in 144A Securities, and for the foregoing reasons, considers 144A Securities to be liquid investments that are not "restricted securities" under part (b) of the section 1.1 definition of an "illiquid asset" in NI 81-102.

23. The purpose of the Illiquid Asset Restrictions is to govern a core investment fund principle: investors should be able to redeem mutual fund securities and, where applicable, non-redeemable investment fund securities on demand. Considering that 144A Securities trade in an active institutional market, each Filer is of the view that 144A Securities can be liquid relative to a Fund's need to satisfy redemptions. The result of the current part (b) definition of an "illiquid asset" in NI 81-102 is that all 144A Securities may be rendered illiquid, whereas 144A Securities may be more liquid than other types of securities that meet the liquidity criteria set out in NI 81-102.

24. Formally exempting 144A Securities from the section 1.1, part (b) definition of an "illiquid asset" in NI 81-102 will not result in a Fund being unable to satisfy redemption requests. Investing in 144A Securities may actually be more beneficial to the Funds than various other securities in which the Funds may invest, and the liquidity determination regarding any such 144A Securities should be made on the actual trading liquidity of the security and not simply based on the manner in which the security was offered into the market.

25. Each Filer maintains investor protection policies and procedures that address liquidity risk, and uses a combination of risk management tools, which may include (i) IRC approved governance policies that have been adopted to protect investors in the Funds, (ii) internal portfolio manager notification requirements of significant cash flows into the Funds, (iii) ongoing liquidity monitoring of each Fund's portfolio, (iv) real time cash projection reporting for the Funds, and (v) the consideration of factors set out in paragraph 21 above in order to assess the potential liquidity of a security.

26. If a Fund no longer meets the requirements for qualifying as a Qualified Institutional Buyer, then the Filer will arrange to immediately restrict any

further purchases of 144A Securities until such time as the Fund regains its status as a Qualified Institutional Buyer.

27. The Filers are each of the view that, if 144A Securities were deemed to be illiquid assets, which may have the effect of prohibiting the Funds from accessing and investing in 144A Securities, the Funds and their investors would lose out on potential investment opportunities in the fixed income space. Given the expectation for long-term depressed interest rates compared to historical levels, the Filers are of the view that every basis point counts towards the total return opportunity of fixed income investors and investors would benefit from an expanded investment universe.

28. The Filers are each of the view that it would not be prejudicial to the public interest to grant the Exemption Sought to the Funds.

DECISION

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted, provided that:

(a) a Fund that purchases 144A Securities is a Qualified Institutional Buyer at the time of purchase;

(b) the 144A Securities purchased pursuant to the Exemption Sought are not illiquid assets under part (a) of the section 1.1 definition of an "illiquid asset" in NI 81-102;

(c) the 144A Securities purchased pursuant to the Exemption Sought are traded on a mature and liquid market; and

(d) the prospectus of each Fund relying on the Exemption Sought discloses, or will disclose in the next renewal of its prospectus following the date of this decision, the fact that the Fund has obtained the Exemption Sought.

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

Application File #: 2021/0744
SEDAR #: 3335817, 03336344,03346300, 03347149, 03337239, 03337766, 03335232, 03350210, 03350192, 03336334

2.1.2 Jarislowsky, Fraser Limited

Headnote

Pursuant to National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the prohibition on the use of corporate officer titles by certain registered individuals in respect of institutional clients – Relief does not extend to interactions by registered individuals with retail clients.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7(1).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.18(2)(b) and 15.1(2).

[COURTESY TRANSLATION]

March 14, 2022

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

AND

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

AND

IN THE MATTER OF
JARISLOWSKY, FRASER LIMITED
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that pursuant to section 15.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), the Filer and its Registered Individuals (as defined below) are exempt from the prohibition in paragraph 13.18(2)(b) of NI 31-103 that a registered individual may not use a corporate officer title when interacting with clients, unless the individual has been appointed to that corporate office by their sponsoring firm pursuant to applicable corporate law, in respect of Clients (as defined below) (the **Exemption Sought**).

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

(a) the Autorité des marchés financiers is the principal regulator for this application,

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon by the Filer and its Registered Individuals (as defined below) in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan and Yukon (the **Other Jurisdictions**) in respect of the Exemption Sought, and

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

Interpretation

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

Representations

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

1. The Filer is a corporation formed under the laws of Canada and has its head office in Montréal, Québec.

2. The Filer is registered as a portfolio manager and as an exempt market dealer in each of the provinces and territories of Canada; as an investment fund manager in Ontario, Québec, Newfoundland and Labrador, Alberta and British Columbia; as an adviser in Manitoba; as a derivatives portfolio manager in Québec and as a commodity trading manager in Ontario.

3. Other than with respect to the subject of this decision, the Filer is not in default of securities legislation in any province or territory of Canada.

4. The Filer is indirectly a wholly-owned subsidiary of The Bank of Nova Scotia.

5. The Filer, in its capacity as an adviser, manages numerous mandates, including retail investment funds, institutional mandates and high net worth non-individual client mandates. The Portfolio Managers, who are advising representatives, responsible for advising on these mandates work in the Research department within the Filer, which is separate from the Institutional and Private Wealth client service departments. The Portfolio Managers within the Research department report into the Head of Research who reports directly into the President, C.E.O. and UDP of the Filer. In general, Portfolio Managers in the Research department are engaged in client facing activities through the involvement of a client service representative of the Filer. Portfolio Managers in the Research department do not have direct client interactions without the involvement of client service representatives. Client facing activities usually entail the Portfolio Managers in the Research department presenting to clients or prospective clients the products that they manage and describing their investment process.

6. The Filer is the sponsoring firm for Portfolio Managers in its Research department who are registered individuals that interact with clients and use a corporate officer title without being appointed to the corporate office of the Filer pursuant to applicable corporate law (the **Registered Individuals**). The number of Registered Individuals may increase or decrease from time to time as the business of the Filer changes. As of the date of this decision, the Filer has approximately 11 Registered Individuals.

7. The current titles used by the Registered Individuals include the words “Managing Director”, “Director” or “Vice President”, and the Registered Individuals may use additional corporate officer titles in the future (collectively, the **Titles**). The Titles used by the Registered Individuals are consistent with the titles used by The Bank of Nova Scotia’s affiliates.

8. The Filer has a process in place for awarding the Titles, which sets out the criteria for each of the Titles. The Titles are based on criteria including seniority and experience, and a Registered Individual’s sales activity or revenue generation is not a primary factor in the decision by the Filer to award one of the Titles.

9. The Registered Individuals interact only with institutional clients that are, each, a non-individual “permitted client”, as defined in subsection 1.1 of NI 31-103 (the **Clients**).

10. Section 13.18 of NI 31-103 prohibits registered individuals in their client-facing relationships from, among other things, using titles or designations that could reasonably be expected to deceive or mislead existing and prospective clients. Paragraph 13.18(2)(b) of NI 31-103 specifically prohibits the use of corporate officer titles by registered individuals who interact with clients unless the individuals have been appointed to those corporate offices by their sponsoring firms pursuant to applicable corporate law.

11. There would be significant operational and human resources challenges for the Filer to comply with the prohibition in paragraph 13.18(2)(b). In addition, the Titles are widely used and recognized throughout the institutional segment of the financial services industry within Canada and globally, and being unable to use the Titles has the potential to

put the Filer and its Registered Individuals at a competitive disadvantage as compared to non-Canadian firms that are not subject to the prohibition and who compete for the same institutional clients.

12. Given their nature and sophistication, the use of the Titles by the Registered Individuals would not be expected to deceive or mislead existing and prospective Clients.

13. For the reasons provided above, it would not be prejudicial to the public interest to grant the Exemption Sought.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted, provided that, when using the Titles, the Filer and its Registered Individuals interact only with existing and prospective clients that are exclusively non-individual "permitted clients" as defined in NI 31-103.

This decision will terminate six months, or such other transition period as may be provided by law, after the coming into force of any amendment to NI 31-103 or other applicable securities law that affects the ability of the Registered Individuals to use the Titles in the circumstances described in this decision.

French version signed by:

"Éric Jacob"
Superintendent, Client Services and Distribution Oversight
Autorité des marchés financiers

2.1.3 Netcoins Inc.

Headnote

Application to revoke and replace existing time-limited relief from certain registrant obligations, prospectus requirement and trade reporting requirements – suitability relief to allow the Filer to distribute Crypto Contracts and operate a platform that facilitates the buying, selling and holding of crypto assets – relief granted subject to certain conditions set out in the decision, including investment limits for Crypto Contracts not based on bitcoin, ether, bitcoin cash or litecoin, account appropriateness, disclosure and reporting requirements – investment limits may be amended or removed for other crypto assets as they become more widely traded in regulated markets – relief is time-limited and will expire September 29, 2023 – to continue to operate after expiry, filer to become IIROC investment dealer – relief granted based on the particular facts and circumstances of the application with the objective of fostering capital raising by innovative businesses in Canada – decision should not be viewed as precedent for other filers in the jurisdictions of Canada.

Applicable Legislative Provisions

Statute Cited

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

Instrument, Rule or Policy Cited

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 21-101 Marketplace Operation, s. 1.1.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 12.1, 13.3.
OSC Rule 91-506 Derivatives: Product Determination, s. 2 & 4.
OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Part 3.

March 24, 2022

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA AND
ONTARIO AND
ALBERTA,
MANITOBA,
NEW BRUNSWICK,
NEWFOUNDLAND AND LABRADOR,
NORTHWEST TERRITORIES,
NOVA SCOTIA, NUNAVUT,
PRINCE EDWARD ISLAND,
QUÉBEC,
SASKATCHEWAN AND
YUKON
(collectively the Jurisdictions)

AND

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

IN THE MATTER OF
NETCOINS INC.
(the Filer)

DECISION

Background

¶ 1 As set out in Joint CSA/IIROC Staff Notice 21-329 Guidance for Crypto-Asset Trading Platforms: Compliance with Regulatory Requirements (**Staff Notice 21-329**) and CSA Staff Notice 21-327 Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets (**Staff Notice 21-327**), securities legislation may apply to crypto asset trading platforms (**CTPs**) that facilitate or propose to facilitate the trading of instruments or contracts involving crypto assets such as Bitcoin, Ether, and anything commonly considered a crypto asset, digital or virtual currency, or

digital or virtual token that are not themselves securities or derivatives (**the Crypto Assets**) because the user's contractual right to the Crypto Asset may itself constitute a security and/or a derivative (**Crypto Contract**).

To foster innovation and respond to novel circumstances, the Canadian Securities Administrators (**CSA**) have considered an interim, time limited registration that would allow CTPs to operate within a regulated framework, with regulatory requirements tailored to the CTP's operations. The overall goal of the regulatory framework is to ensure there is a balance between the need to be flexible and facilitate innovation in the Canadian capital markets, while upholding the regulatory mandate of promoting investor protection and fair and efficient capital markets.

The Filer is currently registered in all provinces in the category of restricted dealer. The Filer previously applied for and received exemptive relief in a decision dated September 29, 2021 (the **Prior Decision**) on terms substantially similar to this Decision. Under the terms of the Prior Decision, the Filer operates, on an interim basis, a CTP that permits clients resident in Canada to enter into Crypto Contracts to purchase and sell Crypto Assets through the Filer. While registered as a restricted dealer, the Filer intends to seek membership with the Investment Industry Regulatory Organization of Canada (**IIROC**).

The Filer has submitted an application to revoke the Prior Decision and to replace it with this Decision (as defined below) to allow the Filer to change its business model to permit the Filer to hold a portion of the Crypto Assets purchased by the Filer to facilitate its obligations under each Crypto Contract in hot wallets maintained by the Filer. This has been tailored for the specific facts and circumstances of the Filer, and the securities regulatory authority or regulator in the Jurisdictions will not consider this Decision as constituting a precedent for other filers.

Requested Relief

¶ 2 The securities regulatory authority or regulator in British Columbia and Ontario (**Dual Exemption Decision Makers**) have received an application from the Filer (the **Dual Application**) for a decision under the securities legislation of those jurisdictions (the **Legislation**) for a decision exempting the Filer from:

A. the prospectus requirements under the securities legislation of British Columbia and Ontario in respect of the Filer entering into Crypto Contracts with clients (the **Prospectus Relief**); and

B. the requirement in subsection 12.10(2) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) to deliver annual audited financial statements to the regulator and the requirement in section 13.3 of NI 31-103 to take reasonable steps to ensure that, before it makes a recommendation to or accepts instructions from a client to buy or sell a security, the purchase or sale is suitable for the client (the **Registrant Obligations Relief**).

The securities regulatory authority or regulator in each of the Jurisdictions referred to in **Appendix A** (the **Coordinated Review Decision Makers**) have received an application from the Filer (collectively with the Dual Application, the **Application**) for a decision under the securities legislation of those jurisdictions exempting the Filer from certain reporting requirements under the Local Trade Reporting Rules (as defined in Appendix A) (the **Trade Reporting Relief**, and together with the Prospectus Relief and the Registrant Obligations Relief, the **Requested Relief**).

The Filer has applied for the revocation of the exemptive relief in the Prior Decision effective as of the date of this Decision.

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

(a) the British Columbia Securities Commission is the principal regulator for this Application (the **Principal Regulator**),

(b) the Decision is the decision of the Principal Regulator and the Decision evidences the decision of the securities regulatory authority or regulator in Ontario,

(c) in respect of the Prospectus Relief and the Registrant Obligations Relief, the Filer has provided notice that, in the Jurisdictions where required, 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 (the **Non-Principal Jurisdictions**), and

(d) the decision in respect of the Trade Reporting Relief is the decision of the Principal Regulator and evidences the decision of each Coordinated Review Decision Maker.

Interpretation

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

Representations

¶ 4 This decision (the **Decision**) is based on the following facts represented by the Filer:

The Filer

1. The Filer is a corporation incorporated under the laws of British Columbia, with a head office in Vancouver, British Columbia.

2. The Filer is an indirect wholly owned subsidiary of BIGG Digital Assets Inc. (formerly BIG Blockchain Intelligence Group Inc.) (**BIGG**). The securities of BIGG are publicly traded on the Canadian Securities Exchange, the OTCQX and the Frankfurt Stock Exchange.

3. The Filer is registered as a dealer in the category of restricted dealer in the Jurisdictions.

4. The Filer's personnel consists, and will consist, of software engineers, executives and compliance professionals who each have experience operating in a regulated financial services environment and expertise in blockchain technology. All of the Filer's personnel have passed criminal records and credit checks, and new personnel will be hired after they pass criminal records and credit checks.

5. The Filer has adopted a business continuity plan designed to ensure the uninterrupted availability of the resources required to support its essential and critical business activities.

6. The Filer will not be a member firm of the Canadian Investor Protection Fund (**CIPF**). The Filer will retain the services of an independent third-party to hold Crypto Assets that satisfy the Filer's obligations under Crypto Contracts. The Crypto Assets "custodied" with the third party will not qualify for CIPF coverage. The Risk Statement (defined in paragraph 32 of these Representations, below) will include disclosure that there will be no CIPF coverage for the Crypto Assets.

7. Although the Filer does not currently prepare non-consolidated audited financial statements for its business, the financial statements of the Filer are consolidated with the audited financial statements of BIGG, the Filer's indirect parent. The Filer anticipates that it will be able to provide audited financial statements in compliance with subsection 12.10(2) for its 2021-22 fiscal year. During the period of this relief, the Filer will deliver to the Principal Regulator both the annual unaudited non-consolidated financial statements of the Filer and the annual audited financial statements of BIGG.

8. Except as set out in paragraph 9 of these Representations, below, neither the Filer nor BIGG is in default of securities legislation of any of the Jurisdictions or any terms or conditions of its registration as a restricted dealer.

9. Following the Prior Decision being made, the Filer became aware that the representation in paragraph 63 of the Prior Decision was inaccurate because at the time of the Prior Decision, BitGo Trust Company, Inc. (**BitGo**) had not completed a SOC 2 Type 2 examination report; rather the SOC 2 Type 2 examination report had been completed by BitGo's affiliate, BitGo Inc., who licensed the relevant technology to BitGo.

The Platform

10. The Filer operates a proprietary and fully automated internet-based platform (the **Platform**) that enables clients to enter into Crypto Contracts with the Filer that have, as their underlying interest, Crypto Assets, that have been accepted for trading on the Platform in accordance with the Filer's written policies and procedures.

11. The Platform will establish and apply policies and procedures to conduct an assessment of each Crypto Assets that underlies a Crypto Contract that the Platform trades. The assessment will be sufficient to allow the Platform to identify material risks to its clients relating to the Crypto Asset, including any material risks resulting from litigation or enforcement action by a securities regulatory authority in Canada or in a foreign jurisdiction. Each material risk will be disclosed in the platform's Risk Statement referred to in paragraph 32 of these Representations.

12. The Platform will not transact Crypto Contracts based on Crypto Assets that the Platform reasonably determines to be securities or derivatives in any jurisdiction in Canada.

13. The Filer acknowledges that the Principal Regulator may implement additional terms and conditions that will require the Platform to stop trading of any Crypto Contract, where it is in the public interest to do so.

14. The Filer's trading of Crypto Contracts is consistent with activities described in Staff Notice 21-327 and constitutes the trading of securities and/or derivatives.

15. The Filer currently operates the Platform and offers trading access to clients in each Jurisdiction. If the Filer provides access to the Platform to clients in jurisdictions outside of Canada, the Filer will take reasonable steps to ensure that the Filer complies with applicable securities or derivatives laws in such jurisdictions before providing such access.

16. Each transaction executed on the Platform results in a Crypto Contract. A Crypto Contract imposes rights and obligations on the Filer and each client. These rights and obligations are set out in an electronic document that is made available to each client (the **Terms of Service**). The client is required to review and accept the Terms of Service at the time the client opens an account. When the Filer intends to make a change to the Terms of Service, the Filer will provide each client with advanced notice of such change. If there is a material change to the Terms of Service applicable to a client, the client will be required to review and accept the new Terms of Service before the client will be allowed to execute a transaction.

17. Under the Terms of Service, the Filer maintains certain controls over client Crypto Assets to ensure compliance with applicable law and provide secure custody of the client assets.

Crypto Assets Made Available through the Platform

18. The Filer has established and applies policies and procedures to review Crypto Assets and to determine whether to allow clients on its Platform to enter into Crypto Contracts to buy and sell the Crypto Asset on its Platform**.** Such review includes, but is not limited to, publicly available information concerning:

    (a) the creation, governance, usage and design of the Crypto Asset, including the source code, security and roadmap for growth in the developer community and, if applicable, the background of the developer(s) that created the Crypto Asset;

    (b) the supply, demand, maturity, utility and liquidity of the Crypto Asset;

    (c) material technical risks associated with the Crypto Asset, including any code defects, security breaches and other threats concerning the Crypto Asset and its supporting blockchain (such as the susceptibility to hacking and impact of forking), or the practices and protocols that apply to them; and

    (d) legal and regulatory risks associated with the Crypto Asset, including any pending, potential, or prior civil, regulatory, criminal, or enforcement action relating to the issuance, distribution, or use of the Crypto Asset.

19. The Filer only offers, and only allows clients to enter into a Crypto Contract to buy and sell, a Crypto Asset that is not itself a security and/or a derivative.

20. The Filer does not allow clients to enter into a Crypto Contract to buy and sell Crypto Assets unless the Filer has taken steps to

    (a) assess the relevant aspects of the Crypto Asset, including the information specified in paragraph 18 of these Representations, to determine whether it is appropriate for its clients,

    (b) approve the Crypto Asset, and Crypto Contracts to buy and sell such Crypto Asset, to be made available to clients, and

    (c) monitor the Crypto Asset for significant changes and review its approval under where a significant change occurs.

21. The Filer is not engaged, and will not engage, in trades that are part of, or designed to facilitate, the creation, issuance or distribution of Crypto Assets by the developer(s) of the Crypto Asset or affiliates or associates of such persons.

22. The Filer has established and applies policies and procedures to determine whether a Crypto Asset available to be bought and sold through a Crypto Contract is a security and/or derivative and is being offered in compliance with securities and derivatives laws, which include but are not limited to:

    (a) consideration of statements made by any regulators or securities regulatory authorities of the Jurisdictions, other regulators in IOSCO-member jurisdictions, or the regulator with the most significant connection to a Crypto Asset about whether the Crypto Asset, or generally about whether the type of Crypto Asset, is a security or derivative; and

    (b) if the Filer determines it to be necessary, obtaining legal advice as to whether the Crypto Asset is a security or derivative under securities legislation of the Jurisdictions.

23. The Filer monitors ongoing developments related to Crypto Assets available on its Platform that may cause a Crypto Asset's legal status, or the assessment conducted by the Filer described in paragraphs 18 and 22 of these Representations, above, to change.

24. The Filer acknowledges that any determination made by the Filer as set out in paragraphs 18 and 22 of these Representations does not prejudice the ability of any of the regulators or securities regulatory authorities of any province or territory of Canada to determine that a Crypto Asset that a client may enter into a Crypto Contract to buy and sell is a security or derivative.

25. The Filer has established and applies policies and procedures to promptly stop the trading of any Crypto Asset available on its Platform and to allow clients to liquidate their positions in Crypto Contracts with underlying Crypto Assets that the Filer ceases to make available on its Platform.

Account Opening and Risk Disclosure

26. The Platform will be available to clients located in Canada and certain foreign jurisdictions, including any individual who is a resident in the Jurisdictions, who has reached the age of majority, and who has the legal capacity to open a securities brokerage account.

27. Prospective clients of the Filer will be required to complete an onboarding process which includes

    (a) identity verification, applicable "know your client" account opening requirements under applicable legislation and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its regulations;

    (b) the provision of information relating to the prospective client, including the following (the **Account Appropriateness Factors**):

        (i) the client's experience and knowledge in investing in Crypto Assets and in using order execution only online brokerages;

        (ii) the client's financial assets and income;

        (iii) the client's risk tolerance;

        (iv) the Crypto Assets approved to be made available to a client by entering into Crypto Contracts on the Platform.

28. Each Canadian client who is an individual, and each individual who is authorized to give instructions for a Canadian client that is a legal entity, must be: (a) a Canadian citizen or permanent resident; and (b) 18 years or older.

29. For each client, the Filer will, prior to opening the account, use technology to determine whether it is appropriate for the prospective client to use the Platform to enter into a Crypto Contract in order to buy and sell Crypto Assets.

30. The Filer will adopt policies and procedures to conduct an assessment to establish appropriate limits on the losses that a client that is not a permitted client, as that term is defined in NI 31-103, can incur and what limits on losses will apply to such client based on the Account Appropriateness Factors (the **Client Limit)**, and what steps the Filer will take when the client approaches or exceeds the Client Limit. After completion of the assessment, the Filer will implement controls to monitor and apply such policies and procedures, including the Client Limit.

31. After completion of the account-level appropriateness assessment, a prospective client receives appropriate messaging about using the Platform to enter into Crypto Contracts, which, in circumstances where the Filer has evaluated that entering into Crypto Contracts with the Filer is not appropriate for the client, will include prominent messaging to the client that this is the case and that the client will not be permitted to open an account with the Filer.

32. As part of the account opening process, the Filer will provide a prospective client with a separate statement of risks that clearly explains the following, in plain language (the **Risk Statement**),

    (a) the Crypto Contracts and Crypto Assets

    (b) the risks associated with Crypto Contracts and Crypto Assets,

(c) that no securities regulatory authority has expressed an opinion about the Crypto Contracts or any of the Crypto Assets made available through the Platform, including an opinion about whether the Crypto Assets are a security or a derivative,

(d) the due diligence performed by the Filer before making a Crypto Asset available through the Platform, including the due diligence taken by the Filer to assess whether the Crypto Asset is a security or derivative under the securities legislation of each of the Jurisdictions and, if applicable, the securities and derivatives laws of the foreign jurisdiction with which the Crypto Asset has the most significant connection, and the risks if the Filer has incorrectly determined that the Crypto Asset is not a security or derivative,

(e) that the Filer has prepared a plain language description of each Crypto Asset made available through the Platform, with instructions as to where on the Platform the client may obtain the descriptions (each a **Crypto Asset Statement**),

(f) the Filer's policies for halting, suspending and withdrawing a Crypto Asset from trading on the Platform, including criteria that would be considered by the Filer, options available to clients holding such a Crypto Asset, any notification periods and any risks to clients,

(g) how and where the Crypto Assets that are the basis for the Crypto Contracts are held and the benefits and risks to the client of the Crypto Assets being held in that manner,

(h) the manner in which the Crypto Assets are accessible by the Filer, and the risks and benefits to the client arising from the Filer having access to the Crypto Assets in that manner,

(i) that the Filer is not a member of the Canadian Investor Protection Fund (**CIPF**) and the Crypto Contracts and the Crypto Assets will not qualify for CIPF protection, and

(j) that the statutory rights in sections 131 through 132.2 of the Securities Act (British Columbia), and, if applicable, similar statutory rights under the securities legislation of the other Non-Principal Jurisdictions and Ontario, do not apply in respect of the Risk Statement or a Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief.

The statement referenced in sub-paragraph (c) will be prominent.

33. For each client with an existing account at the date of the Prior Decision and for which the Filer has not already performed the following with respect to such client as at the date of this Decision, the Filer will deliver to the client the Risk Statement. The Filer will obtain an electronic acknowledgment that the client has received, read and understood the Risk Statement prior to allowing the client to execute a transaction.

34. In order for a prospective client to open and operate an account with the Filer, the Filer will obtain an electronic acknowledgment from the prospective client confirming that the prospective client has received, read and understood the Risk Statement. Such acknowledgment will be prominent and separate from other acknowledgments provided by the prospective client as part of the account opening process and will be made available to the client on the Filer's website.

35. A copy of the Risk Statement acknowledged by a client will be made available to the client in the same place as the client's other statements on the Platform.

36. Before a client enters an order relating to Crypto Contract to "buy" a Crypto Asset, the Filer will provide instructions for the client to read the Crypto Asset Statement, which will include a link to the Crypto Asset Statement. The Crypto Asset Statement will include:

(a) a prominent statement that no securities regulatory authority in Canada has expressed an opinion about any Crypto Contract or Crypto Asset made available through the Platform, including an opinion that the Crypto Assets are not securities or derivatives,

(b) a description of the Crypto Asset, including the background of the team that first created the Crypto Asset, if applicable and any risks specific to the Crypto Assets,

(c) a description of the due diligence performed by the Filer with respect to the Crypto Asset,

(d) a direction to the client to review the Risk Statement for additional discussion of general risks associated with the Crypto Contracts and Crypto Assets,

(e) a statement that the statutory rights in sections 131 through 132.2 of the *Securities Act* (British Columbia), and, if applicable, similar statutory rights under the securities legislation of the Non-Principal

Jurisdictions and Ontario, do not apply in respect of the Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief,

(f) the date on which the information was last updated.

37. In addition to the determination referred to in paragraph 29 of these Representations, the Filer has also established, and will maintain and apply, policies and procedures that are reasonably designed to monitor client activity, and will contact clients to discuss their trading behaviour if it indicates a lack of knowledge or understanding of Crypto Asset trading, in an effort to identify and deter behaviours that may indicate that trading a Crypto Contract is not appropriate for the client, or that additional education is required. The outcome of this engagement with a client may result, in some cases, in a decision by the Filer to close a client's account. The Filer monitors compliance with the Client Limits established in paragraph 30 of these Representations. If warranted, the client will receive messaging when their account has met their Client Limit and receive instructions on options to proceed.

38. The Filer has established, and will maintain and apply, policies and procedures that are reasonably designed to update the Risk Statement, to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts and Crypto Assets, and the Crypto Assets Statement, to reflect any material changes relating to specific Crypto Assets. In the event the Risk Statement or Crypto Asset Statement is updated, existing clients of the Filer will be promptly notified and provided with a copy of the updated Risk Statement or Crypto Asset Statement, as applicable.

39. The Filer will also prepare and make available to its clients, on an ongoing basis and in response to emerging issues in Crypto Assets, educational materials and other informational updates about trading on the Platform and the ongoing development of Crypto Assets and Crypto Asset trading markets.

Deposit of Assets

40. A client can only execute transactions once the client has deposited assets in an amount that would allow the client to fulfill their obligations under any Crypto Contract that the client enters into.

41. Clients can fund their accounts with fiat currencies (currently, CAD or United States dollars (USD)) or supported Crypto Assets, and can use those funds to execute transactions of Crypto Contracts related to Crypto Assets made available through the Platform.

42. The Filer allows clients to fund their accounts with fiat currency by way of electronic funds transfer, e-transfer, online bill payment and wires, as well as credit card payments which are fulfilled through a third-party service provider. In addition, the Filer allows clients to deposit Crypto Assets through the automatic creation of a sub-wallet which is created solely for the purpose of the client's individual deposit of Crypto Assets, and is held by the custodian (as defined below).

Platform Operations

43. The Filer does not have any authority to act on a discretionary basis on behalf of clients and will not manage any discretionary accounts.

44. A Crypto Contract entered into by a client will either provide the client with an interest in relation to a Crypto Asset (**buy**) or divest the client of an interest in relation to a Crypto Asset (**sell**). Orders to buy and sell Crypto Assets will be placed with the Filer through the Platform. Clients will be able to submit buy and sell orders, either in units of the applicable Crypto Asset or in Canadian dollars, 24 hours a day, seven days a week.

45. The Filer does not provide recommendations or advice to clients or conduct a trade-by- trade determination for clients but rather performs account and product assessments, taking into account the Account Appropriateness Factors. These will be used by the Filer to

(a) evaluate whether entering into a Crypto Contract with the Filer is appropriate for prospective clients before the opening of an account. After completion of the assessments, a prospective client will receive appropriate messaging about using the Platform to enter into a Crypto Contract, which could include messaging to a prospective client that the Filer believes that using the Platform to enter into Crypto Contract is not appropriate for them and that as a result the client will not be permitted to open an account with the Filer, and

(b) conduct the assessment described in subparagraph 20(a) of these Representations.

46. The Filer will rely upon multiple crypto asset trading firms (**Liquidity Providers**) to act as sellers of Crypto Assets that may be purchased by the Filer to facilitate the Filer's obligations to clients. The Filer has a written agreement in place with each of its Liquidity Providers which govern the commercial terms of the relationship

and set out the duties and obligations of each party. Liquidity Providers will also buy any Crypto Assets from the Filer that the Filer has purchased to facilitate the Filer's obligations to its clients or that a client has deposited onto the Platform and wishes to sell.

47. In accordance with the Filer's policies and procedures, after the order has been placed by a client, the Platform will obtain a price for the Crypto Asset from at least two unaffiliated Liquidity Providers, after which the Platform will incorporate a 'spread' to compensate the Filer, and will present this adjusted price to the client as the price at which the Filer is willing to transact with the client.

48. The client will then have approximately 10 seconds to confirm that they want to enter into the Crypto Contract at that price. If the client does not confirm within a 10 second period, the price will automatically refresh using updated information from the Liquidity Providers. If the client finds the price agreeable, the client will accept the price and agree to the trade.

49. In order for a client to initiate a transaction, their account must be pre-funded with the applicable asset (fiat currency or Crypto Asset). When a client initiates a transaction with the Filer, the Filer will in turn enter into a back-to-back transaction with the Liquidity Provider, on a contemporaneous basis, in order to offset the risk to the Filer. The price of the Crypto Contract is equal to an aggregate amount of the cost to the Filer to complete the transaction with the Liquidity Provider and the spread that it charges to the client. As part of the transaction's reconciliation process, once the transaction is confirmed and settled, the Filer instructs the Liquidity Provider to transfer the Crypto Asset to the Filer's custodian for safekeeping, or in the case of cash, to the Filer to be held in a bank account in the Filer's name.

50. The Filer will not extend margin or otherwise offer leverage to clients and will not trade derivatives based on Crypto Assets with clients other than Crypto Contracts. The Filer will not allow clients to enter into a "short position" with respect to any Crypto Asset.

51. In accordance with the Filer's policies and procedures, the Filer will evaluate the price obtained from its Liquidity Providers on an ongoing basis against global benchmarks to provide fair and reasonable pricing to clients.

52. The Filer has verified or will verify, and has established, and will maintain and apply, policies and procedures that are reasonably designed to verify on an ongoing basis, that each Liquidity Provider is appropriately registered and/or licensed to transact in the Crypto Assets in their home jurisdiction, or that their activities do not require registration in their home jurisdiction, and that they are not in default of securities legislation in the Jurisdictions.

53. The Filer has verified that each Liquidity Provider has effective policies and procedures to address concerns relating to fair price, fraud and market manipulation.

54. A Crypto Contract is a bilateral contract between a client and the Filer. Accordingly, the Filer will be the counterparty to each buy or sell transaction initiated by a client. For each client transaction, the Filer will also be a counterparty to a corresponding Crypto Assets buy or sell transaction with a Liquidity Provider. The Filer will transact as a riskless principal, in that the Filer will not take any proprietary positions when trading with clients or with a Liquidity Provider.

55. The Filer will confirm the transaction with the Liquidity Providers.

56. The Filer will record in its books and records the particulars of each transaction.

57. The Filer will promptly, and no later than two days after the Crypto Contract transaction, settle the related Crypto Asset transactions with a Liquidity Provider on a net basis. Where transactions of Crypto Contracts result in a net increase in a client's rights in relation to Crypto Assets, the Filer will arrange for the cash to be transferred to the Liquidity Provider and related Crypto Assets to be sent by the Liquidity Provider to the Filer's custodian. Where transactions of Crypto Contracts result in a net decrease in a client's rights in relation to Crypto Assets, the Filer will arrange for the related Crypto Assets to be sent from the Filer's custodian to the Liquidity Provider and will deposit the cash received by the Filer from the Liquidity Providers in the account referred to in paragraph 86 of these Representations.

58. The Platform is an "open loop" system. Clients are permitted to deposit Crypto Assets acquired outside the Platform into their accounts with the Filer. Crypto Assets deposited will be promptly delivered to the custodian to be held in trust for the benefit of the client. Clients also have the right to obtain delivery of Crypto Assets to which they have an interest in pursuant to their Crypto Contracts with the Filer by requesting that the Filer deliver the Crypto Assets.

Reports to Clients

59. Clients will have access to information relating to their Crypto Contract transactions. The Platform has a transaction history screen that provides detailed information about all transactions completed by a client. The Filer will, during each calendar month, send an electronic communication to each client that indicates that information relating to their account is available to the client through the Platform.

60. Clients will receive electronic transaction confirmations and monthly statements setting out the details of the transaction history in their account with the Filer.

61. Clients will, on a continuous basis, except during periods where the Platform is not available due to systems maintenance, have access to information relating to their accounts with the Filer, including:

    (a) a list of all positions in Crypto Assets including the value of the Crypto Assets;

    (b) transaction details and history;

    (c) the amount of all currency deposits into the client's account;

    (d) value of all crypto asset deposits to the client's account as at the time of deposit;

    (e) the fees paid per transaction.

62. The information made available to clients through the Platform will provide clients with information regarding the transactions conducted through the Platform and their accounts with the Filer, including the following information:

    (a) the quantity and description of each Crypto Asset that is the underlying interest related to a Crypto Contract transacted;

    (b) the amount, denominated in either CAD or USD, at the client's option, paid or received by the client under the transaction, including the price paid or received for each Crypto Asset that is the underlying interest of the Crypto Contract;

    (c) the amount of each transaction charge, deferred sales charge or other charge in respect of the transaction and the total amount of all charges in respect of the transaction denominated in either CAD or USD, at the client's option;

    (d) the date on which the transaction took place;

    (e) the name and quantity of each Crypto Asset that is the underlying interest related to a Crypto Contract in the client's account;

    (f) the market value of each Crypto Asset that is the underlying interest related to a Crypto Contract in the client's account;

    (g) any cash balance in the client's account;

    (h) the total market value of all cash and Crypto Assets that are the underlying interest related to a Crypto Contract in the account denominated in either CAD or USD, at the client's option.

63. The Filer will provide clients with real-time, continuous access to information relating to each transaction executed by the client on the Platform, including information related to the price for each transaction. The Filer will also provide clients with access to real- time, continuous information relating to assets held in the clients account, including Crypto Assets and fiat currency. This information will be available to the client through the Filer's Platform.

Fees Payable by Clients

64. The Filer will be compensated by the spread on transactions and by charging transaction fees. All transaction fees are disclosed to the clients at the time of a transaction and are available in the Platform's terms of use.

Custody of Crypto Assets and Cash

65. The Filer holds Crypto Assets for the benefit of clients separate and apart from its own assets and from the assets of any custodial service provider. The Filer is not permitted to pledge, re-hypothecate or otherwise use any Crypto Assets owned by its clients.

66. The Filer has and will retain the services of third-party custodians to hold not less than 80% of the total value of Crypto Assets held on behalf of clients to facilitate its obligations under each Crypto Contract (the **custodian**). The Filer primarily uses BitGo .. **BitGo** as custodian, and will, after reasonable due diligence, use other custodians as necessary. Up to 20% of the Filer's total client Crypto Assets may be held online in hot wallets secured by Fireblocks Ltd. (**Fireblocks**).

67. BitGo is a trust company organized under the laws of the State of South Dakota and regulated as a trust company by the Division of Banking in South Dakota. BitGo meets the requirements of the definition of "foreign custodian" in NI 31-103.

68. BitGo has completed a Service Organization Controls (**SOC**) report under SOC 1 – Type 2 standards from a leading global audit firm. The Filer has conducted due diligence on BitGo, including reviewing a copy of the SOC 1 – Type 2 audit report prepared by BitGo's auditors, and has not identified any material concerns. The Filer has also reviewed the SOC 2 – Type 2 audit report completed for BitGo Inc., an affiliated entity of BitGo, prepared by BitGo Inc.'s auditors regarding its multi- signature wallet services system (i.e., hot wallets) offered by BitGo Inc. and have not identified any material concerns. BitGo has advised the Filer that it relies on technology licensed from BitGo Inc., which technology was audited pursuant to the SOC2 – Type 2 audit report prepared by BitGo Inc.'s auditors.

69. BitGo currently maintains a comprehensive insurance policy for digital assets in BitGo's cold storage system, covering US$100,000,000 in losses due to third party hacks, copying, theft or loss of private keys, insider theft or dishonest acts by BitGo employees or executives and loss of keys. The Filer has assessed BitGo's insurance policy and has determined, based on information that is publicly accessible and on information provided by BitGo and considering the scope of BitGo's business, that the amount of insurance is appropriate.

70. BitGo will operate a custody account for the Filer, for the purpose of holding Crypto Assets to ensure that the Filer will meet its obligations under each Crypto Contract. The Filer will ensure that the amount of Crypto Assets held by the custodian will be not less than the obligations of the Filer to clients under Crypto Contracts, subject to delays in the settlement of Crypto Assets transactions with Liquidity Providers. The Filer is not permitted to pledge, re-hypothecate or otherwise use any Crypto Assets held by the custodian or the Filer, that relate to a client's transaction.

71. BitGo will hold all Crypto Assets, in trust, for the clients of the Filer in an omnibus account. This account will be in the name of the Filer. This account will not be used to hold Crypto Assets of the Filer, or of the Filer's affiliates or of any custodian, and the Crypto Assets held in trust for clients will be separate and distinct from the assets, of the Filer, the Filer's affiliates or the Crypto Assets of any of the custodian's other clients.

72. BitGo allows the Filer to generate a unique address for each client account so it can track the client that has an interest in the specific Crypto Assets held by BitGo. When a client opens an account with the Filer, the Filer creates a new BitGo sub-account, which feeds into one main account which is in the name of the Filer.

73. BitGo has established, and will maintain and apply, policies and procedures that are reasonably designed to manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian and to mitigate security breaches and cyber incidents.

74. BitGo has established, and will maintain and apply, written disaster recovery and business continuity plans.

75. The Filer has established, and will maintain and apply, policies and procedures that are reasonably designed to ensure that BitGo's records relating to the Crypto Assets that BitGo holds in trust for clients of the Filer are accurate and complete.

76. The Filer has assessed the risks and benefits of using BitGo as the custodian for Crypto Assets and, has determined that, in comparison to a Canadian custodian (as that term is defined in NI 31-103), it is more beneficial to its clients to have BitGo, a custodian that is a financial institution that is subject to prudential regulation, hold the Crypto Asset that are the underlying interests of Crypto Contracts, than using an unregulated Canadian custodian.

77. The Filer licenses software from Fireblocks which includes a crypto asset wallet that stores private and public keys and interacts with various blockchains to send and receive crypto assets and monitor balances. Fireblocks uses secure multi-party computation and chip isolation technology to secure keys and application programing interface credentials in order to share signing responsibility for a particular blockchain address among multiple independent persons.

78. Fireblocks is an entity that is incorporated under the laws of Tel Aviv, Israel, and has obtained a SOC report under SOC 2 – Type 2 audit report prepared by the auditors of Fireblocks, a leading global audit firm. The Filer

has reviewed a copy of the SOC 2 -Type 2 audit report prepared by the auditors of Fireblocks and has not identified any material concerns.

79. The Filer has licensed software from Digital Assets Services Limited (trading as Coincover) (**Coincover**) to provide additional security for keys to Crypto Assets held by the Filer using Fireblocks, including key pair creation, key pair storage, device access recovery and account access recovery. Coincover is based in the United Kingdom and is regulated by the U.K. Financial Conduct Authority.

80. The Filer is proficient and experienced in holding Crypto Assets and has established and applied policies and procedures that manage and mitigate custodial risks, including but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets. The Filer also maintains appropriate policies and procedures related to IT security, cyber resilience, disaster recovery capabilities and business continuity plans.

81. The third-party insurance obtained by the Filer includes coverage for the Crypto Assets held by the Filer in Fireblocks hot wallets in the event of loss or theft in accordance with the terms of the insurance policy in question.

82. The Filer's hot wallet provider, Fireblocks, has insurance coverage in the amount of US$30 million in aggregate which, in the event of theft of crypto assets from hot wallets secured by Fireblocks, will be distributed among applicable Fireblocks customers, which could include the Filer, pursuant to an insurance settlement agreement.

83. In addition, backup key material for the Filer's hot wallets is secured by Coincover and is 100% insured against loss or theft by a leading global insurance provider.

84. As outlined in paragraph 69 of these Representations, there is insurance coverage on Crypto Assets underlying the Filer's crypto obligations and held in BitGo custodial cold storage. In addition, there is insurance coverage available through the Filer's services providers for the loss of Crypto Assets that underlie the Filer's crypto obligations held only in its hot wallets and not held in BitGo custodial cold storage . In addition, the Filer will obtain coverage through Coincover. that the Coincover coverage will cover the full amount of cash commitments held in hot wallets with Fireblocks, and will supplement the guarantee by setting aside cash that will be held in an account at a Canadian financial institution, separate from the Filer's operational accounts and Filer's client accounts, in an amount not less than the value of client crypto obligations held by Fireblocks less the amount of the Fireblocks insurance coverage. Depending on the circumstances, either funds from the guarantee or the bank account would be available in the event of loss of Crypto Assets held in the Filer's hot wallet.

85. A client can maintain their Crypto Contracts with the Filer indefinitely.

86. All fiat currency owned by clients that is being held by the Filer will be held by a Canadian financial institution in a designated trust account, in the name of the Filer.

Marketplace and Clearing Agency

87. The Filer does not operate a "marketplace" as that term is defined in National Instrument 21-101 *Marketplace Operation* and in Ontario, subsection 1(1) of the *Securities Act* (Ontario).

88. The Filer will not operate a "clearing agency" as defined in securities legislation. Any clearing or settlement activity conducted by the Filer is incidental to the Filer engaging in the business of a Crypto Contract dealer. Any activities of the Filer that may be considered the activities of a clearing agency on behalf of any other person or company other than an affiliate of the Filer are related to the Filer arranging or providing for settlement of obligations resulting from Crypto Contracts entered into on a bilateral basis and without a central clearing counterparty.

Decision

¶ 5 The Dual Exemption Decision Makers are satisfied that the Decision satisfies the test set out in the Legislation for the Dual Exemption Decision Makers to make the Decision and each Coordinated Review Decision Maker is satisfied that the Decision in respect of the Trade Reporting Relief satisfies the test set out in the securities legislation of its jurisdiction for the Coordinated Review Decision Maker to make the Decision in respect of the Trade Reporting Relief.

The Decision of the Dual Exemption Decision Makers under the Legislation is that the Prior Decision is revoked and the Prospectus Relief and the Registrant Obligations Relief are granted, and the Decision of each Coordinated Review Decision Maker under the securities legislation of its jurisdiction is that the Prior Decision Trade Reporting Relief is revoked and that the Trade Reporting Relief is granted, provided that:

1. Unless otherwise exempted by a further decision of the Principal Regulator and, if required under securities legislation, the regulator or securities regulatory authority of any other jurisdiction of Canada, the Filer complies with all of the terms, conditions, restrictions and requirements applicable to a registered dealer under securities

legislation, including the Legislation, and any other terms, conditions, restrictions or requirements imposed by a securities regulatory authority or regulator on the Filer.

2. The Filer is registered as a restricted dealer or investment dealer in the Jurisdiction and in each Jurisdiction in which a client is a resident.

3. The Filer will work actively and diligently with the Principal Regulator to transition to a final regulatory framework.

4. The Filer, and any representatives of the Filer, will not provide recommendations or advice to any client or prospective client on the Platform.

5. The Filer will only engage in the business of trading Crypto Contracts in relation to Crypto Assets, and in performing its obligations under those contracts. The Filer will seek the appropriate approvals from the Principal Regulator and, if required under securities legislation, the regulator or securities regulatory authority of any other jurisdiction of Canada, prior to undertaking any other activity relating to securities or derivatives.

6. Before trading Crypto Contracts relating to any new Crypto Asset, the Filer will conduct a thorough due diligence relating to the features of and risks relating to the Crypto Asset in accordance with paragraph 18 of the Representations.

7. The Filer will not operate a "marketplace" as the term is defined in National Instrument 21-101 *Marketplace Operation* and in Ontario, in subsection 1(1) of the *Securities Act* (Ontario) or a "clearing agency" as the term is defined in securities legislation.

8. At all times, the Filer will hold not less than 80% of the total value of all Crypto Assets with a third-party custodian that meets the definition of a "qualified custodian" under NI 31-103, unless the Filer has obtained the prior written approval of the Principal Regulator to hold a different percentage with a "qualified custodian".

9. Before the Filer holds Crypto Assets with a custodian referred to in paragraph 8 of these Conditions, the Filer will take reasonable steps to verify that the custodian:

   (a) maintains a comprehensive insurance policy to cover losses of Crypto Assets held by the custodian, including the assets owned by Platform clients;

   (b) has established, and will maintain and apply, policies and procedures that are reasonably designed to manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the client Crypto Assets for which it acts as custodian;

   (c) has obtained a SOC 2 Type 2 report within the previous 12 months, unless the Filer has notified the Principal Regulator and the Principal Regulator has provided written notice that it does not object to the Filer relying on a SOC 1 Type 1 or Type 2 or a SOC 2 Type 1 report obtained within the previous 12 months;

   (d) holds the Crypto Assets in trust for the benefit of the Filer's clients; and

   (e) holds the Crypto Assets of the Filer's clients separate and distinct from the Crypto Assets of the Filer.

10. The Filer will promptly notify the Principal Regulator if

   (a) the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the Financial Industry Regulatory Authority, the National Futures Association, the Division of Banking in South Dakota or the New York State Department of Financial Services makes a determination that the Filer's custodian is not permitted by that regulatory authority to hold client Crypto Assets, or

   (b) if there is any change in the status of the Filer's custodian as a regulated financial institution.

11. For the Crypto Assets held by the Filer, the Filer:

   (a) will hold the Crypto Assets for its clients separate and distinct from the assets of the Filer;

   (b) will ensure there is appropriate insurance for the loss of Crypto Assets held by the Filer; and

   (c) has established and will maintain and apply written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian.

12. The Filer will use at least two Liquidity Providers that are not affiliates of the Filer and that each Liquidity Provider is registered and/or licensed, to the extent required, in the jurisdiction or foreign jurisdiction, as applicable, where their head office or principal place of business is located, to execute transactions in the Crypto Assets.

13. The Filer has established, and will maintain and apply, policies and procedures reasonably designed to provide fair and reasonable prices to its clients, including policies and procedures to evaluate the price obtained from its Liquidity Providers on an ongoing basis against global benchmarks and transition to new Liquidity Providers, as appropriate.

14. Before each prospective client opens an account, the Filer will deliver to the client a Risk Statement. The Filer will require the client to provide electronic acknowledgement of having received, read and understood the Risk Statement.

15. For each client with an existing account at the date of the Prior Decision and for which the Filer has not already performed the following with respect to such client as at the date of this Decision, the Filer will deliver to the client a Risk Statement. The Filer will require the client to provide electronic acknowledgement of having received, read and understood the Risk Statement the next time they log into their account with the Filer.

16. The disclosures referred to in paragraphs 14 and 15 of these Conditions will be prominent and separate from other disclosures given to the client at that time, and the acknowledgement will be separate from other acknowledgements by the client at that time.

17. A copy of the Risk Statement acknowledged by a client will be made available to the client in the same place as the client's other statements on the Platform.

18. The Filer will promptly update the Risk Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts or Crypto Assets and, in the event of any update to the Risk Statement, will promptly notify each existing client of the update and deliver to them a copy of the updated Risk Statement and will require the client to provide electronic acknowledgement of having received, read and understood the updated Risk Statement.

19. Prior to the Filer delivering a Risk Statement to a client, the Filer will deliver, or will have previously delivered, a copy of that Risk Statement to the Principal Regulator.

20. Before allowing a client to transact a Crypto Contract relating to "buying" a Crypto Asset, the Filer will provide instructions for the client to read the Crypto Asset Statement for the Crypto Asset that will include the information described in paragraph 36 of the Representations. The instructions will include a link to the Crypto Asset Statement on the Filer's website.

21. The Filer will promptly update each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Asset. In the event of an update to a Crypto Asset Statement, the Filer will promptly notify clients of the update, with links provided to the updated Crypto Asset Statement.

22. For each new client, prior to opening an account, and for each pre-existing client, before allowing the client to execute a transaction or to deposit Crypto Assets on the platform, the Filer will perform the assessments as described in paragraphs 29 to 31 of the Representations. The Filer will regularly, and at least once in each 12 month period, review and update the assessment described in paragraphs 29 to 31 of the Representations.

23. In accordance with the requirements in paragraph 37 of the Representations, the Filer will monitor trading activity in client accounts. Clients will be contacted to discuss their trading behaviour where, in the opinion of a reasonable person, their trading activity reflects lack of knowledge or understanding of Crypto Asset trading or is inconsistent with the client's account assessment referred to in paragraph 29 of the Representations. This initiative is meant to deter clients from inappropriate trading activity that can be potentially harmful to them and identify that additional education is required.

24. The Filer will ensure that the maximum amount of Crypto Contracts based on Crypto Assets, other than Crypto Contracts based on Bitcoin, Ether, Bitcoin Cash, or Litecoin, that a client, except a client resident in Alberta, British Columbia, Manitoba and Québec, may enter into Crypto Contracts to purchase and sell on the Platform (calculated on a net basis and is an amount not less than $0) in the preceding 12 months does not exceed a net acquisition cost of $30,000.

25. In the jurisdictions where the Prospectus Relief is required, the first trade of a Crypto Contract is deemed to be a distribution under securities legislation of that jurisdiction.

26. The Filer will provide the Principal Regulator with at least 10 days' prior written notice of any

    (a) change to its custodian,

    (b) change to the fiat currencies that a client can use to fund their accounts,

    (c) change to its Liquidity Providers, and

    (d) material changes to the Filer's ownership or its business operations, including its systems, or its business model.

27. The Filer will not implement any of the changes referenced in subparagraphs 26 (a), (b) or (c) of these Conditions unless the Principal Regulator has delivered written notice that it does not object to the changes.

28. The Filer will not trade Crypto Contracts based on Crypto Assets that are securities or derivatives except in accordance with paragraph 25 of the Representations.

29. The Filer will not trade Crypto Assets or Crypto Contracts based on Crypto Assets with a customer in a Jurisdiction, without the prior written consent of the regulator or securities regulatory authority of the Jurisdiction, where the Crypto Asset was issued by or on behalf of a person or company that is or has in the last five years been the subject of an order, judgment, decree, sanction, fine or administrative penalty imposed by, or has entered into a settlement agreement with, a government or government agency, administrative agency, self-regulatory organization, administrative tribunal or court in Canada or in a Specified Foreign Jurisdiction in relation to a claim based in whole or in part on fraud, theft, deceit, aiding and abetting or otherwise facilitating criminal activity, misrepresentation, violation of AML laws, conspiracy, breach of trust, breach of fiduciary duty, insider trading, market manipulation, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar or analogous conduct; for the purposes of this condition, the term "Specified Foreign Jurisdiction" means any of the following: Australia, Brazil, any member country of the European Union, Hong Kong, Japan, Republic of Korea, New Zealand, Singapore, Switzerland, United Kingdom of Great Britain and Northern Ireland, and United States of America

30. Except to allow clients to liquidate their positions in those Crypto Contracts or transfer such Crypto Assets to a blockchain address specified by the client, the Filer will promptly stop trading Crypto Contracts where the underlying is a Crypto Asset if (i) the Filer determines it to be, (ii) a court, regulator or securities regulatory authority in any jurisdiction of Canada or the foreign jurisdiction with which the Crypto Asset has the most significant connection determines it to be, or (iii) the Filer is made aware or is informed that the Crypto Asset is viewed by a regulator or securities regulatory authority to be, a security and/or derivative.

31. The Filer will evaluate Crypto Assets as set out in paragraphs 18, 22 and 23 of the Representations.

32. The Filer will establish, apply and monitor policies and procedures that establish appropriate limits on the losses a client can incur, as set out in paragraph 30 of the Representations.

33. The Filer will notify the Principal Regulator, promptly, of any material breach or failure of its custodian's system of controls or supervision, and what steps have been taken by the Filer to address each such breach or failure. The loss of any amount of Crypto Asset will be considered a material breach or failure.

34. The Filer will notify the Principal Regulator, promptly, of any material breach or failure of the Filer's system of controls or supervision and of steps taken to address such breach or failure. The loss of any amount of Crypto Asset or of any fiat currency held on behalf of a client will be considered a material breach or failure.

35. The Filer will ensure that clients have access to information relating to their accounts and to past transaction activity that is updated continuously. The Filer will notify the Principal Regulator if the information is not available to a client for a material period of time.

Data Reporting

36. The Filer will provide the following information to the Principal Regulator, and to the securities regulatory authority or regulator in each of the other Jurisdictions with respect to clients in those jurisdictions individually, within 30 days of the end of each March, June, September and December:

    (a) aggregate reporting of activity conducted pursuant to Crypto Contracts that will include the following:

        (i) number of client accounts opened each month in the quarter;

        (ii) number of client accounts closed each month in the quarter;

        (iii) number of transactions each month in the quarter;

(iv) average value of the transactions each month in the quarter;

(v) number of client accounts that hold Crypto Contracts with net acquisitions exceeding $30,000 of Crypto Assets at the end of each month in the quarter;

(vi) number of client accounts with no transactions during the quarter;

(vii) number of client accounts that have not been funded at the end of each month in the quarter;

(viii) number of client accounts that hold Crypto Contracts at end of each month in the quarter;

(b) the details of any client complaints received by the Filer during the calendar quarter and how such complaints were addressed;

(c) the details of any fraudulent activity or cybersecurity incidents on the Platform during the calendar quarter, any resulting harms and effects on clients, and the corrective measures taken by the Filer to remediate such activity or incident and prevent similar activities or incidents from occurring in the future;

(d) the amount of Crypto Assets held to satisfy the Filer's crypto obligations to clients held in hot wallets and not held in BitGo custodial cold storage outlined in section 66 of the Representations, as of the end of the quarter,

(e) the amount of the coverage described in section 84 of the Representations, as of the end of the quarter;

(f) the name of the financial institution and the amount of money held at the end of the quarter in an account with the financial institution, separate from the Filer's operational accounts and Filer's client accounts, to supplement any insurance policy or guarantee relating to client crypto obligations held only in the Filer's hot wallets and not held in BitGo custodial cold storage outlined in paragraph 69 of the Representations.

(g) the details of the transaction volume per Liquidity Provider, per Crypto Asset during the quarter.

37. The Filer will deliver to the regulator or the securities regulatory authority in each of the Jurisdictions, in a form and format acceptable to the regulator or the securities regulatory authority, a report that includes the following anonymized account-level data for activity conducted pursuant to a Crypto Contract for each client within 30 days of the end of each March, June, September and December:

(a) unique account number and unique client identifier, as applicable;

(b) jurisdiction where the client is located;

(c) the date the account was opened;

(d) unrealized gains/losses since account opening in CAD;

(e) the amount of fiat currency held with the Filer at the beginning and end of the reporting period;

(f) cumulative gains/losses as of the report end date in CAD;

(g) quantity of Crypto Contracts transacted, deposited and withdrawn during the quarter, in number of units of the underlying Crypto Asset;

(h) the type of Crypto Assets that underlie the Crypto Contracts transacted, deposited or withdrawn by the client during the quarter;

(i) quantity of each Crypto Asset that a client has rights to under open Crypto Contracts, in units, as of the report end date;

(j) CAD equivalent aggregate value of Crypto Contracts transacted by the client, calculated by multiplying the amount in (g) by the market price of the Crypto Asset, as of the report end date.

38. The Filer will deliver to the regulator or the securities regulatory authority in each of the Jurisdictions, in a form and format acceptable to the regulator or the securities regulatory authority, within 30 days of the end of each March, June, September and December, a report that describes, if applicable, the Client Limits established by the Filer for each account.

39. If applicable, within 7 calendar days from the end of each month, the Filer will deliver to the regulator or securities regulatory authority in each of the Jurisdictions, a report of all accounts for which the loss limits that may be established pursuant to paragraph 30 of the Representations were exceeded during that month.

40. Until such time as the Filer can reasonably deliver annual audited financial statements in accordance with subsection 12.10(2) of NI 31-103, the Filer will deliver to the Principal Regulator for each financial year, as soon as they are available,

    (a) annual unaudited financial statements of the Filer,

    (b) annual audited financial statements of BIGG for each financial year, and

    (c) a completed Form 31-103F1 *Calculation of Excess Working Capital* (**Form 31- 103F1**).

41. The Filer will deliver to the Principal Regulator, within 30 days of the end of each March, June, September and December, either:

    (a) blackline copies of changes made to the policies and procedures on the operations of its wallets (including, but not limited to, establishment of wallets, transfer of Crypto Assets into and out of the wallets and authorizations to access the wallets) previously delivered to the Principal Regulator; or

    (b) a nil report stating no changes have been made to its policies and procedures on the operations of its wallets in the quarter.

42. In addition to any other reporting required by Legislation, the Filer will provide, on a timely basis, any report, data, document or information to the Principal Regulator, including any information about the Filer's custodian and the Crypto Assets held by the Filer's custodian, that may be requested by the Principal Regulator from time to time as reasonably necessary for the purpose of monitoring compliance with Legislation and the Conditions, in a format acceptable to the Principal Regulator.

43. Upon request, the Filer will provide the Principal Regulator, the securities regulatory authority or regulator in Ontario and the securities regulatory authorities or regulators of each of the Non-Principal Jurisdictions with aggregated and/or anonymized data concerning client demographics and activity on the Platform that may be useful to advance the development of the Canadian regulatory framework for trading crypto assets.

44. The Filer will, if it wishes to operate the platform in Ontario and Québec after the expiry of the Decision, take the following steps:

    (a) submit an application to the Principal Regulator, the OSC and the Autorité des marches financiers (**AMF**) to become registered as an investment dealer no later than 12 months after the date of the Decision;

    (b) submit an application to become an IIROC dealer member no later than 12 months after the date of the Decision;

    (c) work actively and diligently with the Principal Regulator, the OSC, AMF and IIROC to transition the platform to investment dealer registration and obtain IIROC membership.

45. This Decision shall expire on September 29, 2023.

46. The Filer will promptly make any changes to its business practices or policies and procedures that may be required to address investor protection concerns that may be identified by the Filer or by the Principal Regulator arising from the operation of the Platform.

47. This Decision may be amended by the Principal Regulator upon prior written notice to the Filer.

"Mark Wang"
Director, Capital Markets Regulation
British Columbia Securities Commission

OSC File #: 2021/0721

APPENDIX A – LOCAL TRADE REPORTING RULES

In this Decision the "Local Trade Reporting Rules" collectively means each of the following**:**

(a) Part 3, Data Reporting, of Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**OSC Rule 91-507**);

(b) Part 3, Data Reporting, of Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**MSC Rule 91-507**); and

Part 3, Data Reporting, of Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan, and Yukon (**MI 96-101**)

2.1.4 I.G. Investment Management, Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from the control restriction in section 2.2(1) of NI 81-102 to permit top funds subject to NI 81-102 to invest and hold more than 10% of the equity in securities of related underlying pools that are not funds and that are not reporting issuers. Relief is subject to conditions.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.2(1) and 19.1.

April 4, 2022

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
MANITOBA AND
ONTARIO

AND

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

AND

IN THE MATTER OF
I.G. INVESTMENT MANAGEMENT, LTD.
(Filer)

DECISION

BACKGROUND

The securities regulatory authority in each of Ontario and Manitoba (the **Decision Makers**) have received an application (the **Application**) from the Filer on behalf of the iProfile Canadian Equity Private Pool (the **Fund**), certain mutual funds offered by the Filer, and any additional mutual funds established in the future of which the Filer is the manager (collectively, the **Top Funds**) for a decision under the securities legislation of Ontario and Manitoba (the **Legislation**) for relief from subsection 2.2(1) (the **Control Restriction**) of National Instrument 81-102 *Investment Funds* (**NI 81-102**), (the **Requested Relief**).

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

(a) the Manitoba Securities Commission has been selected as the principal regulator for the Filer.

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

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

INTERPRETATION

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and NI 81102 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:

Filer

1. The Filer is a corporation continued under the laws of Ontario. It is the trustee, portfolio advisor and manager of certain Top Funds, including the Fund. The Filer's head office is in Winnipeg, Manitoba.

2. The Filer is registered as a Portfolio Manager and an Investment Fund Manager in Manitoba, Ontario and Quebec and as an Investment Fund Manager in Newfoundland and Labrador.

3. The Filer and the Top Funds of which it is the investment fund manager are not in default of any of the requirements of securities legislation in any of the Jurisdictions.

The Top Funds

4. Each Top Fund is, or once established will be, a mutual fund subject to NI 81-102.

5. Each Top Fund has, or will have, the Filer as its trustee, portfolio adviser, and manager, as applicable.

6. Each Top Fund distributes, or will distribute, its securities under prospectus prepared in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) (each, a **Prospectus**).

7. Each Top Fund is, or will be a reporting issuer in each of the Jurisdictions and is not or will not be in default of any of the requirements of securities legislation in any of the Jurisdictions.

8. Each Top Fund is, or will be, permitted by NI 81-102 to invest up to 10% of its net assets in illiquid assets, which includes Northleaf Funds (as defined below). The simplified prospectus of each Top Fund discloses or will disclose in its investment strategies that the Top Fund may invest up to 10% of its net assets directly or indirectly in illiquid assets, measured at the time of investment, including in Northleaf Funds.

9. The investment objective of the Fund is to provide long-term capital growth by investing primarily in Canadian equities. To achieve its investment objective, the Fund's investments are allocated in a fixed percentage to specific mandates, which include a Canadian large cap value mandate, a Canadian core equity mandate, and a Canadian large cap growth mandate. On November 29, 2021, the Fund's investment strategy was updated to also include an allocation to a portfolio of privately-held companies.

10. The Fund will achieve this exposure to private companies, at least in part, through an investment in Northleaf Growth Fund (**NGF**), a closed end pooled fund managed by Northleaf that is not an investment fund. The Fund made an investment in NGF within the confines of the Control Restriction in December 2021. The Fund is seeking to make additional investments in NGF but cannot do so without violating the Control Restriction.

11. Each Top Fund is, or will be, subject to National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**) and the Filer has established, or will, establish an independent review committee (**IRC**) to review conflict of interest matters pertaining to the Top Funds as required by NI 81-107.

12. The Fund's IRC has reviewed the investment by the Fund in NGF pursuant to subsection 5.1 of NI 81-107 and the IRC has provided a positive recommendation in respect of the investment by the Fund.

13. But for the Control Restriction, the Fund would not need exemptive relief to invest its desired investment amount in NGF, as the Fund's total investment will not exceed 10% of the net asset value (**NAV**) of the Fund nor will the total investment cause the Fund to hold more than 10% of its NAV in illiquid assets.

Northleaf and the Northleaf Funds

14. Each of the Northleaf Funds is managed by Northleaf Capital Partners (Canada) Ltd. or an affiliate (collectively **Northleaf**).

15. Northleaf is a global private markets investment firm with more than US$19 billion in private equity, private credit and infrastructure commitments under management on behalf of more than 200 institutional and family office investors, as of the date hereof. Northleaf is led by an experienced group of professionals, who collectively have significant experience in structuring, investing and managing global private markets investments and in evaluating, negotiating, structuring and executing complex financial transactions.

16. On October 28, 2020 affiliates of the Filer, Mackenzie Financial Corporation and Great-West Lifeco Inc. (**Lifeco**), entered into a strategic relationship with Northleaf whereby Mackenzie and Lifeco jointly acquired a 49.9% non-controlling voting interest and 70% economic interest in Northleaf.

17. NGF is a closed-end pooled fund managed by Northleaf that seeks to provide investors with access to investments in privately held growth-stage companies in Canada and the United States. NGF consists of a series of one or more investment vehicles created to meet the legal, tax, regulatory or other investment requirements of specific types of investors (both taxable and nontaxable) which together comprise the fund. "NGF" refers collectively to such investment vehicles. NGF's portfolio of investments will be comprised of a mix of (i) direct investments in portfolio companies (ii) investments in portfolio companies via third-party managed co-investment vehicles and (iii) secondary investments. (each

a **Portfolio Investment** and collectively the **Portfolio Investments**). A "direct investment" is an investment made directly in the securities of a private company, generally alongside other investment partners. A "secondary investment" generally involves purchasing securities in an existing private company or private equity fund from an existing securityholder through a private purchase and sale transaction between the existing securityholder and the buyer. NGF will seek to mitigate risk by building a portfolio that is diversified by business maturity, industry sector, and investment syndicate partner. According to its governing documents, the maximum amount NGF may invest in a single Portfolio Investment is 15% of the aggregate capital commitments to NGF.

18. Northleaf seeks to be an active investor engaged with the management of Portfolio Investments in which NGF invests to maintain an active ongoing governance role for the duration of NGF's investment. This includes Northleaf holding significant minority portions of the outstanding equity securities of NGF's Portfolio Investments with commensurate legal rights and/or having representation, as a voting member or observer, on the board of directors (or similar) of NGF's Portfolio Investments.

19. In addition to NGF, Northleaf currently offers, or in the future may offer, (i) other private markets funds that are actively involved in the management of the issuers in which they invest, and (ii) private credit funds that originate loans in the private credit market (collectively, together with NGF, the **Northleaf Funds**).

20. The Northleaf Funds are not, or will not be, subject to NI 81-102, and have not and will not prepare a simplified prospectus or annual information form in accordance with NI 81-101 or a long form prospectus in accordance with National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**).

21. The Northleaf Funds are not, and will not be, reporting issuers in any of the Jurisdictions or listed on any recognized stock exchange.

22. None of the Nortleaf Funds is, or will be, an "investment fund" pursuant to the securities legislation of the Jurisdictions.

23. The Northleaf Funds are, or will be, sold only to investors who qualify to invest in the Northleaf Funds pursuant to an exemption from the prospectus requirement under applicable Canadian securities laws.

24. The Northleaf Funds are not in default of the securities legislation of any of the Jurisdictions.

25. The Northleaf Funds are, or will be, primarily held by accredited investors who are not affiliated with the Filer or Northleaf.

26. There is no established, publicly available secondary market for interests in Northleaf Funds nor are there generally any redemption rights applicable to investors in Northleaf Funds. As such, investors in a Northleaf Fund cannot readily dispose of their interests in a Northleaf Fund and any interest that a Top Fund holds in a Northleaf Fund is or will be considered an "illiquid asset" under NI 81-102.

27. Each Northleaf Fund is, or will be, valued quarterly by Northleaf. On an annual basis the financial statements of each Northleaf Fund, are, or will be, audited by Northleaf's external auditors, being an internationally recognized independent account and audit firm (typically Ernst & Young LLP or PricewaterhouseCoopers LLP (Canada), as part of their annual independent audit. The applicable audit firm also audits the controls and processes in place to ensure Portfolio Investments are accurately valued in accordance with Northleaf's valuation policy.

Reasons for the Requested Relief

28. Absent the Requested Relief, a Top Fund, including the Fund, would be prohibited by subsection 2.2(1)(a) of NI 81-102 from investing in NGF or any other Northleaf Fund beyond the confines of the Control Restriction. Due to the expected size disparity between the Top Funds and the Northleaf Funds, with the Top Funds expected be significantly larger than the Northleaf Funds, it is possible that a relatively small investment, on a percentage of NAV basis, by a relatively larger Top Fund in a Northleaf Fund could result in such Top Fund holding securities representing more than 10 per cent of (i) the votes attaching to the outstanding voting securities of the Northleaf Fund or (ii) the outstanding equity securities of the Northleaf Fund, contrary to the restrictions in paragraph 2.2(1)(a) NI 81-102.

29. While the securities of the Northleaf Funds that the Top Funds would hold are technically considered voting and/or equity securities, a Top Fund will not invest in any Northleaf Fund for the purpose of exercising control over, or management of, the Northleaf Fund. The securities of each Northleaf Fund that would be held by the Top Funds do not, and will not, provide a Top Fund with any right to (i) appoint directors or observers to any board of the applicable Northleaf Fund or its manager, (ii) restrict management of any Northleaf Fund or be involved in the decision-making with respect to the investments made by the applicable Northleaf Fund or (iii) restrict the transfer of securities of the applicable Northleaf Fund by other investors in the Northleaf Fund. The voting rights associated with the securities of the Northleaf Funds that would be held by the Top Funds do not, and will not, provide a Top Fund with any right to approve, or otherwise participate in the decision-making process associated with the investments made by the Northleaf Funds.

30. The Top Funds will not have any look-through rights with respect to the individual portfolio investments held by any of the Northleaf Funds. Further, the Top Funds will not have any rights to, or responsibility for, administering any of the portfolio investments held by any of the Northleaf Funds.

31. Each of the existing Northleaf Funds have, and all future Northleaf Funds are expected to have, diversification requirements which limit the indirect exposure of the Top Funds to any single underlying portfolio company.

32. The Filer believes that a meaningful allocation to private markets investments will provide the Top Funds' investors with unique diversification opportunities and represents an appropriate investment tool for the Top Funds that has not been widely available in the past. Private equity, private infrastructure and private credit investments have historically performed well in down markets; the Filer believes that permitting a Top Fund to increase its allocation to such strategies, subsets of alternative investments, offers the potential to improve a Top Fund's risk adjusted returns.

33. The Filer believes that an optimal way to access private equity, private infrastructure and private credit is through investments in the Northleaf Funds. Investing in the Northleaf Funds will provide the Top Funds with access to investments in these strategies that the Top Funds would not otherwise have exposure to through portfolios diversified across different strategies, industry sectors and geographies constructed by Northleaf's experienced investment professionals.

34. Investments in the Northleaf Funds are considered illiquid investments under NI 81-102 and therefore are not permitted to exceed 10% of the NAV of a Top Fund. Investments by a Top Fund in Northleaf Funds are, or will be, included as part of the calculation for the purposes of the illiquid asset restriction in section 2.4 of NI 81-102 for the Top Fund. Furthermore, the Filer has its own liquidity policy and manages, or will manage, Top Funds' liquidity prudently under this policy.

35. The Filer believes that an optimal aggregate allocation to NGF would be approximately 1% of the Fund's net assets, or approximately C$60 million. Absent the Requested Relief, the Fund cannot achieve this allocation to NGF.

36. Investments by a Top Fund in the Northleaf Funds do not qualify for the exemption in subsection 2.2(1.1)(a) of NI 81-102 as the Northleaf Funds are not, or will not be, "investment funds".

37. The Filer believes that granting the Requested Relief is in the best interests of the Top Funds as it would provide the Top Funds with more flexibility to increase their allocation to the private markets.

DECISION

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision. The decision of the Decision Makers under the Legislation is that the Requested Relief is granted, provided that:

1. No Top Fund is actively participating or will actively participate in the business or operations of any Northleaf Fund.

2. Each Top Fund is or will be treated as an arm's-length investor in each Northleaf Fund in which it invests, on the same terms as all other third-party investors.

3. A Top Fund does not or will not hold more than 20% of the outstanding equity or voting securities of any Northleaf Fund.

4. Investments in the Northleaf Funds are considered illiquid investments under NI 81-102 and therefore are not permitted to exceed, in aggregate, 10% of the net asset value of the Fund.

5. In respect of an investment by a Top Fund in a Northleaf Fund, no sales or redemption fees are, or will be paid as part of the investment in the Northleaf Fund.

6. In respect of an investment by a Top Fund in a Northleaf Fund, no management fees or incentive fees are, or will be payable by the Top Fund that, to a reasonable person, would duplicate a fee payable by a Northleaf Fund for the same service.

7. Where applicable, a Top Fund's investment in a Northleaf Fund is or will be disclosed to investors in the Top Fund's quarterly portfolio holding reports, financial statements and/or fund facts documents.

8. The manager of each of the Top Funds complies with section 5.1 of NI 81-107 and the manager and the IRC of the Top Funds will comply with section 5.4 of NI 81-107 for any possible standing instructions concerning an investment by a Top Fund in a Northleaf Fund.

9. The prospectus of the Top Fund discloses or will disclose in the next renewal or amendment as applicable the fact that the Top Fund is invested in the Norhtleaf Funds, and that Mackenzie holds a significant ownership interest in Northleaf.

"Christopher Besko"
Director, General Counsel
The Manitoba Securities Commission

2.1.5 Schneider Electric S.E.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for relief from the prospectus and registration requirements for certain trades made in connection with an employee share offering by a French issuer – the issuer cannot rely on the employee exemption in section 2.24 of National Instrument 45-106 Prospectus Exemptions as the securities are not being offered to Canadian employees directly by the issuer but rather through special purpose entities – Canadian participants will receive disclosure documents – the special purpose entities are subject to the supervision of the local securities regulator – Canadian employees will not be induced to participate in the offering by expectation of employment or continued employment – there is no market for the securities of the issuer in Canada – the number of Canadian participants and their share ownership are de minimis – relief granted, subject to conditions.

April 4, 2022

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
SCHNEIDER ELECTRIC S.E.
(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**) for:

1. an exemption from the prospectus requirement (the **Prospectus Relief**) so that such requirement does not apply to

   (a) trades of:

      (i) units (the **Principal Classic Units**) of a fund named Schneider Actionnariat Mondial (the **Principal Classic Fund**), a *fonds commun de placement d'entreprise* or "FCPE", a form of collective shareholding vehicle commonly used in France for the custody of shares held by employee-investors in employee savings plans;

      (ii) units (the **2022 Classic Units**) of a temporary fund named "Schneider Relais International 2022 FCPE" (the **2022 Classic Fund**), a fund intended to merge into the Principal Classic Fund;

      (iii) units (together with the 2022 Classic Units, the **Temporary Classic Units**, and together with the 2022 Classic Units and the Principal Classic Units, the **Classic Units**) of future temporary sub-funds of the Principal Classic Fund organized in the same manner as the 2022 Classic Fund (together with the 2022 Classic Fund, the **Temporary Classic Funds)**, which will merge with the Principal Classic Fund following the completion of an Subsequent Employee Share Offering (as defined below), such transaction being described as the **Merger** (the term **Classic Fund** used herein means, prior to the Merger, the Temporary Classic Fund and following the Merger, the Principal Classic Fund);

   made pursuant to an Employee Share Offering to or with Qualifying Employees (as defined below) resident in the Jurisdiction and the Other Offering Jurisdictions (as defined below) (collectively, the **Canadian Employees,** and Canadian Employees who subscribe for Classic Units, the **Canadian Participants**);

   (b) trades of ordinary shares of the Filer (the **Shares**) by the Classic Fund to or with Canadian Participants upon the redemption of Classic Units as requested by Canadian Participants; and

2. an exemption from the dealer registration requirement (the **Registration Relief**, and together with the Prospectus Relief, the **Exemption Sought**) so that such requirement does not apply to the Filer and its Local Related Entities (as defined below), the Principal Classic Fund, the Temporary Classic Funds, and Natixis Interepargne (the **Management Company**) in respect of the following:

   (a) trades in Classic Units made pursuant to an Employee Share Offering to or with Canadian Employees; and

   (b) trades in Shares by the Classic Fund to or with Canadian Participants upon the redemption of Classic Units as requested by Canadian Participants.

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

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

   (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia and Newfoundland and Labrador (the **Other Offering 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.

"Related entity" has the same meaning given to such term in section 2.22 of National Instrument 45-106 *Prospectus Exemptions*.

Representations

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

1. The Filer is a corporation formed under the laws of France. It is not, and has no current intention of becoming a reporting issuer under the securities legislation of any jurisdiction of Canada. The head office of the Filer is located in France. The Shares are principally traded through Euronext Paris. The Filer is not in default of securities legislation of any jurisdiction of Canada.

2. The Filer has established a global employee share offering (the **2022 Employee Share Offering**) and expects to establish subsequent global employee share offerings following 2022 for the next four years that are substantially similar (the **Subsequent Employee Share Offerings**, and together with the 2022 Employee Share Offering, the **Employee Share Offerings**) for employees of the Filer and its participating related entities, including related entities that employ Canadian Employees (the **Local Related Entities**, together with the Filer and its other related entities, the **Schneider Electric Group**). Each Local Related Entity is controlled directly or indirectly by the Filer and is not, and has no current intention of becoming, a reporting issuer under the securities legislation of any jurisdiction of Canada. The Canadian headquarters of the Schneider Electric Group are in Ontario. There are more assets and clients of the Schneider Electric Group in Ontario than in any other jurisdiction of Canada.

3. As of the date hereof, Local Related Entities include: Schneider Electric Canada Inc., Power Measurement Ltd., Schneider Electric Systems Canada Inc., Schneider Electric Solar Inc., and Schneider Electric IT Corporation. For any Subsequent Employee Share Offerings, the list of Local Related Entities may change.

4. Each Employee Share Offering will be made under the terms as set out herein and for greater certainty, all of the representations will be true for each Employee Share Offering other than paragraphs 3, 12, and 27 which may change (save for references to the 2022 Classic Fund and the 2022 Employee Share Offering which will be varied such that they are read as references to the relevant Classic Fund and relevant Employee Share Offering).

5. As of the date hereof and after giving effect to any Employee Share Offering, the Filer is and will be a "foreign issuer" as such term is defined in section 2.15(1) of *National Instrument 45-102 Resale of Securities* (**NI 45-102**), section 2.8(1) of Ontario Securities Commission Rule 72-503 *Distributions Outside Canada* (**OSC Rule 72-503**), and section 11(1) of Alberta Securities Commission Rule 72-501 *Distributions to Purchasers Outside Alberta* (**ASC Rule 72-501**), and the Filer is not and will not be a reporting issuer in any jurisdiction of Canada.

6. Each Employee Share Offering involves an offering of Shares to be subscribed through a Temporary Classic Fund, which will be merged with the Principal Classic Fund following completion of the Employee Share Offering (the **Classic Plan**), subject to the decision of the supervisory boards of the FCPEs and the approval of the French AMF (as defined below).

7. Only persons who are employees of an entity forming part of the Schneider Electric Group during the subscription period for an Employee Share Offering and who meet other employment criteria (the **Qualifying Employees**) will be allowed to participate in the relevant Employee Share Offering.

8. The 2022 Classic Fund was established for the purpose of implementing the 2022 Employee Share Offering. The Principal Classic Fund was established for the purpose of facilitating the participation of Qualifying Employees in the Employee Share Offerings. There is no current intention for any of the 2022 Classic Fund or the Principal Classic Fund to become a reporting issuer under the securities legislation of any other jurisdiction of Canada. There is no intention for any Temporary Classic Fund that will be established for the purpose of implementing Subsequent Employee Share Offerings to become a reporting issuer under the Legislation or the securities legislation of any other jurisdiction of Canada.

9. The 2022 Classic Fund and the Principal Classic Fund are FCPEs and are registered with the French Autorité des marchés financiers (the **French AMF**). It is expected that each Temporary Classic Fund established for Subsequent Employee Share Offerings will be a French FCPE and registered with, and approved by, the French AMF.

10. The total amount invested by a Canadian Employee pursuant to an Employee Share Offering cannot exceed 25% of their estimated gross annual compensation (comprised of base salary plus bonus). Amounts contributed by a Canadian Employee's employer through the Matching Contribution (as defined below) are not factored into the maximum amount that a Canadian Employee may contribute. The minimum amount a Canadian Employee may invest pursuant to the Employee Share Offering is the Canadian dollar equivalent of €10.00 (or as determined by the Filer).

11. Under the Classic Plan, each Employee Share Offering will be made as follows:

    (a) Canadian Participants will subscribe for the relevant Temporary Classic Units, and the relevant Temporary Classic Fund will then subscribe for Shares on behalf of Canadian Participants using the Canadian Participants' contributions and the Matching Contribution from the Local Related Entities that employ the Canadian Participants. The subscription price will be the Canadian dollar equivalent of the average opening price of the Shares (expressed in Euros) on Euronext for the 20 trading days preceding the date of fixing of the subscription price (the **Reference Price**) by the management board of the Filer, less a specified discount in the amount of 15% to the Reference Price.

    (b) Following the completion of an Employee Share Offering, the relevant Temporary Classic Fund will be merged with the Principal Classic Fund (subject to the approval of the supervisory board of the FCPEs and the French AMF). The merger is made by the transfer of all assets held in the Temporary Classic Fund into the Principal Classic Fund and the liquidation of the Temporary Classic Funds after such transfer. The Temporary Classic Units held by the Canadian Participants will be replaced with Principal Classic Units on a *pro rata* basis and the Shares subscribed for will be held in the Principal Classic Fund.

    (c) Any dividends paid on the Shares held in the Classic Fund will be contributed to the Classic Fund and used to purchase additional Shares. To reflect this reinvestment, no new Classic Units will be issued. Instead, the reinvestment will increase the asset base of the Classic Fund as well as the value of the Classic Units held by Canadian Participants.

    (d) All Classic Units acquired by Canadian Participants will be subject to a hold period of approximately five years (the **Lock-Up Period**), subject to certain exceptions prescribed by French law and adopted under the offering in Canada (such as death, disability, or termination of employment).

    (e) At the end of the relevant Lock-Up Period, a Canadian Participant may (i) request the redemption of their Classic Units in the Classic Fund in consideration for a cash payment equal to the then market value of the Shares, or (ii) continue to hold their Classic Units in the Classic Fund and request the redemption of those Classic Units at a later date in consideration for a cash payment equal to the then market value of the Shares. Subject to certain changes in the regulations of the Classic Fund which may be made, a Canadian Participant may be permitted to request the redemption of their Classic Units in the Classic Fund in consideration for the underlying Shares (instead of a cash payment) at or after the end of the Lock-Up Period.

    (f) In the event of an early exit resulting from a Canadian Participant exercising one of the exceptions to the Lock-Up Period and meeting the applicable criteria, the Canadian Participant may request the redemption of their Classic Units in the Classic Fund in consideration for a cash payment equal to the then market value of the underlying Shares.

    (g) As indicated in paragraph 11(a) above, the Local Related Entity employing a Canadian Participant will also contribute on behalf of such Canadian Participant an amount into the Classic Plan based on predetermined matching contribution rules (the **Matching Contribution**).

12. For the 2022 Employee Share Offering, for each contribution that a Canadian Participant makes into the Classic Plan up to and including the Canadian dollar equivalent of €700, the Local Related Entity employing such Canadian Participant will contribute an additional 100% of such amount into the Classic Plan on behalf of such Canadian Participant. For the portion of each contribution that a Canadian Participant makes that is equal to or greater than the Canadian dollar

equivalent of €701 and up to and including the Canadian dollar equivalent of €2,100, the Local Related Entity employing such Canadian Participant will contribute an additional 50% of such amount into the Classic Plan on behalf of such Canadian Participant. For clarity, the maximum contribution by a Local Related Entity in respect of a Canadian Participant is the Canadian dollar equivalent of €1,400 (i.e., 100% of the Canadian dollar equivalent of first €700 contribution and 50% of the Canadian dollar equivalent of the next €1,400 contribution). For each Subsequent Employee Share Offering, the matching contribution rules may change.

13. The Reference Price for an Employee Share Offering will not be known to Canadian Employees until after the end of the applicable subscription period. Once the Reference Price is determined, however, it will be provided to Canadian Employees prior to the start of the revocation period, during which Canadian Employees may choose to revoke all (but not part) of their subscription and thereby not participate in the relevant Employee Share Offering.

14. Under French law, an FCPE is a limited liability entity. The portfolio of the Classic Fund will consist almost entirely of Shares, but may, from time to time, include cash in respect of dividends paid on the Shares which will be reinvested in Shares and cash or cash equivalents pending investments in Shares and for the purposes of Classic Unit redemptions.

15. The Classic Fund is managed by the Management Company, which is a portfolio management company governed by the laws of France. The Management Company is registered with the French AMF to manage investments and is subject to the rules of the French AMF and complies with them. To the best of the Filer's knowledge, and after reasonable verification, the Management Company is not, and has no current intention of becoming, a reporting issuer under the Legislation or the securities legislation of any jurisdiction of Canada.

16. The Management Company's portfolio management activities in connection with an Employee Share Offering and the Classic Fund are limited to subscribing for Shares from the Filer, selling such Shares as necessary in order to fund redemption requests and investing available cash in cash equivalents.

17. The Management Company is also responsible for preparing accounting documents and publishing periodic informational documents of the Classic Fund. The Management Company is obliged to act in the best interests of the Canadian Participants and is liable to them, jointly and severally with the Depositary (as defined below), for any violation of the rules and regulations governing FCPEs, any violation of the rules of the FCPE or for any self-dealing or negligence. The Management Company's activities will not affect the underlying value of the Shares.

18. None of the entities forming part of the Schneider Electric Group, the Classic Fund, the Management Company or any of their directors, officers, employees, agents or representatives will provide investment advice to the Canadian Employees with respect to an investment in the Shares or the Classic Units.

19. None of the entities forming part of the Schneider Electric Group, the Management Company or the Classic Fund are currently in default of securities legislation of any jurisdiction of Canada.

20. Shares issued pursuant to an Employee Share Offering will be deposited in the Classic Fund through Natixis (the **Depositary**), a large French commercial bank subject to French banking legislation. For any Subsequent Employee Share Offering, the Depositary may change. In the event of such a change, the successor to the Depositary will remain a large French commercial bank subject to French banking legislation. The Depositary carries out orders to purchase, trade and sell securities in the portfolio and takes all necessary action to allow the Classic Fund to exercise the rights relating to the securities held in its portfolio.

21. Participation in an Employee Share Offering is voluntary, and the Canadian Employees will not be induced to participate in an Employee Share Offering by expectation of employment or continued employment.

22. The Shares and Classic Units are not currently listed for trading on any stock exchange in Canada and there is no intention to have the Shares or the Classic Units so listed. As there is no market for these securities in Canada (and as none is expected to develop), any first trades of Shares by Canadian Participants will be effected through the facilities of, and in accordance with, the rules and regulations of Euronext Paris.

23. Classic Units are not transferable by holders of such Classic Units except upon redemption and other than as reflected in the decision document.

24. The Classic Unit value of the Classic Fund will be calculated and reported to the French AMF on a regular basis, based on the net assets of the Classic Fund divided by the number of Classic Units outstanding. The value of Classic Units will be based on the value of the underlying Shares, but the number of Classic Units of the Classic Fund will not correspond to the number of the underlying Shares (as dividends will be reinvested in additional Shares and increase the value of each Classic Unit).

25. All management charges relating to the Classic Fund will be paid from the assets of the Classic Fund or by the Filer, as provided in the regulations of the Classic Fund.

26. The Canadian Employees will receive an information package in the French or English language, according to their preference, which will include a summary of the terms of the relevant Employee Share Offering and a description of Canadian income tax consequences of subscribing for and holding Classic Units of the Classic Fund and requesting the redemption of such Classic Units at the end of the applicable Lock-Up Period. Canadian Participants will have access to the Filer's French *Document de Référence* filed with the French AMF in respect of the Shares and a copy of the regulations of the relevant Temporary Classic Fund and the Principal Classic Fund. The Canadian Employees will also have access to copies of the continuous disclosure materials relating to the Filer that are furnished to holders of the Shares. Canadian Participants will receive an initial statement of their holdings under the Classic Plan, together with an updated statement at least once per year.

27. As at January 31, 2022, there are approximately 1,904 Canadian Employees of which 574 are in Ontario, 604 are in Quebec, 366 are in British Columbia, 291 are in Alberta, 18 are in Saskatchewan, 22 are in Manitoba, 8 are in Nova Scotia, 17 are in New Brunswick, and 4 are in Newfoundland and Labrador, representing, in the aggregate, less than 2% of the number of Qualifying Employees in the Schneider Electric Group.

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) for the 2022 Employee Share Offering:

  (i) the issuer of the security was a foreign issuer on the distribution date, as such term is defined in section 2.15(1) of NI 45-102, section 2.8(1) of OSC Rule 72-503 and section 11(1) of ASC Rule 72-501; and

  (ii) the prospectus requirement will apply to the first trade in any Classic Units or Shares acquired by Canadian Participants pursuant to this decision unless the following conditions are met:

    (1) the issuer of the security:

      (I) was not a reporting issuer in any jurisdiction of Canada at the distribution date, or

      (II) is not a reporting issuer in any jurisdiction of Canada at the date of the trade; and

    (2) the first trade is made

      (I) through an exchange, or a market, outside of Canada, or

      (II) to a person or company outside of Canada;

(b) for any Subsequent Employee Share Offering under this decision completed within five years from the date of this decision:

  (i) the representations other than those in paragraphs 3, 12, and 27 remain true and correct in respect of that Subsequent Employee Share Offering; and

  (ii) the conditions set out in paragraph (a) above are satisfied as of the date of any distribution of a security under such Subsequent Employee Share Offering (varied such that any references therein to the 2022 Fund and the 2022 Employee Share Offering are read as references to the relevant Temporary Classic Fund and Subsequent Employee Share Offering, respectively) and

(c) in the Provinces of Ontario and Alberta, the prospectus exemption above, for the first trade in any Classic Units or Shares acquired by Canadian Participants pursuant to this decision, is not available with respect to any transaction or series of transactions that is part of a plan or scheme to avoid the prospectus requirements in connection with a trade to a person or company in Canada.

"Cecilia Williams"
Commissioner
Ontario Securities Commission

"Frances Kordyback"
Commissioner
Ontario Securities Commission

OSC File #: 2022/0088

2.1.6 IMAX Corporation

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the issuer bid requirements set out in Part 2 of NI 62-104 in connection with purchases by the issuer of up to 15% of its outstanding shares through the facilities of the NYSE under repurchase programs that the issuer may implement from time to time – the shares are not listed on any Canadian exchange and are only listed and posted for trading on the NYSE – the issuer believes that less than 2% of the shares are beneficially owned by resident Canadians – requested relief granted, subject to certain conditions.

Applicable Legislative Provisions

National Instrument 62-104 Take-Over Bids and Issuer Bids, Part 2 and s. 6.1.

April 1, 2022

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
IMAX CORPORATION
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the principal regulator (the **Legislation**) exempting the Filer from the requirements applicable to issuer bids (the **Issuer Bid Requirements**) in Part 2 of National Instrument 62-104 *Take-Over Bids and Issuer Bids* (**NI 62-104**) in connection with purchases by the Filer of up to 15% of the Filer's outstanding common shares (the **Shares**) made through the facilities of the New York Stock Exchange (the **NYSE**) under repurchase programs that the Filer may implement from time to time (such programs, the **Repurchase Programs**, and such exemption, the **Exemption Sought**).

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

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

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

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 existing under the *Canada Business Corporations Act* and is in good standing. The Filer has its head office and one of its two principal executive offices located in Mississauga, Ontario. The Filer's other principal executive office is located in New York, New York.

2. The Filer is a reporting issuer in all of the provinces of Canada, and is not in default of any requirements of the securities legislation of the jurisdictions in which it is a reporting issuer.

3. The Filer is also a registrant with the Securities and Exchange Commission in the United States (the **SEC**) and is subject to the requirements of the *Securities Act of 1933* (United States) (the **1933 Act**) and the *Securities Exchange Act of 1934* (United States) (the **1934 Act**).

4. The authorized capital of the Filer consists of an unlimited number of Shares and an unlimited number of non-voting special shares. As at March 18, 2022, the Filer had 58,748,344 Shares and no special shares issued and outstanding.

5. Upon the completion of its initial public offering in 1994, the Shares were concurrently listed and posted for trading on the Toronto Stock Exchange (the **TSX**) and the NASDAQ Stock Exchange (the **NASDAQ**). In 2011, the Filer delisted the Shares from the NASDAQ and instead listed and posted the Shares for trading on the NYSE. From that point onward, until January 19, 2015, the Shares were listed and posted for trading on the TSX and the NYSE.

6. The Filer was of the view that the low trading volume of the Shares on the TSX over a sustained period no longer justified the financial and administrative costs associated with maintaining its listing of the Shares on the TSX, and on January 12, 2015, the Filer applied for a voluntary delisting of the Shares from the TSX. The delisting was effective as of the close of markets on January 19, 2015.

7. The Shares are no longer listed and posted for trading on any exchange in Canada. The Shares are only listed and posted for trading on the NYSE under the symbol "IMAX".

8. As at March 18, 2022, the Filer's "public float" (as such term is defined by the TSX and the NYSE) consisted of 48,911,957 Shares, representing approximately 83.26% of the outstanding Shares.

9. On June 12, 2017, the Filer announced that its board of directors approved a U.S.$200 million Repurchase Program (the **Current Repurchase Program**). The Current Repurchase Program commenced on July 1, 2017 and authorizes the Filer to purchase for cancellation up to U.S.$200 million worth of Shares. On June 25, 2021, the Filer announced a 12-month extension to the Current Repurchase Program from June 30, 2021 to permit repurchases until June 30, 2022. Repurchases pursuant to the Current Repurchase Program may be made either in the open market or through private transactions, subject to market conditions, applicable legal requirements and other relevant factors.

10. The exemption from the Issuer Bid Requirements set out in subsection 4.8(3) of NI 62-104 (the **Other Published Markets Exemption**) provides that an issuer bid that is made in the normal course on a published market, other than a designated exchange, is exempt from the Issuer Bid Requirements if, among other things, the bid is for not more than 5% of the outstanding securities of a class of securities of the issuer and the aggregate number of securities acquired in reliance on the Other Published Markets Exemption by the issuer and any person acting jointly or in concert with the issuer within any period of 12 months does not exceed 5% of the outstanding securities of that class at the beginning of the 12-month period.

11. The Ontario Securities Commission (the **OSC**) issued a decision on April 1, 2016 (the **2016 Order**) exempting the Filer from the Issuer Bid Requirements in connection with purchases by the Filer of up to 10% of its outstanding Shares made through the facilities of the NYSE under Repurchase Programs implemented by the Filer from time to time, subject to certain conditions set out in the decision, for a period of 36 months expiring on April 1, 2019.

12. The OSC issued a decision on March 25, 2019 (the **2019 Order**) exempting the Filer from the Issuer Bid Requirements in connection with purchases by the Filer of up to 10% of its outstanding Shares made through the facilities of the NYSE under Repurchase Programs implemented by the Filer from time to time, subject to certain conditions set out in the decision, for a period of 36 months expiring on March 25, 2022.

13. The OSC issued a decision on May 21, 2020 (the **2020 Order**) varying the terms of the 2019 Order to increase the maximum number of Shares that could be purchased by the Filer from 10% to 15% of its outstanding Shares. The 2019 Order ceased to be effective and was superseded by the 2020 Order upon the issuance of the 2020 Order.

14. From the commencement of the Current Repurchase Program on July 1, 2017 until March 18, 2022, the Filer repurchased a total of 7,277,273 Shares for an aggregate amount of approximately U.S.$130,795,626. Any and all Shares purchased under the Current Repurchase Program prior to the expiry of the 2020 Order have been, or will be, acquired in reliance on the 2016 Order, the 2019 Order, and the 2020 Order, as applicable.

15. As at March 18, 2022, the Filer had approximately U.S.$69,204,374 remaining available to repurchase Shares under the Current Repurchase Program and the Filer wishes to be able to continue to make repurchases under the Current Repurchase Program and any further Repurchase Programs that may be implemented by the Filer on the facilities of the NYSE in excess of the maximum allowable in reliance on the Other Published Markets Exemption (such repurchases, the **Proposed Bids**). The Filer intends to either approve and implement a Repurchase Program, or further extend the Current Repurchase Program to allow it to continue to make repurchases following the expiry of the Current Repurchase Program.

16. The Filer believes that the Proposed Bids are in the best interests of the Filer and its shareholders.

17. Based on information provided by the Filer's transfer agent, as at March 18, 2022:

    (a) the Filer had 58,748,344 Shares and no special shares issued and outstanding;

    (b) 51,688,439 Shares (or approximately 87.983% of the issued and outstanding Shares) were registered to shareholders in the United States;

    (c) 7,058,469 Shares (or approximately 12.015% of the issued and outstanding Shares) were registered to shareholders in Canada (the **Registered Canadian Shares**);

    (d) of the Registered Canadian Shares, 7,042,804 Shares were registered to The Canadian Depositary for Securities (the **CDS Position**), and 15,665 Shares (or approximately 0.027% of the issued and outstanding Shares) were held among fewer than 50 registered shareholders in Canada; and

    (e) of the CDS Position, 6,227,097 Shares were held by American intermediaries (the

U.S. Intermediary Shares), and 815,707 Shares (or approximately 1.388% of the issued and outstanding Shares) were held by Canadian intermediaries.

18. Based on the information provided by the Filer's transfer agent noted in paragraph 17, the Filer reasonably believes that:

    (a) less than 2% of the Shares are beneficially owned by more than 50 shareholders resident in Canada; and

    (b) the size of the CDS Position, and the fact that the U.S. Intermediary Shares form part of the CDS Position, is likely a result of the Shares having been listed on the TSX for over 20 years.

19. The Proposed Bids will be effected in accordance with the 1933 Act, the 1934 Act, the rules of the SEC made pursuant thereto, including the safe harbour provided by Rule 10b-18 under the 1934 Act (collectively, the **Applicable U.S. Securities Laws**) and any by-laws, rules, regulations or policies of the NYSE (the **Exchange Rules**).

20. Applicable U.S. Securities Laws require that, in respect of purchases by an issuer of its own securities through the facilities of the NYSE: (a) all purchases made during a single trading day must be conducted through a single broker or dealer; (b) purchases cannot be effected during the last 10 minutes before the scheduled close of market or be the opening purchase; (c) purchases must be made at a price that does not exceed the highest independent bid or the last transaction price quoted; and (d) in any given day, the issuer cannot purchase more than 25% of its average daily trading volume on the NYSE over the past four weeks.

21. Applicable U.S. Securities Laws also require that the Filer report any repurchases conducted pursuant to the Current Repurchase Program (and any Repurchase Programs that may be implemented by the Filer) in its quarterly and annual reports.

22. The Proposed Bids would be permitted under the Exchange Rules and Applicable U.S. Securities Laws.

23. The purchase of Shares under the Proposed Bids will not adversely affect the Filer or the rights of any of the Filer's security holders and they will not materially affect control of the Filer.

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 Proposed Bids are permitted under the Exchange Rules and Applicable U.S. Securities Laws, and are established and conducted in accordance and compliance with the Exchange Rules and Applicable U.S. Securities Laws;

(b) the aggregate number of Shares acquired in reliance on this decision and the Other Published Markets Exemption by the Filer and any person acting jointly or in concert with the Filer within any period of 12 months does not exceed 15% of the outstanding Shares at the beginning of the 12-month period;

(c) the Shares are not listed and posted for trading on an exchange in Canada;

(d) the Exemption Sought applies only to the acquisition of Shares by the Filer occurring within 36 months of the date of this decision pursuant to a Proposed Bid;

(e) at least 5 days prior to purchasing Shares in reliance on this decision, the Filer discloses the terms of the Exemption Sought and the conditions applicable thereto in a press release that is issued and filed on the System for Electronic Document Analysis and Retrieval, and includes such information as part of the news release required to be issued in accordance with the Other Published Markets Exemption in respect any Repurchase Program that may be implemented by the Filer; and

(f) the Filer does not acquire Shares in reliance on the Other Published Markets Exemption if the aggregate number of Shares purchased by the Filer and any person or company acting jointly or in concert with the Filer in reliance on this decision and the Other Published Markets Exemption within any period of 12 months, exceeds 5% of the outstanding Shares at the beginning of the 12-month period.

"David Mendicino"
Manager
Office of Mergers & Acquisitions
Ontario Securities Commission

2.2 Orders

2.2.1 Silver Lake Ontario Inc.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – The issuer ceased to be a reporting issuer under securities legislation.

Applicable Legislative Provisions

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

March 30, 2022

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
SILVER LAKE ONTARIO INC.
(the Filer)

ORDER

Background

The principal regulator in the Jurisdiction has received an application from the Filer for an order under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the "**Order Sought**").

Under the Process for Cease to be a Reporting Issuer Applications (for a passport application):

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

(b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon British Columbia, Alberta, Saskatchewan, and New Brunswick.

Interpretation

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

Representations

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

1. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the US. Over-the-Counter Markets*;

2. the outstanding securities of the Filer including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

3. no securities of the Filer, including debt securities are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

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

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

Order

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

OSC File #: 2022/0101

2.2.2 Reservoir Capital Corp.

Headnote

National Policy 11-207 Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions – Application by an issuer for a full revocation of a cease trade order issued by the Commission – cease trade order issued because the issuer had failed to file certain continuous disclosure materials required by Ontario securities law – defaults subsequently remedied by bringing continuous disclosure filings up-to-date – cease trade order revoked.

Applicable Legislative Provisions

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

Citation: 2022 BCSECCOM 83

RESERVOIR CAPITAL CORP.

REVOCATION ORDER
Under the securities legislation of
British Columbia and Ontario
(the Legislation)

Background

¶ 1 Reservoir Capital Corp. (the Issuer) is subject to a failure-to-file cease trade order (the FFCTO) issued by the regulator of the British Columbia Securities Commission (the Principal Regulator) and Ontario (each a Decision Maker) respectively on August 4, 2021.

¶ 2 The Issuer has applied to each of the Decision Makers under National Policy 11-207 *Failure-to-File Cease Trade Orders and Revocation in Multiple Jurisdictions* (NP 11-207) for an order revoking the FFCTOs.

¶ 3 This order is the order of the Principal Regulator and evidences the decision of the Decision Maker in Ontario.

Interpretation

¶ 4 Terms defined in National Instrument 14-101 *Definitions* or in NP 11-207 have the same meaning if used in this order, unless otherwise defined.

Order

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

¶ 6 The decision of the Decision Makers under the Legislation is that the FFCTO is revoked.

¶ 7 March 22, 2022

"Allan Lim", CPA, CA
Manager, Corporate Disclosure
Corporate Finance

OSC File#: 2022/0771

2.2.3 Reef Resources Ltd. – s. 144

Headnote

Section 144 of the Securities Act (Ontario) – application for a partial revocation of a cease trade order issued by the Commission – issuer cease traded due to failure to file certain continuous disclosure documents required by Ontario securities law – issuer has applied for a partial revocation of the cease trade order to permit the issuer to proceed with a private placement of debentures – issuer will use proceeds from private placement to prepare and file continuous disclosure documents and pay related fees – partial revocation granted subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127 and 144.

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

AND

IN THE MATTER OF
REEF RESOURCES LTD.
(the Applicant)

ORDER
(Section 144)

WHEREAS the securities of the Applicant are subject to a cease trade order dated 23rd day of December 2013 made by the Director under paragraph 2 of subsection 127(1) of the Act (the **Cease Trade Order**), directing that trading in the securities of the Applicant cease until the Cease Trade Order is revoked;

AND WHEREAS the Applicant has applied to the Ontario Securities Commission (the **Commission**) pursuant to section 144(1) of the Act for a partial revocation of the Cease Trade Order;

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant is a corporation that was incorporated pursuant to the *Business Corporations Act* (Alberta) on November 26, 1996.

2. The Applicant's head office is located at 1220, 700 4th Ave SW Calgary, Alberta, T2P 3G4 and its registered office is located at 1250, 639 – 5th Avenue SW, Calgary, Alberta, T2P 0M9.

3. The Applicant is a reporting issuer in the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Nova Scotia.

4. The authorized capital of the Applicant consists of an unlimited number of Common Shares and an unlimited number of Preferred Shares. As at the date hereof, 70,500,082 Common Shares (the **Shares**) and no Preferred Shares are issued and outstanding. There are no securities issued and outstanding as of the date hereof that are convertible into or that give any person the right to acquire any securities of the Corporation.

5. The Applicant is a natural resources issuer with non-producing oil and gas assets located in Huron County, Ontario, all of which assets the Applicant has agreed to sell to Levant Exploration and Production Corp. or its nominee in exchange for $1.00 and the assumption of all environmental liabilities, abandonment and reclamation obligations and taxes with respect to the assets post-transaction and all transfer taxes. Completion of the sale of the assets is subject to a number of conditions including the approval by not less than 66⅔% of the votes cast by shareholders at a meeting of shareholders of the Applicant. No securities will be exchanged in connection with the sale of assets to Levant Exploration and Production Corp., and therefore such transaction would not constitute an act in furtherance of a trade.

6. No securities of the Applicant are traded in Canada or any other 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.

7. The Applicant is not considering, nor is it involved in any discussion relating to, a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing.

8. The Cease Trade Order was issued as a result of the Applicant's failure to file its annual audited financial statements, annual management's discussion and analysis (**MD&A**) and certificates required to be filed in respect of the 2013 annual statements under National Instrument 52-109 *Certification of Disclosure in Filers' Annual and Interim Filings* (the **Certificates**) for the year ended 31 July 2013 (the **2013 Annual Filings**). The Applicant also failed to file subsequent annual and interim filings until it made the filings noted in paragraph (11) hereof.

9. The 2013 Annual Filings and subsequent filings were not filed in a timely manner as a result of the Applicant's financial difficulties.

10. The Applicant is also subject to the cease trade orders from the British Columbia Securities Commission, the Manitoba Securities Commission and the Alberta Securities Commission (the **Other CTOs**). Applications for partial revocations of the Other CTOs were made concurrently with the application to the Commission.

11. Since the issuance of the Cease Trade Order and the Other CTOs, the Applicant has prepared and filed its annual audited financial statements, annual MD&A and certification of annual filings for the years ended 31 July 2018 and 2017, and has prepared and filed its interim unaudited financial statements, interim MD&A and certifications of interim filings for the period ended 30 April 2019.

12. The Applicant intends to prepare and file annual audited financial statements, annual MD&A and certifications of annual filings for the years ended 31 July 2019, 2020 and 2021 and to prepare and file interim unaudited financial statements, interim MD&A and certifications of interim filings for the interim periods ended 31 October 2021 and 31 January 2022 (the **Unfiled Continuous Disclosure**).

13. The Applicant is adequately staffed to complete the necessary financial disclosure within a reasonable time, and provision has been made for temporary additional support if required in order to meet the filing targets.

14. The Applicant is seeking to complete a securities issuance to a small number of investors in some or all of the Provinces of Alberta, British Columbia, and Ontario (the **Investors**) of unsecured, non-convertible debentures (**Debentures**) having an aggregate principal amount of up to $250,000 (the **Debenture Financing**). The Debentures will have a maturity date of one year from the date of issuance and will bear interest at a rate of 10% per annum. The Applicant does not expect that there will be more than 10 Investors. The identity of the Investors is not yet known. It is possible that some of the directors of the Applicant will participate in the Debenture Financing.

15. The Debenture Financing will be completed in accordance with all applicable laws.

16. The Applicant intends to rely on the prospectus exemptions set out in the following sections of National Instrument 45-106 - *Prospectus Exemptions*:

    (a) Section 2.3 - Accredited investor

    (b) Sections 2.5 and 2.6.1 - Family, friends and business associates

    (c) Section 2.24 - Employee, executive officer, director and consultant.

17. Other than the failure to file the Unfiled Continuous Disclosure, and other than the breach of CTOs resulting from the Applicant having entered into a letter of intent with CBD Acres Manufacturer Inc. in 2019, which letter of intent has been terminated, the Applicant is not in default of any of the requirements of the Act or the rules and regulations made pursuant thereto. The Applicant's SEDAR and SEDI profiles are up to date.

18. Following the granting of this partial revocation order, the Applicant plans to complete the Debenture Financing, and within a reasonable period of time following the completion of the Debenture Financing, the Applicant intends to file the Unfiled Continuous Disclosure and pay all outstanding fees. The Applicant intends to apply to the applicable securities regulators to have the Cease Trade Order and the Other CTOs fully revoked.

19. The following is a breakdown of the use of proceeds from the Debenture Financing based upon raising $250,000:

Description	**Estimated Amount ($)**
Fees and penalties for filing of Unfiled Continuous Disclosure	60,000
Filing fees for CTO revocation applications, including partial CTO revocations	13,000
Audit fees for annual financial statements 2019, 2020 and 2021	30,000

Accounting expenses (excluding audit expenses) for preparation of Unfiled Continuous Disclosure	3,000
Outstanding fees payable to various service providers, including legal counsel	60,000
Anticipated legal expenses associated with the foregoing	15,000
Transfer agency fees (including payment of fees currently outstanding)	20,000
Working capital (to be used for the maintenance of business) pending full revocation of the CTOs	49,000
TOTAL:	250,000

20. The Applicant reasonably believes that the proceeds from the Debenture Financing will be sufficient to bring its continuous disclosure obligations up to date and pay all related outstanding fees and provide it with sufficient funds to maintain its business.

21. As the Debenture Financing would involve a trade of securities and acts in furtherance of trades, the Debenture Financing could not be completed without a partial revocation of the Cease Trade Order.

22. Upon issuance of this order, the Applicant will issue a press release announcing this order and the intention to complete the Debenture Financing. Upon completion of the Debenture Financing, the Applicant will issue a press release and file a material change report. As other material events transpire, the Applicant will issue appropriate press releases and file material change reports as applicable.

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

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS ORDERED pursuant to section 144 of the Act that the Cease Trade Order is partially revoked solely to permit trades and acts in furtherance of trades that are necessary for and are in connection with the Debenture Financing and all other acts in furtherance of the Debenture Financing that may be considered to fall within the definition of "trade" within the meaning of the Act, provided that:

(a) Each Investor will, in advance of subscribing for Debentures under the Debenture Financing:

  (i) receive copies of the Cease Trade Order and Other CTOs;

  (ii) receive copies of this order and the orders revoking the Other CTOs; and

  (iii) receive a written notice from the Applicant that all of the Applicant's securities, including the securities issued in connection with the Debenture Financing, will remain subject to the Cease Trade Order and Other CTOs until such orders are revoked and that the issuance of this partial revocation order does not guarantee the issuance of a full revocation order in the future, and each Investor will be required to provide written acknowledgement of receipt from the Applicant of the aforementioned notice.

(b) The Applicant will make available a copy of the written acknowledgement referred to in paragraph (a)(iii) to staff of the Commission on request; and

(c) This order will terminate on the earlier of:

  (i) the completion of the Debenture Financing; and

  (ii) 60 days from the date hereof.

DATED at Toronto, Ontario on this 16th day of March 2022.

"Lina Creta"
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2022/0042

2.2.4 California Gold Mining Inc.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Application to cease to be a reporting issuer under applicable securities laws. – The issuer is not an OTC reporting issuer; the securities of the issuer are beneficially owned by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders worldwide; no securities of the issuer are traded on a market in Canada or another country; the issuer is not in default of securities legislation except it has not filed certain continuous disclosure documents.

Applicable Legislative Provisions

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

March 25, 2022

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
CALIFORNIA GOLD MINING INC.
(the Filer)

ORDER

Background

The securities regulator in the Jurisdiction has received an application from the Filer for an order 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 **Relief Sought**).

Under the Process for Cease to be a Reporting Issuer Applications (for a passport application):

(a) the Ontario Securities Commission (**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, Québec, New Brunswick, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, 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:

1. The Filer was incorporated on August 31, 2010 under the *Business Corporations Act* (Alberta).

2. The Filer filed articles of continuance on June 2, 2016 in order to continue into the Province of Ontario.

3. The head office and registered office of the Filer is in the Province of Ontario.

4. The Filer is a reporting issuer under the securities legislation of the Provinces of British Columbia, Alberta and Ontario (collectively, the **Jurisdictions**).

5. On April 21, 2021, the Filer and Stratabound Minerals Corp. (**Stratabound**) announced that they have entered into an arrangement agreement pursuant to which Stratabound has agreed to acquire all of the issued and outstanding common shares (the **Shares**) of the Filer by way of a court approved plan of arrangement under the *Business Corporations Act* (Ontario) (the **Plan of Arrangement**).

6. The Plan of Arrangement was approved by the Filer's shareholders at a special meeting held on June 29, 2021. The Ontario Superior Court of Justice (Commercial List) issued a final order approving the Plan of Arrangement on July 5, 2021.

7. On August 16, 2021, the Filer and Stratabound announced the completion of the Plan of Arrangement. As a result of the Plan of Arrangement, the Filer became an indirect wholly owned subsidiary of Stratabound. Stratabound is the sole securityholder of the Filer.

8. The Filer submitted an application to have the Shares delisted from the Canadian Securities Exchange as of the close of trading on August 16, 2021.

9. The Filer does not intend to seek financing by way of a public or private offering of its securities in Canada or elsewhere.

10. The Filer is subject to a failure-to-file cease trade order (**FFCTO**) issued by the OSC on January 5, 2022, and effective in each other jurisdiction in which Multilateral Instrument 11-103 - *Failure-to-File Cease Trade Orders in Multiple Jurisdictions* applies, and in each jurisdiction that has a statutory reciprocal order provision.

11. The FFCTO was issued on the basis that the Filer had not filed the following: (a) audited annual financial statements for the year ended August 31, 2021; (b) management's discussion and analysis relating to the audited annual financial statements for the year ended August 31, 2021; and (c) certification 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 **Annual Filings**).

12. In addition to the Annual Filings, the Filer has subsequently failed to file the following: (a) interim unaudited financial statements for the three months ended November 30, 2021; (b) management's discussion and analysis related to the interim unaudited financial statements for the three months ended November 30, 2021; and (c) certification of the foregoing filings as required by NI 52-109 (collectively, the **Interim Filings**).

13. The Filer has concurrently filed an application (the **FFCTO Application**) with the OSC under National Policy 11-207 - *Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions* (**NP 11-207**), for an order (the **FFCTO Relief**) pursuant to Section 144 of the Legislation revoking the FFCTO without requiring the Filer to file the Annual Filings and the Interim Filings, to be effective on the same date as the Relief Sought.

14. The Filer is not in default of any requirements of the FFCTO or the applicable securities legislation of any jurisdiction in Canada or the rules and regulations made pursuant thereto, other than its obligations to complete the Annual Filings and the Interim Filings.

15. But for the fact that the Filer is subject to the FFCTO as a result of failing to file the Annual Filings and subsequently the Interim Filings, each of which were due to be filed after the completion of the Plan of Arrangement, the Filer would be eligible to use the "simplified procedure" under National Policy 11-206 - *Process for Cease to be a Reporting Issuer Applications*.

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

17. 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.

18. 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.

Order

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 Relief Sought is granted. "Cathy Singer"

"Cathy Singer"
Commissioner
Ontario Securities Commission

"Mary-Ann De Monte Whelan"
Commissioner
Ontario Securities Commission

OSC File#: 2022/0025

2.2.5 California Gold Mining Inc.

Headnote

Section 144 of the Securities Act (Ontario) – Application for revocation of cease trade order – issuer subject to cease trade order as a result of failure to file annual financial statements and certificates – issuer is also in default for failing to file interim financial statements and certificates subsequent to the cease trade order – issuer is also seeking to cease to be a reporting issuer in all jurisdictions of Canada in which it is currently a reporting issuer – full revocation granted effective as of the date the issuer is determined to not be a reporting issuer.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127 and 144.

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

AND

IN THE MATTER OF
CALIFORNIA GOLD MINING INC.

REVOCATION ORDER

Background

California Gold Mining Inc. (the **Issuer**) is subject to a failure-to-file cease trade order (the **FFCTO**) issued by the Ontario Securities Commission (the **Decision Maker**) on January 5, 2022.

The Issuer has applied to the Decision Maker under National Policy 11-207 *Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions* (**NP 11-207**) for an order revoking the FFCTO.

This order is effective in each jurisdiction of Canada that has a statutory reciprocal order provision, subject to the terms of the local securities legislation.

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, or in NP 11-207 have the same meaning if used in this order, unless otherwise defined.

Representations

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

1. The Issuer was incorporated on August 31, 2010 under the *Business Corporations Act* (Alberta).

2. The Issuer filed articles of continuance on June 2, 2016 in order to continue into the Province of Ontario.

3. The head office and registered office of the Issuer is in the Province of Ontario.

4. The Issuer is a reporting issuer under the securities legislation of the Provinces of British Columbia, Alberta and Ontario (collectively, the **Jurisdictions**).

5. On April 21, 2021, the Issuer and Stratabound Minerals Corp. (**Stratabound**) announced that they have entered into an arrangement agreement pursuant to which Stratabound has agreed to acquire all of the issued and outstanding common shares (the **Shares**) of the Issuer by way of a court approved plan of arrangement under the *Business Corporations Act* (Ontario) (the **Plan of Arrangement**).

6. The Issuer filed a material change report in respect of the Plan of Arrangement on April 28, 2021.

7. The Plan of Arrangement was approved by the Issuer's shareholders at a special meeting held on June 29, 2021. The Ontario Superior Court of Justice (Commercial List) issued a final order approving the Plan of Arrangement on July 5, 2021.

8. On August 16, 2021, the Issuer and Stratabound announced the completion of the Plan of Arrangement. As a result of the Plan of Arrangement, the Issuer became an indirect wholly owned subsidiary of Stratabound. Stratabound is the sole securityholder of the Issuer.

9. The Issuer does not have any securities issued or outstanding other than the Shares.

10. The Shares were delisted from the Canadian Securities Exchange as of the close of trading on August 16, 2021.

11. The Decision Maker issued a failure-to-file cease trade order (the FFCTO) against the Issuer on January 5, 2022, on the basis that the Issuer had not filed (a) audited annual financial statements for the year ended August 31, 2021; (b) management's discussion and analysis relating to the audited annual financial statements for the year ended August 31, 2021; and (c) certification 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 Annual Filings).

12. In addition to the Annual Filings, the Issuer has subsequently failed to file the following: (a) interim unaudited financial statements for the three months ended November 30, 2021; (b) management's discussion and analysis related to the interim unaudited financial statements for the three months ended November 30, 2021; and (c) certification of the foregoing filings as required by NI 52-109 (collectively, the Interim Filings).

13. The Issuer has filed a passport application with the Decision Maker, as principal regulator, for an order pursuant to section 1(10)(a)(ii) of the Legislation to cease to be a reporting issuer in all of the jurisdictions of Canada where it is a reporting issuer (the Cease Reporting Relief).

14. The Issuer expects the Cease Reporting Relief to be granted on the same date as this decision.

15. Upon the granting of the Cease Reporting Relief, the Issuer will not be a reporting issuer in any Jurisdiction.

16. The Issuer is not in default of any requirements of the FFCTO or the applicable securities legislation of any Jurisdiction or the rules and regulations made pursuant thereto, other than its obligations to complete the Annual Filings and the Interim Filings.

17. All of the continuous disclosure documents required to be filed by the Issuer under applicable securities legislation of each Jurisdiction have been filed with the relevant securities regulatory authority, except for the Annual Filings and the Interim Filings.

18. The Issuer has paid all outstanding participation fees and filing fees owing in each of the Jurisdictions.

Order

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

The decision of the Decision Maker under the Legislation is that the FFCTO is revoked as of the date on which the Issuer ceases to be a reporting issuer under the Legislation.

March 25th, 2022

"Jo-Anne Matear"
Manager
Corporate Finance
Ontario Securities Commission

2.2.6 Stableview Asset Management Inc. and Colin Fisher

File No. 2020-40

IN THE MATTER OF
STABLEVIEW ASSET MANAGEMENT INC. AND
COLIN FISHER

Timothy Moseley, Vice-Chair and Chair of the Panel

April 1, 2022

ORDER

WHEREAS on April 1, 2022, the Ontario Securities Commission held a hearing by videoconference;

ON HEARING the submissions of the representatives for Staff of the Commission and for Colin Fisher, no one appearing for Stableview Asset Management Inc.;

IT IS ORDERED THAT:

1. paragraphs 3(d) and 6 of the Commission's order dated November 3, 2021, are varied as follows:

   a. by 4:30 p.m. on May 2, 2022, each party shall provide to the Registrar the electronic documents that the party intends to rely on or enter into evidence at the merits hearing, along with an index file containing hyperlinks to the documents in the hearing brief, in accordance with the *Protocol for E-hearings*; and

   b. the merits hearing shall take place by videoconference and commence on May 9, 2022, at 10:00 a.m., and continue on May 10, 16, 17, 18, 19, 20, 24, 25, 26, 27, 30, June 1, 2, 3, 6, 7, 8, 9, 10, 20, 21, 22, 23, July 18, 19, 20, 21, 22, and 25, 2022, at 10:00 a.m. on each day, or on such other dates and times as may be agreed to by the parties and set by the Office of the Secretary; and

2. paragraph 1(b) of the Commission's order dated February 4, 2022 is varied as follows: by 4:30 p.m. on April 27, 2022, Staff shall serve and file affidavits containing the merits hearing evidence of its witnesses Sherry Brown, Catherine Muhindi and Trevor Walz.

"Timothy Moseley"

2.2.7 Great Bear Resources Ltd.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications.

Applicable Legislative Provisions

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

March 24, 2022

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

AND

IN THE MATTER OF
THE PROCESS FOR CEASE TO BE
A REPORTING ISSUER APPLICATIONS

AND

IN THE MATTER OF
GREAT BEAR RESOURCES LTD.
(the Filer)

ORDER

Background

¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for an order under the securities legislation of the Jurisdictions (the Legislation) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the Order Sought).

Under the Process for Cease to be a Reporting Issuer Applications (for a dual application):

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

(b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta and

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

Interpretation

¶ 2 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

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

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

2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

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

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

Order

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

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

"Noreen Bent"
Chief, Corporate Finance Legal Services
British Columbia Securities Commission

OSC File #: 2022/0100

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 David Sharpe et al. – s. 144

Citation: *Sharpe (Re)*, 2022 ONSEC 3
Date: 2022-03-30
File Nos. 2021-26 and 2021-15

IN THE MATTER OF
DAVID SHARPE

AND

IN THE MATTER OF
BRIDGING FINANCE INC.,
DAVID SHARPE,
BRIDGING INCOME FUND LP,
BRIDGING MID-MARKET DEBT FUND LP,
BRIDGING INCOME RSP FUND,
BRIDGING MID-MARKET DEBT RSP FUND,
BRIDGING PRIVATE DEBT INSTITUTIONAL LP,
BRIDGING REAL ESTATE LENDING FUND LP,
BRIDGING SMA 1 LP,
BRIDGING INFRASTRUCTURE FUND LP, AND
BRIDGING INDIGENOUS IMPACT FUND

REASONS FOR DECISION
(Section 144 of the *Securities Act*, RSO 1990, c S.5)

Hearing:	December 16, 2021; further written submissions received January 7 and 14, 2022	
Decision:	March 30, 2022	
Panel:	Timothy Moseley Lawrence P. Haber M. Cecilia Williams	Vice Chair, and Chair of the Panel Commissioner Commissioner
Appearances:	Alistair Crawley Melissa MacKewn Alexandra Grishanova	For David Sharpe
	Linda Rothstein Robert Gain Jacob Millar	For Staff of the Commission
	John L. Finnigan Erin Pleet	For the receiver of Bridging Finance Inc. et al.

REASONS FOR DECISION

I. OVERVIEW

[1] This case arises because in April and May of 2021, the Ontario Securities Commission indirectly publicly disclosed compelled testimony of David Sharpe that Commission Staff had obtained during an investigation conducted pursuant to an order issued under s. 11 of the *Securities Act*[1] (the **Act**). The Commission made that disclosure:

[1] RSO 1990, c S.5

a. on April 30, 2021, by filing the compelled testimony in the public court record in connection with the Commission's application for the appointment of a receiver over Bridging Finance Inc. (**Bridging**) and related entities; and

b. on May 1, 2021, by publishing a news release on the Commission's website, announcing the appointment of the receiver, and including a link to the receiver's website, on which could be found the compelled testimony.

[2] Mr. Sharpe submits that the Commission's public disclosure was improper, and that Staff of the Commission ought first to have obtained an order from this tribunal under s. 17 of the Act, authorizing disclosure. As a remedy, Mr. Sharpe asks that we revoke the s. 11 investigation order. He makes that request in two different proceedings: (i) by way of a motion in the proceeding commenced by Staff for a temporary order; and (ii) in a separate application that he commenced.

[3] The Commission directed that the motion and the application be heard together, and that before a full merits hearing, there would be a hearing at which two preliminary questions were to be addressed. The questions, the form of which was agreed upon by the parties before the hearing, are:

a. Can the Commission publicly disclose compelled evidence obtained under a s. 11 order when it brings an application for the appointment of a receiver under s. 129 of the Act, without first obtaining a s. 17 order?

b. If the answer to Question 1 is no, is the revocation or variation of the s. 11 order an available remedy?

[4] At the joint request of the parties, these two questions were supplemented by a statement of agreed facts, to give context to the questions. The parties agreed that if we were to conclude that the Commission cannot make the kind of public disclosure contemplated in the first question, and that revocation of the s. 11 order is an available remedy, then the question of whether we should revoke the s. 11 order in this case would be determined at a subsequent hearing at which evidence could be called to establish additional facts.

[5] On March 25, 2022, we issued an order dismissing Mr. Sharpe's request for a revocation or variation of the s. 11 order. We set out below the reasons for that decision. The order also calls for further steps to resolve Mr. Sharpe's request that part or all of the adjudicative record (except for written submissions) be kept confidential. We describe those steps at the end of these reasons. With respect to the primary request, for revocation or variation of the s. 11 order, we conclude for the reasons below that:

a. the Commission cannot publicly disclose compelled evidence (or any similarly protected material) in the context of an application to the Court to appoint a receiver, without first obtaining a s. 17 order;

b. however, the revocation or variation of a s. 11 order is not an available remedy in the circumstances set out in the statement of agreed facts.

[6] Accordingly, no further hearing is required with respect to the merits of Mr. Sharpe's request for revocation or variation of the s. 11 order in this case. We dismiss that request.

[7] That would dispose of the application and motion, except that Mr. Sharpe also asked that the adjudicative records in the two proceedings be kept confidential. He later clarified that his request did not extend to the written submissions filed by the parties, which are part of the adjudicative record. At the hearing before us, we ordered that the adjudicative records (excluding the written submissions) would continue to remain confidential and not accessible to the public, pending the issuance of this decision.

[8] We also advised that upon issuing this decision, if we contemplated that the confidentiality order might be terminated, we would afford the parties an opportunity to make submissions on that question. At the conclusion of these reasons we set out a mechanism for the parties to do so.

II. BACKGROUND

A. Context and terminology

[9] The Commission is an integrated regulatory agency. The powers it exercises in furtherance of its mandate fall into three categories that align with the three branches of government, and to which we will return in our analysis below, using these labels:

a. the Commission exercises a **quasi-legislative function** when it makes rules and policies;

b. the Commission exercises a **quasi-judicial function** when its tribunal adjudicates proceedings that come before it; and

c. the Commission carries out an **executive function** when, among other things, it applies and enforces legislation, rules and policies.

[10] The Commission acts in different capacities depending on the context and the nature of the power being exercised. Because this case touches upon those different capacities, it is important for our analysis and for clarity of our reasons to be precise in the use of terminology.

[11] We use the word **Commission** to refer to the agency as a whole, including its appointed Members and staff. The Commission carries out its regulatory mandate through, among other things, the making of policies and rules (*i.e.*, its quasi-legislative function), and the exercise of oversight over those who participate in the capital markets (part of its executive function).

[12] We use the word **Tribunal** to refer to the agency's quasi-judicial (or adjudicative) function. The Tribunal comprises all appointed Members of the Commission, except the individual who is both the Chair and Chief Executive Officer, who does not adjudicate because they oversee the enforcement function and the staff who appear before the Tribunal.

[13] We use the word **Staff** to refer to the unitary entity that is a party before the Tribunal (see Rule 5(g) of the *Ontario Securities Commission Rules of Procedure and Forms*[2]). This entity is essentially made up of all Commission employees, although where appropriate it includes outside counsel acting for Staff. It excludes the Vice Chair, who is a Commission employee but who is separate from Staff in the context of Tribunal proceedings. It also excludes those employees in the Office of the Secretary who support the Tribunal.

[14] We elaborate on these terms as necessary in the analysis that follows.

[15] We use one other term for convenience. The concern that Mr. Sharpe raises in his motion and application relates to **compelled evidence**, which includes testimony that he gave in response to a summons issued by a person appointed under the s. 11 investigation order. As a result, his testimony is "compelled testimony", a sub-category of compelled evidence that is protected by confidentiality provisions in the Act. Those statutory provisions protect more than just compelled evidence (*e.g.*, they also protect the fact that an investigation order was issued), but because compelled evidence is the focus of this hearing, we use that term in these reasons.

B. Facts

[16] The following brief factual background is drawn from the parties' statement of agreed facts and from the history of these two proceedings.

[17] On September 11, 2020, the Commission performing its executive function issued an order under s. 11 of the Act, authorizing the persons named in that order to conduct an investigation into Bridging. At the time, Bridging was a registered restricted portfolio manager, exempt market dealer and investment fund manager.

[18] As part of that investigation, a summons was issued to Mr. Sharpe under s. 13 of the Act, compelling his attendance to answer investigators' questions. At the time of these examinations, Mr. Sharpe was the chief executive officer and ultimate designated person of Bridging. Mr. Sharpe attended to be examined on October 23 and 27, 2020, and again on April 29, 2021.

[19] At the examinations, Mr. Sharpe took the use and derivative use protections of the *Evidence Act*[3] and the *Canadian Charter of Rights and Freedoms*[4] (the ***Charter***) in respect of all questions asked and answers given.

[20] On April 30, 2021, the day after Mr. Sharpe's last examination, Staff asked the Commission (acting in its executive capacity, *i.e.*, not the Tribunal) to issue a temporary order without notice to any party, cease trading the securities of certain Bridging-controlled investment vehicles. The Commission issued the temporary order, which has been extended and varied by the Tribunal since then. The current order expires on June 30, 2022.

[21] Later on April 30, 2021, the Commission applied to the Superior Court of Justice under s. 129 of the Act, for the appointment of PricewaterhouseCoopers Inc. as receiver and manager of all the assets, undertakings and properties of Bridging and associated entities. The application was made without notice to Mr. Sharpe or to any other party. The material that the Commission filed with the Court in support of the application included compelled evidence, including the entire rough draft of the transcript of Mr. Sharpe's April 29, 2021, examination.

[22] Staff did not seek a s. 17 order from the Tribunal before filing the compelled evidence with the Court on April 30.

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2 (2019) 42 OSCB 9714
3 RSO 1990, c E.23
4 Part I of the *Constitution Act*, *1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11

[23] The Court granted the Commission's application on the day of the hearing. The Court's order provided that the receiver would create a website on which Court materials could be found. The receiver did so, and posted some compelled evidence, including the draft transcript of Mr. Sharpe's April 29 examination, on its website.

[24] On May 1, 2021, the day after the Court issued the order appointing the receiver, the Commission published on its website a news release announcing the appointment of the receiver. The news release included a link to the receiver's website, on which some of the compelled evidence was posted.

III. ANALYSIS

A. Submissions invoking the *Charter*

[25] Before we turn to our analysis of the questions before the Panel, a preliminary comment is in order.

[26] In their submissions, both Mr. Sharpe and Staff make arguments about the *Charter* and the effect it might have on the issues before us. We decline to address those arguments. At a preliminary attendance before the hearing that gives rise to this decision, the Tribunal canvassed with the parties whether any issues would arise that might require notice to the Attorneys General of Canada and Ontario of a constitutional question. Mr. Sharpe confirmed that there would be none at this stage of the proceeding.

[27] The parties gave no such notice. Any finding we make with respect to the *Charter*, including its effect in this case, might fall within the scope of matters for which the Attorneys General of Canada and Ontario require notice. Accordingly, we will not address those issues.

[28] We turn now to address the two questions before us.

B. The Commission cannot publicly disclose compelled evidence without first obtaining a s. 17 order

1. Introduction

[29] The first question is whether the Commission can publicly disclose compelled evidence without first obtaining a s. 17 order when the Commission uses that evidence in support of a Court application for a receiver. We conclude that it cannot.

[30] Staff makes a preliminary objection to our considering this question at all. Staff submits that if the Commission engaged in any impermissible conduct, that conduct was purely in connection with the Court application, a proceeding over which the Tribunal has no jurisdiction, control or influence.

[31] With respect to the Court proceeding, we agree with Staff's characterization of the Tribunal's role, or more precisely the lack of a role. However, we disagree with the suggestion that as a consequence, we cannot answer the first question. Mr. Sharpe's primary request for relief is that we revoke the s. 11 order. Even though we ultimately dismiss that request, in order to reach it we must begin by considering his allegations about the Commission's conduct.

[32] That brings us to our analysis of the first question. We start with the relevant statutory provisions, being ss. 16 and 17 of the Act. We then consider applicable statutory interpretation principles and the interests at stake, and we apply those principles and interests to assess whether the Commission acted improperly in the circumstances of this case as specified in the statement of agreed facts.

2. Relevant statutory provisions

[33] Section 16 of the Act sets out the confidentiality and non-disclosure obligations with respect to compelled evidence. We consider s. 16's provisions in detail below, but by way of introduction, they serve two main purposes:

a. they protect the integrity of an ongoing investigation; and

b. they protect the privacy interests of persons or companies who provide evidence under compulsion.[5]

[34] The first of those two purposes is not at issue here. In general, Staff is the principal steward of the confidentiality of an ongoing investigation. Staff asserted no such interest in this case; indeed, the Commission's actions in publicly disclosing some compelled evidence clearly demonstrate that the Commission was not concerned about protecting confidentiality of that material. We therefore conduct our analysis with regard to the interests protected by the second purpose. In this case, those are the privacy interests of Mr. Sharpe, who was compelled to testify.

[5] *Black (Re),* (2007) 31 OSCB 10397 (***Black***) at para 135; *Potter v Nova Scotia (Securities Commission),* 2006 NSCA 45 at para 48

[35] With that focus in mind, we begin with s. 16(1), which prohibits any person or company from disclosing compelled evidence. Staff submits that this prohibition does not apply to the Commission itself, a position we consider and reject below.

[36] Whenever s. 16(1) does apply, though, two exceptions appear. Only one of those two is relevant here, and applies if the disclosure is made in accordance with s. 17 of the Act. The other, in s. 16(1.1), permits disclosure to counsel or for insurance purposes.

[37] Subsection 16(2) of the Act is similar in substance to s. 16(1). Unlike s. 16(1), though, which speaks in the active voice and focuses on what a person or company may or may not do, s. 16(2) speaks in the passive voice and focuses on the compelled evidence itself. It provides that compelled evidence "is for the exclusive use of the Commission… and shall not be disclosed or produced to any other person or company or in any other proceeding…". The prohibition does not depend on the identity of the person or company that would otherwise make disclosure.

[38] Staff relies heavily on the words "for the exclusive use of the Commission" in s. 16(2) when justifying the Commission's choice to disclose compelled evidence in this case. We return to consider those words below.

[39] Assuming s. 16(2) does apply to protect the confidentiality of compelled evidence, the same two exceptions are provided in that subsection as in s. 16(1), *i.e.*, s. 16(1.1) and s. 17. Once again, the only relevant exception here is if disclosure is made in accordance with s. 17.

[40] Section 17 provides three mechanisms by which disclosure may be made:

a. pursuant to an order of the Tribunal under s. 17(1);

b. pursuant to an order of a court having jurisdiction over a prosecution under the *Provincial Offences Act*[6] initiated by the Commission (s. 17(5)); and

c. a person appointed under s. 11 as an investigator may disclose in connection with an existing or contemplated proceeding before the Tribunal or before certain designated Commission staff members (s. 17(6)).

[41] The third of those mechanisms (disclosure by an appointed investigator) allows Staff, in the enforcement context, to discuss evidence with a contemplated respondent before a proceeding is commenced, to satisfy its disclosure obligations to respondents, and to prepare its case, including by briefing witnesses.

[42] Neither that mechanism nor the second of the three listed above is directly relevant to the proceedings before us. However, Mr. Sharpe cites them in support of his submission that the overall legislative scheme is one of significant protection of compelled evidence, and that disclosure may be made only as explicitly permitted. He notes that neither mechanism results in disclosure that is public and unlimited; rather, the disclosure is targeted to specified recipients and is limited to the specified purpose.[7]

[43] Mr. Sharpe submits that Staff was required to pursue the first of the above three mechanisms (a s. 17(1) order from the Tribunal) before the Commission filed the compelled evidence with the Court and then further disclosed it by issuing a news release that linked to the receiver's website.

[44] When a party employs the first mechanism and applies for an order under s. 17(1), the Tribunal's authority to issue such an order is subject to two limitations:

a. where applicable and where practicable, reasonable notice must be given to, among others, persons who provided the compelled evidence pursuant to a s. 13 summons (s. 17(2)); and

b. the Tribunal must determine that it is in the public interest to make the order, and this determination must be made in the context of this part of the Act that governs investigations and compelled evidence,[8] taking into account the public interest in maintaining the confidentiality of compelled evidence generally.[9]

[45] We are aware of no case in which the Tribunal has ordered unlimited public disclosure of compelled evidence under s. 17(1). Similarly, we are aware of no decision that refers to broad public disclosure of compelled evidence in the absence of a s. 17 order. Staff counsel advised that in other cases, the Commission has filed compelled evidence in court in support of a receivership application without first obtaining a s. 17 order. The fact that the Commission may have previously done so unchallenged neither supports nor undermines the legitimacy of that approach.

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6 *Provincial Offences Act*, RSO 1990, c P.33
7 *A Co v Naster,* [2001] OJ No 4997 (Div Ct) (***Naster***) at para 26
8 *X (Re)*, 2007 ONSEC 1, (2007) 30 OSCB 327 (***Re X***) at para 28
9 *Coughlan (Re),* [2000] OJ No 5109 (Div Ct) (***Coughlan***) at para 66

3. Applicable principles of statutory interpretation

[46] There are two principles of statutory interpretation that guide us and that we highlight before proceeding with our analysis.

[47] The first requires that statutory language be interpreted purposively, in context, and in its grammatical and ordinary sense, harmoniously with the scheme of the legislation, the object of the legislation and the intention of the legislature.[10] We should be skeptical about a proposed interpretation that does not meet this standard, because when a legislature intends to provide an exception or otherwise depart from the general scheme of the legislation, it can say so expressly.

[48] Secondly, legislation that interferes with citizens' rights is to be strictly construed. Any ambiguity found upon the application of proper principles of statutory interpretation should be resolved in favour of the person whose rights are being truncated.[11]

4. The balancing of competing interests

[49] We turn now to consider the competing interests at play. This contextual analysis will assist us in applying the above two principles and in interpreting the relevant statutory provisions.

[50] The Commission's powers of compulsion are not unique but are extraordinary.[12] Failure to attend an examination or to answer an investigator's questions makes the compelled person liable to be committed for contempt by the Superior Court of Justice.[13]

[51] In *Black,* the Commission held that "these broad powers are balanced with detailed protections for persons compelled to give materials and evidence under oath." The Commission's obligation to maintain all compelled evidence "in the highest degree of confidence" is "the *quid pro quo* in return for" the powers of compulsion.[14]

[52] In its written submissions, Staff asserts that the Commission (performing its executive function as applicant in Court) was entitled to determine the appropriate use and disclosure of compelled evidence "in furthering its public interest mandate". While the Tribunal often exercises statutory powers with reference to "the public interest" (as is explicitly called for by the relevant provisions in the Act), "public interest" is not a paramount principle that allows the Commission, when performing its executive function, to override protections that would otherwise operate. The Commission is a creature of statute and has only the authority granted to it, subject to prescribed limitations on that authority. We must examine the Commission's actions in this case against the applicable statutory provisions and legal principles.

[53] As we undertake that examination, it is important to address Staff's submission that the Commission and its Staff are distinct, and Mr. Sharpe's categorical rejection of that submission. In our view, the correct answer lies somewhere in between. Crucially, context matters. It is true that the Act contains many references to the Commission, and separate references to its staff or employees. It is also true that in some contexts, the Commission acts only through its staff. Our analysis below will consider the proper context-specific meaning of these terms.

[54] Examination of the statutory scheme reveals a balancing between the Commission's legitimate interests in obtaining and preserving evidence to further its investigations, and the interests of compelled witnesses. The Tribunal has previously emphasized the "high degree of confidentiality associated with compelled evidence and the strict limitations on its use".[15]

[55] When reviewing an application under s. 17 for authorization to disclose compelled evidence, and when considering how the public interest should influence the outcome of such an application, the Commission also takes into account the reasonable expectations of compelled witnesses. As the Divisional Court has noted, the "effective functioning of the Commission depends upon the reliance which parties affected by its operations can place upon the confidentiality of [an investigation]."[16]

[56] There is a high expectation of privacy with respect to all compelled testimony,[17] and ss. 16 and 17 of the Act are meant, among other things, to give some comfort to compelled witnesses that the information they provide will remain confidential, subject to the terms of the Act.[18]

[57] This reasonable expectation of privacy combines with the reality of potential harm to witnesses as a result of the Tribunal authorizing the use and disclosure of compelled evidence.[19] These factors explain why the Tribunal is required by s.

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10 *Bell ExpressVu Limited Partnership v Rex*, 2002 SCC 42 at para 26
11 *Morguard Properties Ltd v City of Winnipeg,* [1983] 2 SCR 493 at para 26
12 *Re X* at para 31
13 Act, s 13(1)
14 *Black* at para 234
15 *Black* at para 135
16 *Coughlan* at para 57 citing with approval *Norcen Energy Resources* (April 29, 1983) OSCB 759
17 *Black* at para 78
18 *Mega-C Power Corporation et al,* 2007 ONSEC 11, (2007) 33 OSCB 8273 (***Mega-C***) at para 29
19 *Black* at para 135

17(2) to ensure that where practicable, a compelled witness is notified before the Tribunal authorizes disclosure of compelled evidence received from that witness.

[58] That requirement to give notice to a compelled witness reflects the interest that such a person has in having an opportunity to:

a. oppose the making of the order;

b. argue that the scope of the disclosure ought to be limited, including by "edit[ing] out irrelevant or privileged material";[20] or

c. argue that other possibilities ought to be considered that would minimize the impact of disclosure.[21]

[59] In *Deloitte & Touche LLP v. Ontario (Securities Commission)*,[22] the Supreme Court of Canada articulated an important guiding principle for the making of disclosure orders:

> …in making a disclosure order in the public interest under s. 17, the OSC has a duty to [compelled witnesses] to protect [their] privacy interests and confidences. That is to say that OSC is obligated to order disclosure only to the extent necessary to carry out its mandate under the Act. [emphasis added]

[60] In that decision, the Court calls for an approach that minimally impairs the compelled witness's privacy interests. To assist with the necessary determination, the Act provides a mechanism by which Staff and the compelled witness can present to the Tribunal competing views of the minimum impairment that would be required to allow the Commission to carry out its mandate. The Tribunal cannot fully consider the privacy rights of a compelled witness, and balance those rights against competing interests, without hearing from the compelled witness, where practicable.[23]

[61] Terms and conditions are a tool that can be used to limit the disclosure so that it is only to the extent necessary. Sharpe speculates that had Staff applied under s. 17, disclosure would not have been ordered on the expansive basis that the Commission unilaterally undertook. We will not opine on a hypothetical application, but what is clear is that the route that the Commission chose did not afford Mr. Sharpe an opportunity to make submissions either before the Tribunal or before the Court.

[62] In contrast to the balancing envisioned by the Act and by the Supreme Court of Canada, in this case the Commission in performing its executive (not adjudicative) function chose to make its own determination about how much disclosure was appropriate. At first blush at least, this action failed to take account of what the Superior Court of Ontario has described as the "important public interest" served by the Tribunal's oversight of the Commission's desire to disclose compelled evidence.[24]

[63] On this point, Staff's submissions misapprehend the role of the Tribunal within the agency. This misunderstanding is repeated throughout Staff's written submissions, in which Staff suggests that it would be illogical to conclude that the Commission would be required to obtain authorization from itself under s. 17(1) when the Commission wishes to disclose compelled evidence. Staff explicitly disagrees with what it describes as Mr. Sharpe's attempts to bifurcate the Commission.

[64] We reject this submission, which conflates the Tribunal (the adjudicative function) and the Commission performing its executive function as applicant before the Superior Court of Justice. It also ignores the fact that from time to time, Staff applies to the Tribunal for an order under s. 17(1), contrary to Staff's assertion before us that to its knowledge, no such case exists.[25]

[65] Staff's assertion that under s. 17(1), "the Commission is charged with determining whether it is in the public interest for compelled information to be disclosed",[26] appears correct if no distinction is made among the agency's various functions. However, it is the Tribunal that makes that determination, not the Commission performing its executive function.

[66] The same goes for orders of "the Commission" under s. 127 of the Act at the conclusion of an enforcement proceeding. If the Commission were conceptually a unitary entity with no distinction between its executive function and its adjudicative function, there would be no need at all for Staff to appear before the Tribunal in an enforcement proceeding. By its logical extension, Staff's submission about s. 17(1) suggests that the Commission performing its executive function could, by itself, simply issue a sanctions order under s. 127. That is clearly not the case.

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20 *Coughlan* at para 66
21 *Coughlan* at para 41(vii)
22 2003 SCC 61 (***Deloitte***) at para 29
23 *XX (Re),* 2018 ONSEC 45, (2018) 41 OSCB 7519 (***XX***) at para 45
24 *A v Ontario (Securities Commission*), 2006 CanLII 14414 (ON SC) at paras 44, 57
25 See, *e.g.*, *XX*, and *Mega-C* at para 24
26 Memorandum of Fact and Law of Staff of the Ontario Securities Commission, December 3, 2021 (**Staff's Written Submissions**) at para 55

[67] Returning to the facts of this case, the Commission did what applicants in court typically do, when it applied for the appointment of a receiver. The Commission filed affidavits containing evidence on which the Commission intended to rely. Initially at least (*i.e.*, at the time of filing), such affidavits are not subjected to scrutiny by anyone at the court to determine admissibility of the evidence. Where no notice is given to any respondent to the application (as was the case here), only the applicant is in a position to review the evidence, before it appears in the public court file, to determine whether all of it is properly admissible in court. Further, only the applicant is in a position to raise admissibility issues before the court.

[68] There was no suggestion before us that before filing its material, the Commission undertook a review to determine admissibility or whether public disclosure of any of the material might impermissibly violate Mr. Sharpe's interests. Even if the Commission undertook such a review, it did so without input from Mr. Sharpe, because Mr. Sharpe was afforded no opportunity to give that input. The Commission's bypassing of the mechanisms in s. 17 deprived the Tribunal of the opportunity to exercise control over the extent of disclosure and to ensure that such disclosure was minimized, as required by the Supreme Court of Canada in *Deloitte*.

5. Principles of statutory interpretation applied

[69] With that background and the principles of statutory interpretation in mind, we turn to the arguments advanced by Staff to justify the Commission's choice to disclose publicly the compelled evidence without first obtaining a s. 17 order.

(a) The Commission, as a corporation, is bound by the prohibition in s. 16(1)

[70] Staff submits that s. 16(1) prohibits disclosure by a "person or company", but not by the Commission. Staff acknowledges that the Commission is a corporation and therefore a "company" as defined in s. 1(1) of the Act. However, Staff argues that because the Commission became a corporation in 1997, after the 1994 enactment of s. 16(1) in its current form, the restriction could not have been intended to apply to the Commission.[27]

[71] We reject this position. As Mr. Sharpe correctly points out, before the Commission was a corporation it was a person, as that term is defined in s. 1(1) of the Act. A plain reading of s. 16(1) makes it applicable to the Commission, and there is no principle of statutory interpretation that would displace that conclusion.

[72] In particular, we disagree with Staff that because other occurrences of "person or company" in the Act may not lend themselves to applying to the Commission (*e.g.* the right of an investigator to compel the attendance of a person or company), we should exclude the Commission from "company" in s. 16(1). Ideally, a statutory term has a consistent meaning throughout the statute, but that general rule does not apply where the context "clearly indicates otherwise".[28] The word "company" in s. 16(1) includes the Commission by definition.

[73] We should adopt that definition and apply it, since the context does not clearly indicate otherwise, and there is no explicit carve-out for the Commission in s. 16(1). If the legislature intended to depart from the general statutory scheme of protecting confidentiality and create an exception for the Commission, it could easily have explicitly said so. It did not. Because of the absence of explicit exclusionary language, the Commission is bound by s. 16(1).

(b) The words "for the exclusive use of the Commission" in s. 16(2) do not allow the Commission to bypass s. 17

[74] Staff acknowledges the confidentiality regime imposed by ss. 16 and 17 of the Act, but maintains that even if s. 16(1) applies to the Commission as a "company", the Commission need not resort to any of the three s. 17 mechanisms when it chooses to apply to court for the appointment of a receiver. Staff submits that the words "for the exclusive use of the Commission" grant blanket authority to the Commission to make such use of compelled evidence as it sees fit, without the limitations and protections set out in those sections. Staff argues that this is so even if the Commission's use of the compelled evidence will result in public disclosure of that material, without notice to a compelled witness whose evidence is included.

[75] We disagree. The plain meaning of the words "for the exclusive use of the Commission" limits rather than expands the overall use that can be made of compelled evidence. The obligation to construe strictly any ambiguity supports this interpretation.

[76] Against the backdrop of a statutory scheme that prescribes a high degree of confidentiality of compelled evidence, with a limited number of specifically enumerated exceptions that balance competing interests, clear legislative intent would be required to support the interpretation advanced by Staff. We see no such legislative intent, and we find Staff's general "public interest" and "Commission mandate" arguments unpersuasive.

[77] The words "exclusive use of the Commission", read in the context of the legislative scheme, strongly suggest emphasis on the word "exclusive". The rest of s. 16 consistently establishes the confidentiality of compelled evidence, except for

[27] Act, s 3(1)
[28] *R v Ali*, 2019 ONCA 1006 at para 68

the counsel/insurer exception in s. 16(1.1) and references to s. 17. It would be inconsistent for the words "exclusive use of the Commission" to expand the use that can be made, as opposed to excluding use by others.

[78] Had the legislature intended that the Commission have unfettered discretion to publicly disclose compelled evidence, it could easily have said so, *e.g.*, by using words such as "exclusive and unrestricted use", or "exclusive use of the Commission in its discretion".

[79] Staff also refers to the following words in s. 16(2) in support of its submissions: "…and [compelled evidence] shall not be disclosed or produced to any other person or company or in any other proceeding except in accordance with subsection (1.1) or section 17 [emphasis added]."

[80] We have difficulty with these words of the statute, especially "other proceeding". Until that occurrence of the word "proceeding", s. 16 does not refer to any proceeding, so it is unclear what "other" refers to.

[81] Section 16's focus is a formal investigation and the information derived from one, but an investigation is not a proceeding. Where Staff wishes to obtain a s. 11 order and the powers that result from that order to assist in an investigation, Staff does not commence a proceeding. Instead, that request is made to the Commission performing its executive function.

[82] In contrast, a proceeding is commenced by the issuance of a Notice of Hearing by the Secretary, following the filing with the Tribunal of an Application or a Statement of Allegations. Staff takes no such steps when seeking a s. 11 order.

[83] As a result, because an investigation is not a proceeding we are unable to make sense of the word "other" before "proceeding" in s. 16(2).

[84] We do not agree with Staff that the words should be read as referring to a proceeding other than one that arises out of the investigation order through which the compelled evidence was obtained. That proposed interpretation does not conform to the plain meaning of the words, and in any event, it may be impossible in some cases to determine whether a proceeding "arises" out of a particular investigation order.

[85] As it turns out, we do not need to resolve this quandary. The words of s. 16(2) prohibit disclosure "to any other person or company or in any other proceeding". The "or" following "person or company" means that disclosure to any other person or company is prohibited. That prohibition does not depend on the meaning of "any other proceeding"; nor does it relate to any particular investigation or proceeding.

[86] By filing the compelled evidence in Court without seeking a sealing order, and by issuing a news release linking to that material, the Commission disclosed it to the public (and therefore to persons and companies).

[87] For these reasons, we cannot accept the proposition that the words of s. 16(2) permit the Commission to bypass the mechanisms set out in s. 17. For the same reasons, we cannot accept Staff's repeated but unsubstantiated submission that the interpretation proposed by Mr. Sharpe would "stymie" the Commission's ability to carry out its public interest mandate and undermine the Commission's ability to "uncover the truth".[29]

(c) The words "in connection with a proceeding…" in s. 17(6) do not assist the Commission in this case

[88] We now return to s. 17(6), one of the three mechanisms in s. 17 that permits disclosure of compelled evidence. Under certain specified circumstances, s. 17(6) allows that disclosure without an order from the Tribunal.

[89] In relevant part, s. 17(6) provides that a person appointed under a s. 11 investigation order may disclose compelled evidence "only in connection with a proceeding commenced or proposed to be commenced before the Commission or the Director" [emphasis added].

[90] Staff submits that the Commission's receivership application falls within this language, and that the Commission's public disclosure was therefore permitted by s. 17(6). Staff says that the Court application was "in connection with" a proceeding commenced before the Tribunal, *i.e.*, Staff's application under s. 127 for an extension of a cease trade order (one of the two proceedings in which this hearing was held, and the only one of the two proceedings that existed at the time).

[91] We disagree. We do not construe "in connection with" as Staff proposes. Staff relies on *Mega-C* in support of its submission that the words "in connection with" are to be interpreted broadly.[30] However, that case involved disclosure of compelled evidence entirely within one Tribunal proceeding, with no mention of any other proceeding, and we see nothing in the cited paragraph that supports a broad reading of "in connection with".

[29] Staff's Written Submissions at para 89
[30] *Mega-C* at para 31

[92] There are words elsewhere in the *Mega-C* decision that if read out of context could suggest support for Staff's position here:

> The Commission is a public body, exercising its statutory powers in the public interest. It is important, in our view, that it fulfill its mandate as transparently as practically possible.[31]

[93] Read in the context of the entire decision and the rest of the paragraph, however, the words "the Commission" in the passage above clearly speak about the Tribunal. The paragraph continues:

> This means that matters coming before the Commission, including the details about those matters, be made public, to the broadest extent possible, absent special circumstances that would warrant some degree of confidentiality. Where such circumstances exist, the Commission should exercise its discretion narrowly, so as to provide the public with as much information about the proceedings before the Commission as possible in the circumstances. [emphasis added]"

[94] There is nothing in this paragraph, either, that supports Staff's position in this case. This is so because there is no discussion of what the Commission, performing its executive function, might do as applicant in a court proceeding. Nor is there a collision between the language in *Mega-C* and the Supreme Court of Canada's exhortation in *Deloitte* that an order authorizing disclosure permit only such disclosure as is necessary.[32] In the above-quoted words from *Mega-C*, the panel expressly acknowledged that the Tribunal's general interest in being transparent was limited by what is "practically possible" and subject to "special circumstances that would warrant some degree of confidentiality".[33]

[95] Staff also relies on *Crown Hill Capital Corporation et al*,[34] where the Tribunal said that there were "a number of [unspecified] decisions" in which it was found that the words "in connection with", among others, were to be interpreted broadly and given significant latitude. However, this analysis concerned the language in s. 11(3) of the Act, which describes the permissible scope of an investigation:

> For the purposes of an investigation under this section, a person appointed to make the investigation may investigate and inquire into,
>
> (a) the affairs of the person or company in respect of which the investigation is being made, including any trades [etc.] to, by, on behalf of, or in relation to or connected with the person or company…; and
>
> (b) the assets [etc.], the financial or other conditions at any time prevailing in or in relation to or in connection with the person or company… [emphasis added]

[96] The context for the use of the words is very different between a s. 11 investigation order (the fruits of which are protected by the confidentiality restrictions in s. 16) on the one hand, and a mechanism that would intrude on those protections on the other. We are not prepared to attribute the general and unsubstantiated proposition in *Crown Hill* to the present case.

[97] The words "in connection with" an existing or proposed Tribunal proceeding do not clearly extend to a different proceeding in a different venue. Had the legislature intended the result Staff seeks, it could have used words such as "arising out of the same facts as" or "involving the same events". To us, the words "in connection with" do not convey that meaning.

6. The Commission's actions defeated Mr. Sharpe's reasonable expectations and did not limit impairment of his privacy interests to the extent necessary in these circumstances

[98] We turn now to consider whether the Commission's choice to disclose publicly the compelled evidence aligned with Mr. Sharpe's reasonable expectations, and whether that choice minimized impairment of his privacy interests. We conclude that the answer is no in both cases.

(a) The Commission's actions were not consistent with Mr. Sharpe's reasonable expectations; rather, they defeated those expectations

[99] We begin by considering Mr. Sharpe's reasonable expectations. We conclude that the Commission's actions defeated rather than met those expectations.

[100] As the Tribunal has previously stated, a witness's reasonable expectations of privacy and confidentiality are a significant factor for the purposes of the Tribunal's s. 17(1) public interest jurisdiction.[35] Staff asserts that the Commission's

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31 *Mega-C* at para 36
32 *Deloitte* at para 29
33 *Mega-C* at para 36
34 2014 ONSEC 25, (2014) 37 OSCB 8294 (***Crown Hill***) at para 21
35 *Black* at para 123

disclosure of compelled evidence in this case was in accordance with the reasonable expectations of Mr. Sharpe. We disagree.

[101] This issue requires us to consider objectively the reasonable expectations of a compelled witness, as opposed to the actual expectations of Mr. Sharpe, about which we had no evidence, and nor should we have.

[102] Staff cites *Black* in submitting that Mr. Sharpe should reasonably have expected that his compelled evidence could be disclosed "for the purposes of a regulatory proceeding under the Act".[36] This submission misunderstands the Tribunal's words in that case, and in particular the words "a regulatory proceeding". The excerpted words must be read in the context of the decision and of the entire paragraph from which they are drawn:

> A witness is entitled to expect that the confidentiality provisions set out in section 16 of the Act will be respected and that compelled evidence will only be released where disclosure is in the public interest or for the purposes of a regulatory proceeding under the Act.

[103] Those words do two things. First, they reinforce the reasonable expectation of a witness that s. 16 will apply. Second, they contemplate two scenarios in which compelled evidence will be released:

a. where disclosure is in the public interest; or

b. for the purposes of a regulatory proceeding under the Act.

[104] This short list of two scenarios aligns structurally with s. 17, which provides only two ways in which compelled evidence will be released, *i.e.*, made available in some way (as opposed to being provided under compulsion as contemplated by s. 17(5), by which a court may order production under certain circumstances). The two methods of release in s. 17 are:

a. by an order under s. 17(1), which requires the Tribunal to consider "the public interest" (and thereby to consider limitations that might be placed on the disclosure); and

b. that permitted by s. 17(6), which in relevant part permits disclosure "only in connection with… a proceeding commenced or proposed to be commenced before the Commission or the Director [emphasis added]".

[105] In *Black*, the Tribunal assessed a witness's reasonable expectations in light of these prescribed exceptions. Nothing in s. 17 or in *Black* suggests that a witness should reasonably expect unrestricted disclosure in connection with a receivership application.

[106] We note the finding by the Divisional Court in *A Co. v Naster* (***Naster***) that the compelled witness "can have had virtually no expectation of privacy in what he divulged upon his examination."[37] It is difficult to reconcile this statement with the Supreme Court of Canada's holding in *Deloitte* that "the OSC has a duty to [compelled witnesses] to protect [their] privacy interests and confidences" and to limit disclosure as much as possible.[38] Given that *Naster* was decided in 2001, and *Deloitte* was decided in 2003 without reference to *Naster*, we are bound to follow *Deloitte*, as this Tribunal previously has.[39]

[107] The importance of protecting privacy interests having been established, we turn to Staff's assertion that the Commission's actions were justified because, in part, compelled evidence is "routinely disclosed without s. 17(1) authorization in connection with regulatory proceedings under the Act". Staff cites five examples.

[108] First, Staff notes that it discloses compelled evidence in Statements of Allegations, which are public documents. We do not find that argument to be persuasive. An allegation is not evidence. Explicit references in Statements of Allegations to evidence having been compelled are rare, and when they appear they typically relate to an allegation that a respondent misled Staff in a compelled examination. Such disclosure is authorized by s. 17(6). No s. 17(1) order is required.

[109] Second, Staff notes that it discloses compelled evidence to respondents in accordance with Staff's disclosure obligations. Again, this disclosure is authorized by s. 17(6).

[110] Third, Staff notes that respondents sometimes tender compelled evidence in Tribunal proceedings. That is true. However, when they do, they do so under authority of s. 17(6), because the disclosure is "in connection with" (*i.e.*, in) the very proceeding in which the disclosure was made to the respondents in the first place.[40]

[111] Fourth, Staff submits that parties openly refer to compelled information in their submissions before the Tribunal and that compelled witnesses are not entitled to notice in those circumstances. We do not accept this broad and unsubstantiated

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36 *Black* at para 119
37 *Naster* at para 15
38 *Deloitte* at para 29
39 For example, see *Katanga Mining Limited (Re),* 2019 ONSEC 4, (2019) 42 OSCB 803 at para 17
40 *Mega-C* at para 31

description. A closer examination would be required in order to understand the context, to distinguish different types of situations, and to understand whether parties were referring to information that had already been made public in the course of the hearing or otherwise.

[112] Fifth, Staff submits that there are numerous statutory provisions that contemplate the Commission being a party to court proceedings in which, according to Staff, the Commission would be expected to disclose compelled information. However, none of the provisions cited by Staff refers to compelled information, and there is nothing about any of the provisions that would necessarily mean that information called for would have been obtained by compulsion. More importantly, there is nothing about any of those provisions that would prevent the Commission from seeking proper authorization from the Tribunal to disclose compelled evidence if it were necessary.

[113] Staff also identifies three previous Tribunal decisions that it says resulted in public disclosure of some compelled evidence:

a. *Dunn* – There are no reasons for decision in this case; simply the order that resulted. Three individuals applied under s. 17(1) for an order permitting disclosure of compelled evidence at their criminal trial. Notice was given to the two compelled witnesses whose transcripts formed part of the compelled evidence. Neither witness appeared to contest the application. We see nothing in this order that assists Staff.[41]

b. *Amato* – The Tribunal authorized disclosure of two compelled examination transcripts to alleged victims of a Ponzi scheme who were seeking the use of those transcripts in a court proceeding against their lawyer. There was no longer a need to protect the integrity of the investigation, and there were no persisting privacy interests, since the transcripts had previously been disclosed to the receiver. Disclosure to the receiver had occurred because one of the compelled witnesses was deceased, and the other did not object. Again, nothing in this decision assists Staff.[42]

c. *Y* – The Tribunal authorized the use of certain compelled evidence, to assist parties in defending criminal proceedings. The Tribunal imposed a long list of terms to limit use of the compelled evidence as much as possible. This approach is consistent with the obligation to protect privacy interests as much as possible, and is of no assistance to Staff in this case.[43]

[114] Is there any other basis for how Staff describes a witness's reasonable expectations? Staff rightly concedes that this case is novel. While the Commission's actions here may not have been unprecedented, in that (according to Staff) the Commission has publicly disclosed compelled evidence before in connection with a receivership application, we have no reason to believe that those prior situations have ever come to anyone's attention outside the proceedings in which they arose.

[115] In the absence of any jurisprudential basis for the reasonable expectations that Staff describes, how then could the Commission's actions be said to be in accordance with Mr. Sharpe's reasonable expectations? We see no basis for that argument. Mr. Sharpe attended three examinations as required, was accompanied by experienced counsel, and demonstrated caution by expressly asserting his rights under relevant statutes. The only reasonable expectation that a compelled witness in Mr. Sharpe's position could have would be that the Commission and its Staff would act as they were required to, limiting the extent of disclosure only to that necessary to carry out the Commission's mandate and as they had in the past, to the extent there was public knowledge of the Commission's conduct in other cases.[44]

[116] These factors, taken together, would create the expectation in any reasonable person that if the Commission intended to put compelled evidence before the Court, it would do so in a manner that properly respected the high degree of confidentiality associated with that material.

(b) The Commission did not proceed in a way that impaired Mr. Sharpe's privacy interests only to the extent necessary

[117] Mr. Sharpe's reasonable expectations aside, Staff makes a number of submissions to suggest that the Commission proceeded in the only reasonable way available to it. As we address each of these submissions in turn, we will assess the Commission's action in this case against the governing principle – was the Commission's action one that minimally impairs a compelled witness's privacy interests while at the same time fulfilling the Commission's mandate?

i. Obligation of full and fair disclosure to the Court

[118] Staff correctly notes that in the receivership application, which the Commission brought without notice to any other party, the Commission had to make full and frank disclosure to the Court. Staff suggests that this obligation required Staff to

41 *Frank Dunn et al (Re),* (2012) 35 OSCB 441
42 *Amato v Welsh,* 2015 ONSEC 16, (2015) 38 OSCB 5111 at paras 1-2, 11 and 27-28
43 *Y (Re)*, 2009 ONSEC 29, (2009) 37 OSCB 11271 at paras 94 and 100
44 *Deloitte* at para 29

present a comprehensive record, the obvious implication being that there was no room for Staff or the Court to limit the material filed in the public record.

[119] We disagree. The obligation to make full and frank disclosure, while real, would not preclude an alternative route that would meet that obligation while at the same time giving Mr. Sharpe an opportunity to make submissions about the appropriate extent of material that would be publicly disclosed. We address that alternative route in the following paragraphs.

[120] At the hearing, we asked Staff whether it would have been practicable, and consistent with the Commission's legitimate interest in seeking the appointment of a receiver, for a cloak of confidentiality to be placed over the compelled evidence until after the receiver had been appointed, at which time Mr. Sharpe could have been given an opportunity to make submissions about the extent to which that cloak of confidentiality should be maintained.

[121] We asked in particular about the Tribunal's recent decision in *B (Re)*[45]. That case did not involve a receivership, and arose because of a private party's (B's) application, not Staff's. However, the mechanism employed in that case is instructive.

[122] As part of an investigation authorized by a s. 11 order, a summons was issued to B to attend and answer questions at an examination. B wished to cooperate but was concerned that doing so would violate a confidentiality provision in B's employment contract. B sought a declaration from the Tribunal that complying with the summons would not violate that contract.[46] The Tribunal held that it was not empowered to give B the requested declaration. Instead, the Tribunal issued a confidential order under s. 17(1), permitting B to disclose, on a confidential basis, such information as was necessary to commence a court application.[47] Proceeding confidentially was essential, since the alternative would have destroyed the very confidentiality that was at issue.

[123] In the hearing before us, Staff responded to our questions about whether a similar method could or should have been employed in this case. However, following the conclusion of oral submissions, Staff asked for, and we granted, an opportunity for the parties to exchange further brief written submissions "about the potential application to this case of the process that was followed in the *B* decision".

[124] In those supplementary submissions, Staff argued that it would not be appropriate to follow that process, principally because it would defeat the Commission's ability, set out in s. 129(3) and used in this case, to apply for the receiver without notice to any party. We disagree. The following process, similar to that used in *B*, could have been employed here (and there may be others):

a. Staff applies to the Tribunal for a confidential order under s. 17(1) authorizing the Commission to disclose, on a confidential basis, all the compelled evidence (or such portion of it as the Commission sees fit to request) to the Court;

b. the Tribunal grants the order if appropriate, on terms (as permitted by s. 17(4)) that the Commission's *ex parte* (without notice) application to the Court for a receiver include a request that the Court consider whether, in light of s. 16, the confidentiality restrictions applicable to the compelled evidence should continue; and

c. if the Court determines that it is appropriate to grant the order for a receiver, it does so, but having been alerted to the s. 16 issue, it can also consider whether it is appropriate to maintain the confidentiality of certain of the material in the court file, pending an opportunity (after the receiver has been appointed) for a compelled witness to make submissions to the Court about the extent of any confidentiality protection.

[125] Contrary to the receiver's submissions, the first step above would neither limit the evidence that could be put before the Court nor would it fetter the Court's discretion. We reject the receiver's contention that the Tribunal would be improperly interjecting itself in the Court's process.

[126] The point of the above process or one like it is that it engages rather than ignores the privacy interests of a compelled witness, and it respects the admonition of the Supreme Court of Canada in *Deloitte*.[48] Further, while it is for a court, not this Tribunal, to assess compliance with an *ex parte* applicant's compliance with the obligation of full and frank disclosure to a court, Staff has put this issue before us. We cannot ignore it. We question whether the Commission's decision not to mention s. 16 to the Court, and not to raise the question of whether a temporary sealing order would be appropriate, meets an *ex parte* applicant's obligation.

[127] We derive little comfort from Staff's suggestion that the Court was able to issue a sealing order if one were warranted, even though the Commission chose not to raise the issue with the Court. In our respectful view, that approach reflects

45 2020 ONSEC 21, (2020) 43 OSCB 6719 (***B***)
46 *B* at paras 2-3
47 *B* at para 47
48 *Deloitte* at para 29

an unrealistic view of a court's capacity to receive voluminous material on short notice and to anticipate on its own, unassisted by counsel, any issue that might arise. We are concerned that the Commission's actions did not align well with its obligation to balance the competing interests at play in a case such as this one.

[128] In its submissions, Staff spent considerable time discussing the test for a sealing order at the Court, and the extent to which that test is similar to or dissimilar from the test under s. 17(1). That discussion is irrelevant to the question we asked of counsel and to the topic about which Staff sought to make additional submissions. The process suggested above, similar to the one employed in *B*, respects s. 16 (as the Tribunal must) but defers completely to the Court making whatever determination it sees fit, according to whatever test it thinks appropriate. Nothing about the process involves the Tribunal purporting to prescribe or even suggest what the Court's decision ought to be.

[129] In summary, Staff offers no persuasive reason why such a process would interfere in any meaningful way with the appointment of a receiver, even if (and we do not assume this to be true in this case, absent evidence) there was urgency and/or a risk of dissipation of assets. We reject Staff's suggestion that the process above, even if there were multiple compelled witnesses, would be "complex". A single s. 17(1) order obtainable on short notice would have sufficed, and would have been no more complex than the temporary cease trade order that was issued in this case.

ii. Obligation to fulfill the Commission's mandate transparently

[130] Staff cites the Tribunal's comment in *Mega-C* that the Commission should fulfill its mandate as transparently as practically possible.[49] We agree, but this proposition does not assist in resolving the question in this case, which is: What is "possible", given the statutory scheme?

iii. A need to obtain s. 17(1) orders would unnecessarily impede the Commission's work and would serve no meaningful purpose

[131] Staff submits that in the circumstances of this case and other similar cases, a requirement that the Commission obtain a s. 17(1) order from the Tribunal would be a "roadblock" that furthers no meaningful or public interest purpose and that would "undermine the effective enforcement of Ontario securities law".[50] We emphatically reject these unsubstantiated submissions.

[132] Subsection 17(1) orders can be and routinely are applied for in writing and promptly obtained in circumstances where either: (i) no notice to any third party is required; or (ii) where no third party to whom notice was given objects. Where notice to a third party is required, the request engages that third party's privacy interests, which we discussed above. We must emphasize in this context that those privacy interests are not to be lightly dismissed.

7. Conclusion about the Commission's use of the compelled evidence without first obtaining a s. 17(1) order

[133] We summarize our discussion about the Commission's use of the compelled evidence by noting the following conclusions:

a. s. 16(1) of the Act, which prohibits any person or company from disclosing compelled evidence, other than in accordance with prescribed exceptions, applies to the Commission;

b. neither the words "for the exclusive use of the Commission" in s. 16(2) nor the words "shall not be disclosed… to any other person or company or in any other proceeding" in that same subsection assist the Commission in these circumstances;

c. the legislative scheme seeks to ensure minimum impairment of privacy interests, while permitting the Commission to perform its mandate within those constraints, and any exception to the general protection must be strictly construed, consistent with the high degree of confidentiality associated with compelled evidence and the need for strict limitations on its use;

d. the only exception to s. 16(1) that is relevant in this case is that set out in s. 17(1), which empowers the Tribunal to make an order authorizing disclosure, after: (i) where practicable, giving notice to persons who provided the compelled evidence, and (ii) determining that it is in the public interest to make the order;

e. the obligation to give notice to persons affected by the proposed disclosure gives them the opportunity to make submissions about the proposed disclosure, including the appropriate extent of disclosure and any terms that should be imposed;

f. the Commission's actions defeated Mr. Sharpe's reasonable privacy expectations;

[49] *Mega-C* at para 36
[50] Staff's Written Submissions at paras 30 and 50

g. any similar and unchallenged disclosure by the Commission in previous instances is of no assistance to the Commission;

h. there is no Tribunal or Court decision that addresses circumstances similar to those in this case, and that supports the Commission's actions; and

i. Staff was unable to explain persuasively why the Commission could not have obtained a s. 17(1) order before publicly disclosing the compelled evidence.

[134] For all these reasons, we conclude that the answer to the first question is no. The Commission cannot, in the circumstances set out in the statement of agreed facts, publicly disclose compelled evidence without first obtaining a s. 17 order.

[135] Because of our answer to the first question, we turn now to the second question, *i.e.*, whether under the circumstances revocation of the s. 11 order is an available remedy.

C. Even where the Commission publicly discloses compelled evidence when it applies for the appointment of a receiver, without complying with s. 17 of the Act, revocation of the s. 11 investigation order is not an available remedy

1. Introduction

[136] Mr. Sharpe applies under subsection 144(1) of the Act, which empowers "the Commission" to revoke or vary a "decision of the Commission", if "the Commission" determines that doing so would not be prejudicial to the public interest. The word "decision" is defined in s. 1(1) of the Act to include an order. There is no dispute that the s. 11 investigation order falls within this definition, and that the Tribunal is empowered to revoke the s. 11 order if doing so would not be prejudicial to the public interest.

[137] Accordingly, revocation of the s. 11 order is "available" in a technical sense. While the parties before us first formulated the preliminary question to ask whether the remedy is "available", they agreed after submitting the statement of agreed facts that we should treat the question as if it asks whether that remedy could ever be available (*i.e.*, appropriate) given the circumstances set out in the statement of agreed facts.

[138] Mr. Sharpe submits that revocation would be appropriate because the public disclosure by the Commission is a new material fact that would likely have affected the Commission's original decision to issue the s. 11 order. We conclude that revocation would not be appropriate, for two reasons that we will address in turn:

a. the Commission's public disclosure of compelled evidence, made after the issuance of the relevant s. 11 order, is not a newly discovered fact that would likely have changed the decision to issue the s. 11 order; and

b. by its nature, revocation of a s. 11 order in the circumstances set out in the statement of agreed facts would be insufficiently connected to a court application later commenced by the Commission, even where that application relies on some of the compelled evidence.

2. Public disclosure after the issuance of a s. 11 order is not a newly discovered fact that would likely have changed the decision to issue the s. 11 order

[139] The Tribunal has held that it will issue an order under s. 144 only "in the rarest of circumstances".[51] Tribunal decisions have enumerated a number of grounds upon which the Tribunal may exercise its s. 144 authority. We need not review all the grounds, since Mr. Sharpe relies on only one – where "new facts come to light that were not discoverable at the time of the original hearing", and those new facts are "'compelling', *i.e.*, likely to have affected the original decision."[52]

[140] In considering whether revocation of the s. 11 order could be an appropriate remedy, we must first focus on when the "new facts" on which Mr. Sharpe relies occurred or came into existence.

[141] Mr. Sharpe does not contend that at the time the s. 11 order was issued, there were any material facts, then in existence, of which the Commission was unaware. Rather, Mr. Sharpe asks us to take an event that happened well after the issuance of the original order (*i.e.* the Commission's public disclosure of the compelled evidence) and then to ask first whether the Commission's September 2020 decision to issue the s. 11 order would likely have been different had it (the Commission itself) known that it (again, the Commission) would in April 2021, more than seven months later, publicly disclose some of the compelled evidence that would be obtained pursuant to that order.

51 *X Inc (Re),* 2010 ONSEC 26, (2010) 33 OSCB 11380 at para 35
52 *Pro-Financial Asset Management Inc (Re),* 2017 ONSEC 39, (2017) 40 OSCB 9159 at paras 16-17

[142] We cannot accept Mr. Sharpe's written submission that it "goes without saying that when issuing the Section 11 Order, the Commission presumed that the evidence collected pursuant to the powers granted by it would be treated in a manner that complied with the law and respected the rights of those compelled to provide evidence".[53] It was the same Commission, performing its executive function, that issued the s. 11 order and that publicly disclosed the compelled evidence in its Court application. At most, the Commission could only have intended to disclose publicly, at a then-unknown later date, certain fruits of the investigation that it had just ordered.

[143] However, we have no evidence before us about the Commission's intention at the time that it issued the s. 11 order. We cannot and will not speculate. In any event, in identifying the "new fact", Mr. Sharpe chooses the act of disclosure rather than any supposed future intention, even though the act of disclosure came later.

[144] We conclude that there was no fact at the time of the making of the s. 11 order that would likely have changed the decision to issue the order.

[145] However, a previous Tribunal decision considering an application to revoke a s. 11 order (discussed below) does leave the door open to consideration of events that arise after the order is made. The elapsed time between the order and the event complained of, and the logical connection (or lack of it) between the impugned event and the investigation authorized by the order, are both relevant in determining whether we should exercise the authority under s. 144 in this case.

[146] We turn now to consider those two factors.

3. Revocation of a s. 11 order is insufficiently connected to a court application later commenced by the Commission, even where that application relies on some of the compelled evidence

[147] While it is open to us to consider facts that arise after the making of the s. 11 order, we conclude that revocation of the s. 11 order in this case could not be an appropriate remedy in response to the Commission publicly disclosing compelled evidence without adhering to s. 17. That remedy is insufficiently connected to the conduct complained of.

[148] Before we analyze the question before us, we must address Staff's request that we consider the fact that Mr. Sharpe has suffered no prejudice. We decline this invitation. This hearing is confined to the two agreed-upon questions, as directed by the Tribunal before the hearing. Neither question contemplates that the parties could tender evidence about any alleged harm or prejudice.

[149] Had our ultimate conclusion been that revocation of a s. 11 order could be an appropriate remedy on the limited facts before us, this proceeding would have moved to a subsequent hearing, at which issues regarding the actual effect on Mr. Sharpe would have been canvassed. Accordingly, at this stage we disregard any submission by Staff about a lack of harm or prejudice to Mr. Sharpe.

[150] Turning to consider whether revocation of this s. 11 order could ever be an appropriate remedy in these circumstances, we agree with Staff that revocation in response to the public disclosure could only be properly described as punitive. Revocation would not in any way reverse the public disclosure of the compelled evidence; nor would revocation offer any other relief to Mr. Sharpe, other than perhaps greater vindication or similar satisfaction. That is an insufficient reason to invoke the Tribunal's rarely-used authority under s. 144, and s. 144 does not exist to punish.

[151] We distinguish the Court of Appeal of Alberta decision cited to us by Mr. Sharpe, in which the Court upheld a decision to terminate a discipline proceeding on the basis that the investigator had improperly disclosed confidential information. However, a detailed review of that decision is warranted.

[152] *Clark v Complaints Inquiry Committee*[54] arose out of a complaint received by the Institute of Chartered Accountants of Alberta about Mr. Clark. The Institute's prosecutorial branch, the Complaints Inquiry Committee, determined that an investigation was warranted. An Institute employee was assigned to investigate.[55]

[153] At the direction of the Institute's employee, Mr. Clark and others provided relevant information by sending it to the e-mail address of the Institute employee's wife.[56]

[154] At the beginning of the discipline hearing against him, Mr. Clark asked that it be dismissed because the employee, by using his wife's e-mail address, had contravened the relevant statutory provision prohibiting disclosure of confidential information obtained during an investigation.[57]

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53 Submissions of David Sharpe, November 22, 2021 at para 90
54 2012 ABCA 152 (***Clark***) at para 18
55 *Clark* at para 2
56 *Clark* at para 3
57 *Clark* at para 6

[155] The Discipline Tribunal dismissed Mr. Clark's application to terminate the proceedings. Mr. Clark was successful in his appeal to the Appeal Tribunal, which found that the investigation was an abuse of process; in particular, it held that disclosure of confidential information in the course of the investigation was prohibited and unacceptable.[58]

[156] The Court of Appeal of Alberta found that the Appeal Tribunal's decision to stay the proceeding was a discretionary one and that the Court should review that decision using a reasonableness standard. Significantly, the Court concluded that the Appeal Tribunal panel was concerned about abuse in the investigative process itself.[59]

[157] The *Clark* case differs from the one before us in three material ways:

a. Mr. Clark's complaint was about conduct that was part of the investigation, whereas there is no such complaint before us;

b. Mr. Clark did not seek a revocation of whatever instrument (if any) was employed to commence the investigation – indeed, there is no reference in the Court decision to such an instrument, and contrary to Mr. Sharpe's written submission, Mr. Clark sought a stay of the proceeding, not a stay of the investigation; and

c. Mr. Clark's requested stay was of a proceeding governed by the same body that governed the investigation, whereas here, to the extent that Mr. Sharpe's complaint is in connection with a proceeding, it is about a proceeding before the Superior Court of Justice, over which this Tribunal has no jurisdiction.

[158] We therefore conclude that the *Clark* case is of no assistance to Mr. Sharpe. It is neutral on the questions before us.

[159] For similar reasons, we distinguish the Tribunal's 2004 decision in *X Corp*[60]. In that case, a corporation named in a s. 11 investigation order asked the Tribunal to revoke the order. The applicant maintained that it was suffering prejudice during the investigation, and that the investigation was going on too long.[61] The Tribunal dismissed the application, but did say that it could consider "all relevant facts, past or present".[62]

[160] The panel in *X Corp.* concluded that the matters being investigated were serious and that it remained in the public interest for the investigation to continue. The panel was "unable to conclude… that the new facts which have arisen since [the s. 11 order's] issuance permit us to form an opinion that a revocation or variation of the s. 11 order would not be prejudicial to the public interest."[63]

[161] The complaint in *X Corp.* was that the conduct of the investigation itself was abusive. Had the Tribunal been sympathetic to X Corp.'s substantive arguments, a revocation of the order authorizing the investigation would have brought an end to the conduct complained of. The connection would have been immediate and direct. No such connection exists here.

[162] The remedy Mr. Sharpe seeks is unprecedented. That does not mean that it is never available, but Mr. Sharpe has not met the burden of showing why we should exercise our discretion to depart from established precedent, including from the established principle that revocation of an earlier order should result only in the rarest of cases, and for sound reasons, which reasons do not exist in this case.

[163] Before leaving this issue, we note the agreed fact, emphasized in Staff's written and oral submissions, that Mr. Sharpe has not taken any action in the Superior Court of Justice related to the materials filed in support of the receivership order. In our view, that fact is not relevant to the issue before us and we accord it no weight.

IV. CONCLUSION

[164] We agree with Staff's submission that the alleged unlawful act by the Commission does not affect the legality or appropriateness of the s. 11 order. No matter what evidence Mr. Sharpe might adduce about specific harm or prejudice, if this proceeding were to advance to a full hearing on the merits we would be unable to conclude that it would not be prejudicial to the public interest to revoke the s. 11 order.

[165] We answer the two questions before us as follows:

a. the Commission is bound by s. 16 and was not entitled to bypass s. 17 of the Act in publicly disclosing Mr. Sharpe's compelled evidence; and

b. on the agreed facts, revocation or variation of the s. 11 investigation order cannot be an appropriate remedy.

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58 *Clark* at para 9
59 *Clark* at paras 14 and 16
60 2004 ONSEC 19 (***X Corp***)
61 *X Corp* at para 28
62 *X Corp* at para 31
63 *X Corp* at paras 36-37

[166] Accordingly, we dismiss Mr. Sharpe's request for a revocation or variation of the s. 11 order in this case.

[167] As noted above, that leaves Mr. Sharpe's request that the adjudicative records in these two proceedings (except for the written submissions) be kept confidential, without access by the public. If Mr. Sharpe wishes to maintain this request, then by 4:30pm on April 14, 2022, he shall serve and file:

a. a notice that, without grounds or submissions, specifies briefly but precisely the extent of his request, including identification of the documents that are the subject of the request, and for each document, whether he seeks redactions (which redactions, if any, shall be specified in the notice) or confidentiality protection of the entire document; and

b. written submissions of not more than five pages.

[168] If Mr. Sharpe does not file the notice and submissions by the prescribed deadline, we will dismiss the request for confidentiality.

[169] If Mr. Sharpe files the notice and submissions, then Staff and the receiver shall serve and file any responding submissions, of no more than five pages each, by 4:30pm on April 28, 2022.

[170] The parties may request a different schedule for the above steps, by submitting to the Registrar by 4:30pm on April 14, 2022, either an agreed-upon schedule or competing submissions of no more than one page each.

Dated at Toronto this 30th day of March, 2022.

"Timothy Moseley"

"M. Cecilia Williams"

"Lawrence Haber"

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
Chemesis International Inc.	January 11, 2022	March 29, 2022
California Gold Mining Inc.	January 5, 2022	March 25, 2022

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
Reservoir Capital Corp.	May 5, 2021	March 29, 2022
Gatos Silver, Inc.	April 1, 2022	
NextPoint Financial Inc.	April 1, 2022	

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	
Reservoir Capital Corp.	May 5, 2021	March 29, 2022
Gatos Silver, Inc.	April 1, 2022	
NextPoint Financial Inc.	April 1, 2022	

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Chapter 6

Request for Comments

6.1.1 CSA Notice and Request for Comment – Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers

CSA NOTICE AND REQUEST FOR COMMENT

PROPOSED AMENDMENTS AND PROPOSED CHANGES TO IMPLEMENT AN ACCESS EQUALS DELIVERY MODEL FOR NON-INVESTMENT FUND REPORTING ISSUERS

April 7, 2022

Introduction

The Canadian Securities Administrators (the **CSA** or **we**) are publishing for a 90-day comment period, proposed amendments and proposed changes to

- National Instrument 41-101 *General Prospectus Requirements*,
- National Instrument 44-101 *Short Form Prospectus Distributions*,
- National Instrument 44-102 *Shelf Distributions*,
- National Instrument 44-103 *Post-Receipt Pricing*,
- National Instrument 51-102 *Continuous Disclosure Obligations*,
- National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating To Foreign Issuers*,
- Companion Policy 41-101CP to National Instrument 41-101 *General Prospectus Requirements*,
- Companion Policy 44-102CP to National Instrument 44-102 *Shelf Distributions*,
- Companion Policy 44-103CP to National Instrument 44-103 *Post-Receipt Pricing*, and
- Companion Policy 51-102CP *Continuous Disclosure Obligations*;

as well as related proposed consequential changes to

- National Policy 11-201 *Electronic Delivery of Documents*,
- National Policy 47-201 *Trading Securities Using the Internet and Other Electronic Means*, and
- Companion Policy 54-101CP to National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*;

(collectively, the **Proposed Amendments**).

The public comment period will end on **July 6, 2022**.

The text of the Proposed Amendments is contained in Annexes A through M of this notice and will also be available on websites of CSA jurisdictions, including:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca

nssc.novascotia.ca
www.fcnb.ca
www.osc.ca
www.fcaa.gov.sk.ca
www.mbsecurities.ca

Substance and Purpose

The Proposed Amendments implement an access equals delivery model for prospectuses generally, annual financial statements, interim financial reports and related management's discussion & analysis (**MD&A**) for non-investment fund reporting issuers.

The proposed access equals delivery model (the **AED Model**) contemplates the following:

- in all jurisdictions except British Columbia, providing public electronic access to a document and alerting investors that the document is available will constitute delivery for prospectuses under securities legislation;
- in British Columbia, an exemption from the requirement under securities legislation to send a prospectus (the **BC Exemption**) will permit access *instead* of delivery;
- for annual financial statements, interim financial reports and related MD&A, providing public electronic access to the documents and alerting investors that the documents are available will constitute delivery for the documents; and
- in all cases, delivery of a document will occur, or the conditions in the BC Exemption will be met, when:
    - the document is filed on the System for Electronic Document Analysis and Retrieval (**SEDAR**), and
    - where applicable, a news release is issued and filed on SEDAR indicating that the document is available electronically and that a paper or an electronic copy can be obtained upon request.

The purpose of the proposed AED Model is to modernize the way documents are made available to investors and reduce costs associated with the printing and mailing of documents, which are currently borne by issuers. The proposed AED Model provides a more cost-efficient, timely and environmentally friendly manner of communicating information to investors than paper delivery. In our view, the proposed AED Model reduces regulatory burden on issuers without compromising investor protection.

We recognize that information technology is an important and useful tool in facilitating communication with investors. The proposed AED Model is consistent with the general evolution of our capital markets, including how investors are increasingly accessing and consuming information electronically.

The proposed AED Model offers benefits for both issuers and investors. The proposed AED Model further facilitates the communication of information by enabling issuers to reach more investors in a faster and more effective manner than by mailing documents. SEDAR is a common, standardized platform that provides ease and convenience of use for investors, allowing them to access and search for specific information in a document more efficiently than they would otherwise be able to with paper copies of documents.

The proposed AED Model does not remove an investor's ability to request documents in paper or electronic form or prevent an issuer from delivering financial statements and related MD&A based on an investor's standing instructions.

The Proposed Amendments would implement the proposed AED Model for prospectuses generally, annual financial statements, interim financial reports and related MD&A. In our view, the proposed AED Model is well suited for these types of documents, which are increasingly being accessed electronically by investors. At this time, we are not proposing an access equals delivery model for the delivery of documents that require immediate shareholder action and participation, such as proxy-related materials and take-over bid and issuer bid circulars.

Background

On January 9, 2020, we published CSA Consultation Paper 51-405 *Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers*. The purpose of the consultation was to provide a forum for discussion on the appropriateness of implementing an access equals delivery model in the Canadian market. We solicited views on whether an access equals delivery model should be introduced, the types of documents to which an access equals delivery model should apply and the mechanics of a potential access equals delivery model.

The comment period ended on March 9, 2020. We received 30 comment letters from various market participants, including issuers, investors, industry associations and law firms. We wish to thank all commenters for contributing to the consultation.

We have reviewed the comments received, and we note as follows:

- A large majority of commenters expressed general support for implementing an access equals delivery model.
- A majority of commenters expressed support for prioritizing implementing an access equals delivery model for prospectuses, annual financial statements, interim financial reports and related MD&A.
- Although many commenters expressed general support for extending an access equals delivery model to other types of documents, such as proxy-related materials and takeover bid and issuer bid circulars, some commenters indicated that the CSA should carefully consider the impact of introducing an access equals delivery model to documents that require a time sensitive response from investors.
- Several commenters submitted that filing a document on SEDAR (and not also posting the document on the issuer's website) is sufficient as it provides a common, standardized platform that allows investors to access issuers' documents.
- A majority of commenters agreed that a news release is sufficient to alert investors that the document is available electronically.
- Commenters identified several benefits of an access equals delivery model, including reducing regulatory burden and costs for issuers, modernizing the way documents are made available to investors and promoting a more environmentally friendly manner of communicating information than paper delivery.
- The main limitations to implementing an access equals delivery model identified by commenters are the delivery requirements outside of securities legislation (e.g. corporate law) and electronic transactions legislation. In addition, some commenters noted the potential negative impact on investor engagement.

In light of the comments received and our analysis, we think it is appropriate to propose the AED Model for prospectuses generally, annual financial statements, interim financial reports and related MD&A into the Canadian market.

Summary of the Proposed Amendments

Prospectuses

The proposed AED Model applies to all types of prospectuses, except rights offerings by way of prospectus and medium-term note (**MTN**) programs and other continuous distributions under a shelf prospectus. The proposed AED Model may not be suitable for a rights offering by way of prospectus since this type of distribution requires a time sensitive response. MTN programs and other continuous distributions under a shelf prospectus are dealt with in a different manner in our rules and are not suited for the proposed AED Model. It also does not apply to a prospectus offering of investment fund securities.

Except in British Columbia, the Proposed Amendments contemplate that a prospectus or any amendment must be delivered or sent by providing access to the document in accordance with the procedures set out in the rules, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

British Columbia is instead providing an exemption from the prospectus delivery requirements because it better aligns with British Columbia's legislative authority and approach to legislative drafting. The BC Exemption is intended to achieve the same outcome as the AED Model proposed in the other jurisdictions.

The Proposed Amendments stipulate that, in all jurisdictions except British Columbia, access to the final prospectus or any amendment has been provided if:

- the issuer has filed the document on SEDAR and a receipt has been issued for the document, and
- the issuer has issued and filed a news release on SEDAR announcing that the document is available and accessible on SEDAR, indicating the securities that are offered and specifying that a paper or an electronic copy of the document can be obtained upon request.

Under the BC Exemption, a dealer is exempt from requirements under securities legislation to send a final prospectus or any amendment to a purchaser if these same conditions are met.

The Proposed Amendments clarify that, under the proposed AED Model, the right to withdraw from an agreement to purchase securities may be exercised within 2 business days after the later of (a) the date that access to the final prospectus or any amendment has been provided, and (b) the date that the purchaser has entered into the agreement to purchase the securities. In British Columbia, it is a condition of the BC Exemption that an equivalent right be provided to a purchaser.

We are also proposing to require a cross-reference on the front page of the prospectus to alert investors to the section that explains how the withdrawal right period is calculated under the AED Model.

For the preliminary prospectus or any amendment, the Proposed Amendments stipulate that access has been provided if the issuer has filed the document on SEDAR and a receipt has been issued for the document. In this scenario, the Proposed Amendments do not require that the issuer issue and file a news release on SEDAR to alert investors because investors should be aware of when the preliminary prospectus is available by virtue of their interest in the distribution. In our view the requirement to file a news release is important in connection with the final prospectus because the investor's withdrawal right period is calculated at this stage.

The Proposed Amendments clarify how the AED Model applies to the advertising and marketing of a prospectus offering, including with respect to the preliminary prospectus, and update the statements contained in the marketing materials to inform investors that the prospectus or any amendment is available on SEDAR and that a copy of the document can be obtained upon request.

The proposed AED Model has been adapted to suit the particularities of different types of prospectuses, i.e. long-form prospectuses, short-form prospectuses, shelf prospectuses and post-receipt pricing prospectuses.

In certain jurisdictions, amendments to local securities acts may be required to fully implement the Proposed Amendments.

Financial Statements and related MD&A

The Proposed Amendments contemplate that the proposed AED Model applies to annual financial statements, interim financial reports and related MD&A.

The Proposed Amendments provide that the issuer must issue and file a news release to inform investors that its financial statements and related MD&A are available on SEDAR, unless the issuer complies with the current delivery requirements. The Proposed Amendments stipulate that access to the financial statements and related MD&A has been provided if

- the issuer has filed the documents on SEDAR, and
- on the same day that it has filed the documents, the issuer has issued and filed a news release on SEDAR announcing that the documents are available electronically and specifying that a paper or an electronic copy of the documents can be obtained upon request.

We think the proposed AED Model is especially well suited for these types of documents since investors are generally aware that the documents will be available on SEDAR. Investors can also predict when the documents will be available since they are subject to prescribed filing deadlines.

Issuers may still be required to comply with certain delivery requirements under corporate law and other applicable requirements to which they may be subject.

The proposed AED Model would also be available to SEC foreign issuers and designated foreign issuers.

Consequential Amendments

We are proposing changes to National Policy 47-201 *Trading Securities Using the Internet and Other Electronic Means* to clarify that the investment dealer conducting a road show must make an oral statement at the commencement of the road show that the relevant prospectus or any amendment is available on SEDAR, or provide the investor with a copy of the relevant prospectus or any amendment.

We are proposing changes to Companion Policy 54-101CP to National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* to clarify the interaction between the current delivery requirements and the proposed AED Model with respect to financial statements and related MD&A.

Local Matters

Where applicable, an additional annex is being published in any local jurisdiction that is making related changes to local securities laws, including local notices or other policy instruments in that jurisdiction. It also includes any additional information that is relevant to that jurisdiction only.

Request for Comments

We welcome your comments on the Proposed Amendments and also invite comments on the following specific questions.

1. With regards to financial statements and related MD&A, the Proposed Amendments provide that an issuer must issue and file a news release on SEDAR announcing that the documents are available electronically and specifying that a paper or an electronic copy of the documents can be obtained upon request.

    a. Would the requirement to issue and file a news release be unduly costly or onerous in these circumstances? If so, why? Would the burden differ depending on whether the issuer is a venture issuer or not?

    b. Should we consider alternative ways to alert investors of the availability of a document that could be less onerous? Which ones and why?

Please submit your comments in writing on or before **July 6, 2022**. Please send your comments by email in Microsoft Word format.

Please address your submission to all members of the CSA as follows:

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
The Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut

Deliver your comments only to the addresses below. Your comments will be distributed to the other participating CSA members.

Me Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1
Fax: 514 864-8381
Email: consultation-en-cours@lautorite.qc.ca

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416 593-2318
Email: comments@osc.gov.on.ca

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period. All comments received will be posted on the websites of each of the Alberta Securities Commission at www.albertasecurities.com, the Autorité des marchés financiers at www.lautorite.qc.ca and the Ontario Securities Commission at www.osc.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Contents of Annexes

- Annex A: Proposed Amendments to National Instrument 41-101 *General Prospectus Requirements*
- Annex B: Proposed Changes to Companion Policy 41-101CP to National Instrument 41-101 *General Prospectus Requirements*
- Annex C: Proposed Amendments to National Instrument 44-101 *Short Form Prospectus Distributions*

- Annex D: Proposed Amendments to National Instrument 44-102 *Shelf Distributions*
- Annex E: Proposed Changes to Companion Policy 44-102CP to National Instrument 44-102 *Shelf Distributions*
- Annex F: Proposed Amendments to National Instrument 44-103 *Post-Receipt Pricing*
- Annex G: Proposed Changes to Companion Policy 44-103CP to National Instrument 44-103 *Post-Receipt Pricing*
- Annex H: Proposed Amendments to National Instrument 51-102 *Continuous Disclosure Obligations*
- Annex I: Proposed Changes to Companion Policy 51-102CP *Continuous Disclosure Obligations*
- Annex J: Proposed Amendments to National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating To Foreign Issuers*
- Annex K: Proposed Changes to National Policy 11-201 *Electronic Delivery of Documents*
- Annex L: Proposed Changes to National Policy 47-201 *Trading Securities Using the Internet and Other Electronic Means*
- Annex M: Proposed Changes to Companion Policy 54-101CP to National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*

Questions

Please refer your questions to any of the following:

Autorité des marchés financiers

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British Columbia Securities Commission

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ANNEX A

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS*

1. National Instrument 41-101 General Prospectus Requirements is amended by this Instrument.

2. The following is added after Part 2:

PART 2A: Access to a Prospectus

Application

2A.1 This Part does not apply in respect of

(a) a prospectus to distribute rights,

(b) a prospectus filed under NI 44-102 or NI 44-103, and

(c) a prospectus to distribute securities of an investment fund.

Access equals delivery

2A.2(1) This section does not apply in British Columbia.

(2) The requirement under securities legislation to deliver or send a prospectus or any amendment is satisfied when access to the document has been provided in accordance with subsection 2A.3(3) or (6).

(3) The prospectus or any amendment is delivered or sent on the date that access to the document has been provided in accordance with subsection 2A.3(3) or (6).

(4) The prospectus or any amendment is received on the date the document has been delivered or sent in accordance with subsection (3).

(5) Except in Saskatchewan, if the final prospectus or any amendment is delivered or sent in accordance with subsection 2A.3(3), the right to withdraw from, or in Quebec the right to rescind, an agreement to purchase a security provided to a purchaser under securities legislation may be exercised within 2 business days after the later of

(a) the date the document is received in accordance with subsection (4), and

(b) the date that the purchaser has entered into the agreement to purchase the security.

(6) In Saskatchewan, if the final prospectus or any amendment has been delivered or sent in accordance with subsection 2A.3(3), a purchaser that is not a registrant may cancel a purchase if the purchaser has not sold or otherwise transferred beneficial ownership of the security and the person or company from whom the purchaser purchased the security receives notice in writing to cancel the agreement of purchase and sale for the security at any time up to 2 business days after the later of

(a) the date that the document is received in accordance with subsection (4), and

(b) the date that the purchaser has entered into the agreement to purchase the security.

Procedures

2A.3(1) This section does not apply in British Columbia.

(2) A final prospectus or any amendment must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

(3) Access to the final prospectus or any amendment has been provided if

(a) the document has been filed on SEDAR and a receipt has been issued for the document, and

(b) on the same day the document was filed, a news release has been issued and filed on SEDAR that states

(i) in the title of the news release, that the document is available,

(ii) that the document is accessible at www.sedar.com,

(iii) the securities that are offered under the document, and

(iv) the following:

"An electronic or paper copy of the final prospectus or any amendment may be obtained, without charge, from [*insert contact information for the issuer or dealer, as applicable*] by providing the contact with an email address or address, as applicable."

(4) If a prospective purchaser requests a copy of the preliminary prospectus or any amendment, or a purchaser requests a copy of the final prospectus or any amendment, from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the prospective purchaser or purchaser at the email address or address specified in the request.

(5) Except if a prospective purchaser indicates an interest in purchasing a security and requests a copy of the preliminary prospectus or any amendment, such document that is required to be delivered or sent must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

(6) Access to the preliminary prospectus or any amendment has been provided if the issuer has filed on SEDAR, and a receipt has been issued for, the document.

Exemption from requirement to send prospectus - British Columbia

2A.4 (1) In British Columbia, a dealer is exempt from a requirement under securities legislation to send a final prospectus or any amendment if

(a) the document has been filed on SEDAR and a receipt has been issued for the document, and

(b) on the same day the document was filed, a news release has been issued and filed on SEDAR that states

(i) in the title of the news release, that the document is available,

(ii) that the document is accessible at www.sedar.com,

(iii) the securities that are offered under the document, and

(iv) the following:

"An electronic or paper copy of the final prospectus or any amendment may be obtained, without charge, from [*insert contact information for the issuer or dealer, as applicable*] by providing the contact with an email address or address, as applicable."

(2) In British Columbia, a dealer or issuer that solicits an expression of interest from a prospective purchaser is exempt from the requirement in securities legislation to send a copy of the preliminary prospectus or any amendment to the prospective purchaser if the document has been filed on SEDAR and a receipt has been issued for the document.

(3) If a purchaser requests a copy of the final prospectus or any amendment from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the purchaser at the email address or address specified in the request.

(4) If a dealer relies on subsection (1), an agreement of purchase and sale is not binding on a purchaser if the dealer from whom the purchaser purchases the security receives written notice sent by the purchaser, evidencing the intention of the purchaser not to be bound by the agreement, not later than 2 business days after the later of

(a) the date that conditions referred to in subsection (1) are satisfied, and

(b) the date of the agreement.

(5) Subsection (4) does not apply if the purchaser

(a) is a registrant, or

(b) disposes of the beneficial ownership of the security referred to in subsection (4), otherwise than to realize on collateral given for debt, before the end of the time referred to in subsection (4).

(6) For the purposes of this section, receipt of the notice referred to in subsection (4) by a dealer that acted as agent of the seller with respect to the sale of the security referred to in subsection (1) is deemed to be receipt by the seller on the date on which the dealer received the notice.*.*

3. Subsection 13.1(1) is amended

(a) by adding "and is available on SEDAR***" after "***A preliminary prospectus containing important information relating to these securities has been filed with securities commissions or similar authorities in certain jurisdictions of Canada***", and***

(b) by deleting "name and***".***

4. Subsection 13.2(1) is amended

(a) by adding "and is available on SEDAR***" after "***The prospectus contains important detailed information about the securities being offered***", and***

(b) by deleting "name and***".***

5. Subsection 13.5(2) is amended by adding "and is available on SEDAR***" after "***A preliminary prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada]***".***

6. Subsection 13.6(2) is amended by adding "and is available on SEDAR***" after "***A final prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada]***".***

7. Paragraph 13.7(1)(g) is replaced with the following:

(g) the investment dealer

(i) includes, in the marketing materials, a statement that the preliminary prospectus or any amendment is available on SEDAR, or

(ii) provides, with the marketing materials, a copy of the preliminary prospectus or any amendment.*.*

8. Subsection 13.7(5) is amended

(a) by adding "and is available on SEDAR. Copies of the preliminary prospectus or any amendment may be obtained from [insert contact information for dealer or other relevant person or entity.]***" after "***A preliminary prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada]***", and***

(b) by deleting "A copy of the preliminary prospectus, and any amendment, is required to be delivered with this document.***".***

9. Paragraph 13.8(1)(g) is replaced with the following:

(g) the investment dealer

(i) includes, in the marketing materials, a statement that the final prospectus or any amendment is available on SEDAR, or

(ii) provides, with the marketing materials, a copy of the final prospectus or any amendment.*.*

10. Subsection 13.8(5) is amended

(a) by adding "and is available on SEDAR. Copies of the final prospectus or any amendment may be obtained from [insert contact information for dealer or other relevant person or entity.]***" after "***A final prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada]***", and***

(b) by deleting "A copy of the final prospectus, and any amendment, is required to be delivered with this document.***".***

11. Paragraph 13.9(3)(c) is replaced with the following:

(c) make an oral statement at the commencement of the road show that the preliminary prospectus or any amendment is available on SEDAR, or provide the investor with a copy of the preliminary prospectus or any amendment.**.**

12. Subsection 13.9(4) is amended by adding "The preliminary prospectus or any amendment is available on SEDAR.***" after "***Investors should read the preliminary prospectus, the final prospectus and any amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.***".***

13. Paragraph 13.10(3)(c) is replaced with the following:

(c) make an oral statement at the commencement of the road show that the final prospectus or any amendment is available on SEDAR, or provide the investor with a copy of the final prospectus or any amendment.**.**

14. Subsection 13.10(4) is amended by adding "The final prospectus or any amendment is available on SEDAR.***" after "***Investors should read the final prospectus and any amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.***".***

15. Section 16.1 is amended by adding "and despite subsection 2A.3(5),***" after "***Except in Ontario,**.*

16. Schedule 3 of APPENDIX A is amended by replacing the address of the regulator in Québec with the following:

Autorité des marchés financiers

Attention: Responsable de l'accès à l'information

800, rue du Square-Victoria, 22e étage

C.P. 246, Place Victoria

Montréal, Québec H4Z 1G3

Telephone: (514) 395-0337

Toll Free in Québec: (877) 525-0337

www.lautorite.qc.ca

17. Form 41-101F1 INFORMATION REQUIRED IN A PROSPECTUS is amended by adding the following section:

Right of withdrawal

1.10.1 Include a cross-reference to the section in the prospectus or any amendment where information about the right to withdraw from an agreement to purchase securities is provided**.**

18. Form 41-101F1 INFORMATION REQUIRED IN A PROSPECTUS is amended by adding the following section:

Access procedures - general

30.1.1 If the issuer intends to issue and file, under subsection 2A.3(3) or 2A.4(1) of the Instrument, or under subsection 2A.3(3) or 2A.4(1) of NI 44-103, a news release announcing that the prospectus or any amendment is available on SEDAR, replace the second sentence in the statement required under section 30.1 with a sentence in substantially the following form:

"This right may be exercised within 2 business days after the later of (a) the date that the issuer (i) filed the prospectus or any amendment on SEDAR and a receipt is issued for the document, and (ii) issued and filed a news release on SEDAR announcing that the document is available, and (b) the date that the purchaser has entered into an agreement to purchase the securities."*.*

19. Form 41-101F1 INFORMATION REQUIRED IN A PROSPECTUS is amended by adding the following section:

Access procedures - non-fixed price offerings

30.2.1 In the case of a non-fixed price offering, if the issuer intends to issue and file, under subsection 2A.3(3) or 2A.4(1) of the Instrument, or under subsection 2A.3(3) or 2A.4(1) of NI 44-103, a news release announcing that the prospectus or any amendment is available on SEDAR, replace, if applicable in the jurisdiction in which the prospectus is filed, the second sentence in the statement in section 30.1 with a sentence in substantially the following form:

"Irrespective of the determination at a later date of the purchase price of the securities distributed, this right may only be exercised within 2 business days after the later of (a) the date that the issuer (i) filed the prospectus or any amendment on SEDAR and a receipt is issued for the document, and (ii) issued and filed a news release on SEDAR announcing that the document is available, and (b) the date that the purchaser has entered into an agreement to purchase the securities."*.*

Effective date

20. (1) This Instrument comes into force on •.

(2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after •, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX B

PROPOSED CHANGES TO
COMPANION POLICY 41-101CP TO NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS*

1. Companion Policy 41-101CP to National Instrument 41-101 General Prospectus Requirements is changed by this Document.

2. The following Part is added:

PART 2A: Access to a Prospectus

Delivery obligation

2A.1 Securities legislation generally requires a dealer who receives an order to purchase a security offered in a distribution to deliver or send to the purchaser a copy of the prospectus or any amendment. Securities legislation generally requires a dealer who solicits expressions of interest from a prospective purchaser to deliver or send to the prospective purchaser a copy of the preliminary prospectus or any amendment.

In jurisdictions except British Columbia, under subsection 2A.3(2) or (5), a dealer must provide access to the document in accordance with subsection 2A.3(3) or (6) of the Instrument to satisfy its delivery obligation under securities legislation, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

In British Columbia, a dealer is provided with an exemption from the requirement in securities legislation to send a prospectus, preliminary prospectus or any amendment if the conditions set out in subsection 2A.4(1) or (2) are met**.**

3. Section 6.2 is amended by adding the following subsection:

Copies of a prospectus

(7.1) The term “copy” or “copies” in the legends of marketing materials referred to in Part 13 of the Instrument, Part 7 of NI 44-101, Part 9A of NI 44-102 and Part 4A of NI 44-103 means a paper or an electronic copy**.**

4. These changes become effective on •.

ANNEX C

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-101 *SHORT FORM PROSPECTUS DISTRIBUTIONS*

1. National Instrument 44-101 Short Form Prospectus Distributions is amended by this Instrument.

2. Paragraph 7.2(c) is replaced with the following:

(c) upon issuance of a receipt for the preliminary short form prospectus,

(i) a written or oral statement that the preliminary short form prospectus is available on SEDAR is made to each person or company that, in response to the solicitation, expressed an interest in acquiring the securities, or

(ii) a copy of the preliminary short form prospectus is sent to each person or company that, in response to the solicitation, expressed an interest in acquiring the securities, and***.***

3. Paragraph 7.4(2)(c) is replaced with the following:

(c) upon issuance of a receipt for the preliminary short form prospectus,

(i) a written or oral statement that the preliminary short form prospectus is available on SEDAR is made to each person or company that, in response to the solicitation, expressed an interest in acquiring the securities, or

(ii) a copy of the preliminary short form prospectus is sent to each person or company that, in response to the solicitation, expressed an interest in acquiring the securities, and***.***

4. Subsection 7.5(2) is replaced with the following:

(2) A standard term sheet provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A preliminary short form prospectus containing important information relating to the securities described in this document has not yet been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada].

The preliminary short form prospectus will be available on SEDAR. A copy of the preliminary short form prospectus may be obtained from [insert contact information for the investment dealer or underwriters]. There will not be any sale or any acceptance of an offer to buy the securities until a receipt for the final short form prospectus has been issued.

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the preliminary short form prospectus, final short form prospectus and any amendment, for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.**.**

5. Paragraph 7.6(1)(g) is replaced with the following:

(g) the marketing materials include a statement that the preliminary short form prospectus will be available on SEDAR, or, upon issuance of a receipt for the preliminary short form prospectus, a copy of the preliminary short form prospectus is sent to each person or company that received the marketing materials and expressed an interest in acquiring the securities.**.**

6. Subsection 7.6(5) is replaced with the following:

(5) Marketing materials provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A preliminary short form prospectus containing important information relating to the securities described in this document has not yet been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada]. The preliminary short form prospectus will be available on SEDAR. A copy of the preliminary short form prospectus may be obtained from [*insert contact information for the investment dealer or underwriters*].

There will not be any sale or any acceptance of an offer to buy the securities until a receipt for the final short form prospectus has been issued.

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the preliminary short form prospectus, final short form prospectus and any amendment, for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.***.***

7. Paragraph 7.7(3)(c) is replaced with the following:

(c) make an oral statement at the commencement of the road show that the preliminary prospectus or any amendment will be available on SEDAR, or, upon issuance of a receipt for the preliminary prospectus, provide the investor with a copy of the preliminary prospectus or any amendment.***.***

8. Item 1 of Form 44-101F1 SHORT FORM PROSPECTUS is amended by adding the following section:

1.9.1 Right of Withdrawal

Include a cross-reference to the section in the short form prospectus or any amendment where information about the right to withdraw from an agreement to purchase securities is provided.***.***

9. Item 20 of Form 44-101F1 SHORT FORM PROSPECTUS is amended by adding the following sections:

20.1.1 Access Procedures – General

If the issuer intends to issue and file, under subsection 2A.3(3) or 2A.4(1) of NI 41-101, under subsection 6A.3(3) or 6A.4(1) of NI 44-102, or under subsection 2A.3(3) or 2A.4(1) of NI 44-103, a news release announcing that the short form prospectus or any amendment is available on SEDAR, replace the second sentence in the statement required under section 20.1 with a sentence in substantially the following form:

This right may be exercised within 2 business days after the later of (a) the date that the issuer (i) filed the prospectus or any amendment on SEDAR and a receipt is issued for the document, and (ii) issued and filed a news release on SEDAR announcing that the document is available, and (b) the date that the purchaser has entered into an agreement to purchase the securities.***, and***

20.2.1 Access Procedures – Non-fixed Price Offerings

In the case of a non-fixed price offering, if the issuer intends to issue and file, under subsection 2A.3(3) or 2A.4(1) of NI 41-101, under subsection 6A.3(3) or 6A.4(1) of NI 44-102, or under subsection 2A.3(3) or 2A.4(1) of NI 44-103, a news release announcing that the short form prospectus or any amendment is available on SEDAR, replace, if applicable in the jurisdiction in which the short form prospectus is filed, the second sentence in the statement required under section 20.1 with a sentence in substantially the following form:

"Irrespective of the determination at a later date of the purchase price of the securities distributed, this right may only be exercised within 2 business days after the later of (a) the date that the issuer (i) filed the prospectus or any amendment on SEDAR and a receipt is issued for the document, and (ii) issued and filed a news release on SEDAR announcing that the document is available, and (b) the date that the purchaser has entered into an agreement to purchase the securities."***.***

10. (1) This Instrument comes into force on •.

(2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after •, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX D

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-102 *SHELF DISTRIBUTIONS*

1. National Instrument 44-102 Shelf Distributions is amended by this Instrument.

2. Section 6.7 is amended by replacing "The***" before "***shelf prospectus supplement***" with "***Subject to Part 6A, the***".***

3. The following Part is added:

PART 6A ACCESS TO SHELF PROSPECTUS SUPPLEMENTS AND BASE SHELF PROSPECTUSES

6A.1 Application - This Part does not apply in respect of

(a) a prospectus to distribute securities by way of an MTN program or other continuous distribution, and

(b) a prospectus to distribute securities of an investment fund.

6A.2 Access equals delivery

(1) This section does not apply in British Columbia.

(2) The requirement under securities legislation to deliver or send a prospectus is satisfied when access to the shelf prospectus supplement, the corresponding base shelf prospectus, the preliminary base shelf prospectus or any amendment to the documents has been provided in accordance with subsection 6A.3(3) or (6).

(3) The shelf prospectus supplement, the corresponding base shelf prospectus, the preliminary base shelf prospectus or any amendment to the documents is delivered or sent on the date that access to the document has been provided in accordance with subsection 6A.3(3) or (6).

(4) The shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is received on the date the document has been delivered or sent in accordance with subsection (3).

(5) Except in Saskatchewan, if the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is delivered or sent in accordance with subsection 6A.3(3), the right to withdraw from, or in Quebec the right to rescind, an agreement to purchase a security provided to a purchaser under securities legislation may be exercised within 2 business days after the later of

(a) the date the document is received in accordance with subsection (4); and

(b) the date that the purchaser has entered into the agreement to purchase the security.

(6) In Saskatchewan, if the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents has been delivered or sent in accordance with subsection 6A.3(3), a purchaser that is not a registrant may cancel a purchase if the purchaser has not sold or otherwise transferred beneficial ownership of the security and the person or company from whom the purchaser purchased the security receives notice in writing to cancel the agreement of purchase and sale for the security at any time up to 2 business days after the later of

(a) the date that the document is received in accordance with subsection (4), and

(b) the date that the purchaser has entered into the agreement to purchase the security.

6A.3 Procedures

(1) This section does not apply in British Columbia.

(2) A shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

(3) Access to the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents has been provided if

(a) the base shelf prospectus or any amendment has been filed on SEDAR and a receipt has been issued for the document,

(b) the shelf prospectus supplement or any amendment has been filed on SEDAR, and

(c) on the same day the shelf prospectus supplement or any amendment was filed, a news release has been issued and filed on SEDAR that states

(i) in the title of the news release, that the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is available,

(ii) that the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is accessible at www.sedar.com,

(iii) the securities that are offered under the shelf prospectus supplement, and

(iv) the following:

"An electronic or paper copy of the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents may be obtained, without charge, from [*insert contact information for the issuer or dealer, as applicable*] by providing the contact with an email address or address, as applicable."

(4) If a prospective purchaser requests a copy of the preliminary base shelf prospectus or any amendment, or a purchaser requests a copy of the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents, from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the prospective purchase or purchaser at the email address or address specified in the request.

(5) Except if a prospective purchaser indicates an interest in purchasing a security and requests a copy of the preliminary base shelf prospectus or any amendment, such document that is required to be delivered or sent must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

(6) Access to the preliminary base shelf prospectus or any amendment has been provided if the issuer has filed on SEDAR, and a receipt has been issued for, the document.

6A.4 Exemption from requirement to send prospectus - British Columbia

(1) In British Columbia, a dealer is exempt from a requirement under securities legislation to send a prospectus or any amendment if

(a) the base shelf prospectus or any amendment has been filed on SEDAR and a receipt has been issued for the document,

(b) the shelf prospectus supplement or any amendment has been filed on SEDAR, and

(c) on the same day the shelf prospectus supplement or any amendment was filed, a news release has been issued and filed on SEDAR that states

(i) in the title of the news release, that the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is available,

(ii) that the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is accessible at www.sedar.com,

(iii) the securities that are offered under the shelf prospectus supplement, and

(iv) the following:

"An electronic or paper copy of the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents may be obtained, without charge, from [*insert contact information for the issuer or dealer, as applicable*] by providing the contact with an email address or address, as applicable."

(2) In British Columbia, a dealer or issuer that solicits an expression of interest from a prospective purchaser is exempt from the requirement in securities legislation to send a copy of the preliminary base shelf prospectus or any amendment to the prospective purchaser if the document has been filed on SEDAR and a receipt has been issued for the document.

(3) If a purchaser requests a copy of the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the purchaser at the email address or address specified in the request.

(4) If a dealer relies on subsection (1), an agreement of purchase and sale is not binding on a purchaser if the dealer from whom the purchaser purchases the security receives written notice sent by the purchaser, evidencing the intention of the purchaser not to be bound by the agreement, not later than 2 business days after the later of

(a) the date that conditions referred to in subsection (1) are satisfied, and

(b) the date of the agreement.

(5) Subsection (4) does not apply if the purchaser

(a) is a registrant, or

(b) disposes of the beneficial ownership of the security referred to in subsection (4), otherwise than to realize on collateral given for debt, before the end of the time referred to in subsection (4).

(6) For the purposes of this section, receipt of the notice referred to in subsection (4) by a dealer that acted as agent of the seller with respect to the sale of the security referred to in subsection (1) is deemed to be receipt by the seller on the date on which the dealer received the notice**.**

4. Subsection 9.2(1) is replaced with the following:

(1) The following provisions do not apply to an issuer distributing a security under an ATM prospectus:

(a) section 7.2 of NI 41-101;

(b) section 1.9A of Form 44-101F1;

(c) item 20 of Form 44-101F1;

(d) item 8 of section 5.5 of this Instrument;

(e) Part 6A of this Instrument**.**

5. Subsection 9A.2(2) is replaced with the following:

(2) A standard term sheet provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A final base shelf prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada].

The final base shelf prospectus, any amendment and any applicable shelf prospectus supplement are available on SEDAR. Copies of the documents may be obtained from [*insert contact information for the investment dealer or underwriters*].

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision**.**

6. Paragraph 9A.3(1)(g) is replaced with the following:

(g) the investment dealer

(i) includes, in the marketing materials, a statement that the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement are available on SEDAR, or

(ii) provides, with the marketing materials, a copy of the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement that have been filed**.**

7. Subsection 9A.3(5) is replaced with the following:

(5) Marketing materials provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A final base shelf prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada].

The final base shelf prospectus, any amendment and any applicable shelf prospectus supplement are available on SEDAR. Copies of the documents may be obtained from [*insert contact information for the investment dealer or underwriters*].

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.***.***

8. Paragraph 9A.4(3)(c) is replaced with the following:

(c) make an oral statement at the commencement of the road show that the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement are available on SEDAR, or provide the investor with a copy of the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement that have been filed***.***

9. Subsection 9A.4(4) is amended by adding "The final base shelf prospectus, any amendment and any applicable shelf prospectus supplement are available on SEDAR.***" after "***Investors should read the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.***".***

10. (1) This Instrument comes into force on •.

(2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after •, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX E

PROPOSED CHANGES TO
COMPANION POLICY 44-102CP TO NATIONAL INSTRUMENT 44-102 *SHELF DISTRIBUTIONS*

1. Companion Policy 44-102CP to National Instrument 44-102 Shelf Distributions is changed by this Document.

2. Subsection 2.6(3) is changed by adding ", subject to Part 6A,***" after "***NI 44-102 provides that***".***

3. Section 2.9 is replaced with the following:

2.9 Rights of Rescission or Withdrawal

The securities regulatory authorities are of the view that statutory rights of rescission or withdrawal commence from the time of the purchaser's receipt of all relevant shelf prospectus supplements. It is only at this time that the entire prospectus has been delivered. If the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is delivered or sent in accordance with Part 6A of the Instrument, statutory rights of rescission or withdrawal commence from the later of (i) the date the shelf prospectus supplement or any amendment was filed on SEDAR and a news release was issued and filed on SEDAR announcing that the document is available, and (ii) the date that the purchaser has entered into the agreement to purchase the security.**.**

4. The following Part is added:

PART 2A ACCESS TO SHELF PROSPECTUS SUPPLEMENTS AND BASE SHELF PROSPECTUSES

2A.1 Delivery Obligation

Securities legislation generally requires a dealer who receives an order to purchase a security offered in a distribution to deliver or send to the purchaser a copy of the prospectus or any amendment. Securities legislation generally requires a dealer who solicits expressions of interest from a prospective purchaser to deliver or send to the prospective purchaser a copy of the preliminary prospectus or any amendment.

In jurisdictions except British Columbia, under subsection 6A.3(2) or (5), a dealer must provide access to the shelf prospectus supplement, the corresponding base shelf prospectus, the preliminary base shelf prospectus or any amendment to the documents in accordance with subsection 6A.3(3) or (6) of the Instrument to satisfy its delivery obligation under securities legislation, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

In British Columbia, a dealer is provided with an exemption from the requirement in securities legislation to send a shelf prospectus supplement, the corresponding base shelf prospectus, the preliminary base shelf prospectus or any amendment to the documents if the conditions set out in subsection 6A.4(1) or (2) are met.**.**

5. These changes become effective on ●.

ANNEX F

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-103 *POST-RECEIPT PRICING*

1. National Instrument 44-103 Post-Receipt Pricing is amended by this Instrument.

2. The following Part is added:

PART 2A ACCESS TO SUPPLEMENTED PREP PROSPECTUSES

2A.1 Application - This Part does not apply in respect of a prospectus to distribute securities of an investment fund.

2A.2 Access equals delivery

(1) This section does not apply in British Columbia.

(2) The requirement under securities legislation to deliver or send a prospectus is satisfied when access to the supplemented PREP prospectus, the preliminary base PREP prospectus or any amendment to the documents has been provided in accordance with subsection 2A.3(3) or (6).

(3) The supplemented PREP prospectus, the preliminary base PREP prospectus or any amendment to the documents is delivered or sent on the date that access to the document has been provided in accordance with subsection 2A.3(3) or (6).

(4) The supplemented PREP prospectus or any amendment is received on the date the document has been delivered or sent in accordance with subsection (3).

(5) Except in Saskatchewan, if the supplemented PREP prospectus or any amendment is delivered or sent in accordance with subsection 2A.3(3), the right to withdraw from, or in Quebec the right to rescind, an agreement to purchase a security provided to a purchaser under securities legislation may be exercised within 2 business days after the later of

(a) the date the document is received in accordance with subsection (4), and

(b) the date that the purchaser has entered into the agreement to purchase the security.

(6) In Saskatchewan, if the supplemented PREP prospectus or any amendment has been delivered or sent in accordance with subsection 2A.3(3), a purchaser that is not a registrant may cancel a purchase if the purchaser has not sold or otherwise transferred beneficial ownership of the security and the person or company from whom the purchaser purchased the security receives notice in writing to cancel the agreement of purchase and sale for the security at any time up to 2 business days after the later of

(a) the date that the document is received in accordance with subsection (4), and

(b) the date that the purchaser has entered into the agreement to purchase the security.

2A.3 Procedures

(1) This section does not apply in British Columbia.

(2) A supplemented PREP prospectus or any amendment must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

(3) Access to the supplemented PREP prospectus or any amendment has been provided if

(a) the base PREP prospectus or any amendment has been filed on SEDAR and a receipt has been issued for the document;

(b) the supplemented PREP prospectus or any amendment has been filed on SEDAR;

(c) on the same day the supplemented PREP prospectus or any amendment was filed, a news release has been issued and filed on SEDAR that states

(i) in the title of the news release, that the supplemented PREP prospectus or any amendment is available,

(ii) that the supplemented PREP prospectus or any amendment is accessible at www.sedar.com,

(iii) the securities that are offered under the supplemented PREP prospectus, and

(iv) the following:

"An electronic or paper copy of the supplemented PREP prospectus or any amendment may be obtained, without charge, from [*insert contact information for the issuer or dealer, as applicable*] by providing the contact with an email address or address, as applicable."

(4) If a prospective purchaser requests a copy of the preliminary base PREP prospectus or any amendment, or a purchaser requests a copy of the supplemented PREP prospectus or any amendment, from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the prospective purchaser or purchaser at the email address or address specified in the request.

(5) Except if a prospective purchaser indicates an interest in purchasing a security and requests a copy of the preliminary base PREP prospectus or any amendment, such document that is required to be delivered or sent must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

(6) Access to the preliminary base PREP prospectus or any amendment has been provided if the issuer has filed on SEDAR, and a receipt has been issued for, the document.

2A.4 Exemption from requirement to send prospectus – British Columbia

(1) In British Columbia, a dealer is exempt from a requirement under securities legislation to send a prospectus or any amendment if

(a) the base PREP prospectus or any amendment has been filed on SEDAR and a receipt has been issued for the document,

(b) a supplemented PREP prospectus or any amendment has been filed on SEDAR, and

(c) on the same day the supplemented PREP prospectus or any amendment was filed, a news release has been issued and filed on SEDAR that states

(i) in the title of the news release, that the supplemented PREP prospectus or any amendment is available,

(ii) that the supplemented PREP prospectus or any amendment is accessible at www.sedar.com,

(iii) the securities that are offered under the supplemented PREP prospectus, and

(iv) the following:

"An electronic or paper copy of the supplemented PREP prospectus or any amendment may be obtained, without charge, from [*insert contact information for the issuer or dealer, as applicable*] by providing the contact with an email address or address, as applicable."

(2) In British Columbia, a dealer or issuer that solicits expressions of interest from a prospective purchaser is exempt from the requirement in securities legislation to send a copy of the preliminary base PREP prospectus or any amendment to the prospective purchaser if the document has been filed on SEDAR and a receipt has been issued for the document.

(3) If a purchaser requests a copy of the supplemented PREP prospectus or any amendment from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the purchaser at the email address or address specified in the request.

(4) If a dealer relies on subsection (1), an agreement of purchase and sale is not binding on a purchaser if the dealer from whom the purchaser purchases the security receives written notice sent by the purchaser, evidencing the intention of the purchaser not to be bound by the agreement, not later than 2 business days after the later of

(a) the date that conditions referred to in subsection (1) are satisfied, and

(b) the date of the agreement.

(5) Subsection (4) does not apply if the purchaser

(a) is a registrant, or

(b) disposes of the beneficial ownership of the security referred to in subsection (4), otherwise than to realize on collateral given for debt, before the end of the time referred to in subsection (4).

(6) For the purposes of this section, receipt of the notice referred to in subsection (4) by a dealer that acted as agent of the seller with respect to the sale of the security referred to in subsection (1) is deemed to be receipt by the seller on the date on which the dealer received the notice.**.**

3. Section 4A.2 is amended by replacing subsection (2) with the following:

(2) A standard term sheet provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A [final base PREP prospectus/supplemented PREP prospectus] containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada].

The [final base PREP prospectus/supplemented PREP prospectus] or any amendment is available on SEDAR. A copy of the document may be obtained from *[insert contact information for the investment dealer or underwriters]*.

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the supplemented PREP prospectus and any amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.**.**

4. Paragraph 4A.3(1)(g) is replaced with the following:

(g) the investment dealer

(i) includes, in the marketing materials, a statement that the final base PREP prospectus or any amendment, or if it has been filed, the supplemented PREP prospectus or any amendment, is available on SEDAR, or

(ii) provides, with the marketing materials, a copy of the final base PREP prospectus or any amendment, or if it has been filed, the supplemented PREP prospectus or any amendment.**.**

5. Subsection 4A.3(6) is replaced with the following:

(6) Marketing materials provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A [final base PREP prospectus/supplemented PREP prospectus] containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada].

The [final base PREP prospectus/supplemented PREP prospectus] or any amendment is available on SEDAR. A copy of the document may be obtained from [*insert contact information for the investment dealer or underwriters*].

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the supplemented PREP prospectus and any amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.**.**

6. Paragraph 4A.4(3)(c) is replaced with the following:

(c) make an oral statement at the commencement of the road show that the final base PREP prospectus and any amendment, or if they have been filed, the supplemented PREP prospectus and any amendment, are available on SEDAR, or provide the investor with a copy of the final base PREP prospectus and any amendment, or if they have been filed, the supplemented PREP prospectus and any amendment.**.**

7. Subsection 4A.4(4) is amended by adding "The [final base PREP prospectus/ supplemented PREP prospectus] or any amendment is available on SEDAR.***" after "***Investors should read the supplemented PREP prospectus and any

amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.***”.***

8. (1) This Instrument comes into force on •.

(2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after •, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX G

PROPOSED CHANGES TO
COMPANION POLICY 44-103CP TO NATIONAL INSTRUMENT 44-103 *POST-RECEIPT PRICING*

1. Companion Policy 44-103CP to National Instrument 44-103 Post-Receipt Pricing is changed by this Document.

2. The following Part is added:

PART 2A ACCESS TO SUPPLEMENTED PREP PROSPECTUSES

2A.1 Delivery Obligation – Securities legislation generally requires a dealer who receives an order to purchase a security offered in a distribution to deliver or send to the purchaser a copy of the prospectus or any amendment. Securities legislation generally requires a dealer who solicits expressions of interest from a prospective purchaser to deliver or send to the prospective purchaser a copy of the preliminary prospectus or any amendment.

In jurisdictions except British Columbia, under subsection 2A.3(2) or (5), a dealer must provide access to the supplemented PREP prospectus, the preliminary base PREP prospectus or any amendment to the documents in accordance with subsection 2A.3(3) or (6) of the Instrument to satisfy its delivery obligation under securities legislation, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

In British Columbia, a dealer is provided with an exemption from the requirement in securities legislation to send a supplemented PREP prospectus, the preliminary base PREP prospectus or any amendment to the documents if the conditions set out in subsection 2A.4(1) or (2) are met**.**

3. Section 3.3 is replaced with the following:

3.3 Rights of Rescission or Withdrawal – The securities regulatory authorities are of the view that statutory rights of rescission or withdrawal commence from the time of the purchaser's receipt of a supplemented PREP prospectus. It is only at this time that the entire prospectus has been delivered. If the supplemented PREP prospectus or any amendment is delivered or sent in accordance with Part 2A of the Instrument, statutory rights of rescission or withdrawal commence from the later of (i) the date the supplemented PREP prospectus or any amendment was filed on SEDAR, and a news release was issued and filed on SEDAR announcing that the document is available, and (ii) the date that the purchaser has entered into the agreement to purchase the security**.**

4. These changes become effective on ●.

ANNEX H

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 51-102 *CONTINUOUS DISCLOSURE OBLIGATIONS*

1. National Instrument 51-102 Continuous Disclosure Obligations is amended by this Instrument.

2. The following is added after section 4.2:

4.2.1 Access to Annual Financial Statements

(1) A reporting issuer must issue and file a news release in accordance with subsection (2) unless the reporting issuer complies with paragraph 4.6(1)(a) or subsection 4.6(5).

(2) A reporting issuer that has filed its annual financial statements and MD&A for the annual financial statements on SEDAR, as required by sections 4.1 and 5.1, must issue and file a news release on SEDAR on the same day that it has filed the documents that states:

(a) in the title that the documents are available,

(b) that the documents are accessible at www.sedar.com, and

(c) the following

"An electronic or paper copy of the annual financial statements and MD&A for the annual financial statements may be obtained, without charge, by a registered holder or beneficial owner of the reporting issuer's securities, other than debt instruments, from [insert contact information for the reporting issuer] by providing the contact person with an email address or address, as applicable."**.**

3. The following is added after section 4.4:

4.4.1 Access to an Interim Financial Report

(1) A reporting issuer must issue and file a news release in accordance with subsection (2) unless the reporting issuer complies with paragraph 4.6(1)(b).

(2) A reporting issuer that has filed its interim financial report and MD&A for the interim financial report on SEDAR, as required by sections 4.3 and 5.1, must issue and file a news release on SEDAR on the same day that it has filed the documents that states:

(a) in the title that the documents are available,

(b) that the documents are accessible at www.sedar.com, and

(c) the following

"An electronic or paper copy of the interim financial report and MD&A for the interim financial report may be obtained, without charge, by a registered holder or beneficial owner of the reporting issuer's securities, other than debt instruments, from [insert contact information for the reporting issuer] by providing the contact person with an email address or address, as applicable."**.**

4. Subsection 4.6(1) is amended

(a) by replacing "Subject to subsection (2)***" with "***Unless the reporting issuer issues and files a news release in accordance with subsections 4.2.1(2) and 4.4.1(2)***", and***

(b) in paragraph (a) by deleting "paper***".***

Effective date

5. (1) This Instrument comes into force on **[•]**.

(2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after **[•]**, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX I

PROPOSED CHANGES TO
COMPANION POLICY 51-102CP *CONTINUOUS DISCLOSURE OBLIGATIONS*

1. Companion Policy 51-102CP Continuous Disclosure Obligations is changed by this Document.

2. The following is added after section 3.3:

3.3.1 Access to financial statements

(1) The news releases required by subsections 4.2.1(2) and 4.4.1(2) of the Instrument are intended to inform the registered holders and beneficial owners of the reporting issuer' securities, other than debt instruments, that the reporting issuer's annual financial statements and related MD&A, and interim financial reports and related MD&A are available on SEDAR.

(2) If a request for a copy of the financial statements is received from a registered holder or beneficial owner of the reporting issuer's securities, other than debt instruments, the reporting issuer must send a copy of the document requested to the registered holder or beneficial owner at the email address or address specified in the request by the delivery deadline set out in paragraph 4.6(3)(c) of the Instrument**.**.

3. Subsection 3.5(1) is changed by replacing the first sentence with the following:

Unless the reporting issuer issues and files a news release in accordance with subsections 4.2.1(2) and 4.4.1(2), subsection 4.6(1) of the Instrument requires reporting issuers to send a request form to the registered holders and beneficial owners of their securities, other than debt instruments**.**.

4. This change becomes effective on **[•]**.

ANNEX J

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 71-102 *CONTINUOUS DISCLOSURE AND OTHER EXEMPTIONS RELATING TO FOREIGN ISSUERS*

1. National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers is amended by this Instrument.

2. Section 3.2 is amended by adding "Except as provided in section 3.2.1,***" before "***If a person***".***

3. The following is added after section 3.2:

3.2.1 Access to Financial Statements and MD&A by Canadian Securityholders

(1) Despite section 3.2, a person or company may issue and file a news release in accordance with subsection (2).

(2) A person or company that has filed its financial statements and MD&A on SEDAR, as required by this Instrument, may issue and file a news release on SEDAR on the same day that it has filed the documents that states:

(a) in the title that the documents are available,

(b) that the documents are accessible at www.sedar.com, and

(c) the following

"An electronic or paper copy of the financial statements and MD&A may be obtained, without charge, by a holder of the person or company's securities from [insert contact information for the person or company] by providing the contact person with an email address or address, as applicable."

(3) If a holder of the person or company's securities requests a copy of the financial statements or MD&A from the person or company, a copy of the document must be sent by the person or company, within 10 calendar days and without charge, to the holder of the person or company's securities at the email address or address specified in the request.

(4) A person or company is not required to send a copy of the financial statements or MD&A under subsection (3) that were filed more than one year before the person or company receives the request.**.**

4. Paragraph 4.3(d) is amended by adding "or 3.2.1***" after "***section 3.2***".***

5. Paragraph 4.4(c) is amended by adding "or 3.2.1***" after "***section 3.2***".***

6. Paragraph 5.4(c) is amended by adding "or 3.2.1***" after "***section 3.2***".***

7. Paragraph 5.5(c) is amended by adding "or 3.2.1***" after "***section 3.2***".***

Effective Date

8. (1) This Instrument comes into force on •.

(2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after •, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX K

PROPOSED CHANGES TO
NATIONAL POLICY 11-201 *ELECTRONIC DELIVERY OF DOCUMENTS*

1. National Policy 11-201 Electronic Delivery of Documents is changed by this Document.

2. Subsection 2.2(1) is changed by adding "generally***" after "***Securities legislation***".***

3. This change becomes effective on •.

ANNEX L

PROPOSED CHANGES TO
NATIONAL POLICY 47-201 *TRADING SECURITIES USING THE INTERNET AND OTHER ELECTRONIC MEANS*

1. National Policy 47-201 Trading Securities Using the Internet and Other Electronic Means is changed by this Document.

2. The following is added to the beginning of the third bullet in subsection 2.7(3):

"make an oral statement at the commencement of the road show that the relevant prospectus and any amendment are available on SEDAR, or***".***

3. This change becomes effective on **[•]**.

ANNEX M

PROPOSED CHANGES TO
COMPANION POLICY 54-101CP TO NATIONAL INSTRUMENT 54-101 *COMMUNICATION WITH BENEFICIAL OWNERS OF SECURITIES OF A REPORTING ISSUER*

1. Companion Policy 54-101CP to National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer is changed by this Document.

2. Section 4.1 is replaced with the following:

By completing a client response form as provided in Part 3 of the Instrument, a beneficial owner gives notice of its choices concerning the receipt of materials and the disclosure of ownership information concerning it. Pursuant to section 3.4 of the Instrument, a beneficial owner may, by notice to the intermediary through which it holds, change any prior instructions given in a client response form. Proximate intermediaries should alert their clients to the costs and other consequences of the options in the client response form. Unless the reporting issuer issues and files a news release in accordance with subsections 4.2.1(2) and 4.4.1(2) of National Instrument 51-102 *Continuous Disclosure Obligations* ("NI 51-102"), paragraph 4.6(1)(a) and subsection 4.6(5) of NI 51-102 requires reporting issuers to send annually a request form to the registered holders and beneficial holders of its securities that the holders may use to request a copy of the reporting issuer's financial statements and MD&A. Failing to return the request form or otherwise specifically request a copy of the financial statements or MD&A from the reporting issuer will override the beneficial owner's standing instructions under this Instrument in respect of the financial statements. However, a beneficial owner's standing instructions under this Instrument in respect of the financial statements will not be overridden if a reporting issuer issues and files a news release in accordance with subsections 4.2.1(2) and 4.4.1(2) of NI 51-102**.**

3. This change becomes effective on **[•]**.

ANNEX N

LOCAL MATTERS
ONTARIO SECURITIES COMMISSION

1. Introduction

The Ontario Securities Commission (the **Commission**) is publishing this Annex to supplement the CSA Notice and Request for Comment (the **CSA Notice**) and to set out matters required to be addressed by the *Securities Act* (Ontario) (the **Act**).

The CSA are publishing for comment proposed amendments and proposed changes to existing rules and policies (the **CSA Proposed Amendments**) to implement an access equals delivery model for prospectuses generally, annual financial statements, interim financial reports and related management's discussion & analysis (**MD&A**) for non-investment fund reporting issuers.

Please refer to the main body of the CSA Notice.

2. Local Amendments

In connection with the CSA Proposed Amendments, the Commission is also publishing for comment proposed amendments (**Local Proposed Amendments**, and together with the CSA Proposed Amendments, the **Proposed Amendments**) to Ontario Securities Commission Rule 51-801 *Implementing National Instrument 51-102 Continuous Disclosure Obligations* (attached as Schedule N1 to this Annex).

The Local Proposed Amendments are consequential to the proposed amendments to NI 51-102 and clarify that the requirement under section 79 of the Act to deliver financial statements does not apply to a reporting issuer that complies with the access procedures set out in section 4.2.1 and section 4.4.1 of NI 51-102.

3. Rationale for Intervention

We recognize that information technology is an important and useful tool in improving communication with investors and are committed to facilitating electronic access to documents where appropriate. Our objective is to enhance the accessibility of information for investors while reducing regulatory burden on issuers. An access equals delivery model is consistent with the general evolution of our capital markets, including changes in technology and, in particular, the increased availability and accessibility of information.

4. Proposed Intervention

Under the proposed access equals delivery model, providing public electronic access to a document and, where applicable, alerting investors that the document is available constitutes delivery under securities legislation (the **proposed AED Model**). Specifically, delivery is effected once

- the document is filed on the System for Electronic Document Analysis and Retrieval (**SEDAR**), and
- where applicable, a news release is issued and filed on SEDAR indicating that the document is available electronically and that a paper or an electronic copy can be obtained upon request.

The purpose of the proposed AED Model is to modernize the way certain documents are made available to investors and reduce costs associated with the printing and mailing of documents, which are currently borne by issuers. The proposed AED Model provides a more cost-efficient, timely and environmentally friendly manner of communicating information to investors than paper delivery. In our view, the proposed AED Model reduces regulatory burden on issuers without compromising investor protection. The proposed AED Model is consistent with the recommendation in the Capital Markets Modernization Taskforce Final Report dated January 2021 that an access equals delivery model should replace the defaulted delivery of disclosure documents of all issuers, including prospectuses, annual financial statements, interim financial reports and related MD&A.

5. Affected Stakeholders

a. CF Issuers

The proposed AED Model will only be available to issuers that are reporting issuers and that are not investment fund issuers (**CF Issuers**). As of December 6, 2021, there are 2,956 CF Issuers in good standing in Ontario. In addition, there are 2,052 CF Issuers in Ontario that are inactive, most of which have been cease traded. Inactive CF Issuers are not anticipated to be impacted by the proposed AED Model.

Financial Statements and Related MD&A

Currently, a CF Issuer is required to annually send a request form to the registered holders and beneficial owners of its securities, other than debt securities.[1] These registered holders and beneficial owners can use the request form to request (i) a paper copy of the CF Issuer's annual financial statements and related MD&A, and (ii) a copy of the CF Issuer's interim financial reports and related MD&A. Under the proposed AED Model as it relates to the delivery of annual financial statements, interim financial reports and their related MD&A, a CF Issuer can send these documents by providing access. Access to the annual financial statements and related MD&A and to the interim financial reports and related MD&A is provided by filing the documents on SEDAR and issuing and filing a news release on SEDAR announcing that the documents are available (**AED for Financial Statements**). Although the proposed AED Model is not mandatory, we expect that CF Issuers that regularly issue a news release in connection with the filing of their financial statements and related MD&A will choose to use AED for Financial Statements. For those CF Issuers, the use of AED for Financial Statements does not impose additional financial burden and saves them from annually sending a request form to securityholders.

Prospectuses

As described in detail below, the requirements to provide a copy of the preliminary prospectus and the final prospectus in connection with a prospectus distribution are on the investment dealer. However, we understand that the cost of copying and sending these documents is included as part of the expenses of the offering[2] and are borne by the issuer. In 2021, a total of 1716 prospectuses were filed in Ontario and in 2020, 966 prospectuses were filed in Ontario.[3]

b. Investment Dealers

Prospectuses

Currently, investment dealers may solicit expressions of interest to purchase securities under a prospectus distribution during the waiting period[4] if the prospective purchaser is provided a copy of the preliminary prospectus.[5] An investment dealer is required to also send a copy of the preliminary prospectus to each prospective purchaser who, without solicitation, indicates an interest in purchasing the security and requests a copy of the preliminary prospectus.[6] An investment dealer that receives an order or subscription for securities offered under a distribution for which a prospectus is required, must send by prepaid mail or deliver the final prospectus to the purchaser.[7]

Generally, under the proposed AED Model, access to a preliminary prospectus is provided by filing the document on SEDAR and a receipt being issued for the preliminary prospectus, and access to the final prospectus is provided by (i) filing the document on SEDAR and a receipt being issued for the final prospectus, and (ii) the CF Issuer issuing and filing a news release on SEDAR announcing that the final prospectus is available (collectively, **AED for Prospectuses**). Investment dealers that distribute securities in connection with prospectus offerings by CF Issuers will potentially benefit from the proposed AED Model. As of December 31, 2021, there are 162 investment dealers registered in Ontario.

We expect that investment dealers distributing securities in connection with prospectus offerings by CF Issuers that are required to send a copy of the preliminary prospectus to prospective purchasers or the final prospectus to purchasers under the distribution will want CF Issuers to use AED for Prospectuses. Although the cost of printing and delivering prospectuses may be paid by the issuer in a prospectus distribution, the investment dealer bears compliance-related costs associated with this obligation.

c. Securityholders/ Purchasers

Financial Statements and Related MD&A

If the proposed AED Model is adopted, we anticipate that AED for Financial Statements will have little impact on registered holders and beneficial owners of a CF Issuer's securities. Currently, securityholders must annually request to receive copies of financial statements and related MD&A. We understand that less than 0.5% of securityholders requested to receive copies of financial statements and related MD&A in each of 2019 and 2018. Securityholders of CF Issuers that use AED for Financial Statements that want to receive copies of financial statements and related MD&A can do so on a one-off basis or through standing instructions. We expect that those securityholders that have historically requested copies of financial statements and related MD&A will continue to do so under AED for Financial Statements.

1 Section 4.6 of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**).
2 The Commission does not collect data concerning expenses in connection with a prospectus distribution and does not receive or otherwise have access to the percentage of total expenses that relate to the obligation to provide a copy of the preliminary prospectus and the final prospectus to prospective purchasers and purchasers under a prospectus distribution.
3 This includes preliminary prospectuses, final prospectuses, shelf prospectuses, PREP prospectuses and amendments to these documents. This does not include shelf prospectuses filed in respect of a medium-term note programs or rights offering prospectuses.
4 The period after receipt of the preliminary prospectus relating to an offering and before receipt of the final prospectus.
5 Paragraph 65(2)(c) of the *Securities Act* (Ontario) (the **Act**).
6 Section 66 of the Act.
7 Subsection 71(1) of the Act. However, this obligation does not apply to a dealer acting as agent for the purchaser.

Prospectuses

AED for Prospectuses will potentially impact prospective purchasers from whom an investment dealer solicits expressions of interest or who, without solicitation, indicate an interest in purchasing securities offered under a prospectus distribution, as well as purchasers under the distribution. Investors that purchase their securities through a prospectus exempt transaction or who purchase their securities in the secondary market, typically over a stock exchange, will not be impacted by the proposed AED Model.

d. Third-party Service Providers

Financial Statements and Related MD&A

If the proposed AED Model is adopted and CF Issuers use AED for Financial Statements, those CF Issuers will not be required under securities law to annually send to registered and beneficial owners of their securities the form with which securityholders can request to receive annual financial statements, interim financial reports and related MD&A. Third-party service providers that annually copy and send the request form and track any request forms that are returned on behalf of CF Issuers will be impacted.

Prospectuses

Third-party service providers will also be impacted if CF Issuers use AED for Prospectuses because investment dealers will not be required to send a copy of the preliminary prospectus to prospective purchasers or the final prospectus to purchasers under the distribution. Copies of each preliminary prospectus or final prospectus will only need to be printed and sent when prospective purchasers and purchasers request physical copies. To the extent that third-party service providers are currently retained to copy and send prospectuses in connection with a prospectus distribution, those service providers will be impacted.

6. Anticipated Costs and Benefits of the Proposed Amendments

The following section analyzes the anticipated costs and benefits to the affected stakeholders described above. Data limitations present challenges to quantifying all the costs and benefits of the proposed AED Model. Few securityholders hold securities of CF Issuers registered in their own name. Most securityholders hold their securities of CF Issuers through intermediaries. These beneficial securityholders include (i) objecting beneficial owners (**OBO**s) that have each provided instructions that it objects to the intermediary disclosing ownership information about the beneficial owner to the CF Issuer, and (ii) non-objecting beneficial owners (**NOBO**s) that have each provided instructions that it does not object to the intermediary disclosing ownership information about the beneficial owner to the CF Issuer. Generally, a CF Issuer can obtain information concerning its number of registered securityholders and NOBOs but not OBOs. However, the Commission does not receive or otherwise have access to this information. As a result, we are unable to quantify the benefit related to not copying and sending an annual request form to such securityholders. Similarly, the Commission does not collect data concerning the number of prospective purchasers and purchasers under prospectus distributions by CF Issuers and we are therefore unable to quantify the benefit in respect of not being required to send copies of the preliminary prospectus and final prospectuses under AED for Prospectuses.

When considering the costs related to adopting AED for Financial Statements and AED for Prospectuses, it is important to recognize that CF Issuers are not required to use the proposed AED Model. Instead, the proposed AED Model provides an option to use AED for Financial Statements rather than sending financial statements and related MD&A and an option to use AED for Prospectuses rather than sending preliminary and final prospectuses. Moreover, under the proposed AED Model, prospective purchasers, purchasers and securityholders, retain the ability to request paper or electronic copies of prospectuses, and financial statements and related MD&A either on a one-off basis or through standing instructions with their dealer-advisors. Therefore, much of the anticipated costs are assumed to be at the discretion of these affected stakeholders.

a. CF Issuers

Financial Statements and Related MD&A

The benefit to CF Issuers in using AED for Financial Statements is that they will not need to annually copy and send request forms to securityholders and keep track of request forms returned by securityholders. Currently, the request form is likely copied and sent to securityholders together with the CF Issuer's annual proxy materials. As a result, the incremental cost to copy and send the one page is likely minimal. Depending on whether printing is completed in-house or externally, the cost to copy one page is between $0.05 and $0.40. Assuming for example that a CF Issuer has 1,000 registered securityholders and NOBOs, the cost to copy one additional page is $0.25 and there is no additional cost to send the one page to securityholders with their annual proxy materials, the CF Issuer will save $250 per year.

As mentioned above, under AED for Financial Statements, CF Issuers will not need to annually track returned request forms. However, CF Issuers will still be required to keep track of requests from securityholders for copies of financial statements and related MD&A and there should be no new costs related to record keeping as a result of AED for Financial Statements. Currently, securityholders can give standing instructions to their dealer-advisors that they want to receive copies of financial statements and MD&A. The ability to provide standing instructions is unchanged by AED for Financial Statements.

CF Issuers are currently required to file their financial statements and related MD&A on SEDAR. To use AED for Financial Statements, a CF Issuer is also required to issue and file a news release announcing that the financial statements and related MD&A are available on SEDAR. The requirement to issue and file a news release may impose a new cost to CF Issuers that use AED for Financial Statements. We undertook a review of a sample of reporting issuers listed on the Toronto Stock Exchange (**TSX**) and TSX Venture Exchange (**TSXV**) to collect data on the number of small, medium and large sized issuers that routinely issue news releases announcing that they have released financial statements and related MD&A[8]. Of the sample of issuers included in our review, as of November 30, 2021, approximately 94% of TSX listed issuers and 35% of TSXV listed issuers issued a news release to announce the availability of their annual financial statements and interim financial reports[9]. For those CF Issuers, there will be little or no additional cost to add the disclosure required by AED for Financial Statements to the news release. However, for CF Issuers that do not typically issue a news release to announce the release of their financial statements and related MD&A, if they choose to use AED for Financial Statements, they will bear the cost of issuing and filing a news release on SEDAR. Of the 2,956 CF Issuers that are active as of December 6, 2021, 1,994 are venture issuers. Based on our review of the sample of reporting issuers listed on the TSXV, less than 50% of venture issuers are likely to already issue a news release in connection with their financial statements and related MD&A. More specifically, we estimate that 65% of TSXV listed issuers do not currently issue news releases to announce the availability of their financial statements and would incur ongoing additional costs of approximately $1,500 to issue and file a news release, or $6,000 per year, in connection with using AED for Financial Statements[10].

There will also be an initial one-time cost associated with learning and meeting the specific requirements of AED for Financial Statements. We anticipate that the time spent understanding the requirements of AED for Financial Statements will be minimal. We estimate that in-house senior counsel for CF Issuers would spend approximately 6 hours to understand the CF Issuer's obligations under AED for Financial Statements and to update existing policies and procedures as necessary[11]. The costs associated with preparing the news release announcing the availability of the CF Issuer's financial statements and related MD&A will be the most significant component of the issuer's compliance costs. We estimate that CF Issuers that are venture issuers would spend 2 hours preparing each press release required under AED for Financial Statements or 8 hours annually.

Prospectuses

Although the obligations to provide a copy of the preliminary prospectus and the final prospectus in connection with a distribution are on the investment dealer, we understand that the cost of copying and sending these documents is included as part of the expenses of the offering and are ultimately borne by the issuer. The benefit to CF Issuers who elect to use AED for Prospectuses is that they will not need to make copies of preliminary prospectuses and final prospectuses and pay for those copies to be sent to prospective purchasers and purchasers. To use AED for Prospectuses, a CF Issuer is generally required to file the preliminary prospectus or final prospectus on SEDAR, and a receipt must be issued for the document, and the issuer must issue and file a news release announcing that the final prospectus is available on SEDAR. Since all prospectuses are required to be filed on SEDAR, this represents no new additional cost to issuers. However, not all CF Issuers issue a news release announcing that they have filed a final prospectus. For those CF Issuers, the requirement to issue a news release represents a cost to use AED for Prospectuses. We assume that venture issuers are more likely to not already issue a news release in connection with a final prospectus. In 2020, an aggregate of 206 final prospectuses were filed in Ontario by CF issuers that are venture issuers and in 2021, an aggregate of 277 final prospectuses were filed in Ontario by venture issuers.[12] If these venture issuers had relied on AED for Prospectuses, then a news release costing approximately $1,500 would have been issued in connection with each prospectus. However, it is important to point out that the cost of the news release would be de minimis relative to the amount raised by the venture issuer under the prospectus.

There will also be an initial one-time cost associated with learning the specific requirements of AED for Prospectuses. However, we anticipate that this will be minimal. We estimate that CF Issuers will spend 10 hours each understanding the requirements of AED for Prospectuses. The costs associated with preparing the news release announcing the availability of the final prospectus will be the most significant component of the issuer's compliance costs. We estimate that CF Issuers that are venture issuers will spend 3 hours preparing each news release required under AED for Prospectuses.

b. Investment Dealers

Investment dealers that distribute securities in connection with prospectus offerings by CF Issuers will benefit from the use of AED for Prospectuses because they will not be required to print and send copies of preliminary prospectuses and final prospectuses to prospective purchasers and purchasers unless they specifically request them. We expect that investment dealers will save on

8 Staff reviewed a stratified random sample of 80 TSX listed issuers and 170 TSXV listed issuers as at November 30, 2021. This sample includes issuers for whom Ontario is not the principal regulator. This sample includes small sized issuers with a market capitalization of less than $150 million, medium sized issuers with a market capitalization of $150 million to $500 million, and large sized issuers with a market capitalization of more than $500 million.

9 Although not all of the TSXV listed issuers issued a news release relating to the availability of their financial statements, most of them routinely issued news releases relating to significant developments, including financing activities and strategic updates.

10 Estimates are based on the Cision PR Newswire 2021 Pricing Guide https://cdn.ymaws.com/sites/www.ibpa-online.org/resource/resmgr/docs/PRNewswire_pricing_guide_20.pdf.

11 This translates to approximately $540 per issuer, assuming an hourly rate of $90 for senior in-house counsel. The hourly rate is based on the Counsel Network's *In-House Counsel Compensation and Career Report 2020* https://inhousecounsel.com/In-House-Counsel-Compensation-&-Career-Report-2020.pdf.

12 This includes final prospectuses and amendments to final prospectuses.

compliance costs under AED for Prospectuses because they will not need to track the delivery of a prospectus to prospective purchasers and purchasers that are required to be sent the preliminary prospectus and final prospectus, respectively. The costs applicable to investment dealers to use AED for Prospectuses will be limited to initial one-time costs associated with learning and understanding AED for Prospectuses and updating their internal processes. We estimate that each investment dealer will spend 10 hours learning about AED for Prospectuses and updating their internal processes.

c. Securityholders/ Purchasers

Financial Statements and Related MD&A

Securityholders of CF Issuers that choose to use AED for Financial Statements will no longer annually receive request forms with which the securityholder can request copies of financial statements and related MD&A. We understand that less than 0.5% of securityholders requested to receive copies of financial statements and related MD&A in each of 2019 and 2018. To continue receiving copies of financial statements and related MD&A, those securityholders will need to provide standing instructions to their dealer-advisors or request the documents on a one-off basis. Securityholders will not be prompted annually to request the documents and may not see news releases issued by the CF Issuers that announce that financial statements and related MD&A are available. However, we believe that most securityholders who want to review the financial statements and related MD&A of CF Issuers are aware that the documents become available at regular intervals during the year. Although some stakeholders have expressed concerns that securityholders may be negatively impacted [13], we generally believe that securityholders that are interested in obtaining financial statements and related MD&A can, with minimal effort, obtain copies of those documents. As such, we do not anticipate that securityholders will incur additional costs should CF Issuers choose to use AED for Financial Statements.

Prospectuses

If AED for Prospectuses is adopted and used by a CF Issuer, prospective purchasers from whom an investment dealer solicits expressions of interest or who, without solicitation, indicate an interest in purchasing securities offered under a prospectus distribution will not receive a copy of the preliminary prospectus unless they specifically request a copy. Similarly, purchasers who order or subscribe for securities will not receive a copy of the final prospectus unless they specifically request a copy. We understand that most purchasers under a prospectus are institutional investors rather than retail investors. Generally, we expect that prospective purchasers and purchasers under a prospectus are sophisticated investors and are able to access the preliminary prospectus and final prospectus easily through SEDAR. Moreover, we have been advised that, when considering an investment in prospectus distributions, investors are aware that information relevant to their decision making is available on SEDAR and do not wait for, or rely on, paper delivery of a prospectus to inform their investment decision.[14]

We also note that, since prospective purchasers have either been solicited to purchase under the distribution or have indicated an interest in purchasing under the distribution without having been solicited, they can easily request a copy of the preliminary prospectus. Equally, purchasers that order or subscribe for securities can easily request a copy of the final prospectus. We do not anticipate that securityholders will incur additional costs should CF Issuers choose to use AED for Prospectuses.

d. Third-party Service Providers

Financial Statements and MD&A

If the proposed AED Model is adopted and CF Issuers use AED for Financial Statements, third-party service providers that annually copy, send and track requests to receive financial statements and related MD&A will be impacted. The impact on these third-party service providers will depend on their individual agreements with CF Issuers and is therefore difficult to estimate. We note, however, that securityholders can still request to receive copies of financial statements and related MD&A. To the extent that third-party service providers have been retained by CF Issuers to keep track of and meet requests from securityholders for financial statements and MD&A, their services may also be required under AED for Financial Statements.

Prospectuses

Adoption of the proposed AED Model and use of AED for Prospectuses by CF Issuers will also impact third-party service providers as investment dealers will not be required to send a copy of the preliminary prospectus to prospective purchasers or the final prospectus to purchasers under the distribution. Copies of the preliminary prospectus or final prospectus will only be printed and sent when prospective purchasers and purchasers request physical copies. To the extent that CF Issuers currently retain third-party service providers to complete these tasks, those service providers' revenues may be negatively impacted.

[13] Broadridge Financial Solutions, Inc. (March 9, 2020), Bev Kennedy (January 26, 2020), and K. Kivenko (January 14, 2020).
[14] Investment Industry Association of Canada (March 6, 2020).

7. Rule-making Authority

In Ontario, the following provisions of the Act provide the Commission with authority to make the Proposed Amendments:

- paragraph 16(ix) of subsection 143(1) of the Act authorizes the Commission to make rules regulating in respect of, or varying the Act to facilitate, expedite or regulate in respect of, the distribution of securities, or the issuing of receipts, including by establishing provisions for varying withdrawal rights;

- paragraph 39(ii) and paragraph 39(iii) of subsection 143(1) of the Act authorizes the Commission to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules, all applications to the Commission under the *Business Corporations Act* and all documents determined by the regulations or the rules to be ancillary to the documents, including preliminary prospectuses and prospectuses;

- paragraph 45 of subsection 143(1) of the Act authorizes the Commission to make rules establishing requirements for and procedures in respect of the use of an electronic or computer-based system for the filing, delivery or deposit of documents or information; and

- paragraph 49 of subsection 143(1) of the Act authorizes the Commission to make rules permitting or requiring, or varying the Act to permit or require, methods of filing or delivery, to or by the Commission, issuers, registrants, security holders or others, of documents, information, notices, books, records, things, reports, orders, authorizations or other communications required under or governed by Ontario securities law.

8. Alternatives Considered

a. Status Quo

An alternative considered was to maintain the *status quo*, which would mean that paper delivery would continue to be the current default unless investors “opt in” to receive documents electronically.

b. Changing the current default of paper delivery to electronic delivery

Another alternative considered was to change the current default of paper delivery to electronic delivery. Under this alternative, investors would receive documents by email unless they “opt in” to receiving paper documents as opposed to the status quo where investors must “opt in” to receive documents electronically.

There are challenges associated with changing the current default to electronic delivery, including legal uncertainties to satisfying electronic delivery of documents under other legislation such as corporate law and electronic commerce legislation that may require consent to electronic delivery. Changing the default to electronic delivery may require legislative change and would also require clarifying the current requirements regarding investor consent in National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer,* as well as modernizing the current guidance in National Policy 11-201 *Electronic Delivery of Documents*. An additional challenge associated with changing the current default is that the issuer may need to consult its investors and obtain an affirmative response from each respective investor (i.e. obtain an email address) in order to avail itself of electronic delivery.

c. Enhancing the current notice-and-access model

Another alternative considered was to enhance the current notice-and-access model for delivery of proxy-related materials. Since its introduction in 2013, notice-and-access has not been used by many issuers. In addition to certain requirements in the model that may deter some issuers from using notice-and-access, such as timing requirements and restrictions on use by SEC issuers, factors outside of securities legislation, including delivery requirements under corporate law and fees charged by service providers, may impact an issuer’s decision to use notice-and-access.

9. Reliance on Unpublished Studies

The Commission is not relying on any unpublished study, report or other written material in proposing the Proposed Amendments.

SCHEDULE N1

PROPOSED AMENDMENTS TO
ONTARIO SECURITIES COMMISSION RULE 51-801 *IMPLEMENTING NATIONAL INSTRUMENT 51-102 CONTINUOUS DISCLOSURE OBLIGATIONS*

1. Ontario Securities Commission Rule 51-801 Implementing National Instrument 51-102 Continuous Disclosure Obligations is amended by this Instrument.

2. The following is added after section 3.5:

3.5.1 Access to Financial Statements – Exemption – Section 79 of the Act does not apply to a reporting issuer that complies with, including in reliance on any applicable exemption or exclusion from,

(a) section 4.2.1 of NI 51-102, in the case of annual financial statements for financial years beginning on or after January 1, 2004; and

(b) section 4.4.1 of NI 51-102, in the case of interim financial reports for interim periods in financial years beginning on or after January 1, 2004.

Effective date

3. This Instrument comes into force on •.

Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as in Thomson Reuters Canada's internet service SecuritiesSource (see www.westlawnextcanada.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:
3iQ CoinShares Bitcoin ETF (formerly, 3iQ Bitcoin ETF)
3iQ CoinShares Ether ETF (formerly, 3iQ Ether ETF)
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated Mar 31, 2022
NP 11-202 Final Receipt dated Apr 1, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3345426

Issuer Name:
CI Galaxy Bitcoin ETF
CI Galaxy Ethereum ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated Mar 31, 2022
NP 11-202 Final Receipt dated Apr 1, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3339042

Issuer Name:
CI Alternative Multi-Strategy Fund
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated Mar 28, 2022
NP 11-202 Preliminary Receipt dated Mar 29, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3357292

Issuer Name:
TD Emerald Balanced Fund
TD Emerald Canadian Bond Index Fund
TD Emerald Canadian Equity Index Fund
TD Emerald Canadian Short Term Investment Fund
TD Emerald Canadian Treasury Management - Government of Canada Fund
TD Emerald Canadian Treasury Management Fund
TD Emerald International Equity Index Fund
TD Emerald U.S. Market Index Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated Mar 31, 2022
NP 11-202 Final Receipt dated Mar 31, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3339496

Issuer Name:
Chorus II 100 Equity Growth Portfolio
Chorus II Aggressive Growth Portfolio
Chorus II Balanced Low Volatility Portfolio
Chorus II Conservative Low Volatility Portfolio
Chorus II Growth Portfolio
Chorus II Maximum Growth Portfolio
Chorus II Moderate Low Volatility Portfolio
Desjardins Alt Long/Short Equity Market Neutral ETF Fund
Desjardins American Equity Growth Currency Neutral Fund
Desjardins American Equity Growth Fund
Desjardins American Equity Value Fund
Desjardins Canadian Bond Fund
Desjardins Canadian Equity Fund
Desjardins Canadian Equity Income Fund
Desjardins Canadian Equity Value Fund
Desjardins Canadian Preferred Share Fund
Desjardins Canadian Small Cap Equity Fund
Desjardins Dividend Growth Fund
Desjardins Dividend Income Fund
Desjardins Emerging Markets Bond Fund
Desjardins Emerging Markets Fund
Desjardins Emerging Markets Opportunities Fund
Desjardins Enhanced Bond Fund
Desjardins Floating Rate Income Fund
Desjardins Global Balanced Growth Fund (formerly Desjardins Tactical Balanced Fund)
Desjardins Global Balanced Strategic Income Fund
Desjardins Global Bond Fund
Desjardins Global Corporate Bond Fund
Desjardins Global Dividend Fund
Desjardins Global Equity Fund
Desjardins Global Government Bond Index Fund
Desjardins Global High Yield Bond Fund
Desjardins Global Infrastructure Fund
Desjardins Global Managed Bond Fund
Desjardins Global Small Cap Equity Fund
Desjardins Global Tactical Bond Fund
Desjardins Global Total Return Bond Fund
Desjardins International Equity Value Fund
Desjardins Low Volatility Canadian Equity Fund
Desjardins Money Market Fund
Desjardins Overseas Equity Fund
Desjardins Overseas Equity Growth Fund
Desjardins Québec Balanced Fund
Desjardins Short-Term Income Fund
Desjardins SocieTerra American Equity Fund
Desjardins SocieTerra Canadian Bond Fund
Desjardins SocieTerra Canadian Equity Fund
Desjardins SocieTerra Cleantech Fund
Desjardins SocieTerra Emerging Markets Equity Fund
Desjardins SocieTerra Environmental Bond Fund
Desjardins SocieTerra Global Balanced Fund
Desjardins SocieTerra Global Bond Fund
Desjardins SocieTerra Global Opportunities Fund (previously Desjardins SocieTerra Environment Fund)
Desjardins SocieTerra International Equity Fund
Desjardins SocieTerra Positive Change Fund
Melodia 100 Percent Equity Growth Portfolio
Melodia Balanced Growth Portfolio
Melodia Conservative Income Portfolio
Melodia Diversified Growth Portfolio
Melodia Diversified Income Portfolio
Melodia Maximum Growth Portfolio
Melodia Moderate Growth Portfolio
Melodia Moderate Income Portfolio
Melodia Very Conservative Income Portfolio
Societerra 100 per cent Equity Portfolio
SocieTerra Balanced Portfolio
SocieTerra Conservative Portfolio
SocieTerra Growth Portfolio
SocieTerra Maximum Growth Portfolio
SocieTerra Moderate Portfolio
Wise 100 per cent Equity ETF Portfolio
Wise Balanced ETF Portfolio
Wise Conservative ETF Portfolio
Wise Fixed Income ETF Portfolio
Wise Growth ETF Portfolio
Wise Maximum Growth ETF Portfolio
Principal Regulator – Quebec

Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated Mar 31, 2022
NP 11-202 Final Receipt dated Apr 1, 2022

Offering Price and Description:
-

Underwriter(s) or Distributor(s):
N/A

Promoter(s):
N/A

Project #3333476

Issuer Name:
Renaissance Canadian T-Bill Fund
Renaissance Optimal Global Equity Currency Neutral Portfolio
Renaissance Global Value Fund
Renaissance Global Focus Currency Neutral Fund
Renaissance Emerging Markets Equity Private Pool
Principal Regulator - Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated March 25, 2022
NP 11-202 Final Receipt dated Apr 1, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3247938

Issuer Name:
Canada Life Canadian Fixed Income Balanced Fund
Canada Life Canadian Income Fund
Canada Life Monthly Income Fund
Canada Life Canadian Growth Balanced Fund
Canada Life Canadian Stock Balanced Fund
Canada Life Global Monthly Income Fund
Canada Life International Equity Fund
Principal Regulator - Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated March 24, 2022
NP 11-202 Final Receipt dated Mar 30, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3247848

Issuer Name:
Imperial Money Market Pool
Imperial Short-Term Bond Pool
Imperial Canadian Bond Pool
Imperial Canadian Diversified Income Pool
Imperial International Bond Pool
Imperial Equity High Income Pool
Imperial Canadian Dividend Income Pool
Imperial Global Equity Income Pool
Imperial Canadian Equity Pool
Imperial U.S. Equity Pool
Imperial International Equity Pool
Imperial Overseas Equity Pool
Imperial Emerging Economies Pool
Conservative Income Portfolio
Balanced Income Portfolio
Enhanced Income Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated March 25, 2022
NP 11-202 Final Receipt dated Apr 4, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3292515

Issuer Name:
Evolve S&P/TSX 60 CleanBeta Fund
Evolve S&P 500 CleanBeta Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated March 24, 2022
NP 11-202 Final Receipt dated Mar 30, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3203826

Issuer Name:
Brompton Oil Split Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus (NI 44-102) dated March 29, 2022
NP 11-202 Preliminary Receipt dated March 30, 2022
Offering Price and Description:
Offerings: $200,000,000 Preferred Shares and Class A Share
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3358529

Issuer Name:
Sustainable Power & Infrastructure Split Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus (NI 44-102) dated March 30, 2022
NP 11-202 Preliminary Receipt dated March 31, 2022
Offering Price and Description:
Offerings: $300,000,000 Preferred Shares and Class A Shares
Price: $10.65 per Preferred Shares and $9.53 per Class A Shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3360091

NON-INVESTMENT FUNDS

Issuer Name:
407 International Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated March 31, 2022
Preliminary Receipt dated March 31, 2022
Offering Price and Description:
Medium-Term Notes (Secured)
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
CASGRAIN & COMPANY LIMITED
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.
Promoter(s):
-
Project #3361632

Issuer Name:
Ambari Brands Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated March 28, 2022
Preliminary Receipt dated March 29, 2022
Offering Price and Description:
Minimum: $1,500,000.00 -3,000,000 Common Shares
Maximum: $2,500,000.00 - 5,000,000 Common Shares
Price per Offered Share $0.50
Underwriter(s) or Distributor(s):
RESEARCH CAPITAL CORPORATION
Promoter(s):
Avneesh Dhaliwal
Project #3357509

Issuer Name:
Anaergia Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated April 4, 2022
Preliminary Receipt dated April 4, 2022
Offering Price and Description:
$60,000,000.00 - 4,800,000 Subordinate Voting Shares
price of $12.50 per Offered Share
Underwriter(s) or Distributor(s):
TD SECURITIES INC.
BMO NESBITT BURNS INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
CIBC WORLD MARKETS INC.
ROTH CANADA, ULC
STIFEL NICOLAUS CANADA INC.
CANACCORD GENUITY CORP.
RAYMOND JAMES LTD.
Promoter(s):
-
Project #3360621

Issuer Name:
ASHLEY GOLD CORP.
Principal Regulator - British Columbia
Type and Date:
Amendment dated to Final Long Form Prospectus March 30, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Leede Jones Gable Inc.
Promoter(s):
George E. Stephenson
Project #3293288

Issuer Name:
Bausch + Lomb Corporation
Principal Regulator - Ontario
Type and Date:
Amendment dated March 30, 2022 to Preliminary Long Form Prospectus dated January 13, 2022
Preliminary Receipt dated March 31, 2022
Offering Price and Description:
US$□ □ Common Shares
Price: US$□ per Common Share
Underwriter(s) or Distributor(s):
MORGAN STANLEY CANADA LIMITED
GOLDMAN SACHS CANADA INC.
CITIGROUP GLOBAL MARKETS CANADA INC.
J.P. MORGAN SECURITIES CANADA INC.
BARCLAYS CAPITAL CANADA INC.
MERRILL LYNCH CANADA INC.
JEFFERIES SECURITIES, INC.
WELLS FARGO SECURITIES CANADA, LTD.
HSBC SECURITIES (CANADA) INC.
Promoter(s):
BAUSCH HEALTH COMPANIES INC.
Project #3326303

Issuer Name:
Canadian National Railway Company
Principal Regulator - Quebec
Type and Date:
Preliminary Shelf Prospectus dated March 31, 2022
Preliminary Receipt dated March 31, 2022
Offering Price and Description:
CAD$6,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3362160

Issuer Name:
Coho Collective Kitchens Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated March 30, 2022
Preliminary Receipt dated March 30, 2022
Offering Price and Description:
Minimum: $5,000,000.00 - 10,000,000 Common Shares
Maximum: $8,000,000 - 16,000,000 Common Shares
Price: $0.50 Per Common Share
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
Promoter(s):
-
Project #3360157

Issuer Name:
Fairfax India Holdings Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated April 1, 2022
Preliminary Receipt dated April 1, 2022
Offering Price and Description:
Subordinate Voting Shares, Preference Shares, Debt Securities, Subscription Receipts
Warrants, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3363525

Issuer Name:
Kontrol Technologies Corp.
Principal Regulator - Ontario
Type and Date:
Amendment dated March 28, 2022 to Preliminary Shelf Prospectus dated December 24, 2021
Preliminary Receipt dated March 30, 2022
Offering Price and Description:
$20,000,000.00 - Common Shares, Debt Securities, Warrants, Subscription Receipts, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3321957

Issuer Name:
M3 Capital Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary CPC Prospectus dated March 25, 2022
Preliminary Receipt dated March 30, 2022
Offering Price and Description:
$500,000.00 - 5,000,000 Common Shares
PRICE: $0.10 per Common Share
Underwriter(s) or Distributor(s):
iA Private Wealth Inc.
Promoter(s):
Morris Chia
Project #3356427

Issuer Name:
Mandala Capital Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary CPC Prospectus dated March 28, 2022
Preliminary Receipt dated March 31, 2022
Offering Price and Description:
Minimum Offering: $500,000.00 - 5,000,000 Common Shares
Maximum Offering: $750,000 - 7,500,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3358587

Issuer Name:
NG Energy International Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated March 30, 2022
Preliminary Receipt dated March 31, 2022
Offering Price and Description:
Up to $45,000,000.00 - 8.0% Unsecured Convertible Debenture Units
PRICE: $1,000 per Convertible Debenture Unit
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
BEACON SECURITIES LIMITED
Promoter(s):
-
Project #3361257

Issuer Name:
Opensesame Acquisition Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary CPC Prospectus dated March 30, 2022
Preliminary Receipt dated March 31, 2022
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):
Scott Kelly
Project #3360099

Issuer Name:
Pangenomic Health Inc.
Principal Regulator - British Columbia
Type and Date:
Amendment dated March 28, 2022 to Preliminary Long Form Prospectus dated January 14, 2022
Preliminary Receipt dated March 30, 2022
Offering Price and Description:
[Up to 3,333,333] Units issuable upon the deemed conversion of [up to 3,333,333] Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
Francisco Kent Carasquero
Project #3326894

Issuer Name:
Searchlight Innovations Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary CPC Prospectus dated March 31, 2022
Preliminary Receipt dated April 1, 2022
Offering Price and Description:
$300,000.00 - 3,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3362658

Issuer Name:
Sherritt International Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated March 29, 2022
Preliminary Receipt dated March 30, 2022
Offering Price and Description:
$300,000,000.00 - Common Shares, Preference Shares, Debt Securities, Subscription Receipts, Warrants, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3358957

Issuer Name:
Spectrum Global Investments Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary CPC Prospectus dated March 24, 2022
Preliminary Receipt dated March 30, 2022
Offering Price and Description:
MINIMUM OFFERING: $204,000.00 (1,700,000 Common Shares)
MAXIMUM OFFERING: $504,000.00 (4,200,000 Common Shares) Price: $0.12 per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3357733

Issuer Name:
TELUS International (Cda) Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated April 1, 2022
Preliminary Receipt dated April 1, 2022
Offering Price and Description:
Subordinate Voting Shares, Preferred Shares, Warrants, Rights, Units, Debt Securities Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
Computershare Trust Company
Project #3363538

Issuer Name:
Vital Battery Metals Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated March 31, 2022
Preliminary Receipt dated April 1, 2022
Offering Price and Description:
3,397,450 Common Shares and 3,397,450 Warrants on Exercise of 3,397,450 Outstanding Special Warrants
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3362606

Issuer Name:
Western Energy Services Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated March 29, 2022
Preliminary Receipt dated March 30, 2022
Offering Price and Description:
C$31,500,000.00.00 - Offering of Rights to subscribe for up to [●] Common Shares at a Subscription
Price of C$[●] per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3360108

Issuer Name:
407 International Inc.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated March 31, 2022
Receipt dated March 31, 2022
Offering Price and Description:
Medium-Term Notes (Secured)
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
CASGRAIN & COMPANY LIMITED
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.
Promoter(s):
-
Project #3361632

Issuer Name:
Canada Nickel Company Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 30, 2022
Receipt dated March 30, 2022
Offering Price and Description:
$45,000,000.30 - 13,250,464 Common Shares
Price: $3.10 per Offered Share $3.65 per Flow-Through Share $4.46 per Charity Flow-Through Share
Underwriter(s) or Distributor(s):
Red Cloud Securities Inc.
Promoter(s):
-
Project #3349231

Issuer Name:
Colossus Resources Corp.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated March 31, 2022
Receipt dated March 31, 2022
Offering Price and Description:
$1,000,000.00 - 4,000,000 Units,
Price: $0.25 per Unit
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
Charalambos (Harry) Katevatis
Project #3323324

Issuer Name:
Fairfax India Holdings Corporation
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated April 1, 2022
Receipt dated April 1, 2022
Offering Price and Description:
Subordinate Voting Shares, Preference Shares, Debt Securities, Subscription Receipts, Warrants, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3363525

Issuer Name:
FG Acquisition Corp.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated March 28, 2022
Receipt dated March 29, 2022
Offering Price and Description:
U.S.$100,000,000.00 - 10,000,000 CLASS A RESTRICTED VOTING UNITS
Underwriter(s) or Distributor(s):
RAYMOND JAMES LTD.
CANACCORD GENUITY CORP.
Promoter(s):
FGAC INVESTORS LLC.
CG INVESTMENTS VII INC.
Project #3352539

Issuer Name:
First Mining Gold Corp.
Principal Regulator - British Columbia
Type and Date:
Final Shelf Prospectus dated September 29, 2021
Receipt dated March 29, 2022
Offering Price and Description:
$100,000,000 Common Shares, Preferred Shares, Warrants, Subscription Receipts, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3276042

Issuer Name:
Frontenac Mortgage Investment Corporation
Principal Regulator - Ontario
Type and Date:
Amendment #10 dated March 31, 2022 to Final Long Form Prospectus dated June 17, 2021
Receipt dated April 4, 2022
Offering Price and Description:
Unlimited Number of Common Shares
Price: $30.00 per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
W.A. ROBINSON ASSET MANAGEMENT LTD.
Project #3209666

Issuer Name:
JVR Ventures Inc.
Principal Regulator - British Columbia
Type and Date:
Final CPC Prospectus dated March 29, 2022
Receipt dated March 30, 2022
Offering Price and Description:
$400,000.00 or 4,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
Kristen Reinertson
Project #3338819

Issuer Name:
Kobo Resources Inc.
Principal Regulator - Quebec
Type and Date:
Final Long Form Prospectus dated March 30, 2022
Receipt dated March 30, 2022
Offering Price and Description:
Minimum: $5,000,000.00 - 14,285,716 Units
Maximum: $10,000,000.00 - 28,571,430 Units
PRICE: $0.35 PER UNIT
Underwriter(s) or Distributor(s):
ECHELON WEALTH PARTNERS INC.
Promoter(s):
EDOUARD GOSSELIN
PAUL SARJEANT
Project #3307914

Issuer Name:
Nevada Lithium Resources Inc. (formerly, Hermes Acquisition Corp.)
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated March 29, 2022
Receipt dated March 29, 2022
Offering Price and Description:
$5,516,050.50 -12,257,890 Units Issuable upon Exercise of 12,257,890 Special Warrants
Price: $0.45 per Special Warrant
Underwriter(s) or Distributor(s):
RESEARCH CAPITAL CORPORATION
ECHELON WEALTH PARTNERS INC.
Promoter(s):
-
Project #3335688

Issuer Name:
Slate Grocery REIT
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated March 28, 2022
Receipt dated March 29, 2022
Offering Price and Description:
U.S.$750,000,000 Units, Debt Securities, Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3350213

Issuer Name:
Small Pharma Inc. (formerly, Unilock Capital Corp.)
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated March 29, 2022
Receipt dated March 30, 2022
Offering Price and Description:
$125,000,000.00 - Common Shares, Warrants, Units, Debt Securities, Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3353469

Issuer Name:
St. Davids Capital Inc.
Principal Regulator - Ontario
Type and Date:
Amendment dated March 29, 2022 to Final CPC Prospectus dated December 29, 2021
Receipt dated April 1, 2022
Offering Price and Description:
Minimum Offering: $200,000 or 2,000,000 Common Shares
Maximum Offering: $500,000 or 5,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Research Capital Corporation
Promoter(s):
Rocco Racioppo
Project #3288383

Issuer Name:
TELUS International (Cda) Inc.
Principal Regulator - British Columbia
Type and Date:
Final Shelf Prospectus dated April 1, 2022
Receipt dated April 1, 2022
Offering Price and Description:
Subordinate Voting Shares, Preferred Shares, Warrants, Rights, Units, Debt Securities, Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
Computershare Trust Company,
Project #3363538

Issuer Name:
The Valens Company Inc. (formerly Valens Groworks Corp.)
Principal Regulator - Ontario
Type and Date:
Amendment dated March 28, 2022 to Final Shelf Prospectus dated January 28, 2021
Receipt dated March 29, 2022
Offering Price and Description:
$150,000,000.00 - COMMON SHARES, DEBT SECURITIES, SUBSCRIPTION, RECEIPTS WARRANTS, UNITS
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3163125

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Admiral Markets Canada Ltd.	Investment Dealer	March 29, 2022
Voluntary Surrender	STANTON ASSET MANAGEMENT INC./GESTION D'ACTIFS STANTON INC.	Investment Fund Manager, Portfolio Manager, Exempt Market Dealer, Commodity Trading Manager	March 25, 2022
Voluntary Surrender	Kindle Capital Management Inc.	Exempt Market Dealer	March 23, 2022
New Registration	MPG Capital Canada ULC	Portfolio Manager	March 31, 2022
Voluntary Surrender	GF Securities (Canada) Company Limited	Investment Dealer	March 31, 2022
Name Change	From: Duff & Phelps Securities Canada Limited To: Kroll Corporate Finance Canada Limited	Exempt Market Dealer	January 5, 2022
Voluntary Surrender	Columbus Point LLP	Portfolio Manager	March 23, 2022

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 Aequitas Innovations, Inc. and Neo Exchange, Inc. – Application by Aequitas Innovations, Inc. and Neo Exchange, Inc. for Variation of Recognition as Exchanges to Reflect Proposed Acquisition by Cboe Canada Holdings, ULC – Notice and Request for Comment

NOTICE AND REQUEST FOR COMMENT

APPLICATION BY
AEQUITAS INNOVATIONS, INC. AND NEO EXCHANGE, INC.
FOR VARIATION OF RECOGNITION AS EXCHANGES TO REFLECT PROPOSED ACQUISITION BY
CBOE CANADA HOLDINGS, ULC

A. Introduction

Aequitas Innovations, Inc. (**Aequitas**) and Neo Exchange, Inc. (**Neo**) have applied to the Ontario Securities Commission (**Commission**) for approval of the proposed acquisition (the **Proposed Acquisition**) of Aequitas by Cboe Canada Holdings, ULC (**Cboe Canada**), a Canadian subsidiary of Cboe Global Markets, Inc. (**Cboe Global**) under the terms and conditions of their current recognition order. Aequitas and Neo are also asking the Commission to make an order under section 144 of the *Securities Act* (Ontario) (**Act**) varying the decision of the Commission to recognize Aequitas and Neo as exchanges (**Recognition Order**) to reflect the structure of the new entities under the Proposed Acquisition.

Staff of the Commission is publishing this Notice and Request for Comment, together with the following documentation, for a 30-day public comment period:

- Appendix A – Application by Aequitas and Neo for approval of the Proposed Acquisition and variation of their Recognition Order (**Application**); and
- Appendix B – Draft varied and restated Recognition Order, with terms and conditions (**Draft Varied RO**).

The comment period for this Notice and Request for Comment will close on May 9, 2022. Please see Part D of this Notice for information on how to provide comment.

B. Application and Draft Varied RO

In the Application, Aequitas and Neo have made representations regarding their proposed structure following the Proposed Acquisition, including changes to their corporate governance. They have also provided information about Cboe Global and the benefits they believe will accrue to the Canadian market as a result of the Proposed Acquisition. Aequitas and Neo also provide a description and explanation for all of the proposed changes to their Recognition Order.

The Proposed Acquisition does not involve any merger or any other business combination of Neo or Aequitas with any of the regulated exchanges or trading platforms operated by Cboe Global. In the Application, Aequitas has represented that following the Proposed Acquisition, NEO "will continue to operate in the same manner as before, in that the exchange's day-to-day operations will be managed by its Toronto management team, subject to the oversight and direction of the Neo Exchange board of directors."

Aequitas has further represented that it is not seeking to alter the "Canadian regulatory oversight regime applicable to Aequitas and Neo Exchange." NEO's mind and management will continue to reside with NEO, although NEO will "be subject to the direction of Cboe [Global] on strategic, policy and organizational alignment matters and may receive support from Cboe [Global] personnel."

C. Terms and Conditions of Recognition

Aequitas, Neo, and Cboe Global have made representations in respect of complying with the terms and conditions to the Draft Varied RO. The following sections of the notice discuss the general approach to the terms and conditions of recognition and specifically discuss the application of some of the terms and conditions.

i) Recognition of Cboe Global and Cboe Canada

We note that, as proposed, Cboe Global will not be recognized as an exchange, but will be subject to certain terms and conditions. Based on Staff's review of the Application and the representations of Aequitas, Neo, and Cboe Global, Cboe Global does not carry out exchange activities in respect of Aequitas and Neo that would warrant recognition as an exchange. We note in particular that

Cboe Global maintains a separate and distinct board of directors from both Aequitas and Neo and that Neo is responsible for establishing its own strategic direction.

Staff has proposed that even though Cboe Global would not be recognized as an exchange, it would be subject to certain terms and conditions in areas where it has a degree of influence over the business and operations of Aequitas and Neo. In particular, Cboe Global would be required to allocate sufficient financial and other resources to Aequitas and Neo to ensure that they can carry out their operations as exchanges. Cboe Global would also be subject to a requirement to ensure that Aequitas and Neo conduct the business and operations of recognized exchanges in a manner that is consistent with the public interest.

The proposed terms and conditions that would apply to Cboe Global may be found at Schedule 4 to the Draft Varied RO.

With respect to Cboe Canada, the Cboe Global subsidiary that is acquiring all of Aequitas' issued and outstanding shares, Aequitas and Neo have represented that the entity does not carry on any business operations and functions solely as an intermediate holding company for Cboe Global's Canadian assets. Cboe Canada's board of directors does not make decisions relating to the operations or strategy of any of its subsidiaries and would have no direct input into the core operations of NEO. For this reason, we have proposed that terms and conditions should apply to Cboe Global, but no terms and conditions need apply to Cboe Canada.

ii) Governance Changes

While the majority of the terms and conditions applicable to Aequitas and Neo will remain the same under the Draft Varied RO, one proposed change is that the Chair of the Neo board of directors would no longer be required to be independent, but rather both Aequitas and Neo will implement a governance model involving the election of an independent director to serve as lead director (**Lead Director**) consistent with guidelines set out in CSA National Policy 58-201 *Corporate Governance Guidelines*. The Lead Director will chair all meetings of the independent directors and serve as a liaison between the Chair and the independent directors.

The proposed terms and conditions that would apply to Neo may be found at Schedule 2 to the Draft Varied RO. The proposed terms and conditions that would apply to Aequitas may be found at Schedule 3 to the Draft Varied RO.

D. Comment Process

The Commission is publishing for public comment the Application and Draft Varied RO for 30 days. We are seeking comment on all aspects of the Application and Draft Varied RO.

Please provide your comments in writing, via e-mail, on or before May 9, 2022, to the attention of:

Market Regulation Branch
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8
Email: marketregulation@osc.gov.on.ca

The confidentiality of submissions cannot be maintained as the comment letters and a summary of written comments received during the comment period will be published.

Questions on the content of this Notice and the Draft Varied RO may be directed to:

Christopher Byers
Senior Legal Counsel, Market Regulation
Email: cbyers@osc.gov.on.ca

Hanna Cho
Legal Counsel, Market Regulation
Email: hcho@osc.gov.on.ca

Heather Cohen
Senior Legal Counsel, Market Regulation
Email: hcohen@osc.gov.on.ca

Questions on the content of the Application may be directed to:

Sheri Wang
Neo Regulatory Compliance Manager
Email: sheri@neostockexchange.com

APPENDIX A

March 16, 2022

VIA EMAIL

Ontario Securities Commission
20 Queen Street West, Suite 800
Toronto, Ontario
M5H 3S8

Attention: Susan Greenglass, Director, Market Regulation

Dear Ms. Greenglass:

Re: Proposed Acquisition of Aequitas Innovations, Inc. by Cboe Canada Holdings, ULC

In connection with the proposed acquisition (the "Proposed Transaction") of Aequitas Innovations, Inc. ("Aequitas") by Cboe Canada Holdings, ULC ("Cboe Canada"), pursuant to a share purchase agreement dated November 15th, 2021 among Cboe Global Markets, Inc. ("Cboe"), Cboe Canada, Aequitas and certain other parties thereto, Aequitas and Neo Exchange, Inc. ("Neo Exchange") hereby apply to the Ontario Securities Commission (the "Commission") for an amendment and restatement of the recognition order in respect of Aequitas and Neo Exchange (the "Draft Recognition Order") to reflect the purchase by Cboe Canada of all of the issued and outstanding shares in the capital of Aequitas and additions and revisions to the terms and conditions applicable to Aequitas, Neo Exchange and Cboe, which are described in further detail below.

As an initial matter, it is important to note that the Proposed Transaction will have no impact on the Canadian regulatory oversight regime applicable to Aequitas and Neo Exchange. The Commission will continue as the lead regulator of Aequitas and Neo Exchange. The changes we are proposing to make to the current recognition order (the "Recognition Order") have the principal objective of ensuring strong local elements of Neo Exchange's operations and continuing, primarily unchanged, the Commission's oversight and regulation of Neo Exchange.

Partnering with Cboe will strengthen and enhance Neo Exchange's profile and position in the international capital markets in the midst of a rapidly globalizing and increasingly competitive industry. This will benefit not only Canadian investors, capital-raisers, dealers, financial advisors and asset managers, but all of Canada's capital markets and financial services industry and, ultimately, the Canadian economy.

After completion of the Proposed Transaction, Neo Exchange will continue to operate in the same manner as before, in that the exchange's day-to-day operations will be managed by its Toronto management team, subject to the oversight and direction of the Neo Exchange board of directors. The overall strategy of Neo Exchange will be subject both to the input and oversight of its board of directors, as well as the strategic direction and organizational alignment initiatives of the Cboe Global Markets organization as a whole (the "Cboe Group"). The Proposed Transaction does not involve any merger or other business combination of Neo Exchange or Aequitas with any of the regulated exchanges or other trading platforms operated by Cboe.

This application has been divided into seven sections:

I. Ownership Restrictions

II. Description of the Proposed Transaction

III. Information regarding Cboe

IV. Benefits of the Proposed Transaction

V. Governance and Draft Recognition Order

VI. Items in Recognition Order that are not Impacted

VII. Enclosure

I. Ownership Restrictions

This section describes the share ownership restrictions applicable to Aequitas under the Recognition Order and the approval requested by Cboe and Aequitas in this regard.

A. Share ownership restrictions applicable to Aequitas and approval requested

Pursuant to Schedule 3, Section 22 of the Recognition Order, there are restrictions, which are generally referred to herein as the "Share Ownership Restrictions", attached to the shares of Aequitas:

> *(a) Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert may beneficially own or exercise control or direction over:*
>
> *(i) more than 10% of any class or series of voting shares of Aequitas and, thereafter,*
>
> *(ii) more than 50% of any class or series of voting shares of Aequitas.*
>
> *(b) The articles of Aequitas must contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.*

Upon closing of the Proposed Transaction, Cboe Canada will acquire all of the issued and outstanding shares in the capital of Aequitas. The Share Ownership Restrictions require the approval of the Commission for the purchase of shares contemplated by the Proposed Transaction. The Commission may, by order, provide its approval and may impose such terms and conditions as it deems appropriate.

For the reasons set forth in this application, including (i) the benefits of the Proposed Transaction to Ontario and Canada, as set out below, (ii) that the Share Ownership Restrictions will continue to apply after the closing of the Proposed Transaction, and (iii) the terms and conditions that will apply to Cboe under the proposed amendments to the Recognition Order, which are described in detail below, we respectfully submit that the Commission should provide its approval.

B. Application of share ownership restrictions post-closing

The Share Ownership Restrictions will continue to apply to Aequitas and Neo Exchange after the closing of the Proposed Transaction, as set out herein and in the Draft Recognition Order.

II. Description of the Proposed Transaction

A. Implementation

At the closing of the Proposed Transaction, Cboe Canada will purchase for cash all of the issued and outstanding shares in the capital of Aequitas. Closing of the Proposed Transaction is subject to customary closing conditions, including that all required regulatory approvals have been obtained.

B. Corporate Structure

The chart below depicts the proposed chain of ownership of Aequitas, pro-forma the closing of the Proposed Transaction.

For further information regarding the structure of the broader Cboe Group, please see Cboe's Annual Report on Form 10-K for the fiscal year ended December 31, 2020 ("Cboe's 10-K") filed with the United States Securities and Exchange Commission (the "SEC")[1] and its Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2021 ("Cboe's 10-Q").[2]

C. Corporate Governance

1. Aequitas

Upon closing of the Proposed Transaction, the board of directors of Aequitas (the "Aequitas Board") is expected to consist of a maximum of 10 and a minimum of 6 members. At least one third of the Aequitas Board will be independent, as defined under Section VII – Enclosure, Appendix A – Draft Recognition Order ("Independent Directors"), consistent with the Terms and Conditions applicable to Aequitas under the current Recognition Order. The Nominating Committee of the Aequitas Board will also comply with the Terms and Conditions applicable to the Aequitas Nominating Committee in the current Recognition Order.

The non-independent directors will include one or more senior executive management members of Neo Exchange and/or Aequitas and other representatives of Cboe.

The Chair of the Board will be a non-Independent Director.

In keeping with the governance model used for other entities within the Cboe Group, the Nominating Committee of the Aequitas Board will, on an annual basis, recommend to the Board for election an Independent Director to serve as lead director ("Lead Director"). The Lead Director will chair all meetings of the Independent Directors and serve as a liaison between the Chair and the Independent Directors. It will be the policy of the Aequitas Board that any director who is not an Independent Director should

[1] See: https://www.sec.gov/ix?doc=/Archives/edgar/data/1374310/000155837021001286/cboe-20201231x10k.htm
[2] See: https://www.sec.gov/ix?doc=/Archives/edgar/data/1374310/000155837021013795/cboe-20210930x10q.htm

recuse themselves from any discussion or vote related to such election. In addition to the duties of all directors, which are set forth in the Aequitas Board mandate, the specific responsibilities of the Lead Director are as follows:

- Chair all meetings of the Independent Directors of the Board;
- Serve as Acting Chair of the Board when the Chair is not present;
- Serve as a liaison between the Chair and the Independent Directors;
- Approve agendas for Board meetings and consult with the Chair on other matters pertinent to Aequitas and the Board;
- Approve meeting schedules to assure that there is sufficient time for discussion of all agenda items;
- Call meetings of the Independent Directors (and approve agendas and schedules for those meetings);
- Facilitate information flow and communication among directors;
- Interview, along with the Nominating Committee, all Board candidates;
- Serve a key role in the Board self-evaluation process;
- Advise and consult with the Chair and CEO on the general scope and type of information to be provided in advance of Board meetings;
- In collaboration with the Chair and CEO, consult with the appropriate members of senior management about what information pertaining to the company's finances, operations, and compliance is to be sent to the Board; and
- Advise the Board on the retention of advisors and consultants who report directly to the Board.

2. Neo Exchange

Upon closing of the Proposed Transaction, the board of directors of Neo Exchange (the "Neo Board") is also expected to consist of a maximum of 10 and a minimum of 6 members. At least 50% of the Neo Board will be Independent Directors consistent with the Terms and Conditions applicable to Neo Exchange under the current Recognition Order.

The non-independent directors will include one or more senior executive management members of Neo Exchange and other representatives of Cboe.

Consistent with the framework proposed for the Aequitas Board, the Nominating Committee of the Neo Board will, on an annual basis, recommend to the Board for election an Independent Director to serve as Lead Director.

The Chair of the Neo Board will be a non-Independent Director. Appointing a non-Independent Director to Chair the Neo Board will require a change, relative to the current Recognition Order, reflected in the Terms and Conditions applicable to Neo Exchange in the Draft Recognition Order. Specifically, the requirement that the Chair of the Neo Board be an Independent Director would be deleted and replaced with a requirement for Neo Exchange to appoint a Lead Director consistent with the framework set out above.

We believe that any public interest concern that may arise from the Chair of the Neo Board being a non-Independent Director will be addressed by the appointment of an independent Lead Director (we note that the Chair of the Aequitas Board is not required to be independent under the current Recognition Order). This would not be dissimilar to the structure of the board of directors of the Commission, which has established a lead director position whereby the lead director represents the part-time members of the Commission and provides leadership and oversight of the governance obligations of the Commission's board and its committees.

The Canadian Securities Administrators' National Policy 58-201 *Corporate Governance Guidelines* states that an independent director should be appointed to act as "lead director" where it is not appropriate for the chair of the board to be an independent director. Given that Aequitas and Neo Exchange will be transitioning from being principally owned by eight shareholders, none of which own more than 15% of Aequitas, to being wholly owned by Cboe, and that Cboe itself – a U.S. public company – relies on the lead director model to ensure its board's objectivity in business judgements and management oversight, it is appropriate that Neo Exchange be permitted to implement the lead director model.

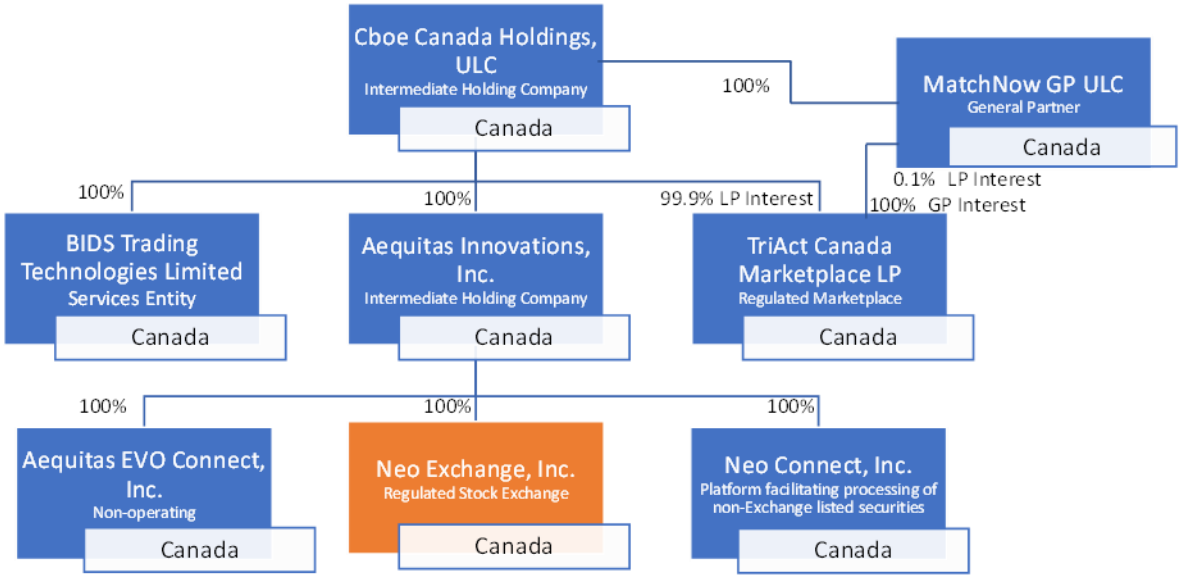
In this connection, we note that both Institutional Shareholder Services, in its Proxy Voting Guidelines for TSX-Listed Companies, and Glass Lewis, in its 2022 Policy Guidelines – Canada, support using the lead director model in appropriate circumstances, including where the relevant company is majority owned by a single shareholder. In addition, from a board management perspective, Cboe favors the lead director structure because it relieves the lead independent director of certain administrative and

logistical responsibilities of the chairman role, allowing the lead independent director to focus his or her time and attention more fully on ensuring that the views of independent directors are represented and taken into account in board matters as appropriate.

Neo Exchange will continue to maintain a Nominating Committee and a Regulatory Oversight Committee consistent with the Terms and Conditions of the current Recognition Order after the closing of the Proposed Transaction.

Upon closing of the Proposed Transaction, the Neo Exchange business will, as described above in the introductory section of this letter, continue to be operated by its CEO and other officers under the direction of the Neo Board. The Neo Board will be composed, as discussed above, of at least 50% of independent directors with no casting vote available to the chairperson of the board. Neo Exchange will be subject to the direction of Cboe on strategic, policy and organizational alignment matters and may receive support from Cboe personnel in certain areas, but the ultimate responsibility for Neo Exchange's day-to-day operations will continue to reside with its CEO, other officers and the NEO Board.

The chart below provides an overview of all of Neo Exchange's Canadian affiliates including, for each, their principal business.



Cboe Canada, which will upon closing of the Proposed Transaction acquire all of the issued and outstanding shares in the capital of Aequitas, does not carry on any business operations and functions solely as an intermediate holding company for Cboe's Canadian assets. Cboe Canada's board of directors does not make decisions relating to the operations or strategy of any of its subsidiaries, and would have no direct input into the core operations of Neo Exchange.

TriAct Canada Marketplace LP ("TriAct"), an existing subsidiary of Cboe Canada, is a registered investment dealer, IIROC dealer member and alternative trading system which operates as MATCHNow. MATCHNow GP ULC is the general partner of TriaAct and its board of directors, which is the regulated board of TriAct, would have no role in the Neo Exchange business.

BIDS Trading Technologies Limited ("BTT") is the other existing subsidiary of Cboe Canada. BTT functions as a provider of software development services to the broader BIDS business. BTT's board of directors has no role in the MATCHNow business and would have no role in the Neo Exchange business.

If Cboe's Canadian subsidiary entities were to provide each other with certain administrative services to achieve operating synergies, any such arrangements would be disclosed to the Ontario Securities Commission to the extent required by (and in accordance with) Form 21-101F1. We would treat any similar arrangements with other companies that are part of the Cboe Group in a similar way.

III. Information regarding Cboe

A. Business

The Cboe Group provides cutting-edge trading and investment solutions to investors around the world. It is committed to defining markets through product innovation, leading edge technology, and seamless trading solutions.

The Cboe Group offers trading across a diverse range of products in multiple asset classes and geographies, including options, futures, U.S., Canadian, European, Australian and Japanese equities, exchange-traded products ("ETPs"), global foreign exchange ("FX") and volatility products based on the Cboe Volatility Index ("VIX"), recognized as the world's premier gauge of U.S. equity market volatility.

Cboe's subsidiaries include the largest options exchange and the third largest stock exchange operator in the U.S. In addition, Cboe operates one of the largest stock exchanges by value traded in Europe, and owns European Central Counterparty N.V., a leading pan-European equities clearinghouse, BIDS Trading, L.P., a leading block-trading alternative trading system ("ATS") by volume in the U.S., MATCHNow, a leading equities ATS in Canada, and the Chi-X Asia Pacific Group of companies, operating Australia's second largest stock exchange as well as a leading Japanese proprietary trading system. Cboe BZX Equities Exchange, Inc. is a leading market globally for ETP listings and trading.

B. Regulation of Cboe's business

Cboe recognizes the importance of its markets and other regulated services being well regulated, and of adhering to appropriate standards of transparency, orderliness, integrity and risk management. Cboe's regulated entities impose balanced and proportionate regulatory standards to maintain high levels of investor confidence and optimize risk management. Cboe Group entities are subject to extensive oversight by securities and financial regulators across all jurisdictions in which the Cboe Group operates regulated businesses, including (i) in the United States, the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the Financial Industry Regulatory Authority; (ii) in the U.K. and Europe, the U.K. Financial Conduct Authority, Netherlands Authority for the Financial Markets and De Nederlandsche Bank (Netherlands central bank); (iii) in Canada, the Ontario Securities Commission and the Investment Industry Regulatory Organization of Canada; and (iv) in the Asia-Pacific Region, the Australian Securities and Investments Commission and the Japan Financial Services Agency.

All of the regulated entities in the Cboe Group work closely with their respective regulators to maintain exceptionally high regulatory standards.

For further information on the Cboe Group's businesses and how they are regulated, please see Cboe's 10-K and Cboe's 10-Q.

IV. Benefits of the Proposed Transaction

A. Enhanced competition in Canadian equity trading, listing and market data space

The Canadian trading, senior listing and market data landscape are still, to a significant extent, dominated by a single market player. In just over six and a half years, Neo Exchange has established itself as a strong competitor in Canada's capital markets landscape, leveraging innovation, service and a relentless focus on doing what is right for investors and capital-raisers.

Alongside MATCHNow, a best-in-class ATS and Cboe's initial foothold in the Canadian market, Neo Exchange will become an integral part of Cboe's comprehensive North American equities offering. This will bring Neo Exchange additional strength, scale, expertise and client and platform development opportunities that will accelerate its growth and competitive impact in Canada to the benefit of all stakeholders of the Canadian capital markets.

B. Opportunity to broaden competition in Canada into other asset classes and services

Cboe has a proven track record of growing its acquisitions into bigger and better platforms, often starting with an initial foothold, such as MATCHNow in Canada, then growing and expanding with additional acquisitions, such as the Proposed Transaction, and finally expanding that platform into a broad and often multi-asset class offering.

Cboe has a number of established and proven assets, including state-of-the-art technology, a derivatives platform, a clearing platform, and an index publishing platform. Consistent with its approach to prior acquisitions, Cboe may explore leveraging these assets, in connection with Aequitas and Neo Exchange, in the Canadian capital markets to provide competition in areas where competition is currently lacking. This could allow all stakeholders of the Canadian capital markets to benefit from the virtues of competition and innovation in areas where there is currently market concentration and/or innovation is lackluster.

C. Enhanced global visibility for the Canadian market

Over the last 20 years, capital raising and trading have evolved from primarily local endeavors to be global phenomena, driven by the emergence of the innovation economy. The Canadian Government acknowledges[3] the importance of innovation for a better Canada and Neo Exchange has established itself as the Canadian stock exchange focused on the innovation economy; but competition for international capital is fierce. The Proposed Transaction is expected to increase awareness of and promote access to Canada's capital markets, and may accordingly help to ensure that Canada obtains its fair share or more of global asset allocation.

[3] Innovation for a Better Canada: What We Heard - Innovation for a better Canada (ic.gc.ca)

Cboe's global footprint and global derivatives and securities trading networks, including the more than 15 markets that it operates around the world (trading equities, ETPs, options, futures, FX and soon digital assets), an international market data distribution platform, an international index publishing platform and an established global sales force with presence in North America, Europe, Asia and Australia is expected to increase the visibility of Aequitas, Neo Exchange and Canada's capital markets internationally, helping to promote Canada around the world and attracting new investments in Canada.

D. Opportunities to provide Canadian issuers with unrivalled access to global capital

In a world where the innovation economy has turned the search for growth capital and investment opportunities into global phenomena, the capital-raisers and investors that will be the leaders of tomorrow are those that will be able to benefit from a streamlined and efficient global capital formation and secondary market trading offering.

Leveraging the capital formation and secondary trading solutions Aequitas and Neo Exchange have built for Canadian issuers of the innovation economy and Cboe's ETP listing and trading platform network across four continents, Cboe may explore the opportunity of building such an offering whereby Canadian capital-raisers would derive substantial benefits from it.

E. Access to global innovation

Aequitas and Cboe share the vision of using innovation to drive change. Through the Proposed Transaction, Neo Exchange, Neo Connect, Inc. (another subsidiary of Aequitas leveraging technology to facilitate the distribution of non-listed securities) and the Canadian capital markets as a whole will benefit from Cboe's unique and relentless focus on innovation, whether it relates to products, services or the application of technology to design new and/or innovative offerings.

Cboe Global Indices is just one example of this culture of innovation. Cboe's index business started with the VIX more than 25 years ago, and has led, today, to more than 450 innovative indices making complex strategies more easily accessible by underpinning listing and trading of derivatives and ETPs on exchanges. It is by combining sophisticated technology, a deep bench of index researchers, academics and professional traders that Cboe Global Indices continuously works towards developing the next generation of index solutions across asset classes. New types of indexing are viewed as one of the most important areas of innovation in the coming years and strategic partnerships with global index providers, like S&P Dow Jones Indices, FTSE Russell and MSCI, enable Cboe Global Indices to continue growing the indexing ecosystem.

F. Benefits to Ontario and Canadian stakeholders

Strengthening competition in the Canadian equity trading, listing and market data space, increasing capital flows from a global investment base, broadening competition across services and asset classes currently solely provided by a single dominant market player, and taking innovation to a new level, will not only benefit the direct recipients of these services and products (Canadian investors, capital-raisers, dealers, financial advisors and asset managers) but Ontario's and Canada's financial services industry as a whole and, ultimately, the Canadian economy. As a result, the demand for financial advisory services and related professionals (e.g., accountants, securities lawyers, geologists) could increase.

G. Executing on the Commission's expanded mandate

The Commission's mandate has been recently expanded to include the fostering of competitive capital markets and capital formation. The Proposed Transaction is a lighthouse example of this expansion of the Commission's mandate at work. It enables stronger competition at stock exchange level, it provides the opportunity to enable market infrastructure competition across services and asset classes where there is currently no competition at all, it allows access to a wellspring of innovation, and it provides capital-raisers with new means to tap into global capital pools. This will benefit efficiency, choice, service, innovation and higher productivity by unbridling competition in Canada's and Ontario's capital markets. It will also take capital formation for Canadian companies, a large part of which are based in Ontario, to the levels required by an innovation economy.

V. Governance and Draft Recognition Order

A. Governance

The board of directors of Aequitas (the "Aequitas Board") determined that it would enter into the Proposed Transaction only if it satisfied itself that the transaction would be beneficial to the Canadian capital markets. The key criteria it considered were:

- Whether the Proposed Transaction would be advantageous to the shareholders and all other Canadian capital markets stakeholders, including investors, Neo Exchange current and future listed issuers, securities dealers and other market intermediaries.
- Whether the Proposed Transaction ensures that Canadian interests are protected.
- Whether the Proposed Transaction will preserve, in a satisfactory manner, the governance, management and operation of Neo Exchange and its ongoing regulation by Canadian securities regulatory authorities.

The Aequitas Board determined these criteria were satisfied. Accordingly, and consistent with the fiduciary obligations of its members, the Aequitas Board unanimously approved the Proposed Transaction because it was of the opinion that it is in in the best interest of the Canadian capital markets, is consistent with the Aequitas and Neo Exchange public interest mandates and is in the best interest of the Aequitas corporation.

B. Proposed Amendments to Recognition Order

The provisions of the Recognition Order will remain in effect, with the modifications that are described below.

1. Schedule 2 – Terms and Conditions Applicable to Neo Exchange

a) Definitions and Interpretation (Section 1)

Introducing the defined term "Canadian affiliated entity," which is any affiliated entity that is incorporated, formed or created under the laws of Canada or a province or territory of Canada. This term is used in the amended definition of "Competitor" and in Section 18 and Section 34 of the Draft Recognition Order in connection with Aequitas' and Neo Exchange's provision of information obligations.

Amendment of the definition of Competitor to limit its application to persons whose offerings compete with Neo Exchange and Canadian affiliated entities to avoid the unnecessary burden that would result from considering the entire Cboe Group and related offerings.

Introduction and definition of the concept of a Lead Director who is an independent director and who will chair all meetings of the independent directors of the Board and serve as a liaison between the chair of the Board and the independent directors, in the scenario where the Chair is not an independent director.

Amendment of the definition of significant shareholder to include persons or companies that beneficially own or control directly more than 10% of any class or series of voting shares of Cboe or Aequitas, subject to certain exceptions, which exceptions are consistent with the definition of "significant TMX shareholder" in the TMX Group's recognition order.

b) Board of Directors (Section 6)

Revised such that the Chair of the board of Neo Exchange is no longer required to be independent, however, if the Chair is not independent an independent Lead Director will be required to be appointed.

c) Conflicts of Interest and Confidentiality (Section 9)

Revised to add references to Neo Exchange in clause (a)(i), to replace the reference to "the significant shareholder" in clause (a)(i)(B) with a reference to "Aequitas or Cboe or Cboe's affiliated entities" and to include a proviso that the section should not be construed to limit Aequitas or Neo Exchange from providing to Cboe and its affiliated entities necessary information.

These changes (i) align this section of the Recognition Order with comparable sections of the Commission's order (the "Nasdaq Order"), dated February 8, 2019, which recognizes Nasdaq CXC Limited and Ensoleillement Inc. as exchanges, and pursuant to which Nasdaq, Inc. was subject to certain terms and conditions; and (ii) clarify the scope of information regarding marketplace operations and regulation functions that is required to be subject to Neo Exchange's confidentiality policies and procedures.

d) Fees, Fee Models and Incentives (Section 12) and Order Routing (Section 13)

Revised to provide that that the restrictions or prior approval by the Commission applicable to fees, fee models, incentives and other similar arrangements under the current Recognition Order will also be applicable, where relevant, to Cboe, its affiliates and significant shareholders. The changes also align this section of the Recognition Order with the comparable sections of the Nasdaq Order.

e) Provision of Information (Section 18)

Revised to stipulate that the obligation to provide information is limited to Canadian affiliated entities of Neo Exchange. This revision has been introduced for practical reasons and taking in consideration the introduction of New Section 39 - Provision of Information, under New Schedule 4 – Terms and Conditions Applicable to Cboe (see below). This New Section 39 stipulates that Cboe shall promptly provide to the Commission, on request, any and all data, information, and analyses in its custody or control related to the business and operations of Neo Exchange or Aequitas without limitations, redactions, restrictions, or conditions, provided that nothing in this section will be construed to abrogate solicitor-client privilege or any similar doctrines that may apply to communications with and work product produced by counsel.

f) Housekeeping Changes

- **Section 12 – Fees, Fee Models and Incentives**

Correction of typo under Sub-Section (c), replacing “of” with “or”.

- **Section 19 – Compliance with Terms and Conditions**

Flexibility is added with respect to who can be the second signatory, besides the CEO, of the annual certification of compliance with the terms and conditions of the recognition order applicable to Neo Exchange, by allowing for it to be any executive officer of Neo Exchange.

The organizational structure of any corporation is always subject to change, either intentionally or as a result of circumstance. These revisions will provide Aequitas and Neo Exchange with the ability to achieve the intent of the requirement, i.e., certification by the chief executive officer and the second most senior person responsible for regulatory compliance, in a flexible manner, without requiring that the latter person occupy a specific corporate office. The revisions will alleviate any concern regarding possible technical breaches of the Recognition Order in the event that Aequitas and/or Neo Exchange do not then have appointed any person carrying the title “general counsel” and will relieve the unnecessary regulatory burden associated with same.

We respectfully submit that the proposed revision would not result in different treatment of Neo Exchange and Aequitas than the other stock exchanges operating in Canada, as the outcome sought by the requirement would be fully achieved if our proposed revision is accepted. We believe the same flexibility should be available to other exchanges operating in Canada, should they request it.

2. Schedule 3 – Terms and Conditions Applicable to Aequitas

The provisions of the Recognition Order related to Aequitas will remain in effect, with the modifications that are described below.

a) Fitness (Section 24)

Revised to delete the prefatory statement “[i]n order to ensure that Aequitas and its affiliates operate with integrity and in the public interest,”. The operative requirement of that sentence, that Aequitas must take reasonable steps to ensure that each director or officer of Aequitas is a fit and proper person, will remain. Following the Proposed Transaction, Aequitas’ affiliated entities, referenced in the prefatory statement, will no longer just be its own subsidiaries but will include numerous Cboe Group entities over which Aequitas has no control. The operative requirement is not affected by this revision.

b) Confidentiality Procedures (Section 27), Fees, Fee Models and Incentives (Section 29), Order Routing (Section 30) and Provision of Information (Section 35)

Revised to conform with changes made to Sections 9, 12, 13 and 18 of the Terms and Conditions applicable to Neo Exchange, set out above.

c) Prior Commission Approval (Section 32)

Deleted as no longer applicable under the current scenario where there is no longer any shareholder agreement in place. Subsequent sections have been renumbered accordingly.

d) Additional Reporting Obligations (Appendix A)

Limiting the provision to the Commission of any strategic plan and risk reporting, to Aequitas and its subsidiaries as the current wording would cover Cboe and all its affiliates worldwide.

e) Housekeeping Changes

- **Section 35 – Provision of Information**

Renumbered to be Section 34. Correction of typo under Sub-Section (a), replacing “or” with “of”.

- **Section 36 – Compliance with Terms and Conditions**

Renumbered to be Section 35. Revised to conform with changes made to Section 19 of the Terms and Conditions applicable to Neo Exchange, set out above.

3. New Schedule 4 – Terms and Conditions Applicable to Cboe

A number of new provisions are added to the Recognition Order related to Cboe, which encapsulate its commitment to ensure the orderly operation of Neo consistent with the public interest and in compliance with Ontario securities law. These provisions also generally conform to certain terms and conditions agreed by Nasdaq, Inc. in Schedule 4 of the Nasdaq Order.

a) New Section 36 – Definition and Interpretation

Confirming that the terms used in Schedule 4 have the same meanings and interpretation as in Section 1 of Schedule 2.

b) New Section 37 – Public Interest Responsibilities

Confirming that Cboe shall ensure that Neo Exchange and Aequitas conduct the business and operations of recognized exchanges in a manner that is consistent with the public interest.

c) New Section 38 – Allocation of Resources

Confirming that:

- To ensure Neo Exchange and Aequitas can carry out their functions in a manner that is consistent with the public interest and in compliance with Ontario securities law, Cboe shall, for so long as Neo Exchange and Aequitas carry on business as exchanges, facilitate the allocation of sufficient financial and non-financial resources for the operations of these exchanges; and
- Cboe shall notify the Commission immediately upon being aware that it is or will be unable to allocate sufficient financial or other resources to Neo Exchange or Aequitas.

d) New Section 39 – Provision of Information

Confirming that Cboe shall promptly provide to the Commission, on request, any and all data, information, and analyses in its custody or control related to the business and operations of Neo Exchange or Aequitas without limitations, redactions, restrictions, or conditions, provided that nothing in this section will be construed to abrogate solicitor-client privilege or any similar doctrines that may apply to communications with and work product produced by counsel.

VI. Items in Recognition Order that are not Impacted

There are a number of Sections in the Recognition Order that will not be impacted by the Proposed Transaction and the proposed housekeeping changes.

Schedule 1 of the Recognition Order – *Criteria for Recognition* is not impacted and we confirm that Aequitas and Neo Exchange will continue to meet the applicable criteria post-closing.

With respect to Schedule 2 of the Recognition Order – *Terms and Conditions Applicable to Neo Exchange*, Section 2 – Public Interest Responsibilities, Section 3 – Share Ownership Restrictions, Section 4 – Recognition Criteria, Section 5 – Fitness, Section 7 – Nominating Committee, Section 8 – Regulatory Oversight Committee, Section 10 – Access, Section 11 – Regulation of Neo Exchange Marketplace Participants and Neo Exchange Issuers, Section 14 – Financial Reporting, Section 15 – Financial Viability Monitoring, Section 16 – Additional Information, Section 17 – Governance Review, and Appendix A – Additional Reporting Obligations are not impacted by the Proposed Transaction.

With respect to Schedule 3 of the Recognition Order - *Terms and Conditions Applicable to Aequitas*, Section 20 – Definitions and Interpretation, Section 21 – Public Interest Responsibilities, Section 22 – Share Ownership Restrictions, Section 23 – Recognition Criteria, Section 25 – Board of Directors, Section 26 – Nominating Committee, Section 28 – Allocation of Resources, Section 31 – Financial Reporting, Section 33 – Reporting Requirements, Section 34 – Governance Review are not impacted by the Proposed Transaction.

Schedule 4 of the Recognition Order – Process for the Review and Approval of Rules and the Information contained in Form 21-101F1 and the Exhibits thereto is not impacted but for the fact that it becomes Schedule 5.

VII. Enclosure

Appendix A – Draft Recognition Order (blacklined to identify proposed amendments)

Respectfully,

Aequitas Innovations, Inc.

"Jos Schmitt"
President & CEO

Cboe Global Markets, Inc.

"Patrick Sexton"
General Counsel & Corporate Secretary

APPENDIX B

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21, 144(1).

[*date*]

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

AND

IN THE MATTER OF
AEQUITAS INNOVATIONS INC.
AND
NEO EXCHANGE INC.

AND

IN THE MATTER OF
CBOE GLOBAL MARKETS, INC.

ORDER
(Sections 21 and 144 of the Act)

WHEREAS the Ontario Securities Commission (**Commission**) issued an order dated November 13, 2014, effective as at March 1, 2015, which was varied on February 27, 2015, September 29, 2015, February 8, 2019 and August 31, 2020, recognizing Aequitas Neo Exchange Inc. and its sole shareholder, Aequitas Innovations Inc. (**Aequitas**), as exchanges pursuant to section 21 of the Act (**Recognition Order**);

AND WHEREAS on January 15, 2019, the name Aequitas Neo Exchange Inc. was changed to Neo Exchange Inc. (**Neo Exchange**);

AND WHEREAS the Commission considers the proper operation of exchanges as essential to investor protection and maintaining a fair and efficient capital market, and therefore requires that any conflicts of interest in the operation of exchanges be dealt with appropriately, the fairness and efficiency of the market not be impaired by any anti-competitive activity, and that systemic risks are monitored and controlled;

AND WHEREAS on **[*date*]** Cboe Canada Holdings, ULC (**Cboe Canada)** purchased all of the issued and outstanding share capital of Aequitas;

AND WHEREAS Aequitas, Neo Exchange and Cboe Global Markets, Inc. (**Cboe**) have agreed to the applicable terms and conditions set out in the Schedules to the Recognition Order;

AND WHEREAS the Commission has received a request under schedule 3 section 22 of the Recognition Order to approve the purchase by Cboe Canada of all the issued and outstanding shares in the capital of Aequitas;

AND WHEREAS the Commission has received an application under section 144 of the Act to vary and restate the Recognition Order to reflect the Commission's approval of and changes required in connection with Cboe Canada's purchase of Aequitas (**Application**);

AND WHEREAS based on the Application and the representations that Cboe, Aequitas and Neo Exchange have made to the Commission, the Commission has determined that:

(a) Aequitas and Neo Exchange continue to satisfy the recognition criteria set out in Schedule 1 to the Recognition Order,

(b) it is in the public interest to continue to recognize each of Aequitas and Neo Exchange as an exchange pursuant to section 21 of the Act, and

(c) it is not prejudicial to the public interest to vary and restate the Recognition Order pursuant to section 144 of the Act;

IT IS ORDERED, pursuant to section 144 of the Act, that the Application to vary and restate the Recognition Order is granted.

IT IS ORDERED, pursuant to section 21 of the Act, that:

(a) Aequitas continues to be recognized as an exchange,

(b) Neo Exchange continues to be recognized as an exchange, and

(c) Cboe Canada's purchase of Aequitas is approved.

provided that Cboe, Aequitas and Neo Exchange comply with the terms and conditions set out in the Schedules to the Recognition Order, as applicable.

DATED this [***date***], to take effect [***date***].

"[***name***]"

"[***name***]"

SCHEDULE 1

CRITERIA FOR RECOGNITION

PART 1 COMPLIANCE WITH NI 21-101 AND NI 23-101

1.1 Compliance with NI 21-101 and NI 23-101

The exchange complies with the requirements set out in National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) and in National Instrument 23-101 *Trading Rules*, each as amended from time to time, which include requirements relating to:

(a) access;

(b) marketplace operations;

(c) exchange rules, policies and other similar instruments;

(d) order and trade transparency;

(e) transparency of marketplace operations;

(f) record keeping;

(g) marketplace systems and business continuity planning;

(h) confidentiality of information;

(i) outsourcing;

(j) clearing and settlement;

(k) fair and orderly markets;

(l) the management of conflicts of interest; and

(m) filing of financial statements.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

(a) effective oversight of the exchange;

(b) that business and regulatory decisions are in keeping with the exchange's public interest mandate;

(c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:

  (i) appropriate representation of independent directors, and

  (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange;

(d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest; and

(e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.2 Fitness

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person.

PART 3 ACCESS

3.1 Fair Access

(a) The exchange has established appropriate written standards for access to its services including requirements to ensure participants are appropriately registered under Ontario securities laws, or exempted from these requirements.

(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

PART 4 REGULATION OF PARTICIPANTS AND ISSUERS ON THE EXCHANGE

4.1 Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of participants and issuers, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 5 RULES AND RULEMAKING

5.1 Rules and Rulemaking

(a) The exchange has rules, policies, and other similar instruments (**Rules**) that are designed to appropriately govern and regulate the operations and activities of participants and issuers.

(b) In addition to meeting the requirements of NI 21-101 relating to market operations and exchange rules, policies and other similar instruments as referred to in paragraphs 1.1(b) and (c) of this Schedule, respectively, the Rules are also designed to

(i) ensure a fair and orderly market; and

(ii) provide a framework for disciplinary and enforcement actions.

PART 6 DUE PROCESS

6.1 Due Process

For any decision made by the exchange that affects a participant or issuer, or an applicant to be a participant or issuer, including a decision in relation to access, listing, exemptions, or discipline, the exchange ensures that:

(a) parties are given an opportunity to be heard or make representations, and

(b) it keeps a record of, gives reasons for and provides for appeals or reviews of its decisions.

PART 7 CLEARING AND SETTLEMENT

7.1 Clearing and Settlement

The exchange has appropriate arrangements for the clearing and settlement of trades.

PART 8 SYSTEMS AND TECHNOLOGY

8.1 Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

PART 9 FINANCIAL VIABILITY

9.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 10 FEES

10.1 Fees

(a) All fees imposed by the exchange are reasonable and equitably allocated and are consistent with the requirements in Ontario securities laws, including those requirements listed in paragraphs 1.1(a) and (e) of this Schedule.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 11 INFORMATION SHARING AND REGULATORY COOPERATION

11.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, recognized self-regulatory organizations, other recognized or exempt exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

SCHEDULE 2

TERMS AND CONDITIONS APPLICABLE TO NEO EXCHANGE

1. DEFINITIONS AND INTERPRETATION

(a) For the purposes of this Schedule:

"accounting principles" means accounting principles as defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;

"affiliated entity" has the meaning ascribed to it in section 1.3 of National Instrument 21-101 *Marketplace Operation*;

"associate" has the meaning ascribed to it in subsection 1(1) of the Act;

"Board" means the board of directors of Aequitas or Neo Exchange, as the context requires;

"Canadian affiliated entity" means any affiliated entity that is incorporated, formed or created under the laws of Canada or a province or territory of Canada;

"Competitor" means a person whose consolidated business, operations or disclosed business plans are in competition, to a significant extent, with the listing functions, trading functions, market data services or other material lines of business of Neo Exchange or its Canadian affiliated entities;

"criteria for recognition" means all the criteria for recognition set out in Schedule 1 to the Order;

"dealer" means "investment dealer", as that term is defined in section 1.1 of National Instrument 31-103 *Registration Requirements*;

"IIROC" means the Investment Industry Regulatory Organization of Canada;

"Lead Director" means an independent director who will chair all meetings of the independent directors of the Board and serve as a liaison between the chair of the Board and the independent directors;

"marketplace" has the meaning ascribed to it in subsection 1(1) of the Act;

"marketplace participant" has the meaning ascribed to it in section 1.1 of NI 21-101;

"Neo Exchange issuer" means a person or company whose securities are listed on Neo Exchange;

"Neo Exchange marketplace participant" means a marketplace participant of Neo Exchange;

"Nominating Committee" means the committee established by Neo Exchange pursuant to section 7 of this Schedule or by Aequitas pursuant to section 26 of Schedule 3, as the context requires;

"officer" has the meaning ascribed to it in subsection 1(1) of the Act;

"Regulatory Oversight Committee" means the committee established by Neo Exchange pursuant to section 8 of this Schedule;

"Rule" means a rule, policy, or other similar instrument of Neo Exchange;

"shareholder" means a person or company that holds any class or series of voting shares of Aequitas;

"significant shareholder" means a person or company that:

(i) beneficially owns or exercises control or direction over more than 10% of the outstanding shares of Cboe or Aequitas provided, however, that the ownership of or control or direction over Cboe shares in connection with the following activities will not be included for the purposes of determining whether the 10% threshold has been exceeded:

(A) investment activities on behalf of the person or company or its affiliated entity where such investments are made (I) by a bona fide third party investment manager with discretionary authority (subject to such retained discretion in order for the person or company or its affiliated entity to fulfil its fiduciary duties); or (II) by an investment fund or other pooled investment vehicle in which the person or company or such affiliated entity has directly or indirectly invested and which is managed by a third party who has not been provided with confidential, undisclosed information about Cboe,

(B) acting as a custodian for securities in the ordinary course,

(C) normal course trading (including proprietary client facilitation trading) and wealth management activities (including, for greater certainty, in connection with the management of any mutual funds, pooled funds, trust accounts, estate portfolios and other investor funds and portfolios), including electronic securities trading, conducted for or on behalf of clients of the person or company, provided that any fund manager with discretionary authority carrying out such activities on behalf of such clients, or such clients, have not been provided with confidential, undisclosed information about Cboe,

(D) the acquisition of Cboe shares in connection with the adjustment of index-related portfolios or other "basket" related trading,

(E) making a market in securities to facilitate trading in shares of Cboe by third party clients or to provide liquidity to the market in the person or company's capacity as a designated market maker for shares of Cboe securities, in the person or company's capacity as designated market maker for derivatives on Cboe shares, or in the person or company's capacity as market maker or "designated broker" for exchange traded funds which may have investments in shares of Cboe, in each case in the ordinary course, (which, for greater certainty, will include acquisitions or other derivative transactions undertaken in connection with hedging positions of, or in relation to, Cboe shares), or

(F) providing financial services to any other person or company in the ordinary course of business of its and their banking, securities, wealth and insurance businesses, provided that such other person or company has not been provided with confidential, undisclosed information about Cboe,

and subject to the conditions that the ownership of or control or direction over Cboe shares by a person or company in connection with the activities listed in (A) through (F) above:

(G) is not intended by that person or company to facilitate evasion of the 10% threshold set out in clause (i), and

(H) does not provide that person or company the ability to exercise voting rights over more than 10% of the voting shares of Cboe in a manner that is solely in the interests of that person or company as it relates to that person or company's ownership of or control or direction over the subject shares, except where the ability to exercise voting rights over more than 10% of the voting shares arises as a result of the activities listed in (E) above in which case the person or company must not exercise its voting rights with respect to those voting shares; or

(ii) is a shareholder whose nominee is on the Board of Neo Exchange or Aequitas, for as long as the nominee of that shareholder remains on the Board of Neo Exchange or Aequitas; and

“unaudited non-consolidated financial statements” means financial statements that are prepared in the same manner as audited consolidated financial statements, except that

(i) they are not audited; and

(ii) investments in subsidiary entities, jointly controlled entities and associates are accounted for as specified for separate financial statements in International Accounting Standard 27 Separate Financial Statements.

(b) For the purposes of this Schedule, an individual is independent if the individual is “independent” within the meaning of section 1.4 of National Instrument 52-110 *Audit Committees*, as amended from time to time, but is not independent if the individual:

(i) is a partner, officer, director or employee of a Neo Exchange marketplace participant or an associate of that partner, officer or employee;

(ii) is a partner, officer, director or employee of an affiliated entity of a Neo Exchange marketplace participant who is responsible for or is actively engaged in the day-to-day operations or activities of that Neo Exchange marketplace participant;

(iii) is an officer or an employee of Aequitas or any of its affiliates;

(iv) is a partner, officer or employee of a significant shareholder or any of its affiliated entities or an associate of that partner, officer or employee;

(v) is a director of a significant shareholder or any of its affiliated entities or an associate of that director;

(vi) is a person who owns or controls, or is the officer or employee of a person or company that owns or controls, directly or indirectly, more than 10% of the shares of Aequitas;

(vii) is the director of a person or company that beneficially owns or controls, directly or indirectly, more than 10% of any class or series of voting shares of Aequitas;

(viii) is a director that was nominated, and as a result appointed or elected, by a significant shareholder; or

(ix) has, or has had, any relationship with a significant shareholder that could, in the view of the Nomination Committee, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgment as a director of Aequitas or Neo Exchange.

(c) For the purposes of paragraph (b), the Nominating Committee may waive the restrictions set out in subparagraphs (b)(v), (b)(vii) and (viii) provided that:

(i) the individual being considered does not have, and has not had, any relationship with a shareholder that could, in the view of the Nominating Committee, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgement as a director of Neo Exchange;

(ii) Neo Exchange publicly discloses the use of the waiver with reasons why the particular candidate was selected;

(iii) Neo Exchange provides advance notice to the Commission, at least 15 business days before the public disclosure in sub-paragraph (c)(ii) is made, and

(iv) the Commission does not object within 15 business days of its receipt of the notice provided under sub-paragraph (c)(iii) above.

2. PUBLIC INTEREST RESPONSIBILITIES

(a) Neo Exchange must conduct its business and operations in a manner that is consistent with the public interest.

(b) The mandate of the Board must expressly include regulatory and public interest responsibilities of Neo Exchange.

3. SHARE OWNERSHIP RESTRICTIONS

(a) Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert may beneficially own or exercise control or direction over:

(i) more than 10% of any class or series of voting shares of Neo Exchange and, thereafter,

(ii) more than 50% of any class or series of voting shares of Neo Exchange.

(b) The articles of Neo Exchange must contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.

4. RECOGNITION CRITERIA

Neo Exchange must continue to meet the criteria for recognition set out in Schedule 1 to the Order.

5. FITNESS

In order to ensure that Neo Exchange operates with integrity and in the public interest, Neo Exchange will take reasonable steps to ensure that each director or officer of Neo Exchange is a fit and proper person. As part of those steps, Neo Exchange will consider whether the past conduct of each director or officer affords reasonable grounds for the belief that the director or officer will perform their duties with integrity and in a manner that is consistent with Neo Exchange's public interest responsibilities.

6. BOARD OF DIRECTORS

(a) Neo Exchange must ensure that at least 50% of its Board members are independent.

(b) The chair of the Board must be independent or, if this is not the case, the Board will have appointed a Lead Director.

(c) In the event that Neo Exchange fails to meet the requirements under (a) or (b), it must immediately advise the Commission and take appropriate measures to promptly remedy such failure.

(d) Neo Exchange must ensure that its Board is subject to requirements that the quorum for the Board consists of a majority of the Board members, with at least 50% being independent.

7. NOMINATING COMMITTEE

Neo Exchange must maintain a Nominating Committee of the Board that, at a minimum:

(a) is made up of at least three directors, at least 50% of which must be independent;

(b) confirms the status of a nominee to the Board as independent before the individual is appointed to the Board or the name of the individual is submitted to the shareholder(s) of Neo Exchange as a nominee for election to the Board, whichever comes first;

(c) confirms, on an annual basis, that the status of the directors that are independent has not changed;

(d) assesses and approves all nominees of management to the Board; and

(e) has a requirement that the quorum consist of at least 50% of independent directors.

8. REGULATORY OVERSIGHT COMMITTEE

(a) Neo Exchange must establish and maintain a Regulatory Oversight Committee that, at a minimum:

(i) is made up of at least three directors, a majority of which must be independent;

(ii) reviews and decides, or makes recommendations to the Board, on proposed regulation and rules that must be submitted to the OSC for review and approval under Schedule 5 Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto of this Order;

(iii) considers real or perceived conflicts of interest that may arise, including but not limited to the following contexts:

(A) ownership interests in Aequitas by any Neo Exchange marketplace participant with representation on the Board of Aequitas or the Board of Neo Exchange,

(B) significant changes to the ownership of Aequitas, and

(C) the profit-making objective and the public interest responsibilities of Neo Exchange, including general oversight of the management of the regulatory and public interest responsibilities of Neo Exchange;

(iv) oversees the establishment of mechanisms to avoid and appropriately manage conflicts of interest or potential conflicts of interest, perceived or real, including any policies and procedures that are developed by Neo Exchange, including those that are required to be established pursuant to the Schedules of the Order;

(v) reviews the effectiveness of the policies and procedures regarding conflicts of interest on a regular, and at least annual, basis;

(vi) reports in writing directly to the Commission on any matter that the Regulatory Oversight Committee deems appropriate or that is required by the Commission without first requiring Board approval for such reporting.

(b) The Regulatory Oversight Committee must provide such information as may be required by the Commission from time to time.

9. CONFLICTS OF INTEREST AND CONFIDENTIALITY

(a) Neo Exchange must establish, maintain and require compliance with policies and procedures that:

(i) require that confidential information regarding Neo Exchange marketplace operations, Neo Exchange regulation functions, a Neo Exchange marketplace participant or a Neo Exchange issuer that is obtained by a partner, director, officer or employee of a significant shareholder through that individual's involvement in the management or oversight of marketplace operations or regulation functions of Neo Exchange:

(A) be kept separate and confidential from the business or other operations of the significant shareholder, except with respect to information regarding marketplace operations where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of marketplace operations and the individual can and does exercise due care in his or her disclosure of the information, and

(B) not be used to provide an advantage to Aequitas or Cboe or Cboe's affiliated entities;

provided that nothing in this section will be construed to limit Aequitas or Neo Exchange from providing to Cboe and its affiliated entities necessary information.

(b) Neo Exchange must establish, maintain and require compliance with policies and procedures that identify and manage conflicts of interest or potential conflicts of interest arising from the listing of the shares of any significant shareholder or an affiliate of a significant shareholder on Neo Exchange.

(c) Neo Exchange must regularly review compliance with the policies and procedures established in accordance with (a) and (b) and must document each review, and any deficiencies, and how those deficiencies were remedied.

10. ACCESS

Neo Exchange's requirements must provide access to the facilities of Neo Exchange only to properly registered investment dealers that are members of IIROC and satisfy reasonable access requirements established by Neo Exchange.

11. REGULATION OF NEO EXCHANGE MARKETPLACE PARTICIPANTS AND NEO EXCHANGE ISSUERS

(a) Neo Exchange must establish, maintain and require compliance with policies and procedures that effectively monitor and enforce the Rules against Neo Exchange marketplace participants and Neo Exchange issuers, either directly or indirectly through a regulation services provider.

(b) Neo Exchange has retained and will continue to retain IIROC as a regulation services provider to provide, as agent for Neo Exchange, certain regulation services that have been approved by the Commission.

(c) Neo Exchange must perform all other regulation functions not performed by IIROC, and must maintain adequate staffing, systems and other resources in support of those functions. Neo Exchange must obtain prior Commission approval before outsourcing such regulation functions to any party, including affiliated entities or associates of Neo Exchange.

(d) Neo Exchange must notify the Commission of any violations of Ontario securities law of which it becomes aware in the ordinary course of its business or otherwise.

12. FEES, FEE MODELS AND INCENTIVES

(a) Neo Exchange must not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a particular marketplace participant or any other particular person or company, or

(ii) any discount, rebate, allowance, price concession or other similar arrangement for any service or product offered by Neo Exchange or Cboe and its affiliated entities and significant shareholders that is conditional upon:

(A) the requirement to have Neo Exchange be set as the default or first marketplace a marketplace participant routes to, or

(B) the router of Neo Exchange being used as the marketplace participant's primary router.

(b) Except with the prior approval of the Commission, Neo Exchange must not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement on any services or products offered by Neo Exchange or Cboe and its affiliated entities and significant shareholders that is conditional upon the purchase of any other service or product provided by Neo Exchange or Cboe or any affiliated entity, or

(ii) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a class of marketplace participants or of any other persons or companies.

(c) Neo Exchange must obtain prior Commission approval before implementing any new, or amendments to, fees and fee models, including any new, or amendments to any, incentives relating to arrangements that provide for equity ownership in Aequitas for marketplace participants or their affiliated entities based on trading volumes or values on Neo Exchange.

(d) Except with the prior approval of the Commission, Neo Exchange must not require another person or company to purchase or otherwise obtain products or services from Neo Exchange or Cboe and its affiliated entities and significant shareholders as a condition of Neo Exchange supplying or continuing to supply a product or service.

(e) If the Commission considers that it would be in the public interest, the Commission may require Neo Exchange to submit for approval by the Commission a fee, fee model or incentive that has previously been submitted to and/or approved by the Commission.

(f) Where the Commission decides not to approve the fee, fee model or incentive submitted under (e), any previous approval for the fee, fee model or incentive must be revoked, if applicable, and Neo Exchange will no longer be permitted to offer the fee, fee model or incentive.

13. ORDER ROUTING

Neo Exchange must not support, encourage or incent, either through fee incentives or otherwise, Neo Exchange marketplace participants, Cboe affiliated entities or significant shareholders to coordinate the routing of their orders to Neo Exchange.

14. FINANCIAL REPORTING

Neo Exchange must deliver to the Commission its annual financial budget, together with the underlying assumptions, that has been approved by its Board, within 30 days from the commencement of each fiscal year.

15. FINANCIAL VIABILITY MONITORING

(a) Neo Exchange must maintain sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

(b) Neo Exchange must calculate the following financial ratios monthly:

(i) a current ratio, being the ratio of current assets to current liabilities;

(ii) a debt to cash flow ratio, being the ratio of total debt (including any line of credit draw downs, and the current and long-term portions of any loans, but excluding accounts payable, accrued expenses and other liabilities) to EBITDA (earnings before interest, taxes, stock-based compensation, depreciation and amortization) for the most recent 12 months; and

(iii) a financial leverage ratio, being the ratio of total assets to shareholders' equity,

in each case following the same accounting principles as those used for the unaudited non consolidated financial statements of Neo Exchange.

(c) Neo Exchange must report quarterly in writing to the Commission the monthly calculations for the previous quarter of the financial ratios as required to be calculated under paragraph (b).

(d) If Neo Exchange determines that it does not have, or anticipates that, in the next twelve months, it will not have sufficient financial resources for the proper performance of its functions and to meet its responsibilities, it will immediately notify the Commission along with the reasons and any impact on the financial viability of Neo Exchange.

(e) Upon receipt of a notification made by Neo Exchange under (d), the Commission may, as determined appropriate, impose additional terms and conditions on Neo Exchange.

16. ADDITIONAL INFORMATION

(a) Neo Exchange must provide the Commission with:

(i) the information set out in Appendix A to this Schedule**,** as amended from time to time; and

(ii) any information required to be provided by Neo Exchange to IIROC, including all order and trade information, as required by the Commission.

17. GOVERNANCE REVIEW

(a) At the request of the Commission, Neo Exchange must engage an independent consultant, or independent consultants acceptable to the Commission to prepare a written report assessing the governance structure of Neo Exchange (Governance Review).

(b) The written report must be provided to the Board of Neo Exchange promptly after the report's completion and then to the Commission within 30 days of providing it to the Board.

(c) The scope of the Governance Review must be approved by the Commission.

18. PROVISION OF INFORMATION

(a) Neo Exchange must, and must cause its Canadian affiliated entities to, promptly provide to the Commission, on request, any and all data, information and analyses in the custody or control of Neo Exchange or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:

(i) data, information and analyses relating to all of its or their businesses; and

(ii) data, information and analyses of third parties in its or their custody or control.

(b) Neo Exchange must share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

19. COMPLIANCE WITH TERMS AND CONDITIONS

(a) Neo Exchange must certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or another executive officer, within one year of the effective date of its recognition as an exchange pursuant to this Order and every year subsequent to that date, or at any times required by the Commission, that it is in compliance with the terms and conditions applicable to it in the Order and describe in detail:

(i) the steps taken to require compliance;

(ii) the controls in place to verify compliance;

(iii) the names and titles of employees who have oversight of compliance.

(b) If Neo Exchange or any of its directors, officers or employees become aware of a breach or a possible breach of any of the terms and conditions applicable to the Neo Exchange under the Schedules to the Order, such person must, within two business days after becoming aware of the breach or possible breach, notify the Regulatory Oversight Committee of the breach or possible breach. The director, officer or employee of the recognized exchange must provide to the Regulatory Oversight Committee details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

(c) The Regulatory Oversight Committee must, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required by (d).

(d) The Regulatory Oversight Committee must promptly cause to be conducted an investigation of the breach or possible breach reported under (b). Once the Regulatory Oversight Committee has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to Neo Exchange under the Schedules to the Order, the Regulatory Oversight Committee must, within two business days of such determination, notify the Commission of its determination and must provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

Appendix A

Additional Reporting Obligations

1. Ad Hoc

(a) Immediate notification of a decision to enter into a definitive agreement (including a binding letter of intent), memorandum of understanding or other similar agreement with any governmental or regulatory body, self-regulatory obligation, clearing agency, stock exchange, other marketplace or market, except in the case where the agreement or arrangement: (i) is primarily intended to restrict the use or disclosure of confidential information, (ii) is primarily for the purpose of facilitating discussions in connection with a possible definitive agreement, (iii) is necessary to support the provision of the existing exchange services, or (iv) relates to the provision of the existing exchange services and is also subject to the standard form agreements of the exchange (for example, listing agreements, data subscription agreements, etc.).

(b) Immediate notification if Neo Exchange:

(i) becomes the subject of any order, directive or similar action of a governmental or regulatory authority;

(ii) becomes aware that it is the subject of a criminal or regulatory investigation; or

(iii) becomes, or it is notified in writing that it will become, the subject of a material lawsuit.

(c) Any strategic plan for Neo Exchange, within 30 days of approval by the Board.

(d) Any information submitted by Neo Exchange to a Canadian securities regulatory authority under a requirement of a recognition order, exemption order or NI 21-101, provided concurrently.

(e) Copies of all notices, bulletins and similar forms of communication that Neo Exchange sends to the Neo Exchange marketplace participants or Neo Exchange issuers.

(f) Prompt notification of any suspension or delisting of a Neo Exchange issuer, including the reasons for the suspension or delisting.

(g) Prompt notification of any initial listing application received from a significant shareholder or any of its affiliates.

(h) Prompt notification of any initial listing application received from a Competitor.

(i) Prompt notification of any application for exemption or waiver from requirements received from a significant shareholder or any of its affiliates.

2. Quarterly Reporting

(a) A quarterly report summarizing all exemptions or waivers granted during the period pursuant to the Rules to any Neo Exchange marketplace participant or Neo Exchange issuer, which must include the following information:

(i) the name of the Neo Exchange marketplace participant or Neo Exchange issuer;

(ii) the type of exemption or waiver granted during the period;

(iii) the date of the exemption or waiver; and

(iv) a description of the recognized exchange's reason for the decision to grant the exemption or waiver.

(b) A quarterly report regarding initial listing applications containing the following information:

(i) the name of any Neo Exchange issuer whose initial listing application was conditionally approved, the date of such approval, the type of listing, the category of listing and, if known, whether the issuer was denied an application to list its securities on another marketplace;

(ii) the name of any issuer whose initial listing application was rejected and the reasons for rejection, by category of listing; and

(iii) the name of any issuer whose initial listing application was withdrawn or abandoned and, if known, the reasons why the application was withdrawn or abandoned, by category of listing.

The information required by section 2(b)(i) above should disclose whether the issuer is an Emerging Market Issuer, whether the listing involved an agent, underwriter or Canadian Securities Regulatory Authority, and any

additional requirements imposed by Neo Exchange pursuant to sections 2.10 and 2.11 of the Neo Exchange Listing Manual.

(c) A quarterly report summarizing all significant incidents of non-compliance by Neo Exchange issuers identified by Neo Exchange during the period, together with a summary of the actions taken to address and resolve the incidents of non-compliance.

(d) A quarterly report listing all the Competitors listed on Neo Exchange.

(e) A quarterly report summarizing instances where conflicts of interest or potential conflicts of interest with respect to Competitors have been identified by Neo Exchange and how such conflicts were addressed.

(f) A quarterly report, the scope of which must be approved by the Commission, relating to compliance with the use of certain designations by marketplace participants, including the results of reviews of marketplace participants' use of such designations and a description of the actions taken to address and resolve instances of non-compliance.

3. Annual Reporting

At least annually, or more frequently if required by the Commission, an assessment of the risks, including business risks, facing Neo Exchange and the plan for addressing such risks.

SCHEDULE 3

TERMS AND CONDITIONS APPLICABLE TO AEQUITAS

20. DEFINITIONS AND INTERPRETATION

Terms used in this Schedule have the same meanings and interpretation as in section 1 of Schedule 2.

21. PUBLIC INTEREST RESPONSIBILITIES

(a) Aequitas must conduct its business and operations in a manner that is consistent with the public interest.

(b) The mandate of the Board must expressly include Aequitas' regulatory and public interest responsibilities.

22. SHARE OWNERSHIP RESTRICTIONS

(a) Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert may beneficially own or exercise control or direction over:

(i) more than 10% of any class or series of voting shares of Aequitas and, thereafter,

(ii) more than 50% of any class or series of voting shares of Aequitas.

(b) The articles of Aequitas must contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.

23. RECOGNITION CRITERIA

Aequitas must continue to meet the criteria for recognition set out in Schedule 1 to the Order.

24. FITNESS

Aequitas must take reasonable steps to ensure that each director or officer of Aequitas is a fit and proper person. As part of those steps, Aequitas will consider whether the past conduct of each director or officer affords reasonable grounds for the belief that the director or officer will perform their duties with integrity and in a manner that is consistent with Aequitas's public interest responsibilities.

25. BOARD OF DIRECTORS

(a) Aequitas must ensure that at least one third of its Board members are independent.

(b) In the event that Aequitas fails to meet the requirements under (a), it must immediately advise the Commission and take appropriate measures to remedy such failure.

(c) Aequitas must ensure that the Board is subject to requirements that the quorum for the Board consists of a majority of the Board members, with at least two directors being independent.

26. NOMINATING COMMITTEE

Aequitas must maintain a Nominating Committee that, at a minimum:

(a) is made up of at least three directors, at least 50% of which must be independent;

(b) confirms the status of a nominee to the Board as independent before the individual is appointed to the Board or the name of the individual is submitted to shareholders as a nominee for election to the Board, whichever comes first;

(c) confirms, on an annual basis, that the status of the directors that are independent has not changed;

(d) assesses and approves all nominees of management to the Board; and

(e) has a requirement that the quorum consist of at least 50% of independent directors.

27. CONFIDENTIALITY PROCEDURES

(a) Aequitas must establish, maintain and require compliance with policies and procedures that:

(i) require that confidential information regarding Neo Exchange marketplace operations, Neo Exchange regulation functions, a Neo Exchange marketplace participant or a Neo Exchange issuer that is obtained by a partner, director, officer or employee of a significant shareholder through that individual's involvement in the management or oversight of the marketplace operations or regulation functions of Neo Exchange:

(A) be kept separate and confidential from the business or other operations of the significant shareholder, except with respect to information regarding marketplace operations where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of marketplace operations and the individual can and does exercise due care in his or her disclosure of the information, and

(B) not be used to provide an advantage to Aequitas or Cboe or Cboe's affiliated entities;

provided that nothing in this section will be construed to limit Aequitas or Neo Exchange from providing to Cboe and its affiliated entities necessary information.

(b) Aequitas must regularly review compliance with the policies and procedures established in accordance with (a) and must document each review and any deficiencies and how those deficiencies were remedied.

28. ALLOCATION OF RESOURCES

(a) Aequitas must, for so long as Neo Exchange carries on business as an exchange, allocate sufficient financial and other resources to Neo Exchange to ensure that Neo Exchange can carry out its functions in a manner that is consistent with the public interest and in compliance with Ontario securities law.

(b) Aequitas must notify the Commission immediately upon being aware that it is or will be unable to allocate sufficient financial and other resources, as required under (a), to Neo Exchange.

29. FEES, FEE MODELS AND INCENTIVES

(a) Aequitas must ensure that its affiliated entities, including Neo Exchange or Cboe and its affiliated entities, do not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a particular marketplace participant or any other particular person or company, or

(ii) any discount, rebate, allowance, price concession or other similar arrangement for any service or product offered by the affiliated entity, including Neo Exchange or Cboe and its affiliated entities and significant shareholders, that is conditional upon:

(A) the requirement to have Neo Exchange be set as the default or first marketplace a marketplace participant routes to; or

(B) the router of Neo Exchange being used as the marketplace participant's primary router.

(b) Aequitas must ensure that its affiliated entities, including Neo Exchange, do not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement on any services or products offered by the affiliated entity, including Neo Exchange or Cboe and its affiliated entities and significant shareholders that is conditional upon the purchase of any other service or product provided by the affiliated entity; or

(ii) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a class of marketplace participants or of any other persons or companies,

unless prior approval has been granted by the Commission.

(c) Aequitas must ensure that Neo Exchange obtains prior Commission approval before implementing any new, or amendments to, fees and fee models, including any new, or amendments to any, incentives relating to arrangements

that provide for equity ownership in Aequitas for marketplace participants or their affiliated entities based on trading volumes or values on Neo Exchange.

(d) Aequitas must ensure that Neo Exchange does not require a person or company to purchase or otherwise obtain products or services from Neo Exchange or Cboe and its affiliated entities and significant shareholders as a condition of Neo Exchange supplying or continuing to supply a product or service unless prior approval has been granted by the Commission.

(e) Aequitas must ensure that Neo Exchange or Cboe and its affiliated entities and significant shareholders do not require another person, significant shareholder or company to obtain products or services from Neo Exchange as a condition of the affiliated entity supplying or continuing to supply a product or service.

30. ORDER ROUTING

Aequitas must not support, encourage or incent, either through fee incentives or otherwise, Neo Exchange marketplace participants, Cboe affiliated entities or significant shareholders to coordinate the routing of their orders to Neo Exchange.

31. FINANCIAL REPORTING

Aequitas must deliver to the Commission its annual financial budget, together with the underlying assumptions, that has been approved by its Board, within 30 days from the commencement of each fiscal year.

32. REPORTING REQUIREMENTS

Aequitas must provide the Commission with the information set out in Appendix A to this Schedule, as amended from time to time.

33. GOVERNANCE REVIEW

(a) At the request of the Commission, Aequitas must engage an independent consultant, or independent consultants, acceptable to the Commission to prepare a written report assessing the governance structure of Aequitas (**Aequitas Governance Review**).

(b) The written report must be provided to the Board of Aequitas promptly after the report's completion and then to the Commission within 30 days of providing it to the Board.

(c) The scope of the Aequitas Governance Review must be approved by the Commission.

34. PROVISION OF INFORMATION

(a) Aequitas must, and must cause its Canadian affiliated entities to promptly provide to the Commission, on request, any and all data, information and analyses in the custody or control of Aequitas or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:

(i) data, information and analyses relating to all of its or their businesses; and

(ii) data, information and analyses of third parties in its or their custody or control.

(b) Aequitas must share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

35. COMPLIANCE WITH TERMS AND CONDITIONS

(a) Aequitas must certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or another executive officer, within one year of the effective date of its recognition as an exchange pursuant to this Order and every year subsequent to that date, or at any times required by the Commission, that it is in compliance with the terms and conditions applicable to it in the Order and describe in detail:

(i) the steps taken to require compliance;

(ii) the controls in place to verify compliance; and

(iii) the names and titles of employees who have oversight of compliance.

(b) If Aequitas or any of its directors, officers or employees become aware of a breach or a possible breach of any of the terms and conditions applicable to Aequitas under the Schedules to the Order, such person must, within two business

days after becoming aware of the breach or possible breach, notify the Board or committee designated by the Board and approved by the Commission of the breach or possible breach. The director, officer or employee of the recognized exchange must provide to the Board or committee designated by the Board details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

(c) The Board or committee designated by the Board must, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required under (d).

(d) The Board or committee designated by the Board must promptly cause to be conducted an investigation of the breach or possible breach reported under (b). Once the Board or committee designated by the Board has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to Aequitas under the Schedules to the Order, the Board or committee designated by the Board must, within two business days of such determination, notify the Commission of its determination and must provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

Appendix A

Additional Reporting Obligations

1. Ad Hoc

(a) Immediate notification of a decision to enter into a definitive agreement (including a binding letter of intent), memorandum of understanding or other similar agreement with any governmental or regulatory body, self-regulatory obligation, clearing agency, stock exchange, other marketplace or market, except in the case where the agreement or arrangement: (i) is primarily intended to restrict the use or disclosure of confidential information, (ii) is primarily for the purpose of facilitating discussions in connection with a possible definitive agreement, (iii) is necessary to support the provision of the existing exchange services, (iv) relates to the provision of the existing exchange services and is also subject to the standard form agreements of the exchange (for example, listing agreements, data subscription agreements, etc.), or (v) relates to a business line other than exchange services.

(b) Immediate notification if Aequitas:

(i) becomes the subject of any order, directive or similar action of a governmental or regulatory authority;

(ii) becomes aware that it is the subject of a criminal or regulatory investigation; or

(iii) becomes, or it is notified in writing that it will become, the subject of a material lawsuit.

(c) Immediate notification if any shareholder or any affiliate of a shareholder of Aequitas becomes, or it is notified in writing that it will become, the subject of a criminal, administrative or regulatory proceeding.

(d) Any strategic plan for Aequitas and its subsidiaries, within 30 days of approval by the Board.

(e) Any information submitted by Aequitas to a Canadian securities regulatory authority under a requirement of a recognition order, exemption order or NI 21-101, provided concurrently.

2. Annual Reporting

At least annually, or more frequently if required by the Commission, an assessment of the risks, including business risks, facing Aequitas and its subsidiaries and the plan for addressing such risks.

SCHEDULE 4

TERMS AND CONDITIONS APPLICABLE TO CBOE

36. DEFINITIONS AND INTERPRETATION

Terms used in this Schedule have the same meanings and interpretation as in section 1 of Schedule 2.

37. PUBLIC INTEREST RESPONSIBILITIES

Cboe shall ensure that Neo Exchange and Aequitas conduct the business and operations of recognized exchanges in a manner that is consistent with the public interest.

38. ALLOCATION OF RESOURCES

(a) To ensure Neo Exchange and Aequitas can carry out their functions in a manner that is consistent with the public interest and in compliance with Ontario securities law, Cboe shall, for so long as Neo Exchange and Aequitas carry on business as exchanges, facilitate the allocation of sufficient financial and non-financial resources for the operations of these exchanges.

(b) Cboe shall notify the Commission immediately upon being aware that it is or will be unable to allocate sufficient financial or other resources to Neo Exchange or Aequitas, as required under paragraph (a).

39. PROVISION OF INFORMATION

Cboe shall promptly provide to the Commission, on request, any and all data, information, and analyses in its custody or control related to the business and operations of Neo Exchange or Aequitas without limitations, redactions, restrictions, or conditions, provided that nothing in this section will be construed to abrogate solicitor-client privilege or any similar doctrines that may apply to communications with and work product produced by counsel.

SCHEDULE 5

PROCESS FOR THE REVIEW AND APPROVAL OF RULES AND THE INFORMATION CONTAINED IN FORM 21-101F1 AND THE EXHIBITS THERETO

1. Purpose

This Protocol sets out the procedures a recognized exchange (Exchange) must follow for any Rule or Change, both as defined in section 2 below, and describes the procedures for their review by Commission Staff (Staff) and approval by the Commission or the Director. This Protocol also establishes requirements regarding the time at which an Exchange may begin operations following recognition by the Commission.

2. Definitions

For the purposes of this Protocol:

(a) *Change* means a Fee Change, a Housekeeping Change or a Significant Change.

(b) *Director* means "Director" as defined in subsection 1(1) of the Securities Act (Ontario).

(c) *Fee Change* means any new fee or fee model of the Exchange and any amendment to a fee or fee model.

(d) *Fee Change subject to Public Comment* means a Fee Change that, in Staff's view, may have a significant impact on the Exchange, its market structure, members, issuers, investors or the Canadian capital markets or otherwise raises regulatory or public interest concerns and should be subject to public comment.

(e) *Housekeeping Change* means an amendment to the information in Form 21-101F1 that

(i) does not have a significant impact on the Exchange, its market structure, members, issuers, investors or the Canadian capital markets, or

(ii) is of a housekeeping or administrative nature and is comparable to the types of housekeeping changes listed in subsection 6.1(5)(b) of Companion Policy 21-101CP.

(f) *Housekeeping Rule* means a new Rule or an amendment to a Rule that

(i) does not have a significant impact on the Exchange, its market structure, members, issuers, investors or the Canadian capital markets, or

(ii) is of a housekeeping or administrative nature and is comparable to the types of housekeeping changes listed in subsection 6.1(5)(b) of Companion Policy 21-101CP.

(g) *Public Interest Rule* means a Rule or an amendment to a Rule that is not a Housekeeping Rule.

(h) *Rule* includes a rule, policy and other similar instrument of the Exchange.

(i) *Significant Change* means an amendment to the information in Form 21-101F1 other than

(i) a Housekeeping Change,

(ii) a Fee Change, or

(iii) a Rule,

and for greater certainty includes the matters listed in subsection 6.1(4) of Companion Policy 21-101 CP.

(j) *Significant Change subject to Public Comment* means a Significant Change that

(i) is listed in paragraphs 6.1(4)(a) or (b) of Companion Policy 21-101 CP, or

(ii) in Staff's view, may have a significant impact on the Exchange, its market structure, members, issuers, investors or the Canadian capital markets or otherwise raises regulatory or public interest concerns and should be subject to public comment.

3. Scope

The Exchange and Staff will follow the process for review and approval set out in this Protocol for all Changes, new Rules and Rule amendments.

4. Board Approval

The Exchange's board of directors, or a duly authorized committee of the board, must approve all Rules prior to their submission under this Protocol.

5. Waiving or Varying the Protocol

(a) The Exchange may submit a written request with Staff to waive or vary any part of this Protocol. The request must provide reasons why granting the waiver is appropriate in the circumstances.

(b) Staff will use their best efforts to provide to the Exchange within five business days of receipt of its request either:

(i) written notice that Staff object to granting the waiver or variation; or

(ii) written notice that the waiver or variation has been granted by Staff.

6. Commencement of Exchange Operations

The Exchange must not begin operations until a reasonable period of time after the Exchange is notified that it has been recognized by the Commission.

7. Materials to be Submitted and Timelines

(a) Prior to the implementation of a Fee Change, Public Interest Rule or Significant Change, the Exchange will provide Staff with the following materials:

(i) a cover letter that, together with the notice for publication submitted under paragraph (a)(ii), if applicable, fully describes:

(A) the proposed Fee Change, Public Interest Rule or Significant Change;

(B) the expected date of implementation of the proposed Fee Change, Public Interest Rule or Significant Change;

(C) the rationale for the proposal and any relevant supporting analysis;

(D) the expected impact, including the quantitative impact, of the proposed Fee Change, Public Interest Rule or Significant Change on the market structure, members and, if applicable, on investors, issuers and the capital markets;

(E) the expected impact of the Fee Change, Public Interest Rule or Significant Change on the Exchange's compliance with Ontario securities law requirements and in particular requirements for fair access and maintenance of fair and orderly markets;

(F) a summary of any consultations, including consultations with external parties, undertaken in formulating the Fee Change, Public Interest Rule or Significant Change, and the internal governance process followed to approve the Rule or Change;

(G) for a proposed Fee Change:

1. the expected number of marketplace participants likely to be subject to the new fee, along with a description of the costs they will incur; and

2. if the proposed Fee Change applies differently across types of marketplace participants, a description of this difference, how it impacts each class of affected marketplace participant, including, where applicable, numerical examples, and any justification for the difference in treatment.

(H) if the Public Interest Rule or Significant Change will require members or service vendors to modify their systems after implementation of the Rule or Change, the expected impact of the Rule or Change on the systems of members and service vendors together with an estimate of the amount of time needed

to perform the necessary work and how the estimated amount of time was deemed reasonable in light of the expected impact of the Public Interest Rule or Significant Change on the Exchange, its market structure, members, issuers, investors or the Canadian capital markets;

(I) where the proposed Significant Change is not a Significant Change subject to Public Comment, the rationale for why the proposed Significant Change is not considered a Significant Change subject to Public Comment;

(J) a discussion of any alternatives considered; and

(K) if applicable, whether the proposed Fee Change, Significant Change or Public Interest Rule would introduce a fee model, feature or Rule that currently exists in other markets or jurisdictions;

(ii) for a proposed Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, a notice for publication that generally includes the information required under paragraph (a)(i), except information that, if included in the notice, would result in the public disclosure of sensitive information or confidential or proprietary financial, commercial or technical information;

(iii) for a proposed Public Interest Rule, the text of the Rule and a blacklined version of the Rule indicating changes to any existing Rules, and if supplementary material relating to the Rule is contained in Form 21-101F1, blacklined and clean copies of Form 21-101F1; and

(iv) for a proposed Fee Change or Significant Change, blacklined and clean copies of Form 21-101F1 showing the proposed Change.

(b) The Exchange will submit the materials set out in subsection (a)

(i) at least 45 days prior to the expected implementation date of a proposed Public Interest Rule or Significant Change; and

(ii) at least fifteen business days prior to the expected implementation date of a proposed Fee Change.

(c) For a Housekeeping Rule, the Exchange will provide Staff with the following materials:

(i) a cover letter that fully describes the Rule and indicates that it was classified as a Housekeeping Rule and provides an analysis of the rationale for the classification, and the date or proposed date of implementation of the Rule;

(ii) the text of the Rule and a blacklined version of the Rule indicating changes to any existing Rules;

(iii) if supplementary material relating to the Rule is contained in Form 21-101F1, blacklined and clean copies of Form 21-101F1; and

(iv) a notice for publication on the OSC website or in the OSC Bulletin that contains the information in paragraph (ii) as well as the implementation date for the Rule and indicates that the Rule has been classified as a Housekeeping Rule and was not published for comment.

(d) For a Housekeeping Change, the Exchange will provide Staff with the following materials:

(i) a cover letter that indicates that the change was classified as a Housekeeping Change and, for each Housekeeping Change, provides an analysis of the rationale for the classification and the expected or actual date of implementation of the Change; and

(ii) blacklined and clean copies of Form 21-101F1 showing the Change.

(e) The Exchange will submit the materials set out in subsection (d) by the earlier of

(i) the Exchange's close of business on the 10th calendar day after the end of the calendar quarter in which the Housekeeping Change was implemented; and

(ii) the date on which the Exchange publicly announces a Housekeeping Change, if applicable.

8. Review by Staff of notice and materials to be published for comment

(a) Within 5 business days of the receipt of the notice and materials submitted by the Exchange relating to a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, in accordance with

subsection 7(a), Staff will review the notice and materials to ensure that they contain an adequate level of detail, analysis and discussion to elicit meaningful public comment, and will promptly notify the Exchange of any deficiency requiring a resubmission of the notice and/or materials.

(b) Where the notice and/or materials are considered by Staff to be deficient, the Exchange will amend and resubmit the notice and/or materials accordingly, and the date of resubmission will serve as the submission date for the purposes of this Protocol.

(c) Where the notice and materials are considered by Staff to be adequate for publication, Staff will proceed with the processes set out in section 9.

9. Publication of a Public Interest Rule, Significant Change Subject to Public Comment or Fee Change Subject to Public Comment

(a) As soon as practicable after the receipt of the notice and materials submitted by the Exchange relating to a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, in accordance with subsection 7(a), Staff will publish in the OSC Bulletin and/or on the OSC website, the notice prepared by the Exchange, along with a notice prepared by Staff, if necessary, that provides market participants with an opportunity to provide comments to Staff and to the Exchange within 30 days from the date the notice appears in the OSC Bulletin or on the OSC website, whichever comes first.

(b) If public comments are received

(i) the Exchange will forward copies of the comments promptly to Staff; and

(ii) the Exchange will prepare a summary of the public comments and a response to those comments and provide them to Staff promptly after the end of the comment period.

10. Review and Approval Process for Proposed Fee Changes, Public Interest Rules and Significant Changes

(a) Staff will use their best efforts to complete their review of a proposed Fee Change, Public Interest Rule or Significant Change within

(i) 45 days from the date of submission of a proposed Public Interest Rule or Significant Change; and

(ii) fifteen business days from the date of submission of a proposed Fee Change.

(b) Staff will notify the Exchange if they anticipate that their review of the proposed Fee Change, Public Interest Rule or Significant Change will exceed the timelines in subsection (a).

(c) If Staff have material comments or require additional information to complete their review of a proposed Fee Change, Public Interest Rule or Significant Change, Staff will use best efforts to provide the Exchange with a comment letter promptly by the end of the public comment period for a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, and promptly after the receipt of the materials submitted under section 7 for all other Changes.

(d) The Exchange will respond to any comments received from Staff in writing.

(e) Unless Staff agree to an extension of time, if the Exchange fails to respond to Staff's comments within 120 days after the receipt of Staff's comment letter, the Exchange will be deemed to have withdrawn the proposed Fee Change, Public Interest Rule or Significant Change. If the Exchange wishes to proceed with the Fee Change, Public Interest Rule or Significant Change after it has been deemed withdrawn, the Exchange will have to be re-submit it for review and approval in accordance with this Protocol.

(f) Upon completion of Staff's review of a Fee Change, Public Interest Rule or Significant Change, Staff will submit the Change or Rule to the Director or, in the circumstances described in subsection (g), to the Commission, for a decision within the following timelines:

(i) for a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, the later of 45 days from the date that the related materials were published for comment and the date that Staff's comments and public comments, including any concerns identified, have been adequately addressed by the Exchange;

(ii) for any other Significant Change, the later of 45 days from the date of submission of the Change and the date that Staff's comments and any concerns identified have been adequately addressed by the Exchange; or

(iii) for any other Fee Change, the later of fifteen business days from the date of submission of the change and the date that Staff's comments and any concerns identified have been adequately addressed by the Exchange.

(g) A Fee Change, Public Interest Rule or Significant Change may be submitted to the Commission for a decision, within the timelines in subsection (f),

(i) if the proposed Fee Change, Public Interest Rule or Significant Change introduces a novel feature to the Exchange or the capital markets;

(ii) if the proposed Fee Change, Public Interest Rule or Significant Change raises significant regulatory or public interest concerns; or

(iii) in any other situation where, in Staff's view, Commission approval is appropriate.

(h) Staff will promptly notify the Exchange of the decision.

(i) If a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment is approved, Staff will publish the following documents in the OSC Bulletin and/or on the OSC website promptly after the approval:

(i) a notice indicating that the proposed Rule or Change is approved;

(ii) the summary of public comments and responses prepared by the Exchange, if applicable; and

(iii) if non-material changes were made to the version published for public comment, a brief description of these changes prepared by the Exchange and a blacklined copy of the revised Rule or Change highlighting the revisions made.

11. Review Criteria for a Fee Change, Public Interest Rule and Significant Change

(a) Staff will review a proposed Fee Change, Public Interest Rule or Significant Change to assess whether it is in the public interest for the Director or the Commission to approve the Rule or Change. In making this determination, Staff will have regard for the purposes of the *Securities Act* (Ontario) (Act) as set out in section 1.1 of the Act. The factors that Staff will consider in making their determination also include whether:

(i) the Rule or Change would impact the Exchange's compliance with Ontario securities law;

(ii) the Exchange followed its established internal governance practices in approving the proposed Rule or Change;

(iii) the Exchange followed the requirements of this Protocol and has provided sufficient analysis of the nature, purpose and effect of the Rule or Change; and

(iv) the Exchange adequately addressed any comments received.

12. Effective Date of a Fee Change, Public Interest Rule or Significant Change

(a) A Public Interest Rule or Significant Change will be effective on the later of:

(i) the date that the Exchange is notified that the Change or Rule is approved;

(ii) if applicable, the date of publication of the notice of approval on the OSC website;

(iii) if applicable, the implementation date established by the Exchange's Rules, agreements, practices, policies or procedures; and

(iv) the date designated by the Exchange.

(b) The Exchange must not implement a Fee Change unless the Exchange has provided stakeholders, including marketplace participants, issuers and vendors, as applicable, with notice of the Fee Change at least five business days prior to implementation.

(c) Where a Significant Change involves a material change to any of the systems, operated by or on behalf of the Exchange, described in section 12.1 of National Instrument 21-101, the Significant Change will not be effective until a reasonable period of time after the Exchange is notified that the Significant Change is approved.

(d) In determining what constitutes a reasonable period of time for purposes of implementing a Significant Change under paragraph (c), Staff will consider how the Significant Change will impact the Exchange, its market structure, members, issuers, investors or the Canadian capital markets or otherwise raises regulatory or public interest concerns.

(e) The Exchange must notify Staff promptly following the implementation of a Public Interest Rule, Significant Change or Fee Change that becomes effective under subsections (a) and (b).

(f) Where the Exchange does not implement a Public Interest Rule, Significant Change or Fee Change within 180 days of the effective date of the Fee Change, Public Interest Rule or Significant Change, as provided for in subsections (a) and (b), the Public Interest Rule, Significant Change or Fee Change will be deemed to be withdrawn.

13. Significant Revisions and Republication

(a) If, subsequent to its publication for comment, the Exchange revises a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment in a manner that results in a material change to the proposed substance or effect of the Rule or Change, Staff will, in consultation with the Exchange, determine whether or not the revised Rule or Change should be published for an additional 30-day comment period.

(b) If a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment is republished under subsection (a), the request for comments will include a blacklined version marked to the originally published version, a summary of comments and responses prepared by the Exchange, and an explanation of the revisions and the supporting rationale for the revisions.

14. Withdrawal of a Fee Change, Public Interest Rule or Significant Change

(a) If the Exchange withdraws a Fee Change, Public Interest Rule or a Significant Change that was previously submitted, it will provide a written notice of withdrawal to Staff.

(b) If the notice of withdrawal relates to a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, Staff will publish the notice of withdrawal in the OSC Bulletin and/or on the OSC website as soon as practicable.

(c) If a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment is deemed to have been withdrawn as provided in subsection 10(e), Staff will prepare and publish a notice informing market participants that the Exchange did not proceed with the Rule or Change.

15. Effective Date of a Housekeeping Rule or Housekeeping Change

(a) Subject to subsections (c) and (d), a Housekeeping Rule will be effective on the later of

(i) the date of the publication of the notice to be published on the OSC website or in the OSC Bulletin, in accordance with subsection (e), and

(ii) the date designated by the Exchange.

(b) Subject to subsections (c) and (d), a Housekeeping Change will be effective on the date designated by the Exchange.

(c) Staff will review the materials submitted by the Exchange for a Housekeeping Change or Housekeeping Rule to assess the appropriateness of the categorization of the Rule or Change as housekeeping within five business days from the date that the Exchange submitted the documents in accordance with subsections 7(c) and 7(d). The Exchange will be notified in writing if there is disagreement with respect to the categorization of the Rule or Change as housekeeping.

(d) If Staff disagree with the categorization of the Rule or Change as housekeeping, the Exchange will immediately repeal the Change, if applicable, submit the proposed Rule as a Public Interest Rule or the proposed Change as a Significant Change, and follow the review and approval processes described in this Protocol as applying to a Public Interest Rule or Significant Change, including those processes applicable to a Significant Change subject to Public Comment, if applicable.

(e) If Staff do not disagree with the categorization of the Rule, Staff will publish a notice to that effect in the OSC Bulletin or on the OSC website as soon as is practicable.

16. Immediate Implementation of a Public Interest Rule or Significant Change

(a) The Exchange may need to make a Public Interest Rule or Significant Change effective immediately where the Exchange determines that there is an urgent need to implement the Rule or Change to maintain fair and orderly markets, or because

of a substantial and imminent risk of material harm to the Exchange, its members, other market participants, issuers or investors.

(b) When the Exchange determines that immediate implementation is necessary, it will advise Staff in writing as soon as possible, but in any event, at least five business days prior to the proposed implementation of the Public Interest Rule or Significant Change. The written notice will include the expected effective date of the Public Interest Rule or Significant Change and an analysis to support the need for immediate implementation. An application for an exemption from the 45-day advance filing requirements in National Instrument 21-101 must follow within five business days following the Exchange receiving notice that Staff agree with immediate implementation of the Public Interest Rule or Significant Change.

(c) If Staff do not agree that immediate implementation is necessary, Staff will promptly notify the Exchange, in writing, of the disagreement no later than the end of the third business day following submission of the notice under subsection (b). If the disagreement is not resolved, the Exchange will submit the Public Interest Rule or Significant Change in accordance with the timelines in section 7.

17. Review of a Public Interest Rule or Significant Change Implemented Immediately

A Public Interest Rule or Significant Change that has been implemented immediately in accordance with section 16 will be published, if applicable, and reviewed and approved by the Director or by the Commission in accordance with the procedures set out in section 10, with necessary modifications. If the Director or the Commission does not approve the Public Interest Rule or Significant Change, the Exchange will immediately repeal the Rule or Change and inform its members of the decision.

18. Application of Section 21 of the *Securities Act* (Ontario)

The Commission's powers under subsection 21(5) of the *Securities Act* (Ontario) are not constrained in any way, notwithstanding a Rule or Change having been approved under this Protocol.

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