The Ontario Securities Commission

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

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

Contact Centre – Inquiries, Complaints:
416-593-8314 or Toll Free 1-877-785-1555
Fax: 416-593-8122
Email: inquiries@osc.gov.on.ca

Office of the Secretary:
Fax: 416-593-2318

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Editor's Note: On Friday, April 29, 2022, the Securities Commission Act, 2021 (SCA), came into force by proclamation of the Lieutenant Governor of Ontario. The SCA's proclamation implemented key structural and governance changes to the OSC: the separation of the OSC Chair and Chief Executive Officer roles, and the creation of a new Capital Markets Tribunal. These new structural and governance changes are now reflected in the Bulletin, with one section to report and record the activities of the Capital Markets Tribunal and one section to report and record the activities of the Ontario Securities Commission: www.capitalmarketstribunal.ca/en/resources.

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A. Capital Markets Tribunal

A.1
Notices of Hearing

A.1 Notices of Hearing

A.1.1 Xiao Hua (Edward) Gong – ss. 127(1), 127.1

FILE NO.: 2022-14

IN THE MATTER OF
XIAO HUA (EDWARD) GONG

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

PROCEEDING TYPE: Enforcement Proceeding

HEARING DATE AND TIME: July 12, 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 Capital Markets Tribunal to make the order requested in the Statement of Allegations filed by Staff of the Commission on June 6, 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 *Capital Markets Tribunal 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 Tribunal 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 Tribunal par écrit dès que possible si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

Dated at Toronto this 13th day of June 2022.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For more information

Please visit http://www.capitalmarketstribunal.ca/en or contact the Registrar at registrar@osc.gov.on.ca.

IN THE MATTER OF
XIAO HUA (EDWARD) GONG

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

A. OVERVIEW

1. The continued capacity of Xiao Hua (Edward) Gong (**Gong**) to participate in Ontario capital markets poses significant risks. Gong operated a fraudulent pyramid scheme involving over 40,000 investors and hundreds of millions of dollars. The scheme resulted in the criminal conviction of Edward Enterprise International Group Inc. (the **Edward Group**) for the use of forged documents and for operating a pyramid scheme. Proof of the fraudulent pyramid scheme and Gong's role as the sole controlling and directing mind of the Edward Group is established by the fact of the conviction of the Edward Group. Further, Gong admitted to directing the criminal scheme in an Agreed Statement of Facts filed in support of the Edward Group's guilty plea.

Securities Fraud

2. Gong perpetrated a securities fraud contrary to subsection 126.1(1)(b) of the Act.

3. Specifically, Gong operated a pyramid scheme under the Edward Group that solicited investments from approximately 40,000 people described as "members". The scheme involved the issuance of worthless and forged share certificates for a defunct corporation in exchange for the payment of approximately $1,000. The certificates were provided to members of the scheme as though genuine and induced some to invest.

4. Gong personally signed the treasury directions authorizing the issuance of the forged shares when he knew or ought to have known that the shares conveyed no value.

Unregistered Trading

5. Gong engaged in or held himself out to be engaged in the business of trading in securities without the necessary registration or an applicable exemption from the registration requirement, contrary to subsection 25(1) of the Act.

6. Neither Gong nor the Edward Group were registered with the Commission to trade in securities and no exemption from the requirement to be registered applies.

7. During the period January 2012 to December 2017, shares of 024 Pharma PLC (**024**) were issued to the approximately 40,000 members of the scheme (along with a sample of health supplements) in exchange for the payment of approximately $1,000, which brought hundreds of millions into the Edward Group and its related companies for the benefit of Gong. The shares are "securities" within the meaning of subsection 1(1) of the Act.

8. Members of the scheme paid consideration for the shares because the value of the health supplements was less than the approximately $1,000 paid for the shares and supplements together. Therefore, the issuance of the shares is a "trade" within the meaning of subsection 1(1) of the Act.

9. Further, and as detailed below, Gong engaged in numerous acts in furtherance of trades in the shares. Gong or his employees (operating under his direction) provided updates, announcements and information for a website designed to solicit people to become members of the scheme and produced a PowerPoint presentation explaining the pyramid scheme compensation system to solicit people to become members of the scheme. Finally, Gong signed the treasury directions that authorized and directed the transfer agent to issue the shares.

Director and Officer Liability

10. Gong, as the sole director and officer and controlling and directing mind of the Edward Group and a director of 024, an Edward Group company, authorized, permitted and acquiesced in the failure of the Edward Group and 024 to comply with Ontario securities law, namely subsections 25(1) and 126.1(1)(b). Gong is, therefore, deemed to also have not complied with Ontario securities law pursuant to section 129.2.

11. The Edward Group's criminal convictions constitute proof of the facts which support those convictions which, in turn, establish the Edward Group's non-compliance with Ontario securities law. The Edward Group's and 024's non-compliance with Ontario securities law is also established by the facts alleged below which have been admitted by Gong.

12. The admitted facts also establish that Gong authorized, permitted and acquiesced in the failure of the Edward Group and 024 to comply with Ontario securities law.

Public Interest

13. Gong was the sole directing and controlling mind of the Edward Group at the time it committed serious criminal offences and is a party to those offences. The nature of these offences demonstrates that Gong poses an ongoing risk to investors and the integrity of Ontario's capital markets. Accordingly, it is in the public interest to make an order under section 127(1) against Gong even if the Tribunal determines that Gong's conduct does not constitute a breach of Ontario securities law.

B. FACTS

14. The following allegations of fact are made.

Introduction

15. These facts were admitted by Gong in the Agreed Statement of Facts.

16. Gong is the sole controlling and directing mind of multiple companies, including the Edward Group, 024, and Canada National Television (**CNTV**). Gong was reckless and wilfully blind, and therefore, had the mental state required to be a party to the offences committed by the Edward Group and always acted within the scope of his authority in his actions on behalf of these companies, or in directing the work of the companies' employees and representatives.

17. Gong, personally and by directing representatives of his companies, ran an operation that promoted the products and shares of 024 under the Edward Group umbrella. Gong ran the Edward Group and the scheme primarily in Ontario and recruited members in China.

18. Gong and employees under his direction solicited investors to become members of the scheme (**Members**) and to invest up to ¥5,000 RMB or the equivalent of up to approximately $1,000 CAD to receive a package that consisted of health supplements and 024 shares (or later CNTV shares). Members were promised large returns on their investment once 024 went public and the shares were traded on the stock market. However, the shares could not convey their purported interest because the version of 024 referenced in the shares had been dissolved years prior, in 2010.

19. The operation run by Gong included a pyramid or multi-level marketing selling structure. Members were told that they could make money by recruiting other Members. By purchasing health supplements, Members were entitled to receive larger sums of money than what they had paid, by reason of the fact that new recruits became Members and purchased supplements. Between January 2012 and December 2017, approximately 40,000 people became Members in the scheme and of Gong's companies.

Corporate Structure

20. The Edward Group and, in turn, Gong bear liability for the actions of the two 024 companies and CNTV which all operated under the Edward Group umbrella.

21. Gong is the sole shareholder, officer and director of the Edward Group. The Edward Group was incorporated on November 4, 2005, in Ontario.

22. Gong became a director of the first 024, with company #5307767, on January 12, 2009. On March 23, 2010, the first 024 was dissolved upon a compulsory striking off by the registrar of companies in the United Kingdom (called Companies House) for failing to file statutory documents. Once a company is dissolved, it ceases to exist as a legal entity under UK law unless properly restored, which did not occur.

23. Gong is a director and shareholder of a new, second version of 024, with company #8318317, which was registered on December 5, 2012. The first 024 did not apply to be restored at Companies House.

Distribution of Shares and Health Supplements

24. Gong and his employees, operating under his direction, provided updates and announcements for the company website. At various times between 2012 and 2016, the website referred to 024 engaging in research and development, having a unique global shareholder system, and bringing shareholders great return. The 2012 version of the website stated that 024 was listed on the Frankfurt Stock Exchange. The 2016 version of the website removed the statement of 024 being listed on the Frankfurt Stock Exchange, after the company had been delisted.

25. The website was also used to register Members. Once registered with 024, Members could then purchase the package of health supplements and shares in 024. The template for ordering the package indicated that a purchase order would include one bottle of health supplements and 500 shares. Although the entire package sold for up to approximately $1,000 CAD, the health supplements were worth a small portion of that amount. The website was taken down at some point between June 2016 and December 2016.

Pyramid Selling

Mechanism of Pyramid Selling

26. Gong, and the employees under his direction, operated a pyramid scheme that included a compensation system that paid Members to recruit other Members.

27. When Members successfully convinced others to purchase the products, they would be rewarded with a one-time "referral bonus". The compensation system also included an ongoing income "matching bonus" described as “one match with the other award”. To earn further compensation, Members were encouraged to set up two parallel lines of recruits beneath them. Members were financially rewarded when they successfully had one referral under each line (called a match). If Members could develop one line in parallel with the other, they could earn matches without any limits. When Members reached certain sales achievements, they could become a "membership reporting centre", which allowed them to develop sales and referrals as a group.

Inevitable Loss for Some Subsequent Members

28. Gong, and employees under his direction, operated the recruitment scheme that inevitably lead to loss for some people who became Members on the expectation of receiving a larger amount from amounts paid in by subsequent Members.

29. Some people became Members and purchased the health supplements because it enabled them to profit by recruiting other Members. The "product" in this case was a package of health supplements and shares of the first 024 that Members were told would produce significant returns. However, because the first 024 company had already been dissolved, Members were not accurately informed, including by Gong and the Edward Group, of the likely compensation that they would receive. Some who purchased the product started in a loss position, until they recruited others to join, because the market value of the health supplements alone (without the shares) was not $1,000 CAD per package.

Using Forged Documents

30. Gong, on behalf of the Edward Group, was reckless and wilfully blind to the fact that the share certificates were forged or false when the Edward Group caused Members to act on them as if they were genuine. The Edward Group issued 024 shares to Members on physical share certificates. The certificates displayed the Edward Group logo and said that it conveyed fully paid up and non-assessable common shares in the first 024 (#5307767). Gong signed the treasury directions that authorized and directed the transfer agent to issue the shares. However, Members received these share certificates when the first 024 had already been dissolved and did not exist as a legal entity. The share certificates were not legally valid and had no value, yet were provided to Members as though genuine and induced some to invest.

Intent to Benefit the Edward Group

31. Gong acted with the intent to benefit the Edward Group organization. The Edward Group, and, consequently, Gong, did so benefit: the operation brought hundreds of millions into Edward Group and its related companies. The proceeds (which were earned via the operation) were distributed through corporations controlled by Gong and deposited in bank accounts used to purchase assets or to fund accounts that were later restrained by orders of the Ontario Superior Court of Justice.

Criminal Conviction of the Edward Group

32. On February 10, 2021, the Edward Group plead guilty and was convicted by the Ontario Superior Court of Justice of offences related to the operation of the pyramid scheme. Gong entered the guilty plea on behalf of the Edward Group. In the Agreed Statement of Facts, Gong confirmed that he understood and accepted the facts in the Agreed Statement of Facts (which are the same facts alleged in this Statement of Allegations) were “accurate for the purposes of this informed and voluntary plea resolution.”

33. Specifically, the Edward Group was convicted of committing the following offences under the *Criminal Code*, in the City of Toronto, between January 1, 2012 to December 20, 2017:

    (a) conducting or being a party to a scheme by which a person on payment of a sum of money, became entitled under the scheme to receive from the Edward Group or any other person, a larger sum of money than the amount paid, by reason of the fact that the other persons have paid under the scheme, contrary to subsection 206(1)(e) of the *Criminal Code*; and

    (b) knowing or believing that documents were forged, to wit: 024 share certificates, caused other persons to deal with or act on the documents as if they were genuine, contrary to subsection 368(1)(b) of the *Criminal Code*.

34. In sentencing the Edward Group, the Court imposed a fine of $756,000, a victim fine surcharge of $229,500, the forfeiture of certain property to the Crown and the release of $14,895,943.05 to the Canada Revenue Agency, all in accordance with a joint submission entered into by the Crown and the Edward Group.

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

35. The following breaches of Ontario securities law and/or conduct contrary to the public interest are made:

(a) Gong 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 subsection 126.1(1)(b) of the Act;

(b) Gong engaged in, or held himself out as engaging in, the business of trading in securities without the necessary registrations or applicable exemptions from the registration requirement, contrary to subsection 25(1) of the Act;

(c) Gong authorized, permitted or acquiesced in the non-compliance of the Edward Group and 024 with Ontario securities law, contrary to section 129.2 of the Act; and

(d) Even if Gong's conduct does not constitute a breach of Ontario securities law, the fact of the convictions of the Edward Group for serious criminal offences provides a further public interest basis for making an order under section 127(1) against him because Gong was the sole directing and controlling mind of the Edward Group at the time it committed serious criminal offences and is a party to those offences.

36. These allegations may be amended and further and other allegations may be added as the Tribunal may permit.

D. ORDER SOUGHT

37. It is requested that the Capital Markets Tribunal (the **Tribunal**) make the following orders:

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

(b) that Gong be prohibited from acquiring any securities permanently or for such period as is specified by the Tribunal, 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 Gong permanently or for such period as is specified by the Tribunal, pursuant to paragraph 3 of subsection 127(1) of the Act;

(d) that Gong resign one or more positions that he 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 Gong 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 Gong be prohibited from becoming or acting as a registrant or promoter permanently or for such period as is specified by the Tribunal, pursuant to paragraph 8.5 of subsection 127(1) of the Act;

(g) that Gong 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 the Gong pay costs of the investigation and the hearing, pursuant to section 127.1 of the Act; and

(i) such other order as the Tribunal considers appropriate in the public interest.

DATE: June 13, 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

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A.2
Other Notices

A.2 Other Notices

A.2.1 Stableview Asset Management Inc. and Colin Fisher

FOR IMMEDIATE RELEASE
June 7, 2022

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

TORONTO – Take notice that the hearing in the above named matter scheduled to be heard on June 8 and 9, 2022 will not proceed as scheduled.

The hearing on the merits will continue on June 10, 2022 at 10:00 a.m.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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

A.2.2 Stableview Asset Management Inc. and Colin Fisher

FOR IMMEDIATE RELEASE
June 8, 2022

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

TORONTO – Take notice that the hearing in the above named matter scheduled to be heard on June 10, 2022 will not proceed as scheduled.

The hearing on the merits will continue on June 20, 2022 at 10:00 a.m.

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Ontario Securities Commission

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For General Inquiries:

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inquiries@osc.gov.on.ca

A.2.3 Paramount Equity Financial Corporation et al.

FOR IMMEDIATE RELEASE
June 9, 2022

PARAMOUNT EQUITY FINANCIAL CORPORATION,
SILVERFERN SECURED MORTGAGE FUND,
SILVERFERN SECURED MORTGAGE LIMITED PARTNERSHIP,
GTA PRIVATE CAPITAL INCOME FUND,
GTA PRIVATE CAPITAL INCOME LIMITED PARTNERSHIP,
SILVERFERN GP INC.,
TRILOGY MORTGAGE GROUP INC.,
MARC RUTTENBERG,
RONALD BRADLEY BURDON and
MATTHEW LAVERTY,
File No. 2019-12

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

A copy of the Order dated June 9, 2022 is available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

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inquiries@osc.gov.on.ca

A.2.4 Majd Kitmitto et al.

FOR IMMEDIATE RELEASE
June 10, 2022

MAJD KITMITTO,
STEVEN VANNATTA,
CHRISTOPHER CANDUSSO,
CLAUDIO CANDUSSO,
DONALD ALEXANDER (SANDY) GOSS,
JOHN FIELDING, and
FRANK FAKHRY,
File No. 2018-70

TORONTO – Take notice that an attendance in the above named matter is scheduled to be heard on June 21, 2022 at 2:00 p.m.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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inquiries@osc.gov.on.ca

A.2.5 Stableview Asset Management Inc. and Colin Fisher

FOR IMMEDIATE RELEASE
June 10, 2022

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

TORONTO – Take notice that the hearing in the above named matter scheduled to be heard on June 20 and 21, 2022 will not proceed as scheduled.

The hearing on the merits will continue on June 22, 2022 at 10:00 a.m.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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For General Inquiries:

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inquiries@osc.gov.on.ca

A.2.6 Xiao Hua (Edward) Gong

FOR IMMEDIATE RELEASE
June 13, 2022

XIAO HUA (EDWARD) GONG,
File No. 2022-14

TORONTO – The Tribunal issued a Notice of Hearing June 13, 2022, setting the matter down to be heard on July 12, 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 June 13, 2022 and Statement of Allegations dated June 13, 2022 are available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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

A.2.7 Aurelio Marrone

FOR IMMEDIATE RELEASE
June 14, 2022

AURELIO MARRONE,
File No. 2020-16

TORONTO – The Tribunal issued its Reasons and Decision in the above named matter.

A copy of the Reasons and Decision dated June 13, 2022 is available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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inquiries@osc.gov.on.ca

A.3
Orders

A.3 Orders

A.3.1 Paramount Equity Financial Corporation et al.

IN THE MATTER OF
PARAMOUNT EQUITY FINANCIAL CORPORATION,
SILVERFERN SECURED MORTGAGE FUND,
SILVERFERN SECURED MORTGAGE LIMITED PARTNERSHIP,
GTA PRIVATE CAPITAL INCOME FUND,
GTA PRIVATE CAPITAL INCOME LIMITED PARTNERSHIP,
SILVERFERN GP INC.,
TRILOGY MORTGAGE GROUP INC.,
MARC RUTTENBERG,
RONALD BRADLEY BURDON and
MATTHEW LAVERTY

File No. 2019-12

Adjudicators: Timothy Moseley (chair of the panel)
Cathy Singer
Geoffrey Creighton

June 9, 2022

ORDER

WHEREAS on June 9, 2022, the Capital Markets Tribunal held a hearing by videoconference with respect to a sanctions and costs hearing in this proceeding;

ON HEARING the submissions of the representative for Staff of the Ontario Securities Commission and of Matthew Laverty, appearing on his own behalf; and no one appearing for the remaining respondents;

IT IS ORDERED THAT:

1. Staff shall serve and file written submissions and any evidence on sanctions and costs by 4:30 p.m. on August 10, 2022;

2. the respondents shall serve and file written submissions and any evidence on sanctions and costs by 4:30 p.m. on September 22, 2022;

3. Staff shall serve and file written reply submissions on sanctions and costs, if any, by 4:30 p.m. on September 30, 2022;

4. the hearing with respect to sanctions and costs is scheduled for October 6, 2022, at 10:00 a.m., by videoconference, or on such other date and time as may be agreed to by the parties and set by the Governance and Tribunal Secretariat.

“Cathy Singer”

“Timothy Moseley”

“Geoffrey Creighton”

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A.4
Reasons and Decisions

A.4 Reasons and Decisions

A.4.1 Aurelio Marrone – s. 127(1)

Citation: *Marrone (Re)*, 2022 ONCMT 13
Date: 2022-06-13
File No. 2020-16

IN THE MATTER OF
AURELIO MARRONE

REASONS AND DECISION
(Subsection 127(1) of the *Securities Act*, RSO 1990, c S.5)

Adjudicators:	Lawrence P. Haber (chair of the panel) Mary Anne De Monte-Whelan Craig Hayman	
Hearing:	By videoconference, May 31, 2021, June 3, 7, 9, 11, 16, 17, 2021, July 22, 2021, September 2, 24, 2021, October 5, 2021; final written submissions received December 15, 2021	
Appearances:	Michael Brown Francis Roy Michelle Vaillancourt	For Staff of the Ontario Securities Commission
	Murray Stieber Christopher Afonso	For Aurelio Marrone

REASONS AND DECISION

1. OVERVIEW

[1] The duty of any registrant, including any individual registrant, to act fairly, honestly and in good faith to their client, is a fundamental obligation under Ontario securities law and is a cornerstone of the relationship between an individual registrant and their client. This duty is engaged and of particular importance when an actual conflict of interest or the potential for conflict of interest presents in the context of the relationship between a registrant and their client. When the client is a vulnerable client, the duty to act fairly, honestly and in good faith is of even greater importance and needs to be front and centre in the registrant's thoughts and actions in relation to the client.

[2] The manner in which this duty is to be addressed with respect to actual or potential conflicts by Mutual Fund Dealers Association of Canada (**MFDA**) members and their Approved Persons, is set forth in the MFDA Rules and member firm policies and procedures. These Rules, policies and procedures require an individual registrant to engage with their firm at the earliest moment when an issue arises that raises a conflict of interest or the potential for conflict of interest. The MFDA Rules set out a tripartite test, requiring the registrant to engage as soon as they know or reasonably ought to know, that there is an actual or potential conflict of interest. The test is well designed to ensure that such issues are resolved objectively in dialogue with the firm and not subjectively by the registrant who has an actual or potential conflict. This is to ensure that the firm's resources and objectivity are brought into these circumstances and to ensure the client's interests are protected in accordance with the duty owed to the client by the individual registrant and the firm.

[3] The respondent in this matter is Aurelio Marrone (**Marrone**), a mutual fund registrant for over 20 years, and the individual responsible for the accounts of client "MU" at IPC Investment Corporation (**IPC**), an MFDA member firm.

[4] During the material time, approximately March 2017 until her death on May 19, 2017, MU was an elderly widow, inexperienced and unsophisticated financially, and she was dying of pancreatic cancer. Marrone was her financial adviser and close friend.

[5] Marrone was named the sole beneficiary of MU's estate 10 days before she passed away. Marrone also accepted appointments as her powers of attorney for personal care and property. The will and powers of attorney were executed at MU's bedside in a palliative care unit in hospital.

[6] At the time of her death, MU's estate was valued at more than $2 million, including approximately $1.7 million in investments that were managed by Marrone.

[7] Staff of the Ontario Securities Commission (**OSC**) alleges that Marrone:

a. failed to comply with MFDA Rules and IPC's policies and procedures; and

b. breached his obligation under subsection 2.1(2) of OSC Rule 31-505 to deal with clients fairly, honestly and in good faith;

both of which are contrary to the public interest.

[8] For the reasons set out below, we find that Staff has proven its case and Marrone failed to comply with MFDA Rules and IPC policies and procedures and his obligation to deal with his client fairly, honestly, and in good faith, pursuant to OSC Rule 31-505.

2. FACTUAL BACKGROUND

[9] Marrone was registered as a mutual fund salesperson (now known as a dealing representative) for 20 years with IPC and its predecessor firm, Associated Financial Planners Limited, which amalgamated with IPC in May 2001.

[10] On May 13, 2001, Marrone signed an Agreement of Approved Person whereby he submitted to the MFDA's jurisdiction to regulate his conduct and activities as a registrant in the mutual fund industry. He was terminated by IPC in December 2017 for the events at issue in this proceeding.

[11] Marrone managed a total of approximately $6 million in mutual fund investments on behalf of approximately 150 clients. One of his clients was MU. MU immigrated to Canada from Spain in the late 1960s or early 1970s. She had a grade school education and worked as a housekeeper.

[12] Marrone first met MU in 1986 after her husband responded to Marrone's advertisement for tax preparation services. Marrone assisted MU and her husband with their personal income taxes commencing in 1986, which he continued to prepare up until both of their deaths. Marrone testified that he formed a close friendship with MU's husband after the two bonded over sports and the stock market. Over the years they became close friends, and both MU and her husband attended Marrone's wedding in 2003.

[13] Marrone testified that following her husband's death in 2004, he would speak with MU on a weekly basis and would assist her with activities such as driving her to cataract surgery and arranging her travel to Spain.

[14] Marrone became MU's financial advisor in April 2008 when she transferred her spousal RRSP valued at $373,594.50 from CIBC Wood Gundy to IPC. Later that year she transferred an additional $900,000 from CIBC to IPC. By December 2017, when Marrone was terminated by IPC, the aggregate value of MU's accounts with Marrone at IPC was $1,710,527.06.

[15] In February 2017 MU was diagnosed with terminal pancreatic cancer. Following her diagnosis, her long-time friend MA moved into MU's condominium to assist with her care. MA testified that she called Marrone on either March 10 or March 11, 2017, and informed him that MU had pancreatic cancer and was given only three months to live. MA, with assistance from her daughter SC, cared for MU in her home until she was admitted to palliative care on May 1, 2017.

[16] In late-March or early-April 2017, MU asked for Marrone's assistance with her estate. Marrone provided her with the names of three different lawyers, and MU selected Romeo D'Ambrosio, an experienced wills and estates lawyer, from the list. Marrone arranged for D'Ambrosio to be retained, and scheduled meetings between D'Ambrosio and MU to enable D'Ambrosio to prepare the estate documents, which included a new will, and powers of attorney for personal care and property.

[17] The estate documents were ultimately executed by MU on May 9, 2017. MU passed away ten days later, on May 19, 2017. In the estate documents, Marrone was named as Power of Attorney for Property and Power of Attorney for Personal Care, as well as alternate executor. Marrone was also named in MU's will as the sole beneficiary of her estate. At the time of her death, the value of MU's estate was over $2 million.

[18] On September 28, 2017, IPC opened an investigation into Marrone upon receiving a complaint letter from MA's son-in-law (SC's husband) FC. FC, who is also a mutual fund registrant, advised IPC that Marrone had been named as a

beneficiary under MU's will. The MFDA subsequently began investigating Marrone on October 6, 2017, after IPC filed a Member Event Tracking System report in response to the complaint.

[19] Marrone was terminated by IPC on December 12, 2017, on 30 days' notice, effective January 11, 2018.

[20] The Commission's involvement in this case arose at the request of the MFDA as a result of the MFDA's lack of subpoena power to compel production of records or attendance at regulatory interviews of individuals or entities not registered with or through MFDA Members. Specifically, the MFDA required the Commission's assistance to compel D'Ambrosio, the estates lawyer who drafted MU's estate documents, to produce MU's client file.

2.1 Relevancy of evidence

[21] There was a substantial amount of evidence put forward by the parties in this proceeding, some of which was relevant to the issues we are to decide, which are set out below, and some of which was not. MU's legal capacity to make a will is not an issue before us in this proceeding, although, at least inferentially, a great deal of evidence was led to this effect. While we will not be deciding the issue of MU's capacity to make a will, whether MU was a vulnerable investor, is a relevant issue for us.[1] Evidence before us in this proceeding, including evidence relating to the making of her will and powers of attorney may be relevant to our determination as to her vulnerability as a client.

[22] In these reasons for our decision, we will not address evidence that was lead that is not relevant to the issues that we must decide. Evidence that we did not find relevant to the proceeding includes:

a. *MU's 2008 RRSP designation*. In 2008 when MU transferred her RRSP to IPC Marrone was named as the beneficiary of the account on the RRSP application form. Although the application was approved and the RRSP account was opened, the designation of Marrone as beneficiary was never implemented. Instead, MU's deceased husband was named as the designated beneficiary on the spousal RRSP account by the fund company. Marrone took no steps to correct this error. Staff says this is "compelling circumstantial evidence" that Marrone knew as early as 2008 that it was, "against IPC policies and procedures and the MFDA Rules for him to be named as a designated beneficiary on a client account."[2] We respectfully disagree and find that this incident is unrelated to the allegations we must decide in this proceeding.

b. *The extent of MU's friendship with MA and her daughter SC*. We accept that MA and SC supported and cared for MU in her final days. They treated her with kindness and acted in her best interest. We find any supposed "gaps" in their friendship prior to 2004 and their lack of knowledge relating to MU's relationship with Marrone to be completely irrelevant to the issues before us.

c. *Issues relating to the custody of MU's ashes and her funeral*. MA and SC testified regarding the custody of MU's ashes and the fact that MU did not have a funeral. While no doubt important to MU's family and loved ones, these issues have no bearing on the issues we are to decide in this proceeding.

3. ISSUES

3.1 Issues raised by Staff's allegations

[23] As stated above, Staff alleges that Marrone:

a. failed to comply with MFDA Rules and IPC's policies and procedures; and

b. breached his obligation under subsection 2.1(2) of OSC Rule 31-505 to deal with clients fairly, honestly and in good faith;

both of which are contrary to the public interest.

[24] The issues that we must decide are:

a. Did Marrone fail to comply with MFDA Rules and IPC policies and procedures? And,

b. Did Marrone breach his obligation under OSC Rule 31-505 to deal with clients fairly, honestly and in good faith?

[25] In conducting our analysis of these two issues we will review the specific MFDA Rules and the IPC policies and procedures Marrone is alleged to have breached, and the aggravating factors we considered in our analysis of Commission Rule 31-505.

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1 *Tonnies (Re),* 2005 CanLII 77675 (CA MFDAC) (***Tonnies***).
2 Written Submissions of Staff of the Ontario Securities Commission, dated November 8, 2021 at para 46.

[26] Before we conduct that analysis, we will conduct an analysis of several preliminary issues related to the proper forum for these proceedings, witness credibility, the MFDA investigation, and the IPC investigation, all of which inform our decisions on the issues raised by Staff in the Statement of Allegations.

3.2 Is the Commission the proper forum for these proceedings?

3.2.1 Introduction

[27] The first preliminary issue we will address was first raised by Marrone in his closing submissions: is the Commission the proper forum to adjudicate this matter? Marrone submits that it is not.

[28] Having reviewed Marrone's and Staff's submissions on this issue, including additional sur-reply submissions from Marrone, we conclude that the Commission has jurisdiction to decide this proceeding, and therefore it is the proper forum.

3.2.2 Analysis

[29] As noted above, this issue was first raised in Marrone's closing submissions. Marrone argues that the MFDA is the proper forum to adjudicate his compliance with MFDA Rules and IPC policies and procedures. As a self-regulatory organization under the *Securities Act*[3] (the **Act**), the MFDA is responsible for enforcing its own Rules, which arises from the contractual relationship between Marrone and the MFDA, as the MFDA Rules are not empowered by statute.

[30] Marrone submits that the jurisdiction of the Commission is limited to enforcing Ontario "securities law", which is a term defined in the Act. He submits that that definition does not include either the MFDA Rules or the policies of employers like IPC. Therefore, as the MFDA Rules are not included in "Ontario securities law" the Commission cannot properly make findings with respect to whether he complied with MFDA Rules or IPC Policies.

[31] Marrone also argues that this Panel must rule on whether his conduct was "unfair", "dishonest" or "bad faith" based on the meaning of those terms and it is insufficient to point to a breach of IPC Policies or MFDA Rules as a shortcut to meeting this high threshold required by section 2.1(2) of Commission Rule 31-505.

[32] Staff disagrees with Marrone's analysis of the Act and takes the position that the MFDA does not have exclusive jurisdiction to determine MFDA Rules. Staff submits that nothing in the wording of subsections 2.1(4) or 21.1(3) of the Act suggests that the MFDA has exclusive jurisdiction to determine breaches of MFDA Rules. We agree with this submission and find that the MFDA does not have exclusive jurisdiction to determine breaches of MFDA Rules.

[33] Staff also submits that any assessment of the potential breach by an MFDA Approved Person of s. 2.1(2) of Commission Rule 31-505 must necessarily be made in the context of the MFDA Rules governing the Approved Person's conduct in relation to their clients. Such an assessment will often require a determination of whether those MFDA Rules have been complied with. We agree with this submission and consider the breaches of MFDA Rules and IPC policies and procedures as one factor in our analysis of Commission Rule 31-505.

[34] In support of their position, Staff relies on the Commission's Order, as amended, recognizing the MFDA as a self-regulatory organization in accordance with ss. 21.1(1) and (2) of the Act (the **MFDA Recognition Order**), which governs the specific regulatory functions of the MFDA.

[35] The MFDA Recognition Order states:

> **7. Compliance by Members with MFDA Rules**
>
> (A) The MFDA shall enforce, as a matter of contract between itself and its members, compliance by its members and their Approved Persons with the rules of the MFDA and, to assist the Commission with carrying out its regulatory mandate, the MFDA shall cooperate with the Commission in ensuring compliance with applicable securities legislation relating to the operations, standards of practice and business conduct of members and Approved Persons, without prejudice to any action that may be taken by the Commission under securities legislation.
>
> …
>
> **8. Discipline of Members and Approved Persons**
>
> (A) The MFDA shall, as a matter of contract, have the right to and shall appropriately discipline its members and their Approved Persons for violations of the rules of the MFDA and, to assist the Commission with carrying out its regulatory mandate, shall cooperate with the Commission in the enforcement of applicable securities

[3] *Securities Act*, RSO 1990, c S.5.

> legislation relating to the operations, standards of practice and business conduct of the members and Approved Persons, without prejudice to any action that may be taken by the Commission under securities legislation.[4]

[36] Staff submits that these sections of the MFDA Recognition Order clearly contemplate that the MFDA and the Commission have concurrent and overlapping jurisdiction with respect to the MFDA's regulatory functions. Notably, both s. 7(A) and s. 8(A) of the Recognition Order conclude with the words: "without prejudice to any action that may be taken by the Commission under securities legislation."

[37] In his sur-reply submissions Marrone interprets the MFDA Recognition Order differently, arguing that it does not create a concurrent jurisdiction, but rather sets out a bifurcated jurisdiction whereby enforcement steps may be taken by both regulators separately. We reject this interpretation of the MFDA Recognition Order and adopt Staff's interpretation.

3.2.2.a Case Law

[38] In his submissions Marrone warns that there is no example in the past of the Commission ever making independent findings of breaches of the MFDA Rules and/or of employer policies and using such findings to satisfy Rule 31-505. Any findings of this nature, he submits, ought to have been before the MFDA. Any findings of this nature by the Commission "would be supplanting the jurisdiction given to the MFDA."[5]

[39] Staff cites two cases where the Commission has independently determined breaches of SRO Rules: *Re Argosy Securities Inc*[6] and *Re Christopher Reaney*.[7]

[40] In *Argosy* the Commission upheld a Director's decision that found that Argosy, an investment dealer, and Keybase Financial Group Inc., a mutual fund dealer and exempt market dealer, had failed to comply with various provisions of Ontario securities law. Argosy and Keybase subsequently requested a hearing and review of the Director's Decision.[8]

[41] In reviewing the evidence gathered in review of the respondents' conduct by the SROs, the OSC Hearing and Review Panel found that the respondents were in breach of National Instruments 31-105 and 31-505, specifically noting that they:

> failed substantially to comply with applicable SRO rules, thereby contravening the requirement in subsection 2.1(1) of NI 31-505 that the firms deal with their clients fairly, honestly and in good faith.[9]

[42] In *Reaney*, another Hearing and Review of a Director's Decision, the OSC Panel ruled on compliance with MFDA Rules and Member policies and procedures in a situation where the SRO had explicitly elected not to pursue any enforcement in relation to the conduct at issue.

[43] Christopher Reaney was a mutual fund registrant who had been investigated by the MFDA for a breach of MFDA Rules. Although MFDA Staff was of the view that there was evidence to support a finding of a breach of MFDA Rule 2.1.1(b), MFDA Staff elected not to commence disciplinary proceedings before an MFDA Panel and instead sent him a warning letter, copied to Staff of the Commission[10]. OSC Staff then conducted its own investigation and decided to seek a suspension of Reaney's registration, notwithstanding the MFDA's decision not to take any enforcement action.[11]

[44] At a hearing attended by Reaney, the Director suspended his registration.[12] He subsequently sought a Hearing and Review of the Directors Decision.

[45] The OSC Hearing and Review Panel upheld the suspension imposed by the Director. The Hearing and Review Panel's decision was based, in part, on its finding that Reaney's conduct was a breach of MFDA Rules and his dealer's policies and procedures relating to the use of pre-signed forms. The panel also held that Reaney's conduct constituted a breach of Commission Rule 31-505.[13]

[46] In Reaney, the Panel specifically considered the Commission's decision-making authority in relation to SRO regulated conduct in circumstances where no SRO proceeding had been commenced and rejected his submission that the Panel should defer to the MFDA's decision not to commence enforcement proceedings.[14]

4 MFDA Recognition Order, April 1, 2021.
5 Written Submissions of the Respondent, dated November 23, 2021 at para 6.
6 *Argosy Securities Inc. and Keybase Financial Group Inc (Re)*, 2016 ONSEC 11 (***Argosy***).
7 *Reaney (Re)*, 2015 ONSEC 23 (***Reaney***).
8 *Argosy* at paras 1, 3.
9 *Argosy* at para 180.
10 *Reaney* at paras 9-10.
11 *Reaney* at paras 11-13.
12 *Reaney* at para 16.
13 *Reaney* at paras 155-156.
14 *Reaney* at paras 160-161.

[47] We acknowledge that these decisions are not enforcement merits hearings, however we find that the principles articulated by the Panels in these matters are instructive in deciding the issue before us and we rely on them in coming to our decision that this panel has jurisdiction to hear this proceeding.

3.2.2.b Cooperation between the MFDA and OSC

[48] MFDA Investigator Mike Ford testified that the Commission's involvement in this case arose as result of the MFDA's lack of subpoena power to compel production of records or attendance at regulatory interviews of individuals or entities not registered with the MFDA. Specifically, the MFDA required the Commission's assistance to compel D'Ambrosio, the estates lawyer who drafted MU's will, to produce MU's client file.

[49] In this proceeding the MFDA and Commission worked together. The Commission "used the enforcement capability and regulatory expertise" of the MFDA as contemplated by subsection 2.1(4) of the Act. The investigation into Marrone's conduct was commenced by the MFDA, MFDA investigators remained involved in the investigation throughout and MFDA senior litigation counsel acted as co-counsel to OSC litigation counsel.

[50] This was clearly an efficient and effective use of both MFDA and Commission resources, and resulted in a more efficient investigation, which is in accordance with the purposes of the Act.

3.2.2.c Issues in this proceeding are not a private dispute

[51] In his submissions Marrone characterizes the case before us as a "private dispute" and as such, this Panel lacks the public interest jurisdiction to decide this matter. He relies on *Committee for the Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*[15] in support of this assertion.

[52] In *Asbestos* the Commission declined to exercise its public interest jurisdiction under s. 127(1) to impose sanctions on the Québec government and SNA, a crown corporation fully owned by the province, as requested by the minority shareholders of SNA. One of the issues considered by the Commission was whether the OSC should exercise its public interest jurisdiction under s. 124(1) (now s. 127(1), para. 3) of the *Securities Act* and take away Québec's trading exemptions in the Ontario capital markets.

[53] In its analysis of the Commission's public interest jurisdiction under what is now section 127(1) of the Act, the Supreme Court of Canada describes the Commission as having "wide"[16] but not "unlimited"[17] discretion in the exercise of its public interest jurisdiction. It also recognized:

> [T]hat s. 127 is a regulatory provision. In this regard, I agree with Laskin J.A. that "[t]he purpose of the Commission's public interest jurisdiction is neither remedial nor punitive; it is protective and preventive, intended to be exercised to prevent likely future harm to Ontario's capital markets" (p. 272). This interpretation of s. 127 powers is consistent with the previous jurisprudence of the OSC in cases such as *Canadian Tire* … in which it was held that no breach of the Act is required to trigger s. 127. It is also consistent with the objective of regulatory legislation in general. The focus of regulatory law is on the protection of societal interests, not punishment of an individual's moral faults: see *R. v. Wholesale Travel Group Inc*.
>
> …
>
> Therefore, s. 127 cannot be used merely to remedy *Securities Act* misconduct alleged to have caused harm or damages to private parties or individuals.[18]

[54] Marrone argues that the issues in this case arise from his close relationship with MU and that any issues regarding MU's will are more properly the subject of civil litigation before the Ontario Superior Court.

[55] We disagree. The issues we must decide in this matter are not analogous to the issues in *Asbestos*, which was a dispute between two parties relating to the price of shares. While Marrone may view this as dispute between himself and MU's friends and family, or even between himself and MU's lawyer D'Ambrosio, this proceeding relates to his alleged breaches of MFDA and Commission Rules, which engages the Commission's public interest jurisdiction.

3.2.3 Conclusion

[56] We are persuaded that the Commission has jurisdiction to hear this matter based upon our reading of the Act, the MFDA Recognition Order and the case law put before us. We do not find that the MFDA and Commission cooperated

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15 2001 SCC 37 (***Asbestos***).
16 *Asbestos* at para 39.
17 *Asbestos* at para 41.
18 *Asbestos* at paras 42, 45.

inappropriately, nor are we persuaded by Marrone's submission that the matters before us are related to a private dispute. We will now move on to consider the issues raised by Staff's allegations in this proceeding.

3.3 Credibility

3.3.1 Marrone

[57] Broadly speaking, there are two stories in this proceeding. The one told by Marrone, and the one told by nearly everyone else. We do not find Marrone to be a credible witness regarding much of his key evidence in this proceeding. We do not believe the story he is telling, and the only person who could corroborate his evidence is MU, who is no longer with us.

[58] Marrone attempted to support his story by having his wife MM testify. While we have no reason to doubt MM's testimony about her husband's close relationship with MU, it is not useful evidence to us in determining whether her husband breached MFDA Rules, IPC policies and procedures, and Commission Rule 31-505. In fact, we accept Marrone's evidence that he had a close relationship with MU, but as we note below in [174], we view this as an aggravating factor and not as an exculpatory factor.

3.3.2 D'Ambrosio

[59] We found D'Ambrosio to be a credible and reliable witness, especially when his evidence was supported by contemporaneous notes or memoranda.

3.3.3 Bartolini

[60] Similarly to D'Ambrosio, we found his law clerk Nancy Bartolini to be a credible and reliable witness, whose evidence was supported by contemporaneous notes.

3.3.4 Staff's other witnesses

[61] We found the MFDA Investigator Mike Ford, the IPC Compliance Officer Jens Scharge and MU's employer CR to be credible and reliable witnesses. We place less weight on the evidence of MA and SC as it relates to the legal issues before us, however, we found their testimony relating to MU's past, her character, and her last days to be reliable and helpful evidence to us in determining MU's vulnerability.

3.4 MFDA Investigation

[62] Mike Ford is a manager with the MFDA and the person responsible for investigating Marrone's conduct. The MFDA investigation began on October 11, 2017, after the MFDA was informed of IPC's investigation. Ford has been employed by the MFDA since 2005, working in an investigative capacity for sixteen years. Staff filed an affidavit sworn by Ford in this proceeding on April 20, 2021. Ford also testified in the Merits Hearing.

[63] In his submissions Marrone argued that the MFDA's investigation and the evidence obtained through that investigation was tainted with procedural errors during the course of the investigation that resulted in the tainting of evidence from witnesses. Specifically, he took issue with the joint interviews of MA and SC.

[64] Ford admitted under cross-examination that it is preferable to interview witnesses separately to avoid the possibility of collusion, and to record the entirety of any interviews conducted. During the joint interviews of MA and SC those procedures were not followed.

[65] While it is not ideal that these interview procedures were not followed in this one instance, we do not find it to be a material error. We have relied very little on the evidence of MA and SC in coming to our decision on the legal issues in this case, and the minor irregularities in this aspect of the investigation do not impact our decision.

3.5 IPC Investigation

[66] Jens Scharge is a senior complaints and investigations officer with IPC, responsible for resolving client complaints and conducting investigations on behalf of IPC. Scharge testified to the investigation he conducted of Marrone on behalf of IPC following a complaint it received in October 2017 with respect to Marrone's conduct with MU.

[67] In late November 2017, IPC concluded its investigation. Scharge prepared an investigation report dated November 20, 2017, and concluded that Marrone should be terminated without cause for rule violations and for becoming the sole beneficiary of MU's estate.

[68] Marrone's submissions detail numerous issues with the IPC investigation that he submits should lead us to the conclusion that Scharge's evidence and the conclusions reached in his November 20, 2017 report are not accurate or reliable. We will address several of these issues below.

[69] First, Marrone submits that Scharge was close-minded to exculpatory explanations for Marrone's behaviour, such as failing to include language in his report to reflect that Marrone stated that he was unaware of previous wills made by MU in 2012, that Marrone's nephew didn't take possession of MU's condominium, and that Marrone was unaware he had been named as sole beneficiary until after MU's passing.

[70] The first two issues relating to previous wills and possession of MU's condominium are irrelevant to our decision in this proceeding. However, we heard a great deal of evidence relating to the issue of when Marrone became aware of his designation as sole beneficiary of MU's estate. Scharge's failure to include this information in his report does not impact our analysis of this issue, which is based on documentary and oral evidence put before us in this proceeding.

[71] Second, Marrone submits that Scharge's interview techniques were inconsistent. He failed to record a call with Marrone on October 3, 2017, and his notes were not verbatim. No evidence was lead that would inform us as to the required standard to be met for an internal compliance examination at a mutual fund dealer such as IPC. In our view, while some of the investigation techniques used by Scharge could have been improved, the evidence before us does not point to an ineffective or unfair investigation.

[72] Finally, Marrone submits that Scharge's investigation failed to consider the close relationship between MU and Marrone. As we conclude later on in our decision at [174], the personal relationship between MU and Marrone is irrelevant to the issue of whether Marrone breached IPC policies and MFDA and Commission rules. Similarly, Scharge's failure to consider this issue was irrelevant to the issue he was investigating, namely, a breach of IPC policies and procedures and MFDA Rules.

[73] As stated above at [61], we found Scharge to be a credible witness and his investigation into the issues before for us was adequate.

4. ANALYSIS

4.1 Did Marrone fail to comply with MFDA Rules and IPC policies and procedures?

4.1.1 Introduction

[74] Marrone has spent his entire career as a mutual fund salesperson with the same company, IPC, and its predecessor Associated Financial Planners Limited. During the material time he was also a licenced insurance agent and had a tax preparation business. On May 13, 2001, Marrone signed his Agreement of Approved Person whereby he submitted to the MFDA's jurisdiction to regulate his conduct and activities as a registrant in the mutual fund industry. In particular, Marrone agreed to be bound by and to observe and comply with MFDA Rules as they are amended from time to time.

[75] As a registrant working with IPC, Marrone was also bound to comply with IPC rules, policies and procedures. Each year he was registered with IPC, Marrone completed an IPC compliance questionnaire in which he affirmed that he had read and understood IPC rules, policies, and procedures, and that he agreed to abide by those rules, policies, and procedures. In December 2016, Marrone completed an IPC compliance questionnaire affirming that he had "read, fully understood, and will comply with" the requirements in IPC's National Policies and Procedures Manual 4.2 (**IPC Manual 4.2**) and the Compliance Bulletins issued by IPC from time to time.

[76] IPC Manual 4.2 was the governing policy manual at IPC from April 2015 through to June 2017, which encompassed the material time. The IPC Manual 4.2 included policies and procedures relating to integrity, discretionary trading, powers of attorney, executor of a client's estate, conflicts of interest, monetary or non-monetary benefits, and gratuities, all of which are relevant to this proceeding.

4.1.2 Did Marrone breach MFDA Rule 2.3.1(a)?

[77] Staff has alleged that Marrone failed to comply with MFDA Rule 2.3.1 (a) "Control or Authority" This Rule states,

> No Member or Approved Person shall have full or partial control or authority over the financial affairs of a client, including: (i) accepting or acting upon a power of attorney from a client; (ii) accepting an appointment to act as a trustee or executor of a client; or (iii) acting as a trustee or executor in respect of the estate of a client.[19]

[78] On consideration of the facts set out below, we find that Marrone breached MFDA Rule 2.3.1 (a) by accepting a power of attorney for property from his client MU and by failing to renounce an appointment to act as alternate executor in her will. We will address each of these breaches in detail below.

[19] MFDA Rule 2.3.1 (a) "Control or Authority".

4.1.2.a Facts

4.1.2.a.i MU's employers offer estate planning assistance

[79] In February 2017, MA informed CR, MU's employer, of MU's terminal pancreatic cancer. CR and her husband IR (the **Rs**) had employed MU as their housekeeper for over 30 years and like MU, CR immigrated to Canada from Spain. IR, CR's late husband and a former senior executive at CIBC, knew MU's husband from his role as the maître-d' at the CIBC executive dining room. After MU's husband passed away in 2004, the Rs helped MU arrange his affairs, with the assistance of their personal financial manager, GS. They wanted to assist MU in arranging her affairs as well, as they were concerned MU would be unable to do it herself. CR testified that she felt MU did not understand how sick she was, nor the process involved in putting her affairs in order. The Rs contacted GS and arranged a meeting with MU at their home on March 10, 2017, to offer assistance and advice to her regarding her estate.

[80] CR testified that at the March 10 meeting, GS recommended to MU that she have a will and powers of attorney prepared, but MU responded that she did not need her own will because she had her husband's. GS also suggested that MA be MU's power of attorney for health with CR as an alternate, which MU agreed to at the meeting. According to CR, MU stated that she wanted her estate to go to her niece who lived in New York.

[81] Following the March 10 meeting, GS emailed and telephoned Marrone in relation to MU's estate planning.

[82] An email from GS to Marrone dated March 17, 2017, describes a phone call he had with Marrone on March 16, 2017, as well as his understanding of the "facts". In the email GS mentions that during the phone call Marrone advised that contrary to what MU had told GS and the Rs at their meeting on March 10, he was under the impression that MU did have a new will and Powers of Attorney for Property and Personal Care drafted after her husband passed away. GS thanks Marrone in his email for, "agreeing to "tactfully" do some checking to see if these documents do exist, and that they are up to date before getting back to me. The most important thing that I got from the meeting last Friday was that [MU] wants the bulk of her Estate to go to her niece so if this is not the case, then she will need to give instructions for a new Will."

[83] Initially Marrone testified that his call with GS was in relation to a request from GS for information about MU's investments, which he says MU instructed him not to provide to him, and not estate planning matters. Marrone later admitted on cross-examination that in the call with GS in March he had indicated to GS he thought MU had a new will and powers of property and personal care drafted after her husband passed away.

[84] Ultimately Marrone did not assist GS with his request, testifying that MU instructed him not to respond.

[85] CR testified that she also called Marrone after the March 10 meeting to advise him that MU had given her permission to ask him to relay details of her assets, and that MU had agreed to allow the Rs and GS to arrange her affairs. She testified that Marrone cut the conversation short, did not provide the requested information, and CR never spoke to him again.

[86] Shortly after CR's call with Marrone, MU advised CR that she had changed her mind regarding her estate planning, without providing any further details. She advised CR that she would rather Marrone organize her affairs.

4.1.2.a.ii Romeo D'Ambrosio Retained to Draft Estate Documents

[87] According to Marrone's testimony, sometime in April 2017 MU called Marrone to ask for the name of a lawyer who could prepare her will. Marrone provided three names for lawyers and MU selected Romeo D'Ambrosio.

[88] Marrone and D'Ambrosio corresponded by email to set up a meeting with MU to discuss a new will and powers of attorney. The meeting was scheduled to take place on April 28 in her apartment, as she was confined to a hospital bed there by this time.

[89] D'Ambrosio testified that when he attended at MU's apartment on April 28, he asked her about her intentions for her will and powers of attorney. MU advised him that she wanted Marrone to be the sole beneficiary of her estate and hold powers of attorney over her personal care and property. She informed D'Ambrosio that she had no previous wills. MU also authorized D'Ambrosio to disclose details of her estate planning with Marrone.

[90] During their meeting on April 28th, D'Ambrosio came to believe MU was not capable of giving him instructions on the will and powers of attorney as she was unable to provide him the value of her assets.

[91] Near the end of their meeting, Marrone arrived at MU's home. D'Ambrosio advised Marrone that he had determined that MU was not capable of giving instructions due to her inability to provide the value of her assets. In response, Marrone enquired about whether MU could refer to an account statement to improve her answers, to which D'Ambrosio agreed. However, even with this assistance MU was unable to provide the value of her assets to the lawyer.

[92] After the April 28 meeting at MU's home, D'Ambrosio informed Marrone that he would not be accepting MU's retainer as she appeared either "incapable or unwilling" to provide him instructions

[93] He went on to advise Marrone that he should get an Ontario Capacity Assessment done of MU, and if in the Ontario Capacity Assessment Officer's opinion she was competent, then he could proceed with the will. Ontario Capacity Assessment Officers are medical professionals trained in assessing testamentary capacity with respect to wills and powers of attorney. D'Ambrosio memorialized his discussion with Marrone regarding the capacity assessment in a handwritten note dated May 1, 2017, as well as in his memo to file dated May 4, 2017.

[94] Subsequently, on the morning of May 1, 2017, MU was taken by ambulance to hospital and was admitted into the palliative care unit later that night. She remained there until her death on May 19, 2017.

4.1.2.a.iii Simkovitch Capacity Letter

[95] Marrone testified that on May 1, while he was waiting with MA for MU to be admitted to the hospital, Marrone and MA were approached by a woman who identified herself as a social worker. She asked them about their relationship to MU, and whether or not MU had Powers of Attorney or a will. Marrone says that he advised the social worker that MU was "having those done". The social worker then advised him that she would prepare a letter for them to take to "who ever is preparing those documents." The social worker later provided Marrone with a letter signed by Dr. Simkovitch, one of MU's doctors. The letter referred to Dr. Simkovitch's meeting with MU on April 13, 2017, and noted that Dr. Simkovitch found MU to be "lucid and capable of making decisions regarding her care" at that time. Marrone hand delivered the Simkovitch letter to D'Ambrosio's office later that day.

[96] Having received the Simkovitch letter, D'Ambrosio proceeded to instruct his assistant Nancy Bartolini to prepare drafts of MU's will and powers of attorney, based on the instructions he received from MU at the April 28, 2017, meeting. It is worth noting that the letter did not identify Dr. Simkovitch as an Ontario Capacity Assessment officer, and the letter was silent as to her capacity to draft a will or powers of attorney, addressing only her capacity to make "decisions relating to her care".

4.1.2.a.iv Draft Estate Documents emailed to Marrone

[97] On May 3, 2017, D'Ambrosio emailed the drafts to Marrone, asking him to review the drafts for "spelling, etc." and inquired as to the best time for meeting with MU for execution of the documents. The documents he emailed were:

a. A draft Continuing Power of Attorney for Property of MU, naming Marrone as the attorney for property;

b. A draft Continuing Power of Attorney for Personal Care of MU, naming Marrone as the attorney for personal care;

c. A draft Last Will and Testament of MU, naming Marrone as sole beneficiary of the estate and as alternate executor.

[98] Marrone replied to the email within 30 minutes of it being sent and proposed times for D'Ambrosio to meet with MU in the hospital the following day, May 4, 2017. Despite this quick reply, Marrone denies having opened the attachments to the email at that time.

[99] He acknowledged under cross-examination that he knew at the time that there were attachments to the email, and that he read the body of the email, including the words "Attached is a draft of her estate planning documents. Please have a look and review for spelling, etc.". He also agreed that assisting MU with her will and powers of attorney was important to him, and he considered the estate documents D'Ambrosio had asked him to review to be important documents.

[100] Marrone submits that Staff has provided no direct evidence that he opened and reviewed the attachments on May 3. Conversely, Marrone has provided no evidence that he did not open it, beyond his testimony that he did not open the attachments, which we do not find credible.

4.1.2.a.v May 4, 2017, Meeting with MU

[101] On May 4, 2017, D'Ambrosio and his assistant Nancy Bartolini attended at Mackenzie Health Centre in order for MU to sign her will and powers of attorney.

[102] D'Ambrosio and Bartolini's evidence in relation to this meeting, supported by memorandums drafted on May 4 and placed in D'Ambrosio's client file for MU, differ in several important ways from Marrone's testimony relating to the event.

[103] D'Ambrosio and Bartolini describe a meeting at the hospital, the purpose of which was to have MU sign her powers of attorney and will. They say they were met by Marrone outside of MU's hospital room, and they allowed him to go in to visit with MU briefly before they visited. After Marrone exited the room, they entered, and advised MU that they were

there for her to sign her will and powers of attorney. MU immediately advised them that she was not ready to sign her will as she wasn't feeling well and did not want to "mess it up." D'Ambrosio advised that he could return another time and would leave his card with her so she could call him when she felt up to it. Before leaving D'Ambrosio confirmed her instructions and advised how the will was drafted, leaving all of her estate to Marrone. Both D'Ambrosio and Bartolini stated that at this point MU seemed puzzled and stated, "Why would I leave everything to Aurelio if I have family?"

[104] At that, D'Ambrosio and Bartolini left the hospital room and reconvened with Marrone in the hospital parking lot. D'Ambrosio advised Marrone that he was unable to execute the will and advised him of MU's question regarding leaving her estate to Marrone. Both D'Ambrosio and Bartolini testified that in response Marrone said something to the effect that "she has done a complete 360."

[105] D'Ambrosio's memo to file states that Marrone then asked him why he didn't have MU sign the documents at the first meeting on April 28, at MU's home. D'Ambrosio explained to him that he could not have already prepared the will at that time because he hadn't yet received instructions from MU, which was the purpose of the April 28 meeting. He also stated the additional issue of his belief that she lacked capacity to give those instructions at that time.

[106] Marrone gives a different account of the May 4, 2017, meeting. He testified that on May 4 he arrived at the hospital to visit with MU, and about an hour later D'Ambrosio and Bartolini showed up to have MU execute her Powers of Attorney and Will. He waited outside MU's hospital room while D'Ambrosio and Bartolini were inside. Approximately 15-20 minutes later they exited the room and informed him that MU had told them that she was not prepared to sign the will.

[107] He says the conversation took place in the hallway outside MU's room, denied using the phrase, "360 degree turn" in his conversation with D'Ambrosio and Bartolini, and denied asking D'Ambrosio why he didn't have the will executed at the April meeting.

[108] On this issue we find that D'Ambrosio and Bartolini's account of the May 4 meeting is more reliable and credible than Marrone's account. Their accounts were consistent, and the memos were made contemporaneously to the events.

[109] Marrone's version of events is not supported by evidence and is in contradiction to the statement he provided to the MFDA in 2019, which is that he had no recollection of a discussion with D'Ambrosio and Bartolini on May 4, 2017.

[110] We prefer the evidence of D'Ambrosio and Bartolini where it conflicts with the evidence provided by Marrone regarding the events of May 4.

4.1.2.a.vi May 9, 2017, Signing of the Estate Documents

[111] On May 9, 2017, D'Ambrosio attended once again at MU's hospital room to execute her estate documents. This meeting was scheduled with Marrone via email. This time he was joined by his wife Emilia D'Ambrosio to act as witness, as Ms. Bartolini was unavailable.

[112] Marrone was in the room with MU when D'Ambrosio arrived. MU wanted Marrone to stay in the room while the documents were being signed and executed, but D'Ambrosio advised her this was inappropriate. Once Marrone had left the room, D'Ambrosio went through the powers of attorney. MU asked for Marrone to re-enter the room so she could ask him to accept the power of attorney designations. Marrone agreed to be both the power of attorney for personal care and for property. After Marrone left the room once more, MU signed the powers of attorney and the will.

[113] The May 9 will named Marrone as the sole beneficiary of MU's estate, which at that time was worth over $2 million. D'Ambrosio was named as Executor and Marrone was named as the alternate executor. The powers of attorney for personal care and for property named Marrone as the attorney for each. MA was the back-up attorney for personal care and D'Ambrosio was the back-up attorney for property.

[114] MU instructed D'Ambrosio to give the original copies of the will and powers of attorney to Marrone, which he did at that time. Marrone testified that D'Ambrosio advised him at that time that he been named as the powers of attorney for health and property. He testified that D'Ambrosio never discussed the will with him.

[115] We therefore conclude that Marrone was aware that he was named as power of attorney for property and for health on May 9, 2017.

[116] Marrone claims he did not open the folder containing the will until after MU passed away, ten days later on May 19, 2017, at which point he discovered that he was the sole beneficiary and alternate executor.

[117] In our view it is more likely than not, that Marrone knew he was going to be named as the sole beneficiary and alternate executor of MU's estate as early as May 3, 2017, when Mr. D'Ambrosio emailed him the draft estate documents for his review. We believe he opened it and saw that he was beneficiary, and alternate executor at that time. By not doing

anything at that time, prior to MU's death, it aggravates the breach. However, and in any event, there is no doubt that he was aware by May 19, 2017, when MU passed.

[118] Although Marrone admits having known about the Powers of Attorney by May 9, 2017, and about being named sole beneficiary on May 19, 2017, Marrone did not report or disclose this to IPC until after an IPC internal investigation was commenced against him on October 3, 2017, following the complaint received from FC.

4.1.2.b Accepting powers of attorney from a client

[119] Until his termination from IPC became effective in January 2018, Marrone was a registered dealing representative with IPC, which was at all material times a "Member" of the MFDA. As such, Marrone was an "Approved Person" as defined in MFDA By-law No. 1 and was required to comply with the MFDA Rules governing Approved Persons and Members.[20]

[120] In accordance with the MFDA Rules, Approved Persons may only engage in transactions on behalf of clients based on express instructions for each transaction. Approved Persons are similarly prohibited from having any control or authority over a client account, even with the client's consent. This prohibition specifically includes powers of attorney and executorships. When we refer to a power of attorney in these reasons, unless specified, we are referring to a power of attorney for property. The MFDA and IPC do not have restrictions around Approved Persons acting as a power of attorney for personal care for clients.

[121] The prohibition in MFDA Rule 2.3.1(a)(i) on powers of attorney is unambiguous and, subject to a limited exception for family members, absolute. It bars any Approved Person from accepting or acting on any power of attorney that would give the Approved Person full or partial control or authority over the financial affairs of a client. In a number of MFDA proceedings, MFDA Hearing Panels have considered the acceptance by an Approved Person of a Power of Attorney for a client to be a contravention of MFDA Rule 2.3.1.[21]

[122] MFDA Rule 2.3.1(a)(i) on its face clearly prohibits the acceptance of a power of attorney by an Approved Person, whether or not it is ever acted upon. In *Re Sukman*, the Approved Person accepted and held a Power of Attorney for property for a client for a period of less than 10 months, and never exercised his authority under it. Nevertheless, the Hearing Panel found the Approved Person's acceptance of the power of attorney to be "a clear and flagrant breach of Rule 2.3.1(a)."[22]

[123] IPC's policies and procedures in 2017 also included an express prohibition on the acceptance of a Power of Attorney by an IPC Advisor that would allow the Advisor to trade on behalf of an IPC client.

[124] The fact that Marrone did not exercise the Power of Attorney for property to conduct trades on MU's behalf is not relevant. The prohibition in both the MFDA Rules and IPC policies and procedures applies to the acceptance of a Power of Attorney from a client.

[125] Marrone submits that as MU signed her powers of attorney for property and health on May 9, 2017, and a power of attorney for property expires on the date the grantor dies, that Marrone had only had the theoretical ability to act as MU's power for attorney for the 10 days between May 9 and her death on May 19, 2017, which he characterizes as a "minor technical breach."

[126] He also submits that he did not report to IPC that he had been named as power of attorney for MU during the 10 days because he did not believe he would ever act on it. He further testified that he would have complied with IPC protocols in the event that a trade would have been required, while affirming his belief that the prospect of ever having to act on the power of attorney was "incredibly remote".

[127] We find that Marrone was aware of the prohibition on accepting Powers of Attorney for property on behalf of a client. He signed IPC's Compliance Questionnaire in December of 2016, and he acknowledged IPC's policy prohibiting such acceptance on behalf of non-family member clients in an email exchange with his supervisor in February 2017.

[128] We also find that he did not advise MU that he was prohibited from accepting her Power of Attorney for Property, though he had the opportunity to do so when she called him into her hospital room before she executed the documents.

[129] Marrone's submissions that his conduct amounted to a technical non-compliance with MFDA Rules for a period of ten days and did not cause any harm is not relevant to the issue before us, which is whether or not he complied with MFDA Rule 2.3.1(a), and therefore is a submission more properly reserved for a sanctions and costs hearing panel.

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20 MFDA By-Law No 1, s 1.

21 *Beckford, (Re)*, 2015 CanLII 27979 (CA MFDAC) at paras 3-4 (***Beckford* 27979**); *Brauns, (Re)*, 2013 CanLII 75282 (CA MFDAC) at para 72 (***Brauns***); *Karasick, (Re)*, 2015 CanLII 39865 (CA MFDAC) at para 6 (***Karasick 39865***); *Ryan, (Re)*, 2011 CanLII 30215 (CA MFDAC) at para 12 (***Ryan***); *Sukman, (Re)*, 2016 CanLII 29420 (CA MFDAC) at para 15 (***Sukman 29420***).

22 *Sukman 29420* at para 15.

[130] We conclude that Marrone knew about and accepted the Power of Attorney for Property bestowed upon him by his client MU, and therefore breached MFDA Rule 2.3.1(a)(i).

4.1.2.c Accepting an appointment to act as alternate executor of a client's estate

[131] MFDA Rule 2.3.1(a)(ii) prohibits an Approved Person from accepting an appointment to act as a trustee or executor of a client. The prohibition is on the acceptance of the position, regardless of whether it is acted upon. A separate sub-rule, MFDA Rule 2.3.1(a)(iii), prohibits an Approved Person from acting as executor or trustee for a client's estate.

[132] Hearing Panels in a number of MFDA proceedings have considered the acceptance of an executorship for a client's will to be a breach of MFDA Rules.[23] As the prohibition is on acceptance of the position, it applies equally to all forms of executorships, including "back-up" or "alternate" executorships which are contingent on the primary executor failing or refusing to take on the role. In *Re Lambros*, the MFDA Hearing Panel found that the respondent had breached MFDA Rules in accepting the role as alternate executrix even though the primary executrix never relinquished the role.[24]

[133] Marrone knew he was alternate executor, as early as May 3, but in any event no later than May 19 when he admits to reviewing MU's will. MU was Marrone's client until the day of her death, following which her estate became his client, and he continued to manage the investments held by MU's estate after her death. Marrone never refused or renounced his position as back-up executor and he failed to notify IPC that he had been named an alternate executor of a client's estate, an estate whose finances he now managed.

[134] Marrone submits that as he did not "accept" or "act" as an alternate executor of MU's estate, he cannot be in breach of MFDA Rule 2.3.1(a).

[135] He submits that as he was not consulted about being named as alternate executor, he cannot be found to be in breach of the rule. And in any event, all a registrant could do if named as an alternate executor is renounce the appointment. As the executor took up the role, Marrone never even had the opportunity to do so as the alternate executor role was never activated.

[136] We reject these submissions. As we found above at [117], Marrone knew of his appointment as alternate executor May 3, 2017, but in any event by no later than May 19, 2017, when MU passed away and he admitted to reviewing the will. Yet he failed to report the appointment to IPC and took no steps to renounce the appointment.

[137] For our analysis of this breach, it does not matter that Marrone did not become the executor and act on the appointment.

[138] We conclude that Marrone knew of his appointment as alternate executor in his client's will by no later than May 19, 2017, and by failing to renounce the appointment, he was in breach of MFDA Rule 2.3.1(a)(ii).

4.1.3 Did Marrone breach MFDA Rule 2.1.4?

[139] MFDA Rule 2.1.4 mandates a multi-step process for the identification, reporting, assessment, and management of conflicts of interest:

> 2.1.4 Conflicts of Interest
>
> (a) Each Member and Approved Person shall be aware of the possibility of conflicts of interest arising between the interests of the Member or Approved Person and the interests of the client. Where an Approved Person becomes aware of any conflict or potential conflict of interest, the Approved Person shall immediately disclose such conflict or potential conflict of interest to the Member.
>
> (b) In the event that such a conflict or potential conflict of interest arises, the Member and the Approved Person shall ensure that it is addressed by the exercise of responsible business judgment influenced only by the best interests of the client and in compliance with Rules 2.1.4(c) and (d).
>
> (c) Any conflict or potential conflict of interest that arises as referred to in Rule 2.1.4(a) shall be immediately disclosed in writing to the client by the Member, or by the Approved Person as the Member directs, prior to the Member or Approved Person proceeding with the proposed transaction giving rise to the conflict or potential conflict of interest.
>
> (d) Each Member shall develop and maintain written policies and procedures to ensure compliance with Rules 2.1.4(a), (b) and (c).

[23] *Beckford 27979* at Schedule "A", paras 24, 32; *Brauns* at para 72; *Taylor 96764, (Re)* 2019 CanLII 96764 (CA MFDAC) at para a.
[24] *Lambros, (Re)*, 2011 CanLII 30213 (CA MFDAC) at para 14 (***Lambros***).

[140] The steps required by the Rule are clear:

a. Disclose the conflict or potential conflict to the Member when the Approved Person becomes aware of it;

b. Work with their Member firm to ensure the conflict is addressed in the best interest of the client; and

c. Disclose the conflict or potential conflict to the client.

[141] If the Approved Person fails to disclose the conflict or potential conflict to their Member firm, then the rest of the Rule cannot be followed or complied with, as it requires the Member to implement the required compliance procedures in (b) and (c).

[142] IPC's policies and procedures in 2017 relating to reporting conflicts of interest mirrored the reporting requirements of MFDA Rule 2.1.4(a). Pursuant to IPC Manual 4.2, Marrone was required to immediately disclose to IPC full and complete details if he was in, or could reasonably be perceived to be in, a conflict of interest position.

[143] In the present case, there were at least three sources of actual or potential conflicts of interest that arose from Marrone's conduct which Marrone failed to report or address at all, let alone in a timely fashion: (i) Marrone's acceptance of a Power of Attorney for Property for MU; (ii) Marrone's awareness and acceptance of the role of alternate executor for MU's estate; and (iii) Marrone's awareness and acceptance of being named sole beneficiary under MU's will.

[144] We find that Marrone breached MFDA Rule 2.1.4 by failing to report the three sources of actual or potential conflicts of interest relating to MU's estate. We explain our finding in more detail below.

4.1.3.b Powers of attorney

[145] The acceptance by an Approved Person of a Power of Attorney for a client that authorizes the Approved Person to conduct trades in the client's account on the client's behalf puts the Approved Person in an actual or potential conflict of interest with the client.

[146] MFDA Hearing Panels have held that the acceptance by an Approved Person of a Power of Attorney for a client gives rise to an actual or potential conflict of interest. In *Re Ryan*, the MFDA Hearing Panel found that MFDA Rule 2.3.1 prohibiting Powers of Attorney was itself "designed to help eliminate conflicts of interest." [25]

[147] The conflict arises when the Power of Attorney is accepted and remains for as long as it is held, regardless of whether the Approved Person acts on the Power of Attorney to trade on the client's behalf or at all.[26]

[148] Marrone submits that if there were any breaches of IPC Policies or MFDA Rules arising from his relationship with MU, they are limited to minor, isolated, technical non-compliance and therefore are not sufficient to support a finding that Marrone breached his duties under the Act.

[149] We disagree. By accepting MU's appointment as power of attorney for property, Marrone was put into a conflict of interest with his client. The fact that Marrone did not act upon it is not a defence to his breach of MFDA Rule 2.1.4. The conflict or potential conflict arose when Marrone accepted the Power of Attorney and continued as long as he held it, regardless of whether he acted upon it. As an Approved Person with 20 years of industry experience, he should have known that this action put him into a conflict of interest or at least a potential conflict of interest with his client. Marrone did not take any of the required steps in Rule 2.1.4 to notify IPC of the appointment, he did not disclose to MU that appointing him as a power of attorney for property was a conflict of interest, and he otherwise failed to take any steps to ensure the conflict was addressed. In fact, he did not disclose the existence of the Power of Attorney for Property to his Member until after the investigation into his conduct was commenced in October 2017. In failing to disclose he also breached IPC's policies and procedures.

4.1.3.c Alternate executor of a client's estate

[150] The role of executor for a client raises similar conflicts of interest to that of power of attorney for property. The primary difference is that with an executor, the conflict or potential conflict exists between the Approved Person and the client's estate. As with a power of attorney for property, an Approved Person as executor is able to conduct trading in the client estate's account.

[25] *Brauns* at para 73; *Ryan* at para 8.
[26] *Karasick 39865* at para 15; *Karasick (Re),* 2015 CanLII 39881 (CA MFDAC) at para i; *Ryan* at paras 11-12; *Sukman 29420* at paras 6(29), 15.

[151] A number of MFDA decisions have considered the acceptance of an executorship of a client's estate as an actual or potential conflict of interest, including some cases in which the executorship was never acted upon because the Approved Person was the alternate executor or because the client was still alive at the time of the hearing.[27]

[152] As an experienced Approved Person, he should have known that his appointment put him into a conflict of interest his client, MU, and later on, with her estate, which continued to be his client. Marrone did not take any of the required steps in Rule 2.1.4 to notify IPC of the appointment, he did not disclose the conflict to MU before her death and he otherwise failed to take any steps to ensure the conflict was addressed. He did not renounce his role as alternate executor, and at the time of this hearing, retained that role. Similarly to the Power of Attorney for Property, he did not disclose the existence of the appointment as alternate executor to his Member until after the investigation into his conduct was commenced in October 2017. In failing to disclose he also breached IPC's policies and procedures.

4.1.3.d Being named sole beneficiary of a client's estate

[153] An Approved Person who is named as a beneficiary of a client's estate or on a client's account is in an actual or potential conflict of interest, particularly when the beneficial entitlement includes the investment assets being managed by the Approved Person.

[154] MFDA Hearing Panels have found that an Approved Person who becomes a named beneficiary of a client's estate or account is in a conflict of interest that must be reported and addressed in accordance with MFDA Rule 2.1.4.[28]

[155] In addition to Rule 2.1.4 the MFDA has released guidance on accepting monetary benefits from clients in the form of a Member Regulation Notice issued on October 3, 2005. The Notice stated, among other things:

> All monetary and non-monetary benefits provided directly or indirectly to or from clients must flow through the Member. The Member must be notified of any such arrangements, so that the Member is in a position to determine the significance of the benefit and to monitor the activity.

[156] Although MFDA Member Regulation Notices are not binding, they do provide guidance to the industry, and equally important, place Members and Approved Persons on notice respecting the issues which they must direct their attention to and appropriately address.

[157] Marrone submits that being a beneficiary of a client's estate is not a breach of MFDA Rules or IPC Policies and Procedures. He argues that since he has yet to receive any monetary benefit from MU's estate, and the IPC manual states that monetary benefits provided from clients are not banned, but must, "flow through IPC" he is not in contravention of IPC policies.

[158] We earlier found that Marrone was more likely than not aware of his appointment as alternate executor as early as May 3, 2017, but in any event no later than May 19, 2017. The same analysis applies to his becoming aware of the testamentary gift in MU's will. We find that he was aware of the gift on May 3, 2017, but in any event, by no later than May 19, 2017, and he took no steps to advise IPC of the gift until after IPC had commenced the investigation into his conduct in October 2017.

[159] By failing to report to his Member firm that he was named as the sole beneficiary of his client's estate, Marrone breached MFDA Rule 2.1.4. His simultaneous roles as the Approved Person managing MU's estate, and the sole beneficiary of that estate put him into a conflict of interest with his client. As an experienced Approved Person, he should have known that he was at least in a potential conflict of interest with his client (the estate), and he should have reported this to IPC in accordance with MFDA Rule 2.1.4.

4.1.4 Did Marrone breach MFDA Rule 2.1.1?

[160] MFDA Rule 2.1.1 set out the general standard of conduct required by Approved Persons:

> Standard of Conduct - Each Member and each Approved Person of a Member shall:
>
> (a) deal fairly, honestly and in good faith with its clients;
>
> (b) observe high standards of ethics and conduct in the transaction of business;

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27 *Brauns* at para 73; *Beckford (Re),* 2015 CanLII 27963 (CA MFDAC) at para a; *Lambros* at para 14; *Sukman 29420* at para 6(11); *Sukman (Re),* 2016 CanLII 29418 (CA MFDAC) at para a.

28 *Beckford 27979* at paras 3-4, 11; *Taylor (Re), 2019 CanLII 96741 (CA MFDAC)* at paras 16, 21, 42; *Taylor 96764* at para b; *Levine (Re),* 2013 CanLII 27372 (CA MFDAC) at para c.

> (c) not engage in any business conduct or practice which is unbecoming or detrimental to the public interest; and
>
> (d) be of such character and business repute and have such experience and training as is consistent with the standards described in this Rule 2.1.1, or as may be prescribed by the Corporation.

[161] The language in MFDA Rule 2.1.1(a) mirrors that in OSC Rule 31-505, which we review in depth in section 4.2 below. For the reasons articulated below, We find that Marrone breached MFDA Rule 2.1.1.by failing to deal fairly, honestly and in good faith with his client MU.

4.1.5 Did Marrone breach MFDA Rule 1.1.2?

[162] MFDA Rule 1.1.2 provides that:

> Each Approved Person who conducts or participates in any securities related business in respect of a Member in accordance with Rule 1.1.1.(c)(i) or (ii) shall comply with the By-laws and Rules as they relate to the Member or such Approved Person.

[163] MFDA Hearing Panels have clarified that MFDA Rule 1.1.2 should be read in conjunction with MFDA Rule 2.5.1. As the MFDA Hearing Panel in *Frank (Re)* held with respect to the interaction between MFDA Rules 2.5.1 and 1.1.2, the requirements in Rule 2.5.1 that Members establish policies and procedures:

> …are meaningless and cannot achieve their intended objectives if Approved Persons are not required to comply with them. MFDA Rule 1.1.2 is clear that Approved Persons share the responsibility of ensuring that obligations set out in the MFDA Rules are followed and must do their part to support the Member's obligations to be compliant with its regulatory obligations.
>
> In the context of policies and procedures of a Member, and especially policies designed to facilitate regulatory supervision by the Member, the failure of an Approved Person to comply with the Member's policies constitutes a regulatory violation.[29]

[164] Our analysis below addresses whether Marrone failed to follow IPC policies and procedures. Our finding in that regard that Marrone failed to follow IPC policies and procedures necessarily leads us to conclude that Marrone has also breached MFDA Rule 1.1.2.

4.1.6 Did Marrone fail to follow IPC policies and procedures?

[165] As a registrant working with IPC, Marrone was bound to comply with IPC rules, policies and procedures. Each year he was with IPC, Marrone completed an IPC compliance questionnaire in which he affirmed that he had read and understood IPC rules, policies, and procedures, and that he agreed to abide by those rules, policies, and procedures.

[166] In December 2016, Marrone completed an IPC compliance questionnaire affirming that he had "read, fully understood, and will comply with" the requirements in IPC's National Policies and Procedures Manual 4.2 and the Compliance Bulletins issued by IPC from time to time.

[167] We find that Marrone was aware of the IPC policies and procedures throughout his many years as an IPC approved person. As demonstrated in our analysis above of the corresponding MFDA Rules, Marrone failed to follow IPC policies and procedures .

4.1.7 Conclusion

[168] We conclude that Staff has successfully proved on a balance of probabilities that Marrone failed to comply with MFDA Rules and IPC policies and procedures.

4.2 Did Marrone breach his obligation under OSC Rule 31-505 to deal with clients fairly, honestly and in good faith?

4.2.1 Introduction

[169] As an MFDA registrant, Marrone was at all material times bound by the statutory obligation under Rule 31-505 to deal fairly, honestly and in good faith with his clients. Staff submits that as an Approved Person regulated by the MFDA, his obligations under Rule 31-505 are informed by the MFDA Rules and IPC's policies and procedures designed to give effect to the MFDA Rules. As we stated above in [33], it is our view that it is appropriate to consider Marrone's breaches of MFDA and IPC Rules in our determination of this issue.

[29] *Frank (Re)*, 2015 CanLII 57851 (CA MFDAC) at paras 57-58.

[170] We have already determined that Marrone breached the MFDA Rules relating to powers of attorney, executorship and conflicts of interest, but we agree with Marrone's submission that that finding alone is not sufficient to also amount to a breach of Commission Rule 31-505. The circumstances of any particular non-compliance must be examined to determine whether the standards set out in Rule 31-505 have been breached.

[171] In considering the vulnerability of MU, the materiality of the amounts at stake, Marrone's failure to place his client's interests above his own and the seriousness of the breaches of the MFDA Rules and IPC policies and procedures, we find that Marrone has failed to act fairly, honestly, and in good faith in his actions towards his client, MU.

4.2.2 Was MU a vulnerable client?

[172] On the evidence before us we have no difficulty concluding that MU was a vulnerable client throughout the material time.

[173] MU was diagnosed with terminal cancer in February of 2017. We heard from witnesses about her inconsistent memory, that she had "good days and bad days", and that she was unable to identify or quantify her investments when presented with her account statement. We also heard that it was MU's late husband who managed their financial affairs, and when he passed the Rs assisted her with managing his estate. We heard about how MU relied on Marrone to assist her with her finances, as well as other tasks like booking her travel and driving her to the airport. We also consider MU's age (74), lack of formal education, the fact that she advised the Rs that she didn't need a will because she could use her deceased husband's will and the fact that D'Ambrosio wanted a capacity assessment performed, and yet a formal capacity assessment was never obtained, to be factors that point to MU's vulnerability.

[174] Much evidence was led relating to the close relationship between Marrone and MU. We are not here to comment on that friendship. We must view Marrone's actions through the lens of the relationship between a registrant and his client. She relied on him as a trusted advisor and close friend, and never appeared to question that he put her best interests first. Having said that, we accept Marrone's evidence that he was a close friend of MU, but it is our view that their close friendship actually increased her vulnerability. This is why the MFDA and IPC have rules against accepting the designations at issue in this proceeding.

[175] It is also an important consideration for us in determining MU's vulnerability that the conduct at issue in this proceeding occurred during the last few weeks of her life when she was bedridden and in palliative care with terminal cancer.

4.2.3 The materiality of the amounts

[176] The materiality of the amounts at issue is an aggravating factor. The funds managed by Marrone at IPC, approximately $1.7 million, were all of MU's financial assets, with the exception of her condominium, and it was approximately one third of Marrone's entire book of business, which was approximately $6 million. These were material amounts to both MU and Marrone.

4.2.4 Marrone's failure to place his client's interests above his own

[177] IPC Manual 4.2, which was in place at the material time, included the following requirement:

> Integrity: We act with the highest level of integrity and in the best interests of our clients, placing their interests above our own.

[178] We agree with Staff's submission that if Marrone was truly placing his client's interests above his own, he could have reported the power of attorney for property, the alternate executorship, and his designation as sole beneficiary to IPC. If he was solely concerned with MU's interests, there would have been no reason for him not to report this to IPC. Indeed, the purpose of reporting a conflict of interest is to allow the conflict to be addressed by the Member in a manner that is consistent with the interests of the client.

[179] However, reporting these designations to IPC would have disclosed the fact that Marrone was the sole beneficiary under MU's will, which may have put his significant inheritance at risk. In failing to report the designations to IPC Marrone placed his own interests above those of his client. We find that to be an aggravating factor when conducting our analysis of Commission Rule 31-505 below.

4.2.5 Analysis of Commission Rule 31-505

[180] Section 2.1 of OSC Rule 31-505 provides that every registered dealer or adviser, or a representative of such, has a statutory obligation to deal fairly, honestly and in good faith with clients.

[181] In *Re Norshield Asset Management (Canada) Ltd*, the Commission held that "[t]he duty to deal fairly, honestly and in good faith goes to the heart of what securities regulation is about and a breach of this obligation is especially serious."[30]

[182] In *Re Phillips* the Commission noted this obligation was key to a registrant's role as a gatekeeper of integrity of the capital markets.[31]

[183] The Commission has applied the lay meanings of "fairly", "honestly", and "good faith" when determining whether conduct amounts to breaches of section 2.1 of Rule 31-505:

a. Fairly: in a just and equitable manner

b. Honest: never deceiving, stealing or taking advantage of the trust of others; sincere, truthful; and

c. Good Faith: a state of mind consisting in (1) honesty in belief or purpose; (2) faithfulness to one's duty or obligation, (3) observance of reasonable commercial standards of fair dealing in a given trade or business, or (4) absence of intent to defraud or to seek unconscionable advantage.[32]

[184] We adopt these definitions of the terms for the purpose of our analysis.

[185] Marrone submits that the evidence demonstrates that he acted fairly, honestly, and in MU's best interests from the time she first asked him to help her find an estates lawyer, until the day of her death, and that there is no evidence of undue influence or coercion on his part.

[186] We disagree. In *Argosy Securities* the Commission held that firms or representatives who fail to substantially comply with their SRO rules cannot be said it to be dealing "fairly" with their clients.[33]

[187] In addition, Commission hearing panels have found that compliance with rules relating to the management and prevention of conflicts of interest is also essential to fulfilling the obligations under Rule 31-505. A failure to appropriately identify and disclose conflicts of interest amounts to a failure to deal fairly, honestly and in good faith with clients.[34]

[188] Marrone submits that Staff must prove more than a technical non-compliance with MFDA Rules or IPC Policies in order for the Commission to find a breach of Commission Rule 31-505. He relied on *Norshield* for the premise that breaches of Rule 31-505 must be "especially serious", which would not include a "technical" breach, which is how he characterizes the breaches alleged in this matter.[35] The panel in *Norshield* stated that,

> The seriousness of a breach of securities law depends on the context and the consequences of that breach. An inability to properly account for funds undermines confidence in the market. This was not merely a technical breach.[36]

[189] Marrone goes on to give an example of a technical breach, such as a failure to include the telephone number of the Member on a financial account statement, which is a breach of MFDA Rule 5.3.2(a). He says that Staff's submission that any breach of MFDA Rules amounts to bad faith would mean that an advisor who has failed to include their telephone number on an account statement would have engaged in conduct that was unfair, dishonest, and acting in bad faith towards their client.

[190] We agree that the example given by Marrone is a proper example of a technical breach, and a finding that an advisor who failed to include their telephone number on an account statement would not likely meet the standard for a finding of unfair, dishonest and bad faith conduct towards a client under Rule 31-505.

[191] However, this is not that situation. The breaches of the MFDA Rules and IPC policies and procedures that we have found are serious issues, relating to conflicts of interest, a vulnerable client, and the failure of Marrone, over a protracted period of time, to report these issues to IPC, all of which go to the heart of the relationship with a client, which is fundamental to the purpose of 31-505. We follow the reasoning in *Norshield* and conclude that the context and consequences of Marrone's breaches of MFDA Rules and IPC Policies and Procedures are significant. This was not a technical breach.

[192] In *Tonnies*, the MFDA hearing Panel held that exercise of "responsible business judgment" required to address conflicts of interest in accordance with MFDA Rule 2.1.4 will vary depending not only on the nature of the conflict but also on the characteristics of the client, including the client's level of sophistication. Staff submits, and we agree, that the assessment

30 2010 ONSEC 16 at para 79 (***Norshield***).
31 2015 ONSEC 24 at para 252.
32 *Quadrexx (Re)*, 2017 ONSEC 3 at paras 359, 364, 366.
33 *Argosy* at para 53.
34 *Sterling Grace & Co, (Re)*, 2014 ONSEC 24 at para 188 ; *Acker Finley Asset Management Inc, (Re)*, 2017 CarswellOnt 15313 at paras 80-84.
35 *Norshield* at paras 79, 82.
36 *Norshield* at para 82.

of whether a registrant such as Marrone has fulfilled his obligation to deal with a client fairly, honestly and in good faith must take into account the characteristics and circumstances of the client, including whether they are a vulnerable client.[37]

[193] Marrone's failure to identify the conflicts or potential conflicts of interest in being named power of attorney for property over his vulnerable client's affairs, being named alternate executor of his client's estate, and being named as the sole beneficiary of her account are significant breaches of his responsibilities as a registrant.

[194] As we explained above, the conflict of interest analysis that must be undertaken by a Member pursuant to MFDA Rule 2.1.4 relies on the Approved Person reporting conflicts or potential conflicts to their Member "immediately". If the Approved Person does not report the conflict, there is no opportunity for the Member to "ensure that it is addressed by the exercise of responsible business judgment influenced only by the best interests of the client." In failing to report the appointments and the testamentary gift to IPC Marrone acted unfairly, dishonestly, and in bad faith.

4.2.6 Conclusion

[195] During the material time we conclude that Marrone acted unfairly, dishonestly and in bad faith towards his vulnerable client by failing to follow the required procedures for dealing with conflicts or potential conflicts of interest, which was a significant breach of the MFDA Rules and IPC policies and procedures, and this constituted a breach of OSC Rule 31-505.

4.3 Was Marrone's conduct contrary to the public interest?

[196] Given the findings we have made regarding a breach of MFDA Rules and IPC Policies and Procedures, and a breach of Commission Rule 31-505, we decline to make an additional finding that the conduct was contrary to the public interest.

[197] The activities alleged by Staff for this allegation are the same activities relied upon for the breaches of the MFDA Rules, IPC Policies and Procedures and Commission Rule 31-505.

5. CONCLUSION

[198] Staff has established that:

a. Marrone's conduct was contrary to MFDA rules and IPC policies and procedures; and

b. Marrone failed to deal fairly, honestly and in good faith with a client contrary to subsection 2.1(2) of Commission Rule 31-505.

[199] The parties shall contact the Registrar on or before July 8, 2022, to arrange an attendance for a hearing regarding sanctions and costs. That attendance is to take place on a date that is mutually convenient, that is fixed by the Secretary, and that is no later than August 12, 2022.

[200] If the parties are unable to present a mutually convenient date to the Registrar, then each party may submit to the Registrar, for consideration by a panel of the Commission, a one-page written submission regarding a date for an attendance. Any such submission shall be submitted by 4:30 pm on or before July 8, 2022.

Dated at Toronto this 13th day of June, 2022

"Lawrence P. Haber"

"Mary Anne De Monte-Whelan"

"Craig Hayman"

[37] *Tonnies*.

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B. Ontario Securities Commission

B.2
Orders

B.2 Orders

B.2.1 Macro Enterprises Inc.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Application for an order that the issuer is not a reporting issuer under applicable securities laws – 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 – Requested relief granted.

Applicable Legislative Provisions

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

June 3, 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
MACRO ENTERPRISES INC.
(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 Manitoba; 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. Macro Enterprises Inc., a predecessor company to the Filer (Old Macro), was a reporting issuer in British Columbia, Alberta, Manitoba and Ontario (the Reporting Jurisdictions);

2. Old Macro's registered and records office was 1800 – 510 West Georgia Street, Vancouver, British Columbia, V6B 0M3;

3. the Filer's registered and records office is 2900 – 550 Burrard Street, Vancouver, British Columbia, V6C 0A3;

4. Old Macro's share capital consisted of common shares and Class A Convertible Preference Shares (collectively, the Shares);

5. Old Macro entered into an arrangement agreement dated February 14, 2022 with 1325996 B.C. Ltd. (AcquireCo), Frank Miles and Jeff Redmond, as amended on April 1, 2022, pursuant to which

AcquireCo acquired all of the outstanding Shares of Old Macro by way of a plan of arrangement under the BCBCA (the Arrangement), which was completed on April 20, 2022;

6. immediately following completion of the Arrangement, AcquireCo became the holder of all of the issued and outstanding Shares and amalgamated with Old Macro to become the Filer and, accordingly, the Filer became a reporting issuer in the Reporting Jurisdictions;

7. the common shares of the Filer were delisted from the TSX Venture Exchange effective as of the close of trading on April 22, 2022;

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

9. 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;

10. 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;

11. 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;

12. the Filer has no intention to seek public financing by way of an offering of securities;

13. the Filer is not in default of securities legislation in any jurisdiction other than the obligation to file on or before May 1, 2022 its annual financial statements and related management's discussion and analysis for the year ended December 31, 2021, and on or before May 30, 2022 its interim financial statements and related management's discussion and analysis for the interim period ended March 31, 2022, as required under National Instrument 51-102 – *Continuous Disclosure Obligations* and the related certification of such annual and interim filings as required under National Instrument 52-109 – C*ertification of Disclosure in Issuers' Annual and Interim Filings* (collectively, the Filings);

14. the requirements to file the Filings did not arise until after the completion of the Arrangement;

15. the Filer is not eligible to use the simplified procedure under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* (NP 11-206) as it is in default for failure to file the Filings; and

16. but for the fact that the Filer is in default for failure to file the Filings, the Filer would be eligible for the "simplified procedure" under NP 11-206.

Order

¶ 4 Each of the Decision Makers is satisfied that the order meets the test set out in the Legislation for the Decision Makers 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 #: 2022/0206

B.2.2 Leucrotta Exploration 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).

Citation: *Re Leucrotta Exploration Inc.*, 2022 ABASC 65

June 10, 2022

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

AND

IN THE MATTER OF
THE PROCESS FOR CEASE TO BE
A REPORTING ISSUER APPLICATIONS

AND

IN THE MATTER OF
LEUCROTTA EXPLORATION INC.
(the Filer)

ORDER

Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an application from the Filer for an order under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the **Order Sought**).

Under the Process for Cease to be a Reporting Issuer Applications (for a dual application):

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

(b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador; and

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

Interpretation

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

Representations

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

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

2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

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

5. the Filer is not in default of securities legislation in any jurisdiction.

Order

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

The decision of the Decision Makers under the Legislation is that the Order Sought is granted.

"Timothy Robson"
Manager, Legal
Corporate Finance
Alberta Securities Commission

OSC File #: 2022/0264

B.2.3 Wow Unlimited Media Inc.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Application for an order than the issuer is not a reporting issuer under applicable securities laws – The issuer is not an OTC reporting issuer; the outstanding securities of the issuer are beneficially owned by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide; no securities of the issuer are traded on a marketplace in Canada or another country; the issuer is not in default of securities legislation except it has not filed certain continuous disclosure documents – relief granted.

Applicable Legislative Provisions

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

May 30, 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
WOW UNLIMITED MEDIA INC.
(the Filer)

ORDER

Background

¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application from the Filer for an order under the securities legislation of the Jurisdictions (the Legislation) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the Order Sought).

Under the Process for Cease to be a Reporting Issuer Applications (for a dual application):

(a) the 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 Quebec; 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*, 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 was incorporated under the *Business Corporations Act* (British Columbia) on August 1, 2008 as Rainmaker Entertainment Inc.; on December 15, 2016, the Filer amended its articles of incorporation to change its name to Wow Unlimited Media Inc.;

2. the Filer's head office is located at 200 – 2025 West Broadway, Vancouver, BC V6J 1Z6;

3. the Filer is an animation and film production company;

4. the Filer is a reporting issuer in British Columbia, Alberta, Ontario and Quebec;

5. the Filer's share capital consists of common shares (Common Shares), variable voting shares (Variable Voting Shares), non-voting shares and preferred shares (collectively, the Shares);

6. the Filer entered into an arrangement agreement with Genius Brands International, Inc. (Genius Brands) and Wow Exchange Co. Inc. (then 1326919 B.C. Ltd.) (the Purchaser), then a wholly-owned subsidiary of Genius, dated October 26, 2021 pursuant to which Genius Brands, through the Purchaser, acquired all of the outstanding Shares of the Filer by way of a plan of arrangement under the *Business Corporations Act* (British Columbia) (the Arrangement);

7. the Arrangement closed on April 6, 2022 (the Effective Date);

8. immediately following the Effective Date, the Purchaser became the holder of all of the issued and outstanding Shares of the Filer;

9. the Common Shares and Variable Voting Shares of the Filer were delisted from the TSX Venture Exchange as of the close of trading on April 8, 2022;

10. the Filer is not an OTC reporting issuer under Multilateral Instrument 5*1-105 Issuers Quoted in the U.S. Over-the-Counter Markets*;

11. 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;

12. 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;

13. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in each of British Columbia, Ontario, Alberta and Quebec;

14. the Filer is not in default of securities legislation in any jurisdiction other than its obligations to file on or before May 2, 2022 its annual financial statements and management's discussion & analysis as required under National Instrument 51-102 *Continuous Disclosure Obligations* and the related certificates as required under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (collectively, the Filings);

15. the deadline to file the Filings did not occur until after the completion of the Arrangement;

16. the Filer is not eligible to use the simplified procedure under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* (NP 11-206) due to the failure to file the Filings; and

17. but for the fact that the Filer failed to file the Filings, the Filer would be eligible for the simplified procedure under NP 11-206.

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 #: 2022/0186

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B.3
Reasons and Decisions

B.3 Reasons and Decisions

B.3.1 Citizens Bank, National Association

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application to revoke a previous decision dated November 2, 2018, In the Matter of Citizens Bank, National Association – Previous decision had exempted the applicant from the dealer registration and the prospectus requirement, in sections 25(1) and 53(1) of the Securities Act, for certain trades in over-the-counter (OTC) derivatives with "permitted counterparties" subject to a sunset condition.

New decision provides relief from dealer registration and prospectus requirements in sections 25(1) and 53(1) of the Securities Act in connection with certain trades in OTC derivatives with "permitted counterparties", consisting exclusively of persons or companies who are "permitted clients" as defined in Section 1.1 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Relief sought in Ontario and certain other jurisdictions as interim response to current regulatory uncertainty associated with OTC derivatives in Canada – Relief subject to sunset condition that is (i) the date that is four years after the date of the decision; and (ii) the coming into force in the jurisdiction of legislation or a rule that specifically governs dealer, adviser or other registration requirements applicable to market participants in connection with OTC derivative transactions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25(1), 53(1), 74(1), and 144.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 1.1 ("permitted client").

June 2, 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
CITIZENS BANK, NATIONAL ASSOCIATION
(the Filer)

DECISION

Background

Previous Decision

The Filer made an application (the **Previous Application**) to the Ontario Securities Commission and obtained from the Ontario Securities Commission, as the principal regulator for the Previous Application, a decision dated November 2, 2018, *In Re Citizens Bank National Association*, (2019) 42 OSCB 2814 (the **Previous Decision**), providing relief from the dealer registration requirement and the prospectus requirement that may otherwise be applicable to a trade in or a distribution of an OTC Derivative made by either the Filer to a Permitted Counterparty or a Permitted Counterparty to the Filer, subject to certain terms and conditions. The Previous Decision provided that the relief would terminate on the date that is the earlier of: (i) the date that is four

years after the date of the Previous Decision (being November 11, 2018); and (ii) the coming into force in the Jurisdiction of legislation or a rule that specifically governs dealer, adviser or other registration requirements applicable to market participants in connection with OTC Derivative transactions.

New Decision

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) revoking the Previous Decision and providing that the dealer registration requirement and the prospectus requirement in the Legislation that may otherwise be applicable to a trade in or distribution of an OTC Derivative transaction (as defined below) made by either

(a) the Filer to a Permitted Counterparty (as defined below), or

(b) by a Permitted Counterparty to the Filer,

shall not apply to the Filer or the Permitted Counterparty, as the case may be (the **Requested Relief**), subject to certain terms and conditions.

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

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

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in Newfoundland and Labrador, Northwest Territories, Nunavut, Prince Edward Island and Yukon (the **Passport Jurisdictions**).

Interpretation

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

The terms **OTC Derivative** and **Underlying Interest** are defined in the Appendix (the **Appendix**) to this decision.

The term **Permitted Counterparty** means a person or company that is a “permitted client”, as that term is defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

Representations

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

The Filer

1. The Filer is a national full-service commercial and retail bank organized under the laws of the United States of America under charter number 24571. Its primary regulator in the United States is the Office of the Comptroller of the Currency. The Filer's head office is located at One Citizens Plaza, Providence, Rhode Island, 02903, U.S.A.

2. The Filer is not currently registered in any capacity in Canada or with the U.S. Securities and Exchange Commission.

3. The Filer is not required to register under U.S. law with the U.S. Commodity Futures Trading Commission as a swap dealer or a major swap participant.

4. The Filer is wholly owned by Citizens Financial Group, Inc. In September 2014, Citizens Financial Group, Inc. (NYSE:CFG) became a publicly traded company. Previously, Citizens Financial Group, Inc. had been wholly owned by the Royal Bank of Scotland Group PLC. In November 2015, Royal Bank of Scotland Group PLC completed its divestiture of Citizens Financial Group, Inc. Headquartered in Providence, Rhode Island, Citizens Financial Group, Inc. is one of the oldest and largest financial institutions in the United States, with $188 billion in assets as of December 31, 2021.

5. The Filer is not in default of securities, commodity futures or derivatives legislation in any jurisdiction in Canada.

6. The Filer is in compliance in all material respects with U.S. securities, commodity futures and derivatives laws.

7. The Filer will not maintain an office, sales force or physical place of business in Canada.

8. The Filer is not a registrant and is not a broker-dealer registered with the U.S. Securities and Exchange Commission, the Financial Industry Regulatory Authority or any state securities regulator.

Proposed Conduct of OTC Derivative Transactions

9. The Filer proposes to enter into bilateral OTC Derivative transactions with counterparties located in the Passport Jurisdictions that consist exclusively of persons or companies that are Permitted Counterparties. The Filer understands that the Permitted Counterparties would be entering into the OTC Derivative transactions for hedging or investment purposes. The Underlying Interest of the OTC Derivatives that are entered into between the Filer and a Permitted Counterparty will consist of a commodity; an interest rate; a currency; a foreign exchange rate; a security; an economic indicator, an index; a basket; a benchmark; another variable; another OTC Derivative; or some relationship between, or combination of, one or more of the foregoing.

10. The Filer will not offer or provide credit or margin to any of its Permitted Counterparties for purposes of executing an OTC Derivative transaction.

11. The Filer seeks the Requested Relief as an interim, harmonized solution to the uncertainty and fragmentation that currently characterizes the regulation of OTC Derivatives across Canada, pending the development of a uniform framework for the regulation of OTC Derivative transactions in all provinces and territories of Canada. The Filer acknowledges that registration and prospectus requirements may be triggered for the Filer in connection with the derivative contracts under any such uniform framework to be developed for the regulation of OTC Derivative transactions.

Regulatory Uncertainty and Fragmentation associated with the Regulation of OTC Derivative Transactions in Canada

12. There has generally been a considerable amount of uncertainty respecting the regulation of OTC Derivative transactions as "securities" in the provinces and territories of Canada other than Québec.

13. In each of Prince Edward Island, the Northwest Territories, Nunavut and Yukon, OTC Derivative transactions are regulated as securities on the basis that the definition of the term "security" in the securities legislation of each of these jurisdictions includes an express reference to this term including a "derivative".

14. In Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan, the term "security" no longer includes an express reference to a "futures contract". Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan securities legislation now each include a definition of "derivative".

15. In each of Manitoba, Newfoundland and Labrador and Ontario, it is not certain whether, or in what circumstances, OTC Derivative transactions are "securities" because the definition of the term "security" in the securities legislation of each of these jurisdictions makes no express reference to a "futures contract" or a "derivative".

16. In October 2009, staff of the OSC published OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts to Investors in Ontario* (**OSC Notice 91-702**). OSC Notice 91-702 states that OSC staff take the view that contracts for differences, foreign exchange contracts and similar OTC Derivative products, when offered to investors in Ontario, engage the purposes of the *Securities Act* (Ontario) (**OSA**) and constitute "investment contracts" and "securities" for the purposes of Ontario securities law. However, OSC Notice 91-702 also states that it is not intended to address direct or intermediated trading between institutions. OSC Notice 91-702 does not provide any additional guidance on the extent to which OTC Derivative transactions between the Filer and a Permitted Counterparty may be subject to Ontario securities law.

17. In Québec, OTC Derivative transactions are subject to the *Derivatives Act* (Québec), which sets out a comprehensive scheme for the regulation of derivative transactions that is distinct from Québec's securities regulatory requirements.

18. In each of Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia and Saskatchewan (the **Blanket Order Jurisdictions**) and Québec (collectively, the **OTC Exemption Jurisdictions**), OTC Derivative transactions are generally not subject to securities or derivative regulatory requirements, pursuant to applicable exemptions (the **OTC Derivative Exemptions**), when they are negotiated, bilateral contracts that are entered into between sophisticated non-retail parties, referred to as "Qualified Parties" in the Blanket Order Jurisdictions and "accredited counterparties" in Québec.

19. The corresponding OTC Derivative Exemptions are as follows:

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

Saskatchewan	General Order 91-908 *Over-the-Counter Derivatives*
Québec	Section 7 of the *Derivatives Act* (Québec)

The Evolving Regulation of OTC Derivative Transactions as Derivatives

20. Each of the OTC Exemption Jurisdictions has sought to address the regulatory uncertainty associated with the regulation of OTC Derivative transactions as securities by regulating them as derivatives rather than securities, whether directly through the adoption of a distinct regulatory framework for derivatives in Québec, or indirectly through amendments to the definition of the term "security" in the securities legislation of the other OTC Exemption Jurisdictions and the granting of the OTC Derivative Exemptions.

21. Between 1994 and 2000, the OSC sought to achieve a similar objective by introducing proposed OSC Rule 91-504 *Over-the-Counter Derivatives* (the **Proposed OSC Rule**) for the purpose of establishing a uniform, clearly defined regulatory framework for the conduct of OTC Derivative transactions in Ontario, but the Proposed OSC Rule was returned to the OSC for further consideration by Ontario's Minister of Finance in November, 2000.

22. The Final Report of the Ontario Commodity Futures Act Advisory Committee, published in January, 2007, concluded that OTC Derivative contracts are not suited to being regulated in accordance with traditional securities regulatory requirements and should therefore be excluded from the scope of securities legislation, because they are used for commercial-risk management purposes and not for investment or capital-raising purposes.

23. Ontario has now established a framework for regulating the trading of derivatives in Ontario (the **Ontario Derivatives Framework**) through amendments to the OSA that were made by the *Helping Ontario Families and Managing Responsibly Act, 2010* (Ontario).

24. The amendments to the OSA establishing the Ontario Derivatives Framework will not become effective until the date on which they are proclaimed in force. These amendments are not expected to be proclaimed in force until an ongoing public consultation on the regulation of OTC Derivatives has been completed. On April 19, 2018, the Canadian Securities Administrators (**CSA**) published a Notice and Request for Comment on the Proposed National Instrument 93-102 *Derivatives: Registration*, and on January 20, 2022, the CSA published a Notice and Third Request for Comment on the Proposed National Instrument 93-101 Derivatives: Business Conduct, which, together, are intended to implement a comprehensive regime for the regulation of persons or companies that are in the business of trading or advising on derivatives.

Rationale for Requested Relief

25. The Requested Relief would substantially address, for the Filer and its Permitted Counterparties, the regulatory uncertainty and fragmentation that is currently associated with the regulation of OTC Derivative transactions Canada, by permitting these parties to enter into OTC Derivative transactions in reliance upon exemptions from the dealer registration and prospectus requirements of the securities legislation of each Passport Jurisdiction that are comparable to the OTC Derivative Exemptions.

Books and Records

26. As a result of the Previous Decision, the Filer is a "market participant" for the purposes of the OSA, and will continue to be so as a consequence of this decision. For the purposes of the OSA, and as a market participant, the Filer is required by subsection 19(1) of the OSA to: (i) keep such books, records and other documents as are necessary for the proper recording of its business transactions and financial affairs, and the transactions that it executes on behalf of others; and (ii) keep such books, records and documents as may otherwise be required under Ontario securities law.

27. For the purposes of its compliance with subsection 19(1) of the OSA, the books and records that the Filer will keep will include books and records that:

    (a) demonstrate the extent of the Filer's compliance with applicable requirements of securities legislation;

    (b) demonstrate compliance with the policies and procedures of the Filer for establishing a system of controls and supervision sufficient to provide reasonable assurance that the Filer, and each individual acting on its behalf, complies with securities legislation;

    (c) identify all OTC Derivative transactions conducted on behalf of the Filer and each of its clients domiciled in Passport Jurisdictions, including the name and address of all parties to the transaction and the terms of those transactions; and

(d) set out for each OTC Derivative transaction entered into by the Filer, information corresponding to that which would be required to be included in an exempt distribution report for the transaction, if the transaction were entered into by the Filer in reliance upon the "accredited investor" prospectus exemption in section 2.3 [*Accredited investor*] of National Instrument 45-106 *Prospectus Exemptions*.

28. To the extent necessary and in respect of the OTC Derivative transactions, the Filer will comply with the derivatives trade reporting rules and instruments in effect in the provinces and territories of Canada.

Decision

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

The decision of the principal regulator is that the Previous Decision is revoked and the Requested Relief is granted, provided that:

(a) the counterparty to any OTC Derivative transaction that is entered into by the Filer is a Permitted Counterparty;

(b) in the case of any trade made by the Filer to a Permitted Counterparty, the Filer does not offer or provide any credit or margin to the Permitted Counterparty; and

(c) the Requested Relief shall terminate on the date that is the earlier of:

(i) the date that is four years after the date of this decision; and

(ii) the coming into force in the Jurisdiction of legislation or a rule that specifically governs dealer, adviser or other registration requirements applicable to market participants in connection with OTC Derivative transactions.

"Debra Foubert"
Director, Compliance and Registrant Regulation
Ontario Securities Commission

"Erin O'Donovan"
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2022/0151

Appendix
Definitions

"Clearing Corporation" means an association or organization through which Options or futures contracts are cleared and settled.

"Contract for Differences" means an agreement, other than an Option, a Forward Contract, a spot currency contract or a conventional floating rate debt security, that provides for:

(a) an exchange of principal amounts; or

(b) the obligation or right to make or receive a cash payment based upon the value, level or price, or on relative changes or movements of the value, level or price of, an Underlying Interest

"Forward Contract" means an agreement, not entered into or traded on or through an organized market, stock exchange or futures exchange and cleared by a Clearing Corporation, to do one or more of the following on terms or at a price established by or determinable by reference to the agreement and at or by a time established by or determinable by reference to the agreement:

(a) make or take delivery of the Underlying Interest of the agreement; or

(b) settle in cash instead of delivery.

"Option" means an agreement that provides the holder with the right, but not the obligation, to do one or more of the following on terms or at a price determinable by reference to the agreement at or by a time established by the agreement:

(a) receive an amount of cash determinable by reference to a specified quantity of the Underlying Interest of the Option.

(b) purchase a specified quantity of the Underlying Interest of the Option.

(c) sell a specified quantity of the Underlying Interest of the Option.

"OTC Derivative" means one or more of, or any combination of, an Option, a Forward Contract, a Contract for Differences or any instrument of a type commonly considered to be a derivative, in which:

(a) the agreement relating to, and the material economic terms of, the Option, Forward Contract, Contract for Differences or other instrument have been customized to the purposes of the parties to the agreement and the agreement is not part of a fungible class of agreements that are standardized as to their material economic terms;

(b) the creditworthiness of a party having an obligation under the agreement would be a material consideration in entering into or determining the terms of the agreement; and

(c) the agreement is not entered into or traded on or through an organized market, stock exchange or futures exchange.

"Underlying Interest" means, for a derivative, the commodity, interest rate, currency, foreign exchange rate, security, economic indicator, index, basket, benchmark or other variable, or another derivative, and, if applicable, any relationship between, or combination of, any of the foregoing, from or on which the market price, value or payment obligations of the derivative are derived or based.

B.3.2 Columbia Care Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions – application for relief from requirement to obtain separate minority approval from the filer's common shares and proportionate voting shares, each voting separately as a class – classes intended to be identical, but for proportionate rights – no difference of interest between holders of each class of shares in connection with the proposed business combination transaction, different classes are not affected in a differing way – safeguards include independent committee, fairness opinions, approval of the Court – applicable corporate statue and filer's constating documents provide that shareholders will vote as a single class other than in certain circumstances which are not present in connection with the proposed transaction.

Applicable Legislative Provisions

Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions, ss. 8.1(1) and 9.1(2).

May 11, 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
COLUMBIA CARE INC.
(the "Filer")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") exempting the Filer, pursuant to section 9.1 of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* ("**MI 61-101**"), from the requirement in subsection 8.1(1) of MI 61-101 to obtain minority approval for the Arrangement (as defined below) from the holders of every class of affected securities of the Filer voting separately as a class, and requiring instead that minority approval be obtained from all Disinterested Shareholders (as defined below) voting together as single class (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, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Yukon and Nunavut.

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, and MI 61-101 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 validly existing under the *Business Corporations Act* (British Columbia) ("**BCBCA**") and is in good standing.

2. The registered office address of the Filer is 666 Burrard St., #1700, Vancouver, British Columbia, Canada, V6C 2X8. The head office address of the Filer is 680 Fifth Ave., 24th Floor, New York, New York, 10019, United States of America.

3. The Filer is a reporting issuer in all of the provinces and territories of Canada other than Québec and is not in default of its obligations under the securities legislation in any of those jurisdictions.

4. The Filer is engaged primarily in the production and sale of cannabis as regulated by the regulatory bodies and authorities of the jurisdictions in which it operates.

5. The authorized share capital of the Filer consists of (a) an unlimited number of common shares, carrying one (1) vote per share (the "**Common Shares**"), (b) an unlimited number of proportionate voting shares, carrying one hundred (100) votes per share (the "**PV Shares**" and together with the Common Shares, the "**Filer Shares**"), and (c) an unlimited number of preferred shares (the "**Preferred Shares**").

6. As at May 3, 2022:

   (a) the outstanding share capital of the Filer consisted of 383,560,081 Common Shares, 136,410.48 PV Shares, and nil Preferred Shares; and

(b) the Common Shares represent approximately 96.57% of the aggregate voting rights attached to the Filer Shares, and the PV Shares represent approximately 3.43% of the aggregate voting rights attached to the Filer Shares.

7. The sole reason the PV Shares were initially created was to help ensure that the Filer maintained its "Foreign Private Issuer" status under United States securities laws.

8. The Filer became a registrant with the United States Securities and Exchange Commission (the "**SEC**") on March 31, 2022 and is no longer a "Foreign Private Issuer" as defined in Rule 3b-4 under the *United States Securities Exchange Act of 1934*. Accordingly, the difference between the PV Shares and Common Shares is entirely administrative.

9. The holders of the Common Shares and PV Shares have the same rights and obligations, and no holder of Filer Shares is entitled to any privilege, priority or preference in relation to any other such holder, subject to the following:

(a) The Common Shares may at any time, at the option of the holder thereof and with the consent of the Filer, be converted into PV Shares on the basis of one (1) Common Share for one one-hundredth (0.01) of a PV Share.

(b) The PV Shares may at any time, at the option of the holder thereof, be converted into Common Shares on the basis of one hundred (100) Common Shares for one (1) PV Share, with fractional PV Shares convertible into Common Shares on the same ratio. If the board of directors of the Filer (the "**Board**") determines that it is no longer advisable to maintain the PV Shares as a separate class of shares, then the PV Shares shall be converted into Common Shares on the basis of one hundred (100) Common Shares for one (1) PV Share, with fractional PV Shares convertible into Common Shares on the same ratio.

(c) Subject to the preferences accorded to the holders of the Preferred Shares, each PV Share is entitled to dividends if, as and when dividends are declared by the Board, with each PV Share being entitled to one hundred (100) times the amount paid or distributed per Common Share (or, if a stock dividend is declared, each PV Share shall be entitled to receive the same number of PV Shares per PV Share as the number of Common Shares entitled to be received per Common Share), and fractional PV Shares will be entitled to the applicable fraction thereof, and otherwise without preference or distinction among or between the Filer Shares.

(d) Subject to the preferences accorded to the holders of the Preferred Shares, in the event of the liquidation, dissolution or winding-up of the Filer, the holders of Shares are entitled to participate in the distribution of the remaining property and assets of the Filer, with each PV Share being entitled to one hundred (100) times the amount distributed per Common Share and fractional PV Shares will be entitled to the applicable fraction thereof, and otherwise without preference or distinction among or between the Filer Shares.

(e) The holders of the Filer Shares are entitled to receive notice of, attend and vote at any meeting of shareholders of the Filer, except those meetings at which holders of a specific class of shares are entitled to vote separately as a class under the BCBCA.

(f) The Common Shares will carry one (1) vote per share and the PV Shares will carry one hundred (100) votes per share. Fractional PV Shares will be entitled to the number of votes calculated by multiplying the fraction by one hundred (100).

(g) The rights, privileges, conditions and restrictions attaching to the Filer Shares may be modified if the amendment is authorized by not less than 66⅔% of the votes cast at a meeting of holders of the Filer Shares duly held for that purpose. However, if the holders of PV Shares, as a class, or the holders of Common Shares, as a class, are to be affected in a manner materially different from such other class of Filer Shares, the amendment must, in addition, be authorized by not less than 66⅔% of the votes cast at a meeting of the holders of the class of shares which is affected differently.

(h) No subdivision or consolidation of the Common Shares or PV Shares may be carried out unless, at the same time, the shares of the other class are subdivided or consolidated in the same manner and on the same basis, so as to preserve the relative rights of the holders of each such class of Filer Shares.

(i) In addition to the conversion rights described above, if an offer ("**Offer**") is made for PV Shares where: (i) by reason of applicable securities legislation or stock

exchange requirements, the offer must be made to all holders of the class of PV Shares; and (ii) no equivalent offer is made for the Common Shares, the holders of Common Shares shall have the right, at their option, to convert their Common Shares into PV Shares for the purposes of allowing the holders of the Common Shares to tender to the Offer.

(j) In the event that holders of Common Shares are entitled to convert their Common Shares into PV Shares in connection with an Offer, holders of an aggregate of Common Shares of less than one hundred (100) (an "**Odd Lot**") will be entitled to convert all but not less than all of such Odd Lot of Common Shares into an applicable fraction of one (1) PV Share, provided that such conversion into a fractional PV Share will be solely for the purpose of tendering the fractional PV Share to the Offer in question and that any fraction of a PV Share that is tendered to the Offer but that is not, for any reason, taken up and paid for by the offeror will automatically be reconverted into the Common Shares that existed prior to such conversion.

10. By their terms, the PV Shares and Common Shares were intended to be identical, but for the proportionate (a) voting rights, (b) dividend rights, (c) participation rights on liquidation, dissolution or winding-up, and (d) conversion privileges, as outlined in paragraph 9 above.

11. For accounting purposes, there is no distinction between the Common Shares and PV Shares, which are treated as if they were shares of one class only**.** All Filer Shares are treated as Common Share capital and presented in the aggregate in shareholders' equity as share capital on the Filer's consolidated statement of financial position.

12. The voting power of the Common Shares, relative to the dividend, distribution and liquidation entitlements of the Common Shares is proportionate to the voting power of the PV Shares, relative to the dividend, distribution and liquidation entitlements of the PV Shares. Accordingly, the predecessor to the Filer (Canaccord Genuity Growth Corp.) received a decision from the Ontario Securities Commission (the "**OSC**") on March 1, 2019 to, among other things, exempt the Filer from the requirement to use restricted share terms and provide restricted share disclosure in respect of the Common Shares (the "**2019 Relief**"). The Filer continues to satisfy the conditions of the 2019 Relief.

13. Cresco Labs Inc. ("**Cresco**") is a corporation validly existing under the BCBCA and is in good standing.

14. The registered office address of Cresco is 666 Burrard St., #2500, Vancouver, British Columbia, Canada, V6C 2X8. The head office address of Cresco is 400 W Erie St., #110, Chicago, Illinois, 60654, United States of America.

15. Cresco is a reporting issuer in all of the provinces and territories of Canada, and is not in default of its obligations under the securities legislation in any of those jurisdictions.

16. On March 23, 2022, the Filer entered into an arrangement agreement (the "**Arrangement Agreement**") with Cresco pursuant to which the Filer agreed to complete an arrangement under the BCBCA, which, subject to the terms and conditions of the Arrangement Agreement, will result in, among other things, Cresco acquiring, following the conversion of all PV Shares into Common Shares in accordance with the terms of the Filer's Articles (the "**Articles**"), all of the outstanding Common Shares (other than the Filer Shares in respect of which dissent rights are validly exercised) and issuing to each holder of Common Shares 0.5579 of a subordinate voting share in the capital of Cresco (each whole share, a "**Cresco Share**") for each Common Share held, subject to adjustment as set out in the Arrangement Agreement (the "**Arrangement**").

17. At the time the Arrangement was agreed to, Cresco was not a related party of the Filer.

18. The Arrangement is a business combination for the purposes of MI 61-101 and is therefore subject to the applicable requirements of MI 61-101, on the basis that Nicholas Vita, the Chief Executive Officer of the Filer, and thus, a related party, is entitled to receive a collateral benefit as a consequence of the Arrangement. As a business combination, approval for the Arrangement is required to be obtained from a majority of votes cast by holders of each class of Filer Shares, in each case voting separately as a class, excluding the votes attached to Filer Shares, beneficially owned, or over which control or direction is exercised, by any party specified in subsection 8.1(2) of MI 61-101 (such voting shareholders, the "**Disinterested Shareholders**") at a shareholder meeting to be held by the Filer. The Disinterested Shareholders consist of the holders of Common Shares and PV Shares, with the exception of Nicholas Vita. In aggregate, Nicholas Vita holds approximately 9.58% of the Common Shares on a diluted basis assuming the conversion of all PV Shares into Common Shares.

19. MI 61-101 was adopted to ensure the fair treatment of all security holders and the perception of such in the context of insider bids, issuer bids, business combinations and related party transactions.

20. The approval of the Arrangement is subject to a number of mechanisms to ensure that the collective

interests of the holders of Filer Shares are protected, including the following:

(a) the Arrangement is structured as an arrangement to be carried out in accordance with Division 5 of Part 9 of the BCBCA and requires, among other things, (i) the approval of a special resolution in respect of the Arrangement by two-thirds of the votes cast by holders of Filer Shares, voting together as a single class, at a special meeting of shareholders of the Filer, and (ii) following receipt of such shareholder approval, the approval the Arrangement by the Supreme Court of British Columbia (the "**Court**");

(b) an interim order of the Court pursuant to section 288 of the BCBCA (the "**Interim Order**") providing for the manner in which the Filer will call, hold and conduct a special meeting of shareholders in respect of the Arrangement;

(c) the preparation and delivery by the Filer to its shareholders of a management information circular (the "**Information Circular**") in accordance with applicable securities law requirements and the Interim Order that will provide shareholders with sufficient information to enable them to make an informed decision in respect of the Arrangement;

(d) the requirement that the Arrangement receive approval from a majority of votes cast by the Disinterested Shareholders voting together as a single class (each Common Share carrying one (1) vote and each PV Share carrying one hundred (100) votes);

(e) the creation of a special committee of independent directors (the "**Special Committee**") whose mandate included negotiating the Arrangement and making a recommendation regarding the Arrangement and who unanimously determined that the Arrangement is in the best interests of the Filer and is fair and reasonable to holders of Filer Shares;

(f) the Board having unanimously determined that the Arrangement is in the best interests of the Filer and is fair and reasonable to holders of Filer Shares;

(g) the Board and Special Committee having obtained fairness opinions from Canaccord Genuity Corp. (the "**Canaccord Fairness Opinion**") and ATB Capital Markets Inc. (the "**ATB Fairness Opinion**", and collectively with the Canaccord Fairness Opinion, the "**Fairness Opinions**"), respectively, stating that, as of the date of the opinion and subject to the assumptions, limitations, and qualifications on which such opinion is based, the consideration to be received by holders of Filer Shares pursuant to the Arrangement is fair, from a financial point of view, to the holders of Filer Shares;

(h) a right of dissent for the benefit of the holders of Filer Shares, including Disinterested Shareholders; and

(i) the Arrangement is the result of extensive arm's length negotiations among representatives of the Filer and Cresco and their respective legal and financial advisors; (the measures described in paragraphs 20(a) through (i), together, the "**Safeguard Measures**").

21. The Special Committee and the Board are each of the view that the Safeguard Measures are the optimal mechanisms to ensure that the public interest is well protected and that holders of Filer Shares are treated fairly and in accordance with their voting and economic entitlements under the Articles.

22. Under the BCBCA, there is no entitlement to separate class votes with respect to the approval of the Arrangement.

23. The Articles provide that (a) the holders of Common Shares are entitled to vote at all meetings of shareholders of the Filer except a meeting at which only the holders of another class or series of shares is entitled to vote, and (b) the holders of PV Shares are entitled to vote at all meetings of shareholders of the Filer at which holders of Common Shares are entitled to vote. In the case of Common Shares and PV Shares, as the case may be, the Articles require a separate special resolution of the holders of Common Shares or PV Shares, as the case may be, only when the Articles are being altered or amended in a way that would either (i) prejudice or interfere with any right or special right attached to the Common Shares or the PV Shares, as the case may be, or (ii) affect the rights or special rights of the holders of Common Shares and PV Shares on a per share basis which differs from the basis of one (1) per share in the case of Common Shares, and one hundred (100) per share in the case of the PV Shares. The Filer has determined that under the Articles, there is no entitlement to separate class votes with respect to the approval of the Arrangement, and the holders of PV Shares are entitled to vote with the Common Shares as a single class in respect of the approval of the Arrangement.

24. Separate class votes by the holders of Filer Shares would have the effect of granting disproportionate

importance to one class of Filer Shares over another. Despite the fact that the PV Shares held by Disinterested Shareholders would represent approximately 4.33% of the total votes of Disinterested Shareholders on an aggregate basis, holders of PV Shares, as a separate class, would be entitled to a veto right in respect of the Arrangement that could be exercised against all other Disinterested Shareholders. Such an outcome would not be in accordance with the reasonable expectations of the holders of Filer Shares.

25. On April 29, 2022, the Filer issued a press release that included disclosure that it had made an application to the OSC for the Exemption Sought, which would allow the Filer to obtain minority approval for the Arrangement from the Disinterested Shareholders voting together as a single class, as opposed to the holders of Common Shares and PV Shares each voting separately as a class.

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 the following mechanisms are implemented and remain in place:

(a) a special meeting of the holders of Filer Shares is held in order for the Disinterested Shareholders of the Filer to consider and, if deemed advisable, approve the Arrangement, such approval to be obtained with the Disinterested Shareholders of the Filer voting together as a single class of the Filer;

(b) the Information Circular is prepared and delivered by the Filer to its shareholders in accordance with applicable securities law requirements; and

(c) the Fairness Opinions are included in their entirety in the Information Circular.

"Jason Koskela"
Director, Office of Mergers & Acquisitions
Ontario Securities Commission

B.3.3 Nutrien Ltd.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for relief from the issuer bid requirements in connection with purchases by a cross-listed issuer of its shares up to 10% of its public float on published markets in the U.S. as part of normal course issuer bids implemented from time to time and conducted through the facilities of the TSX in reliance on section 4.8(2) of NI 62-104 – requested relief granted, subject to terms and conditions, including that the bid is permitted under applicable U.S. laws, and purchases must be made in compliance with Part 6 (Order Protection) of NI 23-101 – the relief granted to apply only to the acquisition of shares by the issuer's current bid or one commenced within 12 months of the date of the decision.

Applicable Legislative Provisions

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

June 7, 2022

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

AND

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

AND

IN THE MATTER OF
NUTRIEN LTD.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the requirements contained in the Legislation relating to issuer bids (the **Issuer Bid Requirements**) shall not apply to purchases of the Filer's common shares (the **Shares**) made by the Filer through the facilities of the New York Stock Exchange (the **NYSE**) and other United States-based trading systems (together with the NYSE, the **U.S. Markets**) in connection with an issuer bid made in the normal course through the facilities of the Toronto Stock Exchange (the **TSX**) that the Filer may implement from time to time (such bids, the

Normal Course Issuer Bids, and such exemption, the **Exemption Sought**).

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

(a) the Financial and Consumer Affairs Authority of Saskatchewan is the principal regulator for this application;

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

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

Interpretation

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

Representations

1. The Filer is a corporation existing under the *Canada Business Corporations Act* and is in good standing.

2. The Filer's registered head office is located in Saskatoon, Saskatchewan.

3. The Filer is a reporting issuer in each of the provinces of Canada and is not in default of its obligations as a reporting issuer under the applicable securities legislation in any of the jurisdictions in which it is a reporting issuer.

4. The Filer is also a registrant with the United States Securities and Exchange Commission (the **SEC**) and is subject to the requirements of the United States *Securities Exchange Act of 1934*, as amended (the **Exchange Act**).

5. The authorized share capital of the Filer consists of an unlimited number of Shares and an unlimited number of preferred shares issuable in series. As at April 30, 2022, the Filer had 551,449,564 Shares and no preferred shares issued and outstanding.

6. The Shares are listed and posted for trading on the TSX and the NYSE under the trading symbol "NTR".

7. On February 25, 2022, the Filer announced that the TSX had accepted its Notice of Intention to Make a Normal Course Issuer Bid (the **Current Notice**) for the 12 month period ending February 28, 2023 to purchase up to 55,111,110 Shares, representing approximately 10% of the Filer's public float (as of the date specified in the Current Notice) (the **Current Bid**). The Current Notice specifies that purchases under the Current Bid will be effected through the facilities of the TSX, the NYSE and/or alternative trading systems.

8. Issuer bid purchases made in the normal course through the facilities of the TSX are, and will be, conducted in reliance upon the exemption from the Issuer Bid Requirements set out in subsection 4.8(2) of National Instrument 62-104 *Take-Over Bids and Issuer Bids* (**NI 62-104**, and such exemption, the **Designated Exchange Exemption**). The Designated Exchange Exemption provides that an issuer bid made in the normal course through the facilities of a designated exchange is exempt from the Issuer Bid Requirements if the bid is made in accordance with the bylaws, rules, regulations and policies of that exchange. The TSX is a designated exchange for the purposes of the Designated Exchange Exemption.

9. The TSX's rules governing the conduct of normal course issuer bids (the **TSX NCIB Rules**) are set out, *inter alia*, in sections 628 to 629.3 of Part VI of the TSX Company Manual. The TSX NCIB Rules permit a listed issuer to acquire, over a 12 month period commencing on the date specified in the Notice of Intention to Make a Normal Course Issuer Bid (a **Notice**), up to the greater of (a) 10% of the public float on the date specified in the Notice, or (b) 5% of such class of securities issued and outstanding on the date specified in the Notice.

10. Other than purchases made in reliance on this decision, purchases under issuer bids made in the normal course through the facilities of the U.S. Markets and alternative trading systems in Canada are, and will be, conducted in reliance upon the exemption from the Issuer Bid Requirements set out in subsection 4.8(3) of NI 62-104 (the **Published Markets Exemption**). The Published Markets Exemption provides that an issuer bid 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 Published Markets Exemption by the issuer and any person acting jointly or in concert with the issuer within any 12-month period does not exceed 5% of the securities of that class outstanding at the beginning of the 12-month period.

11. As a result, purchases made pursuant to the Current Bid through the U.S. Markets cannot exceed 5% of the issued and outstanding Shares.

12. As of April 30, 2022, the Filer has purchased an aggregate of 2,867,383 Shares under the Current Bid, of which: (a) 1,433,696 Shares (or approximately 50%) were purchased through the facilities of the U.S. Markets; and (b) 1,433,687 Shares (or approximately 50%) were purchased through the facilities of the TSX.

13. In respect of the Filer's Normal Course Issuer Bid that expired on February 28, 2022, the Filer purchased an aggregate of 22,186,395 Shares, of which: (a) 12,331,115 Shares (or approximately 56%) were purchased through the facilities of the U.S. Markets; and (b) 6,370,300 Shares (or approximately 29%) were purchased through the facilities of the TSX.

14. For the 12-month period ended December 31, 2021, an aggregate of 957,953,770 Shares were traded over published markets, with trading volumes having occurred as follows:

    (a) 312,310,595 Shares (or approximately 32.6% of total aggregate trading) over the facilities of the TSX;

    (b) 121,822,856 Shares (or approximately 12.7% of total aggregate trading) over the facilities of the NYSE; and

    (c) 478,574,309 Shares (or approximately 50.0% of total aggregate trading) over the U.S. Markets (including the NYSE).

15. As at April 30, 2022, for the period subsequent to December 31, 2021, an aggregate of 558,867,807 Shares were traded, with the trading volumes having occurred as follows:

    (a) 149,109,953 Shares (or approximately 26.7% of total aggregate trading) over the facilities of the TSX; and

    (b) 324,759,656 Shares (or approximately 58.1% of total aggregate trading) over the U.S. Markets.

16. The Filer's daily trading volume of the Shares on the U.S. Markets is often greater than on the TSX, and can represent 70% to 80% of daily trading volumes on all markets. Compared to the TSX, trading volume of the Shares on the U.S. Markets was greater on over 80% of the trading days in 2021. The trading volume of the Shares on the U.S. Markets was greater than the trading volume on the TSX on over 99% of the trading days for the period from January 10, 2022 to April 30, 2022.

17. The Filer expects that the trading volume of the Shares on the U.S. Markets will continue to be significantly greater than that on the TSX, and that the trading volume of the Shares will predominantly occur on the U.S. Markets.

18. As a higher volume of Shares currently trade through the U.S. Markets, relative to the TSX, the Filer wishes to have the ability to make repurchases in connection with the Current Bid, and any Normal Course Issuer Bid that may be implemented by the Filer following the expiry of the Current Bid, over the U.S. Markets (collectively, the **Proposed Bids**) in excess of the maximum allowable in reliance on the Published Markets Exemption, up to the maximum authorized and approved by its board of directors and permissible by the TSX.

19. The Proposed Bids will be effected in accordance with all applicable securities laws, including the Exchange Act, the U.S. *Securities Act of 1933,* and the rules of the SEC made pursuant thereto and any applicable by-laws, rules, regulations or policies of the U.S. Markets on which the purchases are carried out (collectively, the **Applicable U.S. Rules**).

20. In connection with the Proposed Bids, the Filer intends to rely on the "safe harbour" provided by Rule 10b-18 under the Exchange Act (**Rule 10b-18**) in respect of the provisions of the Exchange Act precluding market manipulation. In order for the Filer to comply with Rule 10b-18, all purchases made by or on behalf of the Filer through the U.S. Markets are required:

    (a) to be made through only one broker or dealer in any one day;

    (b) not to be made at the opening of a trading session or during the 10 minutes before the scheduled close of a trading session;

    (c) not to be made at prices higher than the highest published independent bid or last reported independent transaction price (whichever is higher) on the consolidated system for securities listed on the NYSE; and

    (d) to be in an amount that does not exceed, in any one day, an aggregate amount equal to 25% of the average daily trading volume over the U.S. Markets (with certain limited exceptions for block purchases).

21. Purchases of Shares by the Filer of up to 10% of the public float through the facilities of the U.S. Markets are permitted under the Applicable U.S. Rules. Under the Applicable U.S. Rules, there is no aggregate limit on the number of Shares that may be purchased by the Filer through the facilities of the U.S. Markets.

22. The Filer believes that the Proposed Bids are in the best interests of the Filer.

23. No other exemptions exist under the Legislation that would permit the Filer to continue to make purchases pursuant to the Proposed Bids through

the U.S. Markets on an exempt basis once the Filer has purchased, within a 12-month period, 5% of the outstanding Shares in reliance on the Published Markets Exemption.

24. The purchase of Shares pursuant to the Proposed Bids will not adversely affect the Filer or the rights of any of the Filer's security holders and such purchases will not materially affect control of the Filer.

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:

(a) the Proposed Bids are permitted under the Applicable U.S. Rules, and are established and conducted in accordance and compliance with the Applicable U.S. Rules;

(b) the Notice of Intention to Make a Normal Course Issuer Bid accepted by the TSX in respect of any Proposed Bid that may be implemented by the Filer specifically contemplates that purchases under such bid will also be effected through the U.S. Markets;

(c) the Exemption Sought applies only to the acquisition of Shares by the Filer pursuant to a Proposed Bid during the 12 months following the date of this decision;

(d) purchases of Shares under a Proposed Bid in reliance on this decision shall only be made:

(i) in compliance with Part 6 (Order Protection) of National Instrument 23-101 *Trading Rules*; and

(ii) at a price which complies with the requirements of paragraph 4.8(3)(c) of NI 62-104;

(e) prior to purchasing Shares under a Proposed Bid in reliance on this decision, the Filer issues and files a press release setting out the terms of the Exemption Sought and the conditions applicable thereto;

(f) the Filer does not acquire Shares in reliance on the 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 Published Markets Exemption within any period of 12 months exceeds 5% of the outstanding Shares on the first day of such 12-month period; and

(g) the aggregate number of Shares purchased pursuant to a Proposed Bid in reliance on this decision, the Designated Exchange Exemption and the Published Markets Exemption does not exceed, over the 12-month period specified in the Notice of Intention to Make a Normal Course Issuer Bid in respect of the relevant Proposed Bid, 10% of the public float as specified in such Notice of Intention to Make a Normal Course Issuer Bid.

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

B.3.4 CI Investments Inc.

Headnote

National Policy 11–203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from sections 13.5(2)(b)(ii) and (iii) of NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations to permit in-specie transfers between pooled funds and managed accounts and other funds, subject to conditions.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.5 and 15.1.

June 9, 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
CI INVESTMENTS INC.
(CI) or an affiliate
(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 Jurisdictions (the **Legislation**) granting an exemption from the prohibitions contained in sections 13.5(2)(b)(ii) and (iii) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) to permit in specie subscriptions and redemptions (each subscription or redemption, an ***In Specie* Transfer**) by:

(a) a Managed Account (as defined below) in relation to an NI 81-102 Fund (as defined below) or a Pooled Fund (as defined below); and

(b) a Pooled Fund in relation to another Pooled Fund or an NI 81-102 Fund.

(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 each of the other provinces and territories of Canada.

Interpretation

Terms defined in MI 11-102, National Instrument 14-101 *Definitions*, National Instrument 81-102 *Investment Funds* (**NI 81-102**) and NI 31-103 have the same meanings in this decision, unless otherwise defined. Additionally, the following terms have the following meanings:

Clients means pension plans, endowments, trusts, insurance companies, corporations, mutual funds, individuals, and other entities to whom the Filer offers, or may offer, discretionary portfolio management services through a Managed Account;

Discretionary Management Agreement means a written agreement between the Filer and a Client seeking wealth management or related services;

Funds means collectively, the NI 81-102 Funds and the Pooled Funds;

Managed Account means an account managed by the Filer for a Client that is not a "responsible person" as defined in section 13.5 of NI 31-103 and over which the Filer has discretionary authority;

NI 81-102 Funds means each existing and future investment fund that is a reporting issuer and subject to NI 81-102, for which the Filer acts as manager and portfolio adviser;

NI 81-107 means National Instrument 81-107 *Independent Review Committee for Investment Funds*; and

Pooled Funds means each existing and future investment fund that is not a reporting issuer, securities of which are sold solely to investors in Canada pursuant to exemptions from the prospectus requirement, for which the Filer acts as manager and portfolio adviser.

Representations

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

The Filer and the Funds

1. CI is a corporation amalgamated under the laws of the Province of Ontario with its head office and registered office located in Toronto, Ontario.

2. CI is registered as follows:

(a) as an investment fund manager under the securities legislation in Ontario, Québec and Newfoundland and Labrador;

(b) as a portfolio manager and exempt market dealer under the securities legislation of each of the provinces and territories of Canada; and

(c) as a commodity trading counsel and commodity trading manager under the *Commodity Futures Act* (Ontario).

3. CI is not a reporting issuer in any province or territory of Canada.

4. Each of the NI 81-102 Funds is, or will be: (a) organized as a corporation or a trust established under the laws of Ontario or another province or territory of Canada; and (b) a reporting issuer under the laws of one or more provinces and territories of Canada.

5. Each of the Pooled Funds is, or will be, organized as a limited partnership, a corporation or a trust established under the laws of Ontario or another province or territory of Canada.

6. The securities of each Pooled Fund are, or will be, distributed on a private placement basis pursuant to available prospectus exemptions. Each Pooled Fund is not, or will not be, a reporting issuer under the laws of any province or territory of Canada.

7. The Filer acts, or will act, as the registered investment fund manager and registered portfolio adviser of each of the Funds.

8. The Filer, as manager of each NI 81-102 Fund, has established, or will establish, an independent review committee (**IRC**) for each NI 81-102 Fund in accordance with the requirements of NI 81-107.

9. The Filer and the existing Funds are not in default of securities legislation in any province or territory of Canada.

The Managed Accounts

10. The Filer offers discretionary portfolio management services to Clients seeking wealth management or related services under Discretionary Management Agreements between the Clients and the Filer.

11. Pursuant to the Discretionary Management Agreement entered into with each Client, the Client appoints the Filer to act as portfolio adviser in connection with an investment portfolio of the Client with full discretionary authority to trade in securities for the Managed Account without obtaining the specific consent or instructions of the Client to execute the trade.

12. Investments in individual securities may not be appropriate in certain circumstances for a Client. Consequently, the Filer may, where authorized under the applicable Discretionary Management Agreement, from time to time, invest the assets in a Client's Managed Account in securities of any one or more of the Funds in order to give such Client the benefit of asset diversification and economies of scale regarding minimum commission charges on portfolio trades and generally to facilitate portfolio management.

In Specie Transfers

13. The Filer may wish to, or otherwise be required to, deliver portfolio securities held in a Managed Account or Pooled Fund to a Fund in respect of a purchase of units or shares of the Fund (**Fund Securities**), and may wish to, or otherwise be required to, receive portfolio securities from a Fund in respect of a redemption of Fund Securities by a Managed Account or Pooled Fund. As the Filer is or will be, the registered portfolio adviser of the Pooled Funds and the Managed Accounts that purchase or redeem Fund Securities pursuant to an *In Specie* Transfer, the Filer would be considered a 'responsible person' within the meaning of NI 31-103 in respect of such Pooled Funds and Managed Accounts, and any affiliate of the Filer that has access to, or participates in formulating, an investment decision on behalf of such Pooled Funds or Managed Accounts would be a 'responsible person' within the meaning of NI 31-103 in respect of such Pooled Funds and Managed Accounts.

14. As the Filer is, or may be, the trustee of a Fund which is organized as a trust, each such Fund may be an 'associate' of the Filer and accordingly, absent the grant of the Exemption Sought, the Filer may be precluded by the provisions of section 13.5(2)(b)(ii) of NI 31-103 from effecting *In Specie* Transfers in such circumstances. As the Filer is, or will be, the manager and portfolio adviser of the Funds, absent the grant of the Exemption Sought, the Filer may be precluded by section 13.5(2)(b)(iii) of NI 31-103 from effecting *In Specie* Transfers.

15. The Filer submits that effecting the *In Specie* Transfers will allow the Filer to manage each asset class more effectively and reduce transaction costs for the Clients and the Funds. For example, *In Specie* Transfers reduce market impact costs, which can be detrimental to the Clients and/or the Funds, and may provide access to a broader range of securities. *In Specie* Transfers also allow a portfolio adviser to retain within its control institutional-size blocks of portfolio securities that otherwise would need to be broken and re-assembled.

16. Prior to engaging in *In Specie* Transfers on behalf of a Managed Account, each Discretionary Management Agreement or other documentation will contain the authorization of the Client for the

Filer, as portfolio adviser of the Managed Account, to engage in *In Specie* Transfers.

17. The only cost which will be incurred by a Managed Account or a Fund for an *In Specie* Transfer is a nominal administrative charge levied by the custodian of the relevant Fund in recording the trades, and any commission charged by the dealer (if any) executing the trade.

18. The Filer, as manager of the Funds, will value the securities transferred under an *In Specie* Transfer on the same valuation day on which the purchase price or redemption price of the Fund Securities of a Fund is determined. With respect to the purchase of Fund Securities of a Fund, the securities transferred to a Fund under an *In Specie* Transfer in satisfaction of the purchase price of those Fund Securities will be valued as if the securities were portfolio assets of the Fund, as contemplated by section 9.4(2)(b)(iii) of NI 81-102. With respect to the redemption of Fund Securities of a Fund, the securities transferred to a Managed Account or Pooled Fund in satisfaction of the redemption price of those Fund Securities will have a value equal to the amount at which those securities were valued in calculating the net asset value per security used to establish the redemption price of the Fund Securities of the Fund, as contemplated by section 10.4(3)(b) of NI 81-102.

19. Should any *In Specie* Transfer contemplated by the Exemption Sought involve the transfer of any "illiquid asset" (as defined in NI 81-102), such illiquid asset will be transferred on a *pro rata* basis and the Filer will obtain at least one quote for the asset from an independent arm's length purchaser or seller, immediately before effecting the *In Specie* Transfer. The Filer will not cause any Fund or Managed Account to engage in an *In Specie* Transfer if the applicable Fund is not in compliance with the portfolio restrictions on the holding of illiquid assets described in section 2.4 of NI 81-102.

20. *In Specie* Transfers will be subject to (i) compliance with the written policies and procedures of the Filer respecting *In Specie* Transfers that are consistent with applicable securities legislation, and (ii) the oversight of the Chief Compliance Officer of the Filer to ensure that the transaction represents the business judgment of the Filer acting in its discretionary capacity with respect to the Fund and the Managed Account, uninfluenced by considerations other than the best interests of the Fund and Managed Account.

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:

1. In respect of purchases or redemptions of Fund Securities of an NI 81-102 Fund by a Pooled Fund or Managed Account:

   (a) the Filer, as manager of the NI 81-102 Fund, obtains the approval of the IRC of the NI 81-102 Fund in respect of an *In Specie* Transfer in accordance with the terms of subsection 5.2(2) of NI 81-107; and

   (b) the Filer, as manager of the NI 81-102 Fund, and the IRC, comply with the requirements of section 5.4 of NI 81-107 for any standing instructions the IRC provides in respect of an *In Specie* Transfer;

2. If the transaction is the purchase of Fund Securities of a Fund by a Managed Account:

   (a) the Filer obtains the prior written consent of the Client of the Managed Account before it engages in any *In Specie* Transfer in connection with the purchase of Fund Securities of the Fund and such consent has not been revoked;

   (b) the Fund would, at the time of payment, be permitted to purchase the portfolio securities held by the Managed Account;

   (c) the portfolio securities are acceptable to the Filer, as portfolio adviser of the Fund and consistent with the Fund's investment objectives;

   (d) the value of the portfolio securities sold to the Fund by the Managed Account is equal to the issue price of the Fund Securities of the Fund for which they are used as payment, valued as if the securities were portfolio assets of that Fund; and

   (e) the account statement next prepared for the Managed Account will include a note describing the portfolio securities delivered to the Fund and the value assigned to such securities;

3. If the transaction is the redemption of Fund Securities of a Fund by a Managed Account:

   (a) the Filer obtains the prior written consent of the Client of the Managed Account to the payment of redemption proceeds in the form of an *In Specie* Transfer;

   (b) the portfolio securities are acceptable to the Filer as portfolio adviser of the Managed Account and consistent with the Managed Account's investment objectives;

(c) the value of the portfolio securities is equal to the amount at which those securities were valued in calculating the net asset value per Fund Security used to establish the redemption price;

(d) the holder of the Managed Account has not provided notice to terminate its Discretionary Management Agreement with the Filer; and

(e) the account statement next prepared for the Managed Account will include a note describing the portfolio securities delivered to the Managed Account and the value assigned to such securities;

4. If the transaction is the purchase of Fund Securities of a Fund by a Pooled Fund:

(a) the Fund would, at the time of payment, be permitted to purchase the portfolio securities;

(b) the portfolio securities are acceptable to the Filer, as portfolio adviser of the Fund and consistent with the Fund's investment objectives; and

(c) the value of the portfolio securities is equal to the issue price of the Fund Securities of the Fund for which they are used as payment, valued as if the securities were portfolio assets of that Fund;

5. If the transaction is the redemption of Fund Securities of a Fund by a Pooled Fund:

(a) the portfolio securities are acceptable to the Filer, as portfolio adviser of the Pooled Fund and consistent with the Pooled Fund's investment objectives; and

(b) the value of the portfolio securities is equal to the amount at which those securities were valued in calculating the net asset value per Fund Security used to establish the redemption price of the NI 81-102 Fund;

6. Each Fund keeps written records of all *In Specie* Transfers in a financial year of the Fund, reflecting details of the portfolio securities delivered to and by the Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place;

7. The Filer does not receive any compensation in respect of any sale or redemption of Fund Securities of a Fund and, in respect of any delivery of portfolio securities further to an *In Specie* Transfer, the only charge paid by a Fund or Managed Account, if any, is a nominal administrative charge levied by the custodian in recording the trade and any commission charged by the dealer (if any) executing the trade; and

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

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

Application File #: 2022/0203

B.3.5 Services Financiers Falet Capital Inc. and Groupe Cloutier Investissements Inc.

Headnote

Relief under paragraph 4.1(1)(a) and (b) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations a registered firm must not permit an individual to act as a dealing, advising or associate advising representative of the registered firm if the individual is registered as a dealing, advising or associate advising representative of another firm registered in any jurisdiction of Canada. The individual will have sufficient time to adequately serve both firms. Conflicts of interest are unlikely to arise because clients of the Filers and the products offered by the Filers differ considerably. The firms have policies in place to handle potential conflicts of interest. The firms are exempted from the prohibition in 4.1(1)(a) and 4.1(1)(b) for a limited time period.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 4.1 and 15.1.

COURTESY TRANSLATION

June 7, 2022

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

AND

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

AND

IN THE MATTER OF
SERVICES FINANCIERS FALET CAPITAL INC.

AND

GROUPE CLOUTIER INVESTISSEMENTS INC.

DECISION

BACKGROUND

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Makers**) has received an application from Services Financiers Falet Capital Inc. (**SFFC**) and Groupe Cloutier Investments Inc. (**GCI**) (collectively, the **Filers**) for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for relief from the requirements set out in subsections 4.1(1)(a) and 4.1(1)(b) of National Instrument 31-103 *Registration Requirements*, *Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), pursuant to section 15.1 of NI 31-103, to permit, Mr. Alexandre Falet (**Mr. Falet**), to register as a Dealing Representative (Mutual Fund Dealer) of GCI whilst also acting as a Dealing Representative (Mutual Fund Dealer), Ultimate Designated Person (**UDP**) and Chief Compliance Officer (**CCO**) of SFFC (the **Exemption Sought**).

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

(a) The Autorité des marchés financiers (**AMF**) is the principal regulatory authority for the purposes of this application;

(b) The Filers has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in New Brunswick and Nova Scotia; 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 National Instrument 14-101 *Definitions* (**NI 14-101**) and MI 11-102 have the same meaning when used in this decision, unless otherwise defined.

REPRESENTATIONS

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

SFFC

1. SFFC is incorporated under the *Business Corporations Act* (Quebec). Its head office is located at 6360 Jean-Talon E, suite 219, in Montreal, Quebec, H1S-1M8.

2. SFFC is registered in Quebec as a mutual fund dealer. SFFC offers a selection of mutual funds for individual clients seeking long term investments through RRSP (and other retirement plans), RESP, TFSA and non-registered accounts.

3. SFFC is not in violation of any of the requirements prescribed by securities legislation in any jurisdiction of Canada.

4. The AMF is the principal regulator of SFFC.

GCI

5. GCI is a corporation incorporated under the Canada Business Corporations Act. Its head office is located at 1720 de la Sidbec south street, in Trois-Rivières, Quebec, G8Z-4H1. GCI offers a large selection of mutual funds for individual clients

seeking long term investments through RRSP (and other retirement plans), RESP, TFSA and non-registered accounts.

6. GCI is registered as a mutual fund dealer in Quebec, Ontario, New Brunswick and Nova Scotia, as well as an education savings plan dealer and an exempt market dealer in Quebec.

7. GCI is a subsidiary of Groupe Cloutier services financiers.

8. GCI is not in violation of any of the requirements prescribed by securities legislation in any jurisdiction of Canada.

9. The AMF is the principal regulator of GCI.

10. The Filers are seeking to register Mr. Falet as a Dealing Representative for GCI to facilitate the transfer of SFFC client accounts to GCI.

11. The business reason for the Exemption Sought is that Mr. Falet made a career decision to concentrate his work as a Dealing Representative only and join GCI.

Registration of Mr.Falet as a dealing representative of GCI.

12. No conflicts of interest have been identified as a result of the Exemption Sought. The Exemption Sought is time limited and the SFFC clients in question are already clients of Mr. Falet.

13. Mr. Falet will have sufficient time to adequately serve both Filers since he will only serve existing clients of his until the transition of SFFC clients to GCI is complete.

14. Mr. Falet will act fairly, honestly, in good faith, and in the best interests of the clients of each of the Filers.

15. The dual registration will facilitate the client account transfer process and allow Mr. Falet to:

    (a) wind down the transactions and activities of SFFC, including the transfer of accounts and voluntary cancellation by SFFC of its registration in the jurisdictions where it is registered, and;

    (b) provide service to SFFC clients that have not yet been transferred to GCI.

16. The requested Exemption Relief will expire upon the date of acceptance of SFFC's request for voluntary cancellation by the AMF.

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:

a) Mr. Falet is subject to the supervision by and the applicable compliance requirements of both Filers;

b) The Filers ensure that Mr. Falet has sufficient time and resources to adequately serve each Filer and its respective clients;

c) The Filers each have adequate policies and procedures in place to address any conflicts of interest that may arise as a result of the dual registration of Mr. Falet and deal appropriately with any such conflicts;

d) Mr. Falet will transact exclusively on behalf of existing SFFC clients awaiting the transfer of their SFFC accounts to GCI. Furthermore, SFFC will not open any new client accounts; and

e) The Exemption Sought expires on the date on which SFFC registration is revoked.

French version signed by:

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

OSC File #: 2022/0173

B.4
Cease Trading Orders

B.4.1 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
Lachlan Star Limited	June 7, 2022	
Gold Port Corporation	May 9, 2022	June 10, 2022

B.4.2 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
THERE IS NOTHING TO REPORT THIS WEEK.		

B.4.3 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	
Gatos Silver, Inc.	April 1, 2022	
Gatos Silver, Inc.	April 12, 2022	
Bhang Inc.	May 3, 2022	
RYAH Group Inc.	May 3, 2022	
Red White & Bloom Brands Inc.	May 4, 2022	
Emerald Health Therapeutics, Inc.	May 5, 2022	
Magnetic North Acquisition Corp.	May 5, 2022	
CANSORTIUM INC.	May 6, 2022	
CoinAnalyst Corp.	May 6, 2022	

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B.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).

B.9
IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:
CIBC Alternative Credit Strategy
CIBC Multi-Asset Absolute Return Strategy
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated Jun 3, 2022
NP 11-202 Final Receipt dated Jun 7, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3367310

Issuer Name:
Matco Balanced Fund
Matco Canadian Equity Income Fund
Matco Fixed Income Fund
Matco Global Equity Fund
Matco Small Cap Fund
Principal Regulator – Alberta (ASC)
Type and Date:
Final Simplified Prospectus dated Jun 10, 2022
NP 11-202 Final Receipt dated Jun 10, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3382871

Issuer Name:
Forge First Conservative Alternative Fund
Forge First Long Short Alternative Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated Jun 9, 2022
NP 11-202 Final Receipt dated Jun 10, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3380387

Issuer Name:
ROMC Trust
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated Jun 4, 2022
NP 11-202 Final Receipt dated Jun 7, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3375008

Issuer Name:
Vanguard U.S. Aggregate Bond Index ETF (CAD-hedged)
Vanguard Global ex-U.S. Aggregate Bond Index ETF (CAD-hedged)
Vanguard Global Aggregate Bond Index ETF (CAD-hedged)
Principal Regulator - Ontario
Type and Date:
Amendment #2 to Final Long Form Prospectus dated June 2, 2022
NP 11-202 Final Receipt dated Jun 7, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3221682

Issuer Name:
Mackenzie Conservative Income ETF Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated May 31, 2022
NP 11-202 Final Receipt dated Jun 8, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3349618

NON-INVESTMENT FUNDS

Issuer Name:
AIP Realty Trust (formerly Value Capital Trust)
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 9, 2022
NP 11-202 Preliminary Receipt dated June 10, 2022
Offering Price and Description:
US$25,000,000.00 - 12,500,000 Units
Price: $2.00 Per Offered Unit
Underwriter(s) or Distributor(s):
LAURENTIAN BANK SECURITIES INC.
RAYMOND JAMES LTD.
IA PRIVATE WEALTH INC.
CANACCORD GENUITY CORP.
Promoter(s):
-
Project #3397984

Issuer Name:
Ambari Brands Inc.
Principal Regulator - British Columbia
Type and Date:
Amendment dated May 31, 2022 to Preliminary Long Form Prospectus dated March 28, 2022
NP 11-202 Preliminary Receipt dated June 8, 2022
Offering Price and Description:
9,175,700 Units on Exercise of 9,175,700 Outstanding Special Warrants
Underwriter(s) or Distributor(s):
RESEARCH CAPITAL CORPORATION
Promoter(s):
Avneesh Dhaliwal
Project #3357509

Issuer Name:
BioVaxys Technology Corp. (formerly Lions Bay Mining Corp.)
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated June 7, 2022
NP 11-202 Preliminary Receipt dated June 8, 2022
Offering Price and Description:
$50,000,000.00 - Common Shares, Warrants, Subscription Receipts, Units, Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3397111

Issuer Name:
Bravo Mining Corp. (formerly BPG Metals Corp.)
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated June 9, 2022
NP 11-202 Preliminary Receipt dated June 10, 2022
Offering Price and Description:
$[●]
[●] Offered Shares
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp. and BMO Nesbitt Burns Inc.
Promoter(s):
Luis Mauricio Ferraiuoli De Azevedo
Project #3398062

Issuer Name:
Capital Power Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Shelf Prospectus dated June 10, 2022
NP 11-202 Preliminary Receipt dated June 10, 2022
Offering Price and Description:
Common Shares, Preference Shares, Subscription Receipts, Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3398240

Issuer Name:
Caplink Ventures Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary CPC Prospectus dated June 6, 2022
NP 11-202 Preliminary Receipt dated June 7, 2022
Offering Price and Description:
$200,000.00 (2,000,000 COMMON SHARES)
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
Robert Thast
Project #3396777

Issuer Name:
GameSquare Esports Inc.
Principal Regulator - Ontario
Type and Date:
Amendment dated June 10, 2022 to Preliminary Shelf Prospectus dated March 14, 2022
NP 11-202 Preliminary Receipt dated June 10, 2022
Offering Price and Description:
C$35,000,000.00 - Common Shares, Subscription Receipts, Warrants, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3350074

Issuer Name:
Gold Digger Resources Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated June 7, 2022
NP 11-202 Preliminary Receipt dated June 8, 2022
Offering Price and Description:
Up to C$750,000.00 - Up to 3,000,000 Common Shares at a price of $0.25 per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
Allan Bezanson
Project #3397016

Issuer Name:
National Bank of Canada
Principal Regulator - Quebec
Type and Date:
Preliminary Shelf Prospectus dated June 9, 2022
NP 11-202 Preliminary Receipt dated June 9, 2022
Offering Price and Description:
$12,000,000,000.00 - Medium Term Notes – Debt Securities (Unsubordinated Indebtedness)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3397846

Issuer Name:
Rock Tech Lithium Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated June 8, 2022
NP 11-202 Preliminary Receipt dated June 9, 2022
Offering Price and Description:
$500,000,000.00 - Common Shares Preferred Shares Debt Securities Warrants Subscription Receipts Share Purchase Contracts Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3397505

Issuer Name:
Thomson Reuters Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated June 10, 2022
NP 11-202 Preliminary Receipt dated June 13, 2022
Offering Price and Description:
US$3,000,000,000 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3398314

Issuer Name:
TR Finance LLC
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated June 10, 2022
NP 11-202 Preliminary Receipt dated June 13, 2022
Offering Price and Description:
US$3,000,000,000.00 - Debt Securities (unsecured) Guaranteed
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3398317

Issuer Name:
Agrinam Acquisition Corporation
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated June 10, 2022
NP 11-202 Receipt dated June 10, 2022
Offering Price and Description:
U.S.$120,000,000 12,000,000 CLASS A RESTRICTED VOTING UNITS
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
CANACCORD GENUITY CORP.
Promoter(s):
AGRINAM INVESTMENTS, LLC
Project #3328834

Issuer Name:
Axe2 Acquisitions Inc.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated June 7, 2022
NP 11-202 Receipt dated June 8, 2022
Offering Price and Description:
$428,646.80 - 4,286,468 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
PI FINANCIAL CORP.
Promoter(s):
Graham Donahue
David Dattels
Project #3316761

Issuer Name:
Copper King Resources Corp.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated June 7, 2022
NP 11-202 Receipt dated June 7, 2022
Offering Price and Description:
$1,000,000.00 - 5,000,000 COMMON SHARES AT A PRICE OF $0.20 PER SHARE
Underwriter(s) or Distributor(s):
PI Fincancial Corp.
Promoter(s):
Max Sali
Project #3356206

Issuer Name:
Karora Resources Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated June 10, 2022
NP 11-202 Receipt dated June 10, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
HAYWOOD SECURITIES INC.
CORMARK SECURITIES INC.
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
RED CLOUD SECURITIES INC.
STIFEL NICOLAUS CANADA INC.
Promoter(s):
-
Project #3388972

Issuer Name:
Millennial Precious Metals Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated June 9, 2022
NP 11-202 Receipt dated June 9, 2022
Offering Price and Description:
$15,000,000.00 - 37,500,000 Units
Price: $0.40 per Unit
Underwriter(s) or Distributor(s):
EIGHT CAPITAL
CORMARK SECURITIES INC.
PI FINANCIAL CORP.
STIFEL NICOLAUS CANADA INC.
SPROTT CAPITAL PARTNERS LP by its general partner, SPROTT CAPITAL PARTNERS GP INC.
Promoter(s):
-
Project #3387034

Issuer Name:
Primaris Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated June 9, 2022
NP 11-202 Receipt dated June 10, 2022
Offering Price and Description:
$2,000,000,000 - Trust Units Debt Securities Subscription Receipts Warrants Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3353079

B.10
Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Pending Surrender)	CanCity Capital Inc.	Portfolio Manager, Investment Fund Manager and Exempt Market Dealer	June 8, 2022
New Registration	Lemaitre Capital Management Inc.	Commodity Trading Manager	June 9, 2022
New Registration	Ternion Financial Services Inc.	Exempt Market Dealer	June 13, 2022

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B.11
SROs, Marketplaces, Clearing Agencies and Trade Repositories

B.11.2 Marketplaces

B.11.2.1 Bloomberg Tradebook Singapore Pte Ltd – Application for Exemption from Recognition as an Exchange – Notice and Request for Comment; and – Bloomberg Tradebook Canada Company – Notice of Proposed Change and Request for Comment

NOTICE AND REQUEST FOR COMMENT

APPLICATION BY
BLOOMBERG TRADEBOOK SINGAPORE PTE LTD
FOR EXEMPTION FROM RECOGNITION AS AN EXCHANGE

AND

NOTICE OF PROPOSED CHANGE AND REQUEST FOR COMMENT FOR
BLOOMBERG TRADEBOOK CANADA COMPANY

A. Introduction

This notice requests comment on:

(i) the application filed by Bloomberg Tradebook Singapore Pte Ltd (**Tradebook Singapore**) under section 147 of the *Securities Act* (Ontario) (**Act**) for an exemption from the requirement to be recognized as an exchange contained in section 21 of the Act (the **Recognition Requirement**), and from the requirements in National Instrument 21-101 *Marketplace Operation*, National Instrument 23-101 *Trading Rules* and National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (the **Marketplace Rules**);

(ii) the draft order exempting Tradebook Singapore from the Recognition Requirement and the Marketplace Rules; and

(iii) the notice of proposed change and request for comments from Bloomberg Tradebook Canada Company (**Tradebook Canada**) concerning a significant change to its operations as an alternative trading system (**ATS**).

Attached to this notice are Tradebook Singapore's application and draft exemption order, and Tradebook Canada's notice of proposed change and request for comment. In addition, a cover notice prepared by Tradebook Singapore and Tradebook Canada, summarizing the operations of each entity and how the two are proposed to intersect, is also attached.

B. Tradebook Singapore Application and Draft Exemption Order

In its application, Tradebook Singapore has outlined how it meets the criteria for exemption from the Recognition Requirement. The specific criteria can be found in Appendix I to Schedule "A" of the draft exemption order. Subject to comments received, Staff intends to recommend that the Commission grant the exemption order with terms and conditions based on the draft exemption order.

C. Tradebook Canada Notice of Proposed Change and Request for Comment

The marketplace system operated by Tradebook Singapore is currently accessible through Tradebook Canada's ATS conduit arrangement. The notice of proposed change and request for comment describes a proposed significant change to add "Foreign Non-Debt Securities" to the list of asset classes available on Tradebook Singapore's marketplace system via the ATS conduit arrangement.

D. Comment Process

The Commission is publishing for public comment Tradebook Singapore's application and draft exemption order, and Tradebook Canada's notice of proposed change and request for comment for 30 days. We are seeking comment on all aspects of the application, draft exemption order and notice of proposed change.

Please provide your comments in writing, via e-mail, on or before July 18, 2022, to the attention of:

Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8
Email: comments@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 may be referred to:

Timothy Baikie
Senior Legal Counsel, Market Regulation
Email: tbaikie@osc.gov.on.ca

Hanna Cho
Legal Counsel, Market Regulation
Email: hcho@osc.gov.on.ca

Jalil El Moussadek
Senior Advisor, Risk, Market Regulation
Email: jelmoussadek@osc.gov.on.ca

BLOOMBERG COVER NOTICE

BLOOMBERG TRADEBOOK SINGAPORE PTE LTD

AND

BLOOMBERG TRADEBOOK CANADA COMPANY

This notice describes (1) the proposed significant change to operations of Bloomberg Tradebook Canada Company ("**Tradebook Canada**") as an alternative trading system ("**ATS**") in Alberta, Nova Scotia, Ontario, Québec and Saskatchewan (each a "**Canadian Jurisdiction**" and collectively referred to as the "**Canadian Jurisdictions**") to provide Canadian Participants (as defined below) with access to the organised market operated by its affiliated entity, Bloomberg Tradebook Singapore Pte Ltd ("**Tradebook Singapore**") for purposes of negotiating trades in Foreign Non-Debt Securities (as defined below), and (2) the application of Tradebook Singapore to the Ontario Securities Commission (the "**Commission**") for relief in relation to Tradebook Singapore's operation of an organised market, as defined in the Singapore *Securities and Futures Act* (Cap. 289), in the province of Ontario, exempting Tradebook Singapore: (a) from the requirement to be recognized as an exchange under subsection 21(1) of the *Securities Act* (Ontario); and (b) from the requirements in National Instrument 21-101 *Marketplace Operation* ("**NI 21-101**") pursuant to section 15.1(1) of NI 21-101, the requirements of National Instrument 23-101 *Trading Rules* ("**NI 23-101**") pursuant to section 12.1 of NI 23-101 and the requirements of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* ("**NI 23-103**") pursuant to section 10 of NI 23-103 (the "**Requested Relief**").

Tradebook Canada ATS Operations and the Proposed Significant Change

Tradebook Canada operates an ATS that provides Canadian Participants (as defined below) with access to the organised market know as BTBS (a "**System**") operated by Tradebook Singapore to negotiate trades in (1) IRS, CDS, Canadian Debt Securities and Foreign Debt Securities (as defined below) under a per-transaction fee model that commenced on September 13, 2021, and (2) FX (as defined below) that commenced on October 4, 2021.

Tradebook Canada provides access to the System to participants that (1) are located in a Canadian Jurisdiction, including participants with their headquarters or legal address in a Canadian Jurisdiction (as indicated by a participant's Legal Entity Identifier) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Canadian Jurisdiction branches of Canadian Jurisdiction legal entities), as well as any trader physically located in a Canadian Jurisdiction who conducts transactions on behalf of any other entity ("**Canadian Participants**"), and (2) qualify as "institutional clients" as defined in Rule 1201(2) of the Investment Industry Regulatory Organization of Canada ("**IIROC**") Rules.

Pursuant to the terms and conditions of Tradebook Canada's registration in the category of investment dealer, Tradebook Canada will report trades negotiated on the System in Canadian Debt Securities to IIROC (as Information Processor) only with respect to transactions in which neither participant to the trade is a bank listed in Schedule I, II or III of the *Bank Act* (Canada) (a "**Canadian Bank**"), or (ii) an IIROC Dealer Member firm. Where at least one participant to a transaction is a Canadian Bank or an IIROC Dealer Member firm, that participant will be responsible for trade reporting pursuant to Part 8 of NI 21-101.

Tradebook Canada proposes to provide Canadian Participants with access to the System operated by Tradebook Singapore for purposes of negotiating trades in Foreign Non-Debt Securities (as defined below).

The proposed change is a significant change subject to public comment under Tradebook Canada's ATS Protocol. Tradebook Canada has filed with the OSC an amendment to its Form 21-101F2 *Information Statement – Alternative Trading System* in respect of the proposed change.

Tradebook Singapore's Application to Provide Direct Access to its System as an Exempt Exchange

Tradebook Singapore proposes to provide Canadian Participants in the Canadian Jurisdictions with direct access to its System to trade the following asset classes:

1. **"Foreign Debt Securities**,"[1] which are defined as any debt security (as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**)) that is a foreign security (as defined in NI 31-103) or a debt security that is denominated in a currency other than the Canadian dollar, including:

   (a) debt securities issued by the U.S. government (including agencies or instrumentalities thereof);

   (b) debt securities issued by a foreign government;

[1] For greater certainty, "Foreign Debt Securities" includes convertible debt securities and the following money market instruments (U.S. and foreign): commercial paper, agency discount notes, government treasury bills, certificates of deposit, bankers' acceptances, promissory notes and bearer deposit notes.

(c) debt securities issued by corporate or other non-governmental issuers (U.S. and foreign); and

(d) asset-backed securities (including mortgage-backed securities), denominated in either U.S. or foreign currencies;

2. interest rate swaps, as defined in section 1a(47) of the U.S. Commodity Exchange Act ("**IRS**");

3. credit default swaps, as defined in section 1a(47) of the U.S. Commodity Exchange Act, including single-name security (credit default) swaps ("**CDS**");

4. foreign exchange swaps, as defined in section 1a(47) of the U.S. *Commodity Exchange Act* (but without regard to any exclusions from the definition), including precious metals swaps, foreign exchange spot and deposits (collectively, "**FX**");

5. "**Foreign Non-Debt Securities**" which are defined as any foreign security as defined in NI 31-103 that is not a debt security as defined in NI 31-103, including:

(a) securities of foreign exchange-traded funds, which refers to a fund in continuous distribution that is incorporated, formed or created under the laws of a foreign jurisdiction; and

(b) stock loans, which refer to securities lending arrangements in which securities are temporarily transferred from one party (the lender) to another party (the borrower) in return for a fee. Under the lending arrangement, the borrower is obliged to redeliver to the lender the securities or identical securities to those that were transferred or lent, either on demand or at the end of the loan term.

Tradebook Singapore is seeking the Requested Relief in the Canadian Jurisdictions and in British Columbia and New Brunswick on the basis that it is subject to a comparable regulatory regime in its home jurisdiction of Singapore. Specifically, Tradebook Singapore is regulated as a Recognised Market Operator of an organised market by the Monetary Authority of Singapore.

Until the Requested Relief is granted by the Commission, Tradebook Singapore intends to provide transaction negotiation services for Foreign Debt Securities, IRS, CDS, FX and Canadian Debt Securities[2] pursuant to the marketplace conduit arrangement with Tradebook Canada. Foreign Non-Debt Securities will be added to the conduit arrangement should the proposed significant change to Tradebook Canada's Form 21-101F2 be approved.

Following the date that the Commission grants the Requested Relief, Tradebook Singapore will continue to provide transaction negotiation services for Canadian Debt Securities only under the marketplace conduit arrangement with Tradebook Canada, and proposes to provide transaction negotiation services for all other above listed instruments (including Foreign Non-Debt Securities) directly on the System.

Any questions regarding the operations of Tradebook Canada, the System and Tradebook Singapore may be directed to:

Soh Bridgeford Chief Compliance Officer
Bloomberg Tradebook Canada Company
Brookfield Place, TD Canada Trust Tower,
161 Bay Street
Toronto, Ontario, Canada M5J 2S1
Sbridgeford@bloomberg.net

[2] "**Canadian Debt Securities**" are any unlisted debt securities, as that term is defined in NI 21-101, and any debt securities denominated in Canadian dollars.

Bloomberg Tradebook Singapore Pte Ltd.
23 Church Street, 12th Floor
Capital Square
Singapore 049481

June 8, 2022

Sent By E-mail

Attn: Secretary of Ontario Securities Commission

Ontario Securities Commission
20 Queen Street West, 19th Floor
Toronto, Ontario M5H 3S8

Re: Bloomberg Tradebook Singapore Pte Ltd. – Application for Exemption from Recognition as an Exchange

Dear Sirs and Mesdames:

Bloomberg Tradebook Singapore Pte Ltd. (the "**Applicant**") is requesting an order for the following relief (collectively, the "**Requested Relief**") in relation to its operation of an organised market (an "**OM**"), as defined in the Singapore *Securities and Futures Act* (Cap. 289) ("**SFA**"), in the province of Ontario:

(a) exempting the Applicant from the requirement to be recognised as an exchange under subsection 21(1) of the *Securities Act* (Ontario) (the "**Act**") pursuant to section 147 of the Act; and

(b) exempting the Applicant from the requirements in National Instrument 21-101 *Marketplace Operation* ("**NI 21-101**") pursuant to section 15.1(1) of NI 21-101, the requirements of National Instrument 23-101 *Trading Rules* ("**NI 23-101**") pursuant to section 12.1 of NI 23-101 and the requirements of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* ("**NI 23-103**") pursuant to section 10 of NI 23-103.

This application is divided into the following Parts I to IV. Part III describes how the Applicant satisfies the criteria for exemption of a foreign exchange that proposes to permit Ontario Users, as defined herein, to trade the financial instruments listed on Annex A (the "**OM Instruments**") from recognition as an exchange set by the Ontario Securities Commission (the "**Commission**").

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Part IV Submissions by the Applicant

1. Submissions Concerning the Requested Relief

PART I INTRODUCTION

1. Description of BTBS

1.1 The Applicant has obtained recognition from the Monetary Authority of Singapore (the "**MAS**" or "**Foreign Regulator**") as a Recognized Market Operator ("**RMO**"**)**.

1.2 The Applicant is the operator of an OM, known as **BTBS**, that is regulated and authorised by the MAS to allow trading of the instruments set forth on Annex B, Part 1.[1] BTBS will provide the following trade negotiation protocols to Ontario Users (as defined herein) that may be used to negotiate, but not execute, a trade: (i) a request-for-quote ("**RFQ**") function that allows a participant to send an RFQ message to one or more liquidity providers that have pre-established relationships with the requesting participant; (ii) a request-for-trade ("**RFT**") function that allows a participant to send to a liquidity provider that has a pre-established relationship with the requesting participant a message requesting execution of a transaction of the terms stated in the message; and (iii) a request-for-stream ("**RFS**") function that allows a participant to send an RFS message to one or more liquidity providers that has a pre-established relationship with the requesting participant. A full description of these trade negotiation protocols is attached as Annex C.

1.3 There are no functionality differences between the negotiation systems of the Applicant and the other negotiation systems operated by the Applicant's affiliates, Bloomberg Tradebook LLC ("**Tradebook LLC**") in the United States and Bloomberg Tradebook do Brasil Ltda. ("**Tradebook Brazil**") in Brazil. The Applicant does, however, contractually require all participants of BTBS to abide by a rulebook (i.e., the BTBS Rulebook), while Tradebook LLC and Tradebook Brazil do not have rulebooks.

1.4 The Applicant is authorised by the MAS to offer BTBS for all instruments listed on Annex B, Part 1. Additional products (beyond those listed in Annex B, Part 1) may be made available for trading on BTBS by the Applicant in the future, subject to obtaining required regulatory approvals.

1.5 The Applicant seeks the Requested Relief to cover trading of the financial instruments listed in Annex A on BTBS by participants located in Ontario, including participants with their headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (LEI)) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity ("**Ontario Users**").

1.6 The Applicant proposes to offer direct access to trading on BTBS to Ontario Users that satisfy the criteria specified in a Canada User Acknowledgment, and as further described in Part III below. The Applicant does not offer access to retail clients.

[1] The Applicant's RMO recognition permits operation of BTBS in respect of securities, units in a collective investment scheme, securities-based derivative contracts and non-securities-based derivative contracts, namely credit default swaps, interest rate swaps, foreign exchange derivatives, and commodity derivatives.

1.7 The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein.

PART II BACKGROUND OF THE APPLICANT

1. Ownership of the Applicant

1.1 The Applicant is a private limited company incorporated under the laws of Singapore and a wholly owned direct subsidiary of Bloomberg L.P., a Delaware limited partnership ("**BLP**").

2. Products Traded on BTBS

2.1 The Applicant seeks the Requested Relief to provide Ontario Users with transaction negotiation services.

2.2 During the period from September 13, 2021 until the Requested Relief is granted by the Commission, the Applicant provides transaction negotiation services for the instruments listed on Annex A (excluding Foreign Non-Debt Securities) and for Canadian Debt Securities[2] pursuant to a marketplace conduit arrangement with its Canadian alternative trading system ("**ATS**") affiliate, Bloomberg Tradebook Canada Company ("**Tradebook Canada**"), which provides access to BTBS.[3] Under the arrangement, Ontario Users that are participants of Tradebook Canada may negotiate transactions in the instruments listed on Annex A (excluding Foreign Non-Debt Securities) and in Canadian Debt Securities on BTBS.

2.3 Following the date that the Commission grants the Requested Relief, the Applicant will continue to provide transaction negotiation services for Canadian Debt Securities only under the marketplace conduit arrangement with Tradebook Canada, and proposes to provide transaction negotiation services for all instruments listed on Annex A directly on BTBS.

3. Participants

3.1 Participants may include a wide range of sophisticated customers, including commercial and investment banks, corporations, pension funds, money managers, proprietary trading firms, hedge funds and other institutional customers. Each Ontario User that wishes to trade on BTBS must satisfy eligibility criteria that the Applicant may set from time to time, in accordance with the BTBS Rulebook and a Canada User Acknowledgment, including as discussed in paragraph 4.1.7, that the Ontario User is appropriately registered under Ontario securities laws, exempt from registration or not subject to registration requirements. Participant criteria are described in more detail in Part III, Section 4 below.

PART III APPLICATION OF EXEMPTION CRITERIA TO THE APPLICANT

The following is a discussion of how the Applicant, as a foreign exchange that allows participants to trade the OM Instruments, meets the criteria for exemption from recognition as an exchange.

1. Regulation of the Exchange

1.1 **Regulation of the Exchange – The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator ("Foreign Regulator").**

1.1.1 BTBS is an "organised market", as defined in the SFA and the relevant rules and regulations of the MAS as:

(a) a place at which, or a facility (whether electronic or otherwise) by means of which, offers or invitations to exchange, sell or purchase derivatives contracts, securities or units in collective investment schemes, are regularly made on a centralised basis, being offers or invitations that are intended or may reasonably be expected to result, whether directly or indirectly, in the acceptance or making, respectively, of offers to exchange, sell or purchase derivatives contracts, securities or units in collective investment schemes (whether through that place or facility or otherwise); or

(b) such other facility or class of facilities as the [MAS] may, by order, prescribe.

1.1.2 The MAS originally recognised the Applicant as an RMO and commenced supervising the Applicant on an ongoing, active basis in 2005. The Applicant's current recognition from the MAS, dated August 5, 2021, permits the Applicant to:

(a) operate an OM in respect of securities, units in a collective investment scheme, securities-based derivatives contracts (e.g., equity shares, bonds, money market instruments, securities financing transactions, exchange-traded funds, etc.), and over-the-counter derivatives contracts (e.g., credit default swaps, interest rate swaps, foreign exchange derivatives, and commodity derivatives); and

[2] "**Canadian Debt Securities**" are any unlisted debt securities, as that term is defined in NI 21-101, and any debt securities denominated in Canadian dollars.
[3] BTBS commenced providing negotiation services for FX on October 4, 2021.

(b) in respect of participants in Singapore, make available its OM to Professional Investors, Accredited Investors and Expert Investors, as such terms are defined within the Applicant's RMO Recognition Letter and the SFA.

1.1.3 RMOs that are authorised by the MAS must comply with relevant legislation under the purview of the MAS, including the SFA and its associated regulations, relevant subsidiary legislation, and relevant notices, guidelines and circulars issued by the MAS (collectively, the "**Applicable Rules**"), particularly those in:

a. Part II, Division 1, Part II, Division 3 and Part II, Division 4 of the SFA setting out the general framework regulating the establishment of OMs, RMOs and the general powers of the MAS in relation to RMOs;

b. the *Securities and Futures (Organised Markets) Regulations 2018* setting out in greater detail the statutory requirements that RMOs must adhere to under the SFA;

c. Part IX, Division 3 of the SFA and under the Criminal Procedure Code, which sets out the powers of investigation and enforcement of the MAS;

d. Section 8 of the SFA, which sets out the authorization requirements for applicants wishing to operate an OM in Singapore;

e. the Applicant's RMO Recognition Letter and applicable regulations and notices relating to capital requirements;

f. Section 33 of the SFA, which requires RMOs to operate a fair OM that is characterised by non-discriminatory access to market facilities and information.

1.2 **<u>Authority of the Foreign Regulator</u> – The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.**

1.2.1 The Applicant is subject to regulatory supervision by the MAS in conducting its activities for which it is authorised as set out in Section 1.1.2 above. The MAS has a number of competencies which empower it to supervise and, if necessary, investigate and take enforcement action in relation to the Applicant and its operation of BTBS.

1.2.2 The MAS performs its supervisory responsibilities and promotes compliance with the Applicable Rules by checking on the quality of corporate governance, internal controls and risk management of RMOs and RMOs' dealings with their customers and counterparties, with the aim of instilling a system of sound management practices commensurate with the RMOs' type, scale and complexity of business activities, and their related risks.

1.2.3 The Applicant is subject to standard, base-level monitoring. In addition to routine supervisory activities, this includes monitoring key indicators and the development of the Applicant's business, reviewing regulatory returns, questionnaires and audit reports, as well as taking any necessary follow-up actions.

1.2.4 The Applicant must, as soon as practicable after the occurrence of any of the following circumstances, notify MAS of:

- any material change to the information provided by the Applicant in its application for recognition as an RMO;
- the Applicant becoming aware of any financial irregularity or other matter which in its opinion may affect its ability to discharge its financial obligations, or may affect the ability of a participant of the Applicant to meet its financial obligations to the Applicant;
- any civil or criminal legal proceeding instituted against the Applicant, whether in Singapore or elsewhere, that may have a material impact on the operations or finances of the Applicant;
- any disciplinary action taken against the Applicant by any regulatory authority, whether in Singapore or elsewhere, other than by the MAS;
- any material change to the regulatory requirements imposed on the Applicant by any regulatory authority, whether in Singapore or elsewhere, other than by the MAS;
- any material disruption, material suspension or material termination of, or delay in, any trading procedure or trading practice of the Applicant (including any material disruption, suspension, termination or delay resulting from any system failure);
- the Applicant becoming aware of any acquisition or disposal by any person of a substantial shareholding in the Applicant;

- any compromise of the integrity or security of the transmission or storage of any user information of the Applicant; or
- any action taken or intended to be taken to restore the integrity and security of the transmission and storage of that user information.

1.2.5 The MAS has powers of investigation to, among other things, ensure compliance with the SFA or to investigate an alleged or suspected contravention of any provision of the SFA.

1.2.6 The MAS' statutory powers of investigation include:

- the power to require a person to give to the MAS all reasonable assistance in connection with an investigation and to appear before an officer of the MAS duly authorised by the MAS for examination on oath and to answer questions;
- the power to order production of books;
- officers, authorised by MAS, being able to enter premises without a warrant; or
- applying for a warrant to seize books.

1.2.7 Besides the MAS' statutory investigation powers, the MAS also has criminal investigation powers under the *Criminal Procedure Code* (Cap 68) ("**CPC**") to jointly investigate breaches of all offences under the SFA, among other legislation, together with the Singapore Police Force's Commercial Affairs Department under the Joint Investigation Arrangement.

1.2.8 As part of the Joint Investigation Arrangement, certain MAS officers are gazetted as Commercial Affairs Officers under the *Police Force Act* (Cap 235), and vested with criminal investigation powers under the CPC. Such powers give MAS the ability to, among other things, to:

- obtain documents;
- record statements from persons under investigation or persons who may have information to assist in investigations;
- arrest and conduct search and seizure of property;
- direct a financial institution not to allow any dealings in respect of property in an account or safe deposit box with the financial institution;
- access, inspect and decrypt the data contained in the computers and devices where computers and electronic devices are seized; and
- require suspects to surrender their travel documents to prevent suspects from leaving the country.

1.2.9 The MAS can impose a wide range of enforcement measures if the Applicant breaches the Applicable Rules. For example, the MAS may:

- refer a case for criminal prosecution;
- take civil penalty action;
- withdraw or suspend licence or regulatory status;
- remove persons from office;
- issue prohibition orders;
- issue compositions;
- issue reprimands; or
- issue warnings/letters of advice.

2. Governance

2.1 **Governance – The governance structure and governance arrangements of the exchange ensure:**

(a) **effective oversight of the Exchange,**

The Board of Directors

2.1.1 The Applicant's Board of Directors (the "**Board**"), which, as of the date of this application, consists of a total of five members, is responsible for oversight of BTBS. All directors are employees of BLP or a BLP affiliate and were appointed by the Applicant. The directors collectively bring together the necessary skills to effectively manage the operational and strategic vision of BTBS.

2.1.2 The representation on the Board of a broad range of business functions from within the Applicant's business ensures that the interests of different persons and companies using BTBS are properly considered and balanced and that feedback from various constituencies is passed on to and considered by the Board. Further, given that the Applicant is a wholly-owned subsidiary of BLP, the Board does not believe that it is necessary to include independent directors on the Board.

Suitability and Integrity Screening

2.1.3 Under section 33(1)(i) of the SFA, an RMO must ensure that it appoints or employs fit and proper persons as its chairman, chief executive officer, directors and key management officers. MAS maintains a published guide to determining whether an individual is fit and proper, the Guidelines on Fit and Proper Criteria (the Fit and Proper Guidelines).[4] Under the Fit and Proper Guidelines, the criteria for assessing whether an individual is fit and proper include but are not limited to: (a) honesty, integrity and reputation; (b) competence and capability; and (c) financial soundness. Detailed criteria are provided under each of these three headings.

2.1.4 In addition, while the Fit and Proper Guidelines do not explicitly impose an independence standard on the directors, the requirements in the Fit and Proper Guidelines require a director to be competent and capable and, in assessing whether this standard is met, the relevant factors include "where the relevant person is an individual who is assuming concurrent responsibilities, whether such responsibilities would give rise to a conflict of interest or otherwise impair his ability to discharge his duties in relation to any activity regulated by MAS under the relevant legislation". Additionally, the Fit and Proper Guidelines underpin MAS's requirements that the directors perform their duties efficiently, honestly, fairly and act in the best interests of their stakeholders and customers.

Board Composition and Qualifications

2.1.5 The Applicant's directors are Eric Chang, Derek Kleinbauer, Amelia Quek, Vee Sen Ong and Ashlesh Gosain. No director would be considered an "independent" director under the tests in National Instrument 52-110 *Audit Committees*.

The Board's Role and Risk Oversight

2.1.6 The Board provides leadership of the Applicant within a framework of prudent and effective controls. Included in its responsibilities, the Board ensures that the Applicant maintains effective control frameworks allowing it to respond to significant business, financial, compliance, and other risks to achieving its strategic objectives. The Applicant's Risk Manager is responsible for advising the Board and the Chief Executive Officer ("**CEO**") on the Applicant's various risk management activities including overall risk appetite, tolerance, current risk exposures, and maintaining the Applicant's risk register. In addition, in relation to risk assessment, the Risk Manager is responsible for:

- maintaining a framework for risk identification and quantification;
- regularly reviewing the parameters used in these measures and the methodology adopted;
- proposing risk appetite and tolerances to the Board;
- quantifying risks and determining appropriate risk mitigants; and
- reporting on the Applicant's overall risk profile to inform the Board and the CEO's decision-making. The Risk Manager is responsible for the day-to-day of the Applicant's Risk Management Program.

[4] The Fit and Proper Guidelines can be found at https://www.mas.gov.sg/regulation/guidelines/guidelines-on-fit-and-proper-criteria.

Board Committees

2.1.7 The Applicant's Board may from time to time constitute and appoint committees as it may deem necessary or advisable, but has not established any committees so far. There is no regulatory requirement under Singapore law for the Board or the Applicant to establish committees.

(b) that business and regulatory decisions are in keeping with its public interest mandate,

2.1.8 The Applicant is committed to ensuring the integrity of BTBS and the stability of the financial system, and that its business and regulatory decisions align with its public interest mandate. The rules, policies and activities of the Applicant incorporate the Applicable Rules, which are designed to ensure best practices and fulfill this public interest mandate. Also, the Applicant has adopted rules and is adopting surveillance systems which are designed to ensure that trade negotiations by participants are conducted in a manner consistent with applicable law to avoid manipulation and disorderly trading conditions. As described above, the Applicant's Board consist of highly qualified individuals whose responsibilities are to oversee the Applicant and its compliance with its rules, policies and procedures, which are designed to ensure the Applicant continues to operate in a manner that fulfills this 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,

2.1.9 Although the Applicant acknowledges the best practice and benefits of including independent directors among the Board's membership, the Applicant does not believe that it is necessary to have independent directors at this time, as the Applicant is a wholly-owned subsidiary within the Bloomberg Group. In addition, MAS does not require that an RMO have any independent directors. Accordingly, all directors of the Applicant are employees of an affiliate of the Applicant.

2.1.10 The Applicant considers several factors in determining the composition of the Board, including whether directors, both individually and collectively, possess the required integrity, experience, judgment, commitment, skills and expertise to exercise their obligations of oversight and guidance over an OM. The Applicant's directors have broad experience in the financial services industry and some serve or have served as officers of various affiliates of the Applicant.

2.1.11 There are no term limits for directors. The Applicant does not believe it should establish term limits or mandatory retirement ages for its directors as such limits may deprive the Applicant of valuable contributions and specialized skill-sets.

2.1.12 The inclusion of executives from a range of areas within the Bloomberg Group's business ensure that there is a proper balance among the interests of different market participants using the services and facilities of BTBS, and that feedback and concerns from various constituencies with an interest in BTBS are adequately conveyed to and considered by the Board.

2.1.13 Each of the Applicant's directors and Chief Executive Officer (CEO) serve in senior roles within the Bloomberg Group where they are regularly engaged in a wide variety of matters concerning the Applicant's different market participants. Specifically, Mr. Derek Kleinbauer (Director) serves as Global Head for Fixed Income & Equities Electronic Trading Solutions for the Bloomberg Group; Mr. Eric Chang (Director) serves as senior Sales Representatives at the Applicant; Ms. Amelia Quek (Director) previously served as ASEAN Head for Fixed Income & FX Electronic Trading Sales for the Bloomberg Group and a senior Sales Representative at the Applicant, and she currently serves as Bloomberg Group's APAC Head for Pricing & Venues Content Acquisition and Business Management; Mr. Ashlesh Gosain (Director) serves as the Bloomberg Group's APAC Head of Electronic Trading; and Mr. Vee Sen Ong (Director and CEO) serves as the Bloomberg Group's Head of Electronic Trading Solutions (Listed), ASEAN.

(d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and

2.1.14 The Board is accountable for putting a conflicts management framework in place and implementing systems, controls and procedures to identify, escalate and manage conflicts of interest. The Applicant, through its conflict of interest rules, policies and procedures, has established a robust set of safeguards designed to identify, prevent, manage and monitor actual and potential conflicts of interest, which apply to the Applicant's Board, officers and employees.

2.1.15 Under the MAS Guidelines on Risk Management Practices (the "**MAS Risk Management Guidelines**"), the Applicant is recommended to have adequate policies, procedures and controls to address conflict of interest situations. The Applicant takes the view that the requirements under the SFA for the Applicant to ensure its market is fair, orderly and transparent,

and manage any risks associated with its operations and business prudently, require the Applicant to have a conflicts of interest policy.

2.1.16 Accordingly, the Applicant has established a conflict of interest policy that is contained in its Compliance Manual that contains arrangements to prevent actual or potential conflicts of interest. All directors and employees are responsible for identifying and raising conflicts of interest through the appropriate channels.

2.1.17 If the Applicant identifies a conflict of interest, the Applicant will take appropriate steps to either avoid or manage such conflict. If the Applicant considers that the arrangements made by it to manage conflicts are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of a customer will be prevented, the Applicant may disclose in writing to Compliance and the customer the general nature and/or sources of conflicts of interest before undertaking business for the customer or upon identification of the conflicts.

(e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.1.18 *Qualifications*: See the preceding paragraphs above for information on the Applicant's Board members' qualifications. Members of the Applicant's management team are recruited for their particular position based upon their skills and expertise. Their individual goals and performance are regularly assessed by their direct manager as part of the Applicant's performance management process.

2.1.19 *Remuneration*: None of the directors are remunerated for their roles on the Board.

2.1.20 *Limitation of liability*: Pursuant to the BTBS Rulebook, the liability of the Applicant, its directors, officers and employees to any person in connection with the Applicant's operation of BTBS is limited to the fullest extent permitted under applicable law.

2.1.21 *Indemnity*: Subject to the provisions of the Singapore *Companies Act*, pursuant to the Applicant's Articles of Association, the directors are entitled to indemnification from the Applicant for any losses incurred in the execution of their duties. The Singapore *Companies Act* places several limitations upon the ability of a company to indemnify directors. Under section 172(1) of the Singapore *Companies Act,* any provision that purports to exempt a director (to any extent) from any liability that would otherwise attach to him or her in connection with any negligence, default, breach of duty or breach of trust in relation to the company is void. Further, under section 172(2) of the *Companies Act*, any provision by which a company directly or indirectly provides an indemnity (to any extent) for a director of the company against any liability attaching to him or her in connection with any negligence, default, breach of duty or breach of trust in relation to the company is void, except as permitted by section 172A or 172B of the Singapore *Companies Act.* Section 172A of the Singapore *Companies Act* permits a company to purchase and maintain insurance for an officer of the company against any liability referred to in section 172(2) of the Singapore *Companies Act*. Section 172B of the Singapore *Companies Act* provides that the broad prohibition on indemnities pursuant to subsection 172(2) of the Singapore *Companies Act* does not extend to liability incurred by the director to a person other than the company. However, this exemption does not apply if the indemnity is against (a) any liability of the director to pay a fine in criminal proceedings or sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising) or (b) any liability incurred by the director (i) in defending criminal proceedings in which he or she is convicted; (ii) in defending civil proceedings brought by the company or a related company in which judgment is given against him or her; or (iii) in connection with an application for certain types of relief in which a court refuses to grant relief.

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 and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.**

2.2.1 Responsibility lies with the Applicant to satisfy itself that the relevant individual is fit to perform the role applied for. Also, see the description of Board composition and information on the Applicant's director qualifications above.

2.2.2 The Applicant's directors and senior management (including the CEO) are required to complete annual fit and proper declarations which are updated to the Board. The fit and proper declarations are comprised of representations relating to the personnel's honesty, integrity and reputation, financial soundness, and competence and capability.

3. Regulation of Products

3.1 **Review and Approval of Products – The products traded on the exchange and any changes thereto are submitted to the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.**

3.1.1 As an RMO operator, the Applicant requires specific authorisation from the MAS to offer BTBS in respect of each type of financial instrument traded on BTBS.

3.1.2 Under section 41 of the SFA, RMOs are required to notify the MAS before proceeding with the launch of "relevant products" (as defined in section 41(8) of the SFA). In this regard, MAS Notice SFA 02-N01 sets out the ongoing notification requirements relating to the listing, delisting or trading of relevant products on the RMOs' OM.

3.1.3 The specific authorisation required under section 41 of the SFA and MAS Notice SFA 02-N01 is effected via a certification to the MAS, which assesses, among other things, whether: (a) the underlying interest of the proposed instrument has all the elements of economic utility or offers economic benefits to market participants, (b) there is a probable and significant operational risk to the RMO arising from facilitating the trading of the instrument type, (c) the way the RMO facilitates the trading of the instrument type will not impact the ability of the RMO to continue to satisfy its obligations under the SFA to maintain fair, orderly and transparent functioning of the market, and (d) the RMO has powers to take actions against errant members who engage in market misconduct activities, such as market manipulation.

3.1.4 MAS approval is required, and has been granted, for the Applicant to support trade negotiation of foreign exchange and interest rate derivatives. No further MAS approval is required to change, suspend, or remove such instruments, although maintenance of such instruments on BTBS requires an annual assessment and certification to MAS.

3.1.5 RMOs are required to notify the MAS that they have established appropriate controls and governance procedures to adequately address the key risks pertaining to relevant products, namely:

(a) the risk of disorderly trading that may be brought about by a sharp change in prices;

(b) the risk of persons acquiring significant amounts of the product which facilitates the ability of those persons to gain from market manipulation; and

(c) the legal, operational and reputational risks surrounding the product.

3.1.6 As discussed in Section 3.1.1 above, the Applicant must submit a certification to MAS with respect to the trading of new types of over-the-counter derivative contracts on BTBS, which includes a risk assessment of such contracts. Please also see Section 2.1.6 for an overview of the Board's role on risk oversight. The certification must be re-submitted to MAS on an annual basis.

3.1.7 The MAS has powers under section 45 of the SFA to take action if RMOs fail to provide appropriate controls and governance procedures, including imposing higher supervisory capital, requiring an independent audit on specific processes and prohibiting the listing of new products. The MAS may issue a notice in writing under section 46 of the SFA to a RMO to prohibit trading in products if the MAS is of the opinion that it is necessary to protect persons buying or selling such financial instruments.

3.1.8 The Applicant is currently authorised by the MAS to offer BTBS in relation to all instruments listed on Annex B, Part 1.[5] To the extent the Applicant wishes to make available for trading additional classes of financial instruments on BTBS, it would require prior MAS approval and expansion of the Applicant's RMO license.

3.2 **Product Specifications – The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.**

3.2.1 As part of the Applicant's RMO authorization from the MAS, the Applicant identified to the MAS the types of instruments that it intended to make available for trade negotiation. The MAS has authorised the Applicant to provide BTBS for all types of instruments listed on Annex B, Part 1. The BTBS Rulebook designates the instruments which BTBS participants may trade. Any changes to the BTBS Rulebook must be reviewed and approved by the Applicant's Board.

3.2.2 The MAS's requirements for authorization of RMOs do not make reference to usual commercial customs and practices. Instead, the Applicable Rules focus on maintaining and implementing transparent and non-discriminatory rules, based on objective criteria. The BTBS Rulebook is drafted in accordance with these criteria, which aims to give participants a clear understanding of the lifecycle of a trade. It is the Applicant's experience that the terms and conditions of the instruments that trade on BTBS are generally accepted and understood by participants.

3.3 **Risks Associated with Trading Products – The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.**

[5] Please also see footnote 1 above.

3.3.1 Under subsection 35(1) of the SFA, an RMO must ensure that the systems and controls concerning the assessment and management of risks in respect of every OM that the RMO operates are adequate and appropriate for the scale and nature of its operations, and is liable to a fine for failure to do so.

3.3.2 The Applicant's Compliance Department is responsible for ensuring that surveillance systems monitor trading for requisite asset classes (i.e., bonds and OTC derivatives) by all participants onboarded to BTBS to identify and prevent violations of BTBS rules, manipulation, price distortion, disorderly trading conditions and conduct that may involve market abuse, as required by the MAS.

3.3.3 The Applicant will carry out trade negotiation surveillance on Ontario Users once the Requested Relief is granted by the Commission. The Applicant has implemented a trade negotiation surveillance program (the "**Program**") to screen for market misconduct behaviours using Scila Real-Time Trade Surveillance ("**SCILA**"), a third-party trade surveillance software. This tool is currently utilised by other Bloomberg regulated entities, including Bloomberg Trading Facility Limited (U.K.), Bloomberg Trading Facility B.V. (Netherlands) and Bloomberg SEF LLC (U.S.). The Applicant's trade surveillance specialist, located in Hong Kong, is responsible for overseeing the implementation and day-to-day operation of trade surveillance in the Asia-Pacific region (including the Program), with support from other regional and global compliance teams.

3.3.4 Consistent with other RMOs, the Applicant will comply with any position limits or other limits established by the MAS, as applicable, if and when any such limits are communicated to the Applicant. The Applicant does not impose margin requirements, intra-day margin calls, daily trading limits, price limits, or position limits as BTBS is a trade negotiation platform which only brings together the parties interested in making a trade. As the Applicant is not involved in the settlement portion of the trade, it is the responsibility of each participant to institute and comply with its own margin requirements or limits.

3.3.5 All participants are required to implement their own pre- and post-trade controls consistent with their regulatory requirements. As the pre- and post-trade controls which may apply to participants depend on such participants' fact-specific regulatory requirements and will vary from jurisdiction to jurisdiction (if applicable), the Applicant cannot describe such controls which may be applied by participants outside of the BTBS trade negotiation platform to ensure such participants' compliance with their specific regulatory requirements.

4. Access

4.1 **Fair Access**

(a) **The exchange has established appropriate written standards for access to its services including requirements to ensure**

(i) participants are appropriately registered as applicable under Ontario securities laws, or exempted from these requirements,

(ii) the competence, integrity and authority of systems users, and

(iii) systems users are adequately supervised.

(b) **The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.**

(c) **The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.**

(d) **The exchange does not**

(i) permit unreasonable discrimination among participants, or

(ii) impose any burden on competition that is not reasonably necessary and appropriate.

(e) **The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.**

4.1.2 Section 33(1)(a) of the SFA requires the Applicant, in so far as is reasonably practicable, to ensure that it operates BTBS as a fair, orderly and transparent OM, which is characterised by non-discriminatory access to market facilities and information.

4.1.3 Pursuant to section 33(1)(d) of the SFA, the Applicant must ensure that access for participation in its facilities is subject to criteria that are (i) fair and objective, and (ii) designed to ensure the orderly functioning of its OM and to protect the

interests of the investing public. Pursuant to section 33(1)(h) of the SFA, the Applicant must maintain governance arrangements that are adequate for its OM to be operated in a fair, orderly and transparent manner.

4.1.4 Participant status, access to, and usage of, BTBS is available to all market participants that meet the criteria set forth by the Applicant. The Applicant vets prospective participants against the Applicant's eligibility criteria as part of its participant onboarding procedures. Chapter 2 (Participants) of the BTBS Rulebook sets out the admission and eligibility criteria that participants must meet. Specifically, to be eligible for admission as a participant, a participant applicant must demonstrate to the satisfaction of the Applicant that it:

(a) complies, and will ensure that its authorised traders comply, and, in each case, will continue to comply, with the BTBS Rulebook and applicable law;

(b) has the legal capacity to negotiate trades in the instruments it selects to negotiate on BTBS;

(c) has all registrations, authorizations, approvals and/or consents required by applicable law in connection with the negotiation of trades in instruments on BTBS;

(d) has, and shall maintain a valid LEI compliant with the ISO 17442 standard and included in the Global LEI database maintained by the Central Operating Unit appointed by the LEI Regulatory Oversight Committee;

(e) has adequate experience, knowledge and competence to negotiate trades in the instruments; and

(f) is not a natural person, an independent software provider, a trading venue or an unregulated trading platform or system.

4.1.5 In addition to the requirements set forth above, all Ontario Users will be required to sign a Canada User Acknowledgment representing that they meet the criteria set forth in a Canada User Acknowledgment, including that they are appropriately registered under Ontario securities laws, exempt from registration or not subject to registration requirements. The Canada User Acknowledgement requires an Ontario User to make an ongoing representation each time it uses BTBS that it continues to meet the criteria set forth in the Canada User Acknowledgement. An Ontario User is also required to immediately notify the Applicant if it ceases to meet any of the above criteria represented by it on an ongoing basis.

4.1.6 The Applicant's Compliance Department will review on a quarterly basis the status of Ontario Users to confirm whether such Ontario Users are registered under Ontario securities laws, exempt from registration or not subject to registration requirements. As noted in Section 4.1.5 above, an Ontario User is also required to (i) make an ongoing representation each time it uses BTBS that it continues to meet the criteria set forth in the Canada User Acknowledgement, and (ii) immediately notify the Applicant if it ceases to meet any of the criteria represented by it on an ongoing basis. If an Ontario User ceases to meet such criteria, this would constitute a breach of Rule 202 of the BTBS Rulebook and subject the Ontario User to a warning letter, suspension or termination of services.

4.1.7 With respect to the regulatory status of the Applicant's participants to trade in the OM Instruments on BTBS, the Applicant expects that Ontario Users will be (i) registered under Ontario securities laws, (ii) exempt from registration under Ontario securities laws, or (iii) not subject to registration requirements under Ontario securities laws. The following chart outlines the regulatory status of Ontario Users and their counterparties, applicable dealer registration requirements and the principal exemptions from the dealer registration requirement under Ontario securities law that may be relied on by Ontario Users and their counterparties with respect to the classes of OM Instruments traded on BTBS.

OM Instrument	**Ontario User and Applicable Registration, Exemption or Not Required to be Registered Status**	**Counterparty to Ontario User and Applicable Registration, Exemption or Not Required to be Registered Status**
Swaps, as defined in section 1a(47) of the United States Commodity Exchange Act (but without regard to any exclusions from the definition): interest rate swaps, credit default swaps, foreign exchange swaps (other than precious metals swaps and deposits).	• Dealer registration under section 25 of the Act: applicable to Ontario Users that are in the business of trading; • Dealer exemption under section 35.1 of the Act: applicable to Ontario Users that are prescribed financial institutions; • Not subject to dealer registration requirements currently under section 25 of the Act: applicable to Ontario Users that are not in the business of trading.	• Dealer registration under section 25 of the Act: applicable to Counterparties that are in the business of trading; • Not subject to dealer registration requirements currently under section 25 of the Act: applicable to Counterparties that are not in the business of trading.

Fixed income securities: a debt security that is a foreign security or a debt security that is denominated in a currency other than the Canadian dollar as such terms are defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("**NI 31-103**"); Foreign non-debt securities: any foreign security as defined in NI 31-103 that is not a debt security as defined in NI 31-103; Foreign exchange swaps (includes precious metals swaps and deposits).	• Dealer registration under section 25 of the Act: applicable to Ontario Users that are in the business of trading; • Dealer exemption under section 35.1 of the Act: applicable to Ontario Users that are prescribed financial institutions; • Dealer exemption under 8.21 [*Specified debt*] of NI 31-103: applicable to any Ontario User trading debt securities that qualify as "specified debt" with a Counterparty; • Not subject to dealer registration requirements currently under section 25 of the Act: applicable to Ontario Users that are not in the business of trading.	• Dealer registration under section 25 of the Act: applicable to Counterparties that are in the business of trading; • Dealer exemption under section 8.5 [*Trades through or to a registered dealer*] of NI 31-103: applicable to registered or unregistered Counterparties that trade through or to an Ontario User that is a registered dealer; • Dealer exemption under 8.18 [*International dealer*] of NI 31-103: applicable to Counterparties that are foreign dealer firms[6]; • Dealer exemption under 8.21 [*Specified debt*] of NI 31-103: applicable to any Counterparty trading debt securities that qualify as "specified debt" with an Ontario User; • Not subject to dealer registration requirements currently under section 25 of the Act: applicable to Counterparties that are not in the business of trading.

4.1.8 The Applicant may deny the grant of trading privileges or prevent a person from becoming or remaining a participant, if in the Applicant's sole discretion, the person does not satisfy the eligibility criteria listed above or if the Applicant considers that accepting that person as a participant may prevent the Applicant from complying with applicable law. The Applicant keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

4.1.9 A participant may appeal any decision taken by the Applicant to impose conditions or to suspend or terminate access of any Participant or its Authorised Trader(s) (as such terms are defined in the BTBS Rulebook), giving its reasons for appealing and any information relevant to the appeal. The Applicant has a Participant Suspension and Termination Procedure with a Panel to assess and consider an appeal, as described in Section 7 below.

5. Regulation of Participants on the Exchange

5.1 **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 its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.**

5.1.1 As required by the SFA, the BTBS Rulebook sets out transparent and non-discretionary rules and procedures for fair and orderly trade negotiation by participants. Participants are required to comply with a significant number of rules that govern the negotiation of trades on BTBS. The applicable rules are primarily located in Chapter 3 (Negotiation of Trades) of the BTBS Rulebook which is provided to each participant upon onboarding to BTBS.

5.1.2 The Applicant is dedicated to safeguarding the integrity of BTBS, and has policies and procedures that are designed to ensure that BTBS is free from manipulation and other abusive practices. These efforts are a necessary component of efficiently working markets, and the Applicant is committed to ensuring that participants are able to use BTBS with the knowledge that it remains open and transparent.

5.1.3 The Applicant's Compliance Department operates an electronic market surveillance system, which is designed to identify potential disorderly market conditions and the risk of market abuse in bonds and OTC derivatives, and has gone live in 2021 Q3. The trade surveillance system is capable of detecting potential market abuse scenarios and violations of the BTBS Rulebook. The automated trade surveillance system has the capability to detect and flag specific trade negotiation patterns and trade negotiation anomalies, compute, retain, and compare trading statistics, reconstruct the sequence of

[6] Under section 8.18(2)(b)(ii) of NI 31-103, a foreign dealer firm relying on the international dealer exemption may trade with a permitted client Canadian dollar denominated Canadian debt securities that are or were originally offered primarily in a foreign jurisdiction and a prospectus has not been filed with a Canadian securities regulatory authority for the distribution with a permitted client.

market activity, perform market analyses to perform in-depth analyses and ad hoc queries of trade negotiation and order-related data.

5.1.4 The Applicant has made significant investments in regulatory technology, including staff dedicated solely to the support and continuous development of its regulatory technology infrastructure, enabling the Applicant's regulatory and market protection capabilities to anticipate and evolve with the changing dynamics of the marketplace. The Applicant has also developed an audit trail of market activity and flexible data query and analytical tools that allow its regulatory staff to examine real-time and historical order and transaction data, maintain profiles of markets and participants, and detect negotiation of trade patterns potentially indicative of market abuses.

5.1.5 The Applicant performs anti-money laundering and counter-terrorist finance checks as part of its participant onboarding procedures. Where there are reasonable grounds to suspect or where there is a suspicion of money laundering or terrorist financing which the Applicant becomes aware of in the course of participant's activities on BTBS, this will be reported to the Suspicious Transaction Reporting Office of Singapore, which investigates and reports money laundering, terrorist financing and related offenses to the relevant law enforcement and investigative services, and to other relevant regulators as required by applicable regulation (including the MAS).

5.1.6 The Applicant has a range of tools for enforcing participants' compliance with the BTBS Rulebook. These tools include issuing written warning letters, temporarily suspending access, imposing conditions on access or terminating a participant's ability to access BTBS.

5.1.7 If the trade surveillance specialist identifies a breach of BTBS rules or behavior or an issue that presents an immediate threat to market integrity or orderliness, it will (i) notify the Applicant's Compliance Officer as soon as practicable and (ii) conduct an investigation into the alleged behavior or issue. If the Compliance Officer determines that the breach is not significant, in the first instance the participant will be contacted regarding the breach. In case of multiple repeating incidents, the Compliance Officer may issue a *written warning letter*. No further action is required if the breach is remedied and no further breaches are committed. Otherwise, the Compliance Officer will issue a *final written warning*. If the breach is still not remedied, the Compliance Officer may impose conditions on a participants' or authorised trader's access to BTBS, temporarily suspend the participant involved, pending further investigation and notification of the relevant product manager, or permanently terminate a participant's or an authorised trader's access to BTBS where the act or omission is deemed to be a serious breach of the BTBS Rulebook or regulatory obligation. Participants may appeal a decision in writing within seven business days of receiving notice of any of the aforementioned actions. In such cases an appeals panel (the Rule 208 Panel) is convened.

5.1.8 If the Compliance Officer determines that the breach is significant and poses an immediate threat to the stability or integrity of BTBS, the Compliance Officer may *temporarily suspend* the participant involved, pending further investigation, or permanently terminate a participant's or an authorised trader's access to BTBS where the act or omission is deemed to be a serious breach of the BTBS Rulebook or regulatory obligation. Participants may appeal a decision in writing within seven business days of receiving notice of any of the aforementioned actions. In such cases an appeals panel (the Rule 208 Panel) is convened.

5.1.9 The Applicant has not issued any warning letters, final warnings or suspensions pursuant to the BTBS Rulebook in the 12 month period preceding September 13, 2021. The BTBS Rulebook under which such letters, final warnings or suspensions would be issued under did not "go-live" until September 13, 2021, coinciding with the launch date of BTBS.

5.1.10 Pursuant to Notice CMG-N01 – Reporting of Suspicious Activities and Incidents of Fraud, the Applicant will report to the MAS any suspicious activities and incidents of fraud where such activities or incidents are material to its safety, soundness or reputation. The MAS has the power to investigate and impose unlimited fines for market abuse, and to prosecute for market manipulation. A participant may be referred to a regulator in another jurisdiction with which the MAS has entered into a memorandum of understanding.

6. Rulemaking

6.1 **Purpose of Rules**

(a) **The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.**

6.1.2 The Applicant's rules are covered in Chapters 1-4 of the BTBS Rulebook, which include: Chapter 2 (Participants), Chapter 3 (Negotiation of Trades), Chapter 4 (Miscellaneous) and the BTBS Market Annexes. In particular, the participant eligibility criteria in Rule 202 (Eligibility) of the BTBS Rulebook and ongoing participant obligations in Rule 203 (Continuing

Obligations of Participants)[7] of the BTBS Rulebook are transparent, objective and set reasonable minimum standards applicable to all BTBS participants. The Applicant believes that its rules and policies that govern the activities of participants are consistent with its regulatory obligations, including MAS rules and are consistent with all applicable standards of compliance with competition law.

(b) The Rules are not contrary to the public interest and are designed to

(i) ensure compliance with applicable legislation,

(ii) prevent fraudulent and manipulative acts and practices,

(iii) promote just and equitable principles of trade,

(iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,

(v) provide a framework for disciplinary and enforcement actions, and

(vi) ensure a fair and orderly market.

6.1.3 The BTBS Rulebook is subject to the standards and requirements outlined by the Applicable Rules. At a high level, the BTBS Rulebook seeks to ensure fair and orderly markets accessible to all eligible participants that meet the criteria listed in Chapter 2 of the BTBS Rulebook and a Canada User Acknowledgment. This aim is accomplished by establishing rules that reflect the Applicable Rules, criteria that are not contrary to the public interest, and are designed to:

(i) ensure compliance with applicable legislation. Chapter 2 (Participants) of the BTBS Rulebook governs participant requirements and includes a representation and warranty from each person applying to become a participant that it and its authorised traders comply and will continue to comply with the BTBS Rulebook and applicable law. The Applicant is obligated to comply with MAS rules, and must implement rules that require compliance with MAS rules by its participants. The Applicant will proactively monitor its participants' compliance with applicable law and regulation, evidenced in part by its market surveillance systems designed to identify market abuse and prevent disorderly trading conditions.

(ii) prevent fraudulent and manipulative acts and practices. Chapter 3 (Negotiation of Trades) of the BTBS Rulebook specifically prescribes trading practices and trading conduct requirements, including prohibited trading activities, and prohibits fraudulent and misleading activity. The Applicant has instituted procedures to collect information, examine participants' records, directly supervise the market, maintain sufficient compliance staff, conduct audit trail reviews, perform real-time market monitoring and market surveillance and establish an automated trade surveillance system.

(iii) promote just and equitable principles of trade. All systems of BTBS are available to all participants on a non-discriminatory basis. Throughout the BTBS Rulebook, the Applicant has established transparent and objective standards for access to and trading on BTBS to foster competitive and open market participation. The Applicant believes that compliance with the BTBS Rulebook and related compliance procedures promote just and equitable principles of trade.

(iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange. Rule 406 (BTSPL Compliance with Applicable Law; Cooperation with Regulatory Authorities) of the BTBS Rulebook authorizes the Applicant to provide full assistance and information to the MAS, and any other regulatory authority (e.g., the Commission), as required by applicable law in connection with any investigation and prosecution of or enforcement action regarding any actual or suspected prohibited trading practice on BTBS. Each participant is also required by Rule 406 to provide full assistance, information or documents to the MAS and any other regulatory authority in connection with (i) any actual or suspected breach of applicable law; and/or (ii) any investigation or prosecution of or enforcement action regarding any actual or suspected prohibited trading practice related to the participant's activity on BTBS.

Rule 407 (Confidentiality) also authorizes the Applicant to provide any material non-public information provided by a participant or an authorised trader to (i) a regulatory authority if the Applicant is requested or legal required

[7] Each participant of BTBS must at all times: (i) continue to comply with BTBS' eligibility criteria (see the description at section 4.1.3); (ii) accept responsibility for all actions taken by it and its Authorised Traders; (iii) have appropriate internal systems and controls to ensure that it negotiates trades in an orderly manner, and to ensure ongoing compliance with, and prevent breaches of, applicable law and the BTBS Rulebook; and (iv) ensure that its use of any service provider complies with the BTBS Rulebook.

to do so by the regulatory authority, and (ii) to other participant(s) to facilitate a participant's trade negotiation on BTBS.

(v) **promote a framework for disciplinary and enforcement actions.** Under Chapter 2 (Rules 207 and 208) of the BTBS Rulebook, the Applicant may take action against a participant or its authorised trader(s) in circumstances including, but not limited to, where the participant or its authorised trader(s): (a) materially breaches any rule of the BTBS Rulebook, applicable law or BTBS participant agreement; (b) commits any action set forth in Rule 208 (Suspension or Termination); (c) engages in conduct indicative of disorderly trading or any other conduct which may involve market abuse; or (d) engages in any activities specified in Rule 303 (Prohibited Practices). Under Rule 304 (Market Risk Controls), the Applicant may also suspend, postpone or extend all trading on BTBS, or in respect to one or more instruments on BTBS, where the Applicant reasonably considers it is necessary to (i) maintain the stability or integrity of BTBS, (ii) ensure orderly negotiations, (iii) avoid violation of applicable law, (iv) and/or as otherwise required by applicable law or a regulatory authority or court of competent jurisdiction.

(vi) **ensure a fair and orderly market.** The Applicant prescribes trading rules, collects and evaluates market activity data, maintains and audits its real-time monitoring program, and audits historical data to detect trading abuses. The Applicant periodically reviews its programs and procedures, including risk analysis, emergency planning, and systems testing. The Applicant regularly audits systems and technology tests both for technical and regulatory compliance. The Applicant's Compliance Department has the capability to suspend all negotiation on BTBS during emergency situations via a "kill switch." The Compliance Department also has the ability to suspend negotiation of specific instruments or instruments of a specific asset class during a trading day, either in response to an emergency situation or by order of a regulator. The Applicant believes that these measures and its rules are designed to ensure a fair and orderly market.

7. Due Process

7.1 **<u>Due Process</u> – For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, 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.**

7.1.2 The Applicant may prevent a person from becoming a BTBS participant, if in the Applicant's sole discretion, the person does not satisfy the eligibility criteria listed in Section 4 or if the Applicant considers that accepting that person as a participant may prevent the Applicant from complying with applicable law. Under Rule 208 (Suspension or Termination) of the BTBS Rulebook, the Applicant may also, in its sole discretion, issue a written warning, suspend, impose conditions on or terminate a participant's or authorised trader's ability to access BTBS for any of the circumstances, violations or events listed in Rule 208(a).

7.1.3 The Applicant's Compliance Department will maintain a surveillance program to monitor transactions undertaken by participants to identify breaches of the BTBS Rulebook, disorderly trade negotiation conditions and conduct that may involve market abuse. If the Compliance Department identifies a breach of BTBS rules or behavior or an issue that presents an immediate threat to market integrity or orderliness, it will (i) notify the Applicant's Compliance Officer as soon as practicable and (ii) conduct an investigation into the alleged behavior.

7.1.4 If the Applicant's Compliance Officer determines that the breach is not significant, in the first instance the participant will be contacted regarding the breach. In case of multiple repeating incidents, the Compliance Officer may issue a *written warning letter*. No further action is required if the breach is remedied and no further breaches are committed. Otherwise, the Compliance Officer will issue a *final written warning*. If the breach is still not remedied or if the Compliance Officer determines that the breach is significant and/or poses an immediate threat to the stability or integrity of BTBS, then the Compliance Officer may take the following actions:

- impose conditions on a participant's or authorised trader's access to BTBS;
- temporarily suspend a participant's or an authorised trader's access to BTBS;
    - This suspension is imposed where there is deemed to be an immediate threat to the orderliness or integrity of BTBS. A temporary suspension will be put into place until an investigation has been completed. A temporary suspension may be extended for a defined duration upon conclusion of an investigation.
- permanently terminate a participant's or an authorised trader's access to BTBS where the act or omission is deemed to be a serious breach of the BTBS Rulebook or regulatory obligation.

7.1.5 A participant may appeal any decision taken by the Compliance Officer to impose conditions or to suspend or terminate access of any participant or its authorised trader(s), giving its reasons for appealing and any information relevant to the appeal. Any appeal must be made in writing (providing sufficient particulars of the basis for the appeal) and submitted to a panel comprised of appropriately experienced senior members of the Applicant's Compliance Department and product teams to discuss further actions (**Rule 208 Panel**) within seven (7) business days of receiving notice from the Compliance Officer of a decision made by the Compliance Officer. The Rule 208 Panel shall consider the decision of the Compliance Officer which is the subject of the appeal, and shall notify the participant of its decision within 15 business days of reaching a decision. If the decision of the Compliance Officer is upheld by the Rule 208 Panel, then no further action will be taken. If the decision of the Compliance Officer is overruled, the Rule 208 Panel may eliminate conditions imposed on access, lift a suspension and/or reinstate the access of a participant or its authorised trader to BTBS. The decision of the Rule 208 Panel shall be final, and may not be appealed to the MAS. The participant will be notified of the Rule 208 Panel's decision in writing.

7.1.6 If a participant's access is terminated, the Applicant will comply with its regulatory obligations and supply data and information to the MAS when required, and will assist the MAS in any investigation conducted regarding trade negotiation on BTBS.

8. Clearing and Settlement

8.1 **Clearing Arrangements – The exchange has or requires its participants to have appropriate arrangements for the clearing and settlement of transactions for which clearing is mandatory through a clearing house.**

8.1.1 Neither the Applicant nor any of its affiliates acts as a counterparty or takes title to, or provides execution, clearing, settlement or custodial facilities to participants for, any OM Instruments negotiated on BTBS. BTBS participants must comply with any clearing obligation that applies to them under applicable law, including the laws of the province of Ontario.

8.1.2 Participants are solely responsible for ensuring the prompt exchange and processing of confirmations directly with their counterparties in accordance with market practice. With respect to settlement, participants are solely responsible for the post-trade settlement of all transactions that are negotiated on BTBS bilaterally. With respect to clearing, if participants are required by applicable regulation or choose to clear a transaction, they are solely responsible for making the necessary arrangements under the BTBS Rulebook.

8.1.3 The Applicant facilitates, at the direction of its participants, submission of their negotiated trade details to a clearing house designated by a participant. When sending an RFQ on BTBS, participants are able to select the clearing house that they would like their trades to be submitted to for clearing.

8.1.4 It is the Applicant's expectation that Ontario Users either (a) are clearing members of a clearing house and clear directly (provided such clearing house has obtained recognition as a clearing agency in Ontario or an exemption or interim exemption from recognition as a clearing agency in Ontario) or (b) have a relationship with a clearing member on whom the participant relies for clearing.

8.2 **Risk Management of Clearing House – The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.**

8.2.1 The Applicant facilitates, at the direction of its participants, submission of their negotiated trade details to a clearing house designated by a participant, in accordance with the polices and procedures of such clearing houses.

9. Systems and Technology

9.1 **Systems and Technology – Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:**

(a) **order entry,**

(b) **order routing,**

(c) **execution,**

(d) **trade reporting,**

(e) **trade comparison,**

(f) **data feeds,**

(g) **market surveillance,**

(h) **trade clearing, and**

(i) **financial reporting.**

9.1.2 BTBS has appropriate internal controls (that cover all of the critical functions listed above) designed to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and a business continuity plan to enable BTBS to properly carry on its business.

9.1.3 The Applicant, and its service provider, BLP, has put safeguards and security tools in place at varying levels across BTBS to protect the critical data and system components of BTBS (the "**Systems**"), including (i) denial of service protection, (ii) firewalls, (iii) configured routers, (iv) demilitarized zones ("**DMZs**")[8] and network segmentation; (v) intrusion detection procedures; (vi) event logging and log analysis; and (vii) virus protection.

9.1.4 The Applicant has established procedures for configuration management, software change management, patch management and event and problem management. Additionally, the Applicant has established a Business Continuity/Disaster Recovery plan with respect to the Systems. Pursuant to this plan, the Applicant has the ability to respond to and address both small-scale and wide-scale service disruptions to the Systems. Please refer to the Applicant's response in Section 9.2 below for additional information.

9.2 **System Capability/Scalability - Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:**

(a) **makes reasonable current and future capacity estimates;**

(b) **conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;**

(c) **reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;**

(d) **ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;**

(e) **ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;**

(f) **maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and**

(g) **maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.**

9.2.1 The Applicant examines current and historical production loads on BTBS to calculate reasonable current and future capacity estimates.

9.2.2 The Applicant supervises and conducts periodic stress testing of the System components, which are designed to ensure that the Systems have sufficient capacity to perform required operational tasks. The Applicant evaluates and monitors capacity requirements to anticipate capacity needs.

9.2.3 The Applicant verifies the Systems' ability to function as intended by conducting regression testing, stress testing, and redundancy testing of the Systems. In addition, the Applicant arranges for penetration tests to be conducted on the Systems from time to time to identify and eliminate any vulnerabilities.

9.2.4 The Applicant and its service provider, BLP, periodically conduct risk audits, internal physical security procedures, compliance inspections and arrange for covert physical intrusion tests with independent security firms. Such tests are designed to periodically assess the operating effectiveness of physical security controls, as well as to monitor internal compliance with security policies and procedures.

[8] A DMZ is used in a computing context to refer to a physical or logical subnetwork that separates an internal local area network from other untrusted networks. DMZs are sometimes known as perimeter networks or screened subnetworks.

9.2.5 Engineering staff review and test the Systems periodically to estimate and plan for future system capacity, identify potential weak points and reduce the risk of system failures and threats to system integrity. The Systems are comprised of several servers in an application cluster (the "**Application Cluster**") and a database cluster, each running discrete instances of operating software. The Application Cluster runs in a "hot-warm" configuration. A "hot-warm" configuration means that in addition to a server on which a specific task is running, there is a backup server that receives regular updates on the task and is standing by ready to take over in the event of a failover after a brief "switching" process. A specific software instance on an Application Cluster machine is live at any point of time for a given trade. In the event of a server malfunction, a server is typically marked as "offline," at which point subsequent requests are diverted to the other servers.

9.2.6 The Applicant has established configuration management controls and procedures that have the following objectives:

(a) maintain centralized control for all hardware during the testing and rollout phases of new equipment;

(b) ensure that hardware has sufficient capacity for both present and future operating requirements;

(c) limit access to the operating system on a need-to-know, job function-related basis;

(d) prevent unauthorised access to the Systems; and

(e) provide active performance monitoring of production server machines.

9.2.7 The Applicant reviews and keeps current development and testing procedures for the Systems pursuant to relevant policies and procedures.

9.2.8 The Applicant's Business Continuity/Disaster Recovery Plan is designed to allow for the recovery and resumption of operations and the fulfillment of the duties and obligations of the Applicant following a disruption of its operations, subject to extenuating or unforeseen circumstances. The Applicant maintains sufficient resources to enable it to resume its operations following an unscheduled downtime (e.g., caused by an Incident, as defined in the Applicant's Incident Management and Response Policy and Procedure) within the Recovery Time Objective ("**RTO**") as defined by relevant regulatory requirements. As part of the Business Continuity/Disaster Recovery Plan, the Applicant performs periodic tests to verify that the resources outlined in the plan are designed to ensure continued fulfillment of all relevant duties of the Applicant under Applicable Rules. The Applicant's databases are backed-up to tape daily, and the back-up tapes are stored at an on-site location for 30 days. Monthly back-up tapes are stored at an off-site location pursuant to relevant recordkeeping and retention requirements.

9.3 **Information Technology Risk Management Procedures – The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and respond to market disruptions and disorderly trading.**

9.3.1 The Applicant uses risk monitoring tools and risk controls to prevent and reduce the potential risk of market disruptions, including the following: (i) price outlier detection tool; (ii) pricing change monitoring tool; (iii) trading kill switch; (iv) notional outlier size limitations; (v) authorised trader lists and asset class limitations; (vi) trade negotiation rejection capability; and (vii) trade negotiation cancellation capability.

9.3.2 The Applicant may at any time suspend, postpone or extend trade negotiations on BTBS as a whole, or in respect of one or more instruments, where the Applicant considers such action necessary (i) to maintain the stability or integrity of BTBS; (ii) to ensure orderly trade negotiation; (iii) to avoid violation of applicable law; and/or (iv) as otherwise required by applicable law or pursuant to an order or request of a regulatory authority or court of competent jurisdiction.

9.3.3 A decision to suspend, extend or postpone a trade negotiation session on BTBS is a joint decision to be agreed among key stakeholders including the Board and management members of the Applicant. An adjustment of the trade negotiation session could arise due to a significant event impacting market volatility.

10. Financial Viability

10.1 **Financial Viability – The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.**

10.1.1 The Applicant has adequate financial and staff resources to carry on its activities in full compliance with its regulatory requirements and with best practices. The Applicant is subject to minimum regulatory capital requirements, and must submit financial reports to the MAS.

10.1.2 To assess its regulatory capital requirements, the Applicant identifies risks that are relevant and material to its business as a whole. The Applicant assesses whether it is appropriate to hold capital against those risks either on a base case or under stressed scenarios.

10.1.3 The Applicant is capitalized in excess of regulatory requirements and will maintain any future minimum capital amounts needed to meet MAS's requirements.

11. Transparency

11.1 **Trading Practices - Trading Practices are fair, properly supervised and not contrary to the public interest.**

11.1.1 The Applicant is obligated to comply with the Applicable Rules and requirements which require trading practices that are fair, properly supervised and not contrary to the public interest. Specifically, the Applicable Rules, which the Applicant adheres to, provides:

(a) **Fair trading practices:** Section 33(1)(e) of the SFA requires the Applicant to operate in a "fair, orderly and transparent manner".

(b) **Properly supervised trading practices:** Under Part XII, Division 1 of the SFA, the MAS has established a comprehensive regulatory framework to ensure market integrity and prevent insider dealing and market manipulation in relation to securities, units in collective investment schemes and derivatives contracts. This framework prohibits, and authorises MAS to take enforcement action against, practices which could result in distorting the functioning of the markets, including:

- false trading and market rigging (section 197 of the SFA);
- bucketing (section 201A of the SFA);
- price manipulation (section 201B of the SFA);
- employment of fraudulent or deceptive device (section 201 of the SFA); and
- dissemination of information about illegal transactions (section 202 of the SFA).

(c) **Trading practices that are not contrary to the public interest:** Pursuant to Notice CMG-N01 – Reporting of Suspicious Activities and Incidents of Fraud, the Applicant the Applicant will report to the MAS any suspicious activities and incidents of fraud where such activities or incidents are material to its safety, soundness or reputation. The MAS has the power to investigate and impose unlimited fines for market abuse, and to prosecute for market manipulation. A participant may be referred to a regulator in another jurisdiction with which the MAS has entered into a memorandum of understanding. Furthermore, section 33(1)(e) of the SFA requires the Applicant to operate in a "fair, orderly and transparent manner"

11.1.2 Chapter 3 (Negotiation of Trades) of the BTBS Rulebook addresses permitted and prohibited practices on BTBS, incorporates the Applicable Rules requirements outlined above and is designed to ensure a fair, orderly and transparent market accessible to all eligible participants, which market is properly supervised and operated in a manner consistent with the public interest.

11.2 **Orders - Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.**

11.2.1 All order types and all order trading protocols are available to all participants. The Applicant has only one type of participant, and all of the Applicant's requirements apply to all participants equally.

11.3 **Transparency – The exchange has adequate arrangements to record and publish accurate and timely trade and order information. This information is provided to all participants on an equitable basis.**

11.3.1 Unlike with a traditional marketplace, transaction details for BTBS are not widely known beyond the counterparties for the completed transaction. Trading interests are not widely displayed as in a standard marketplace. However, such information is available to those parties involved in the transactions. All participants have access to post-trade negotiation reports for their own trades. The Applicant holds records of negotiated transactions for a period of seven years. MAS does not have pre- or post-trade transparency rules for RMOs.

11.3.2 Additionally, each participant has access to pricing within the user interface. Participants can access indicative pricing which shows the average market price to all participants. When participants want to negotiate a trade using RFQ, they

also receive dynamic live pricing from counterparties with which they have relationships. Participants also reconcile trades that they have undertaken with the indicative pricing at the time of the trade. As a result, participants have full pricing transparency and BTBS meets the requirement noted above.

11.3.3 Trade reporting obligations for derivatives transactions pursuant to Ontario law apply to a reporting counterparty to a derivatives transaction involving a local counterparty. For purposes of compliance with Ontario law, dealer counterparties that are determined to be reporting counterparties may satisfy the reporting requirements under Ontario law by reporting derivatives transactions to an entity that is designated as a trade repository.

11.3.4 Trade reporting obligations for trades in unlisted debt securities pursuant to Ontario law apply to a person or company where the trades are executed by or through that person or company. Under NI 21-101, such persons or companies are currently marketplaces, dealers, inter-dealer bond brokers and banks listed in Schedule I, II and III of the *Bank Act* (Canada) ("**Canadian Banks**"). For purposes of compliance with Ontario law, participants that are registered dealers (and members of the Investment Industry Regulatory Organization of Canada ("**IIROC**")), inter-dealer bond brokers or Canadian Banks may satisfy the reporting requirements under Ontario law by reporting trades in unlisted debt securities to IIROC (as Information Processor). Where no counterparty to a trade in unlisted debt securities is a registered dealer (and IIROC dealer member) or a Canadian Bank, Tradebook Canada is responsible for reporting the trade to IIROC.

12. Compliance, Surveillance and Enforcement

12.1 **Jurisdiction - The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.**

12.1.1 An OM is required under the Applicable Rules to set rules, conduct compliance reviews, monitor participants' trading activity and take enforcement action against participants when appropriate.

12.1.2 Pursuant to Notice CMG-N01 – Reporting of Suspicious Activities and Incidents of Fraud, the Applicant will report to the MAS any suspicious activities and incidents of fraud where such activities or incidents are material to its safety, soundness or reputation. The MAS has the power to investigate and impose unlimited fines for market abuse, and to prosecute for market manipulation. A participant may be referred to a regulator in another jurisdiction with which the MAS has entered into a memorandum of understanding. The MAS may choose to take further action against a participant in its discretion.

12.1.3 The Applicant will comply with its regulatory obligations and supply data and information to the MAS when required, and will also assist the MAS in any investigation conducted regarding trading on BTBS. Please also see Section 5.

12.2 **Member and Market Regulation - The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.**

12.2.1 The Applicant has instituted procedures and controls to collect information, examine participants' records, supervise trade negotiation on BTBS, maintain sufficient Compliance staff, establish procedures for and conduct audit trail reviews, perform automated real-time market monitoring and market surveillance and establish an automated trade surveillance system to evaluate participants' compliance with the BTBS Rulebook and applicable law. Members of the Applicant's Compliance and Engineering Departments, and members of BLP's Legal Department, as well as the Applicant's key business personnel, also work to evaluate and ensure the Applicant's compliance with relevant BTBS and legislative requirements.

12.2.2 Sections 5 and 7 of this application describe the resources available to the Applicant to investigate breaches of the BTBS Rulebook and to enforce its rules.

12.3 **Availability of Information to Regulators - The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.**

12.3.1 Please see Section 16 below.

13. Record Keeping

13.1 **Record Keeping – The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.**

13.1.1 The Applicable Rules require the Applicant to keep orderly records of its business and internal organization, including all services and transactions undertaken by it to enable the MAS to monitor it. The Applicant implemented policies designed to ensure that the MAS has ready access to the Applicant's records that it is required to maintain under Applicable Rules, from which the MAS should be able to reconstruct each key stage of a transaction on BTBS if required.

13.1.2 With respect to trade negotiations in connection with an over-the-counter derivative conducted through the Applicant, the Applicant maintains a record that includes, but is not limited to, the underlying asset, settlement currency, notional amount, and trade negotiation date.

13.1.3 The Applicant complies with applicable regulatory record retention requirements. Under the Applicable Rules, the MAS requires the Applicant to keep records for a period of five years after the date of the expiry or termination of a contract, an agreement or a transaction to which the book or information relates.

13.1.4 The Applicant collects data related to its regulated activity on a daily basis. The Applicant maintains an "audit trail" for every RFQ, RFT or RFS sent and response to the RFQ, RFT or RFS on BTBS. Audit trail information for each transaction includes the RFQ/RFT/RFS instructions, entry time, modification time, price, quantity, account identifier and parties to the transaction, as well as the firm number connected with an RFQ/RFT/RFS and the date and time when an RFQ/RFT/RFS is sent, modified, expired or cancelled. On a daily basis, files of all electronic order and cleared trade information are archived in a non-rewritable non-erasable format, and multiple copies are stored for redundancy and critical safeguarding of the data for five years.

13.1.5 The Applicant also keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access, along with a record of any breaches of BTBS rules by its participants.

14. Outsourcing

14.1 **Outsourcing – Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.**

14.1.1 Pursuant to a License and Services Agreement (the "**Services Agreement**"), the Applicant outsources the provision of software, hardware, intellectual property and certain support services to its parent, BLP. These support services include systems support, administration, office space, telecommunications, accounting and financial services, legal, secondment of staff and other support.

14.1.2 Under the Applicable Rules, the Applicant must ensure when outsourcing critical or important operational functions that (among other things), (i) it takes reasonable steps to avoid undue additional operational risk and (ii) the outsourcing does not materially impair the quality of its internal control and the ability of the MAS to monitor its compliance with regulatory obligations. The Applicant remains fully responsible for discharging its obligations under the regulatory system and must ensure that the outsourcing does not alter its relationship and obligations towards participants. The Applicant's procedures are designed to ensure that the relevant regulatory requirements are satisfied in connection with outsourcing of critical or important operational functions. All material outsourcing agreements require Board approval. The Services Agreement permits the Applicant to meet its obligations and is in conformance with industry best practices. The Applicant has the right to audit the services provided by BLP pursuant to the Services Agreement.

14.1.3 The Applicant has adopted an internal audit function that provides for internal audit review as assurances to the Board. The Applicant's CEO is responsible for coordinating with BLP's Internal Audit Liaison Officer and for reporting results and status of internal audits to the Board. KPMG LLP is Bloomberg's internal audit co-source service provider.

15. Fees

15.1 **Fees**

(a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.

15.1.1 Section 33(1)(e) of the SFA requires the Applicant to operate BTBS in a "fair, orderly and transparent manner", including with respect to the Applicant's fee structure, any trade negotiation fees, ancillary fees and rebates. Pursuant to Regulation 25 of the *Securities and Futures (Organised Markets) Regulations 2018* ("**SF(OM)R**"), the Applicant must make available at no cost to any person upon that person's request, or publish in a manner that is accessible at no cost, information on the fees and charges applicable to each product available on BTBS and each service offered by the Applicant.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.

15.1.2 The Applicant ensures that its fee structure is sufficiently granular to allow BTBS participants to predict the payable fees on the basis of at least the following elements: (a) chargeable services, including the activity which will trigger the fee, (b) the fee for each service, stating whether the fee is fixed or variable, and (c) rebates, incentives or disincentives. The Applicant also publishes objective criteria for the establishment of its fees and fee structures, together with trade negotiation fees, ancillary fees, rebates, incentives and disincentives in one comprehensive rate card which is provided to participants upon request.

16. Information Sharing and Oversight Arrangements

16.1 **Information Sharing and Regulatory Cooperation – The exchange has mechanisms in place to enable it to share information and otherwise cooperate with the Commission, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.**

16.1.1 The Applicant has established a process that enables it to respond to requests from regulators regarding the Applicant in a timely manner. It is the Applicant's policy to respond promptly and completely to any proper regulatory inquiry or request for documents. All inquiries and other communications from the Commission will be referred immediately to the BLP Legal Department and the Applicant's Compliance Department.

16.1.2 Rule 406 (BTSPL Compliance with Applicable Law; Cooperation with Regulatory Authorities) of the BTBS Rulebook authorizes the Applicant to provide full assistance and information to the MAS, and any other regulatory authority (e.g., the Commission) as required by applicable law, in connection with any investigation and prosecution of or enforcement action regarding any actual or suspected prohibited trading practice on BTBS. Each participant is also required by Rule 406 to provide full assistance, information or documents to the MAS and any other regulatory authority in connection with (i) any actual or suspected breach of applicable law; and/or (ii) any investigation or prosecution of or enforcement action regarding any actual or suspected prohibited trading practice related to the participant's activity on BTBS. Please see the discussion at Section 6.1.2(iv).

16.2 **Oversight Arrangements – Satisfactory information sharing and oversight agreements exist between the Ontario Securities Commission and the Foreign Regulator.**

16.2.1 The OSC and the MAS are both signatories of (a) the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information of the International Organization of Securities Commissions dated May 2002, as revised in May 2012, which sets forth the signatory authorities' intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance, and (b) the Memorandum of Understanding Concerning Cooperation and the Exchange of Information Related to Supervision of Cross-Border Covered Entities dated July 15, 2021 between the OSC and the MAS[9].

17. IOSCO Principles

17.1 **IOSCO Principles – To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organisation of Securities Commissions (IOSCO) including those set out in the "Principles for the Regulation and Supervision of Commodity Derivatives Markets" (2011).**

17.1.1 The Applicant adheres to the standards of IOSCO to the extent that such standards are incorporated into the Applicable Rules. The MAS is a member of IOSCO and contributes to IOSCO's policy and standard setting work though participation in the various Standing Committees and Task Forces.

PART IV SUBMISSIONS BY THE APPLICANT

1. Submissions Concerning the Requested Relief

1.1 The OM Instruments that the Applicant intends to make available to trade on BTBS fall under the definition of "derivative" or "security" as set forth in subsection 1(1) of the Act. The Applicant does not and will not permit trading of commodity futures contracts (as defined in the *Commodity Futures Act* (Ontario)). BTBS falls under the definition of "marketplace" set out in subsection 1(1) of the Act because it brings together buyers and sellers of securities and derivatives and uses established, non-discretionary methods under which orders interact with each other (i.e., has a rulebook).

1.2 An "exchange" is not defined under the Act; however, subsection 3.1(1) of the companion policy to NI 21-101 provides that a "marketplace" is considered to be an "exchange" if it, among other things, sets requirements governing the conduct of marketplace participants. An OM has certain obligations to monitor participants' trading activity. Because an OM sets

[9] Available at https://www.osc.ca/en/about-us/domestic-and-international-engagement/international-mous/notice-memorandum-understanding-cooperation-and-exchange-information-related-0.

requirements for the conduct of its participants, it is considered by the Commission to be an exchange for purposes of the Act.

1.3 Because the Applicant seeks to provide Ontario Users with direct access to trading OM Instruments on BTBS, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act.

1.4 Pursuant to OSC Staff Notice 21-702 – *Regulatory Approach for Foreign-Based Stock Exchanges*, the Commission considers an exchange located outside Ontario to be carrying on business as an exchange in Ontario if it provides Ontario Users with direct access to the exchange. The Applicant acknowledges that providing Ontario Users with direct access to trading of the OM Instruments on BTBS is considered by the Commission to be "carrying on business as an exchange" in Ontario, and therefore must either be recognised or exempt from recognition by the Commission.

1.5 Pursuant to Canadian Securities Administrators ("**CSA**") Staff Notice 21-328 – *Regulatory Approach to Foreign Marketplaces Trading Fixed Income Securities* ("**CSA Staff Notice 21-328**"), the CSA have developed a framework for granting exemptions from the exchange recognition requirements to foreign ATSs and foreign multilateral trading facilities ("**MTFs**") in respect of trading foreign fixed income securities. With respect to foreign MTFs, the CSA states that they will consider allowing foreign MTFs to trade foreign fixed income securities under the current exemption regime applicable to derivatives trading by foreign derivatives exchanges, swap execution facilities and MTFs, but will include additional terms and conditions where appropriate. Although OMs are not specifically referenced in CSA Staff Notice 21-328, they have self-regulatory responsibilities similar to MTFs, and are considered "exchanges" under Ontario securities law. Therefore, CSA Staff Notice 21-328 should also apply to the operation of OMs that offer access to Canadian participants.

1.6 The Applicant notes that exemptive relief in respect of trading foreign fixed income securities has been granted to the following foreign ATS applicants pursuant to the regulatory framework described in CSA Staff Notice 21-328: (i) *In the Matter of Trumid Financial, LLC* (February 24, 2021), and (ii) *In the Matter of ICE Bonds Securities Corporation* (June 19, 2020).

1.7 The Applicant satisfies all the criteria for exemption from recognition as an exchange set forth by Commission Staff, as described under Part III of this application, for all of the OM Instruments. Ontario Users that trade in the OM Instruments would benefit from the ability to trade on BTBS, as they would have access to trading a range of securities and derivatives with counterparties that otherwise may not be available in Ontario. Stringent MAS oversight of BTBS, as well as the sophisticated information systems, regulations and compliance functions that have been adopted by the Applicant are designed to ensure that Ontario Users are adequately protected in accordance with international standards set by IOSCO.

1.8 The Applicant submits that an exemption from recognition is appropriate for BTBS because the Applicant is subject to regulation by the MAS and full regulation by the Commission would be duplicative and inefficient. In addition, BTBS provides certain Ontario Users with significant access to liquidity as of September 13, 2021 pursuant to the marketplace conduit arrangement with Tradebook Canada described in Part II, paragraph 2.2, for which, at least for certain types of transactions, there is no appropriate alternative marketplace. The consequence of the Requested Relief not being granted would be loss of access to BTBS for the Ontario Users which would reduce their access to liquidity and therefore Ontario capital markets will be disrupted if the Requested Relief is not granted.

1.9 Based on the foregoing, we submit that it would not be prejudicial to the public interest to grant the Requested Relief.

If you have any questions or require anything further, please do not hesitate to contact us.

Yours very truly,

BLOOMBERG TRADEBOOK SINGAPORE PTE LTD

"Derek Kleinbauer"

_____
Name: Derek Kleinbauer
Title: Director

cc: Ramandeep K. Grewal, Stikeman Elliott LLP

ANNEX A

The Applicant seeks the Requested Relief to cover trading by Ontario Users of the following instruments on BTBS:

i. **"Foreign Debt Securities**,"[1] which are defined as any debt security (as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**)) that is a foreign security (as defined in NI 31-103) or a debt security that is denominated in a currency other than the Canadian dollar, including:

   a. debt securities issued by the U.S. government (including agencies or instrumentalities thereof);

   b. debt securities issued by a foreign government;

   c. debt securities issued by corporate or other non-governmental issuers (U.S. and foreign); and

   d. asset-backed securities (including mortgage-backed securities), denominated in either U.S. or foreign currencies;

ii. interest rate swaps, as defined in section 1a(47) of the U.S. *Commodity Exchange Act* ("**IRS**");

iii. credit default swaps, as defined in section 1a(47) of the U.S. *Commodity Exchange Act* ("**CDS**")[2];

iv. foreign exchange swaps, as defined in section 1a(47) of the U.S. *Commodity Exchange Act* (but without regard to any exclusions from the definition), including precious metals swaps, foreign exchange spot and deposits (collectively, "**FX**");

v. "**Foreign Non-Debt Securities**" which are defined as any foreign security as defined in NI 31-103 that is not a debt security as defined in NI 31-103, including

   a. securities of foreign exchange-traded funds, which refers to a fund in continuous distribution that is incorporated, formed or created under the laws of a foreign jurisdiction; and

   b. stock loans, which refer to securities lending arrangements in which securities are temporarily transferred from one party (the lender) to another party (the borrower) in return for a fee. Under the lending arrangement, the borrower is obliged to redeliver to the lender the securities or identical securities to those that were transferred or lent, either on demand or at the end of the loan term.

[1] For greater certainty, "Foreign Debt Securities" includes convertible debt securities and the following money market instruments (U.S. and foreign): commercial paper, agency discount notes, government treasury bills, certificates of deposit, bankers' acceptances, promissory notes and bearer deposit notes.

[2] "CDS" includes single-name (credit default) swaps.

ANNEX B

Part 1

The Applicant supports the following instruments under its RMO license:

i. equity shares

ii. bonds, including sovereign bonds, credit bonds, and exchange-traded commodities and exchange-traded notes bond types;

iii. money market instruments;

iv. securities financing transactions (including repurchase transactions, buy-sell and sell-buy back transactions);

v. exchange-traded funds;

vi. interest rate swaps;

vii. credit default swaps;

viii. OTC equity, index and exchange-traded funds options;

ix. listed equity, index and exchange-traded funds options;

x. foreign exchange derivatives (non-deliverable forwards; non-deliverable swaps; average rate forwards; options);

xi. deliverable foreign exchange derivatives (deliverable forwards and deliverable swaps);

xii. deposits, trade finance and foreign exchange spot; and

xiii. precious metal derivatives.

Part 2

The Applicant may determine to support the following instruments under an expanded RMO license in the future, subject to MAS approval:

i. futures

ANNEX C

BTBS's trade negotiation protocols currently include the following. The Applicant has been authorised by the MAS to provide all trade negotiation protocols listed below to its participants.

(a) RFQ Function: A participant (a "**RFQ Requestor**") can send an RFQ message to one or more liquidity providers (each, a "**RFQ Respondent**") that have pre-established relationships with the RFQ Requestor. If a RFQ Respondent wishes to respond, it will provide a quote to the RFQ Requestor. The response messages from the RFQ Respondents to the RFQ Requestor will appear on a screen viewable only by the RFQ Requestor; the RFQ Respondents will not know the identity of the other RFQ Respondents. The RFQ Requestor can click on a bid or offer from a RFQ Respondent to send an acceptance message.

(b) RFT Function: A participant can send to a liquidity provider that has a pre-established relationship with the participant a message requesting execution of a transaction on the terms stated in the message. This negotiation method is not available for all instruments traded on BTBS.

(c) RFS Function: A participant (a "**RFS Requestor**") can send an RFS message to one or more liquidity providers (a "**RFS Respondent**") that has a pre-established relationship with the RFS Requestor. A RFS Respondent can respond with streaming bids and offers if it wishes. The RFS Requestor can click on a response to the RFS and send a message requesting execution of a transaction on the terms stated in the message, which includes the price from the streaming quote, to the RFS Respondent. The RFS Respondent can accept or reject the RFS Requestor's message. This negotiation method is not available for all instruments traded on BTBS.

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

AND

IN THE MATTER OF
BLOOMBERG TRADEBOOK SINGAPORE PTE LTD.

ORDER
(Section 147 of the Act)

WHEREAS Bloomberg Tradebook Singapore Pte Ltd. (**Applicant**) has filed an application dated June 8, 2022 (**Application**) with the Ontario Securities Commission (**Commission**) requesting an order for the following relief (collectively, the **Requested Relief**):

(a) exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act pursuant to section 147 of the Act; and

(b) exempting the Applicant from the requirements in National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) pursuant to section 15.1(1) of NI 21-101, the requirements of National Instrument 23-101 *Trading Rules* (**NI 23-101**) pursuant to section 12.1 of NI 23-101 and the requirements of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**) pursuant to section 10 of NI 23-103;

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant is a private limited company incorporated under the laws of Singapore and a wholly owned direct subsidiary of Bloomberg L.P., a Delaware limited partnership;

2. The Applicant has obtained recognition by the Monetary Authority of Singapore (**MAS**) as a Recognized Market Operator (**RMO**);

3. The Applicant's current recognition as an RMO by the MAS, dated August 5, 2021, permits the Applicant to (i) operate an organised market (**OM**), and (ii) in respect of participants in Singapore, make available its OM to Professional Investors, Accredited Investors and Expert Investors, as such terms are defined within the Applicant's RMO Recognition Letter and the Singapore *Securities and Futures Act* (Cap. 289) (**SFA**);

4. The Applicant operates an OM, known as BTBS, for trading securities, units in a collective investment scheme, securities-based derivative contracts and over-the-counter derivatives contracts (the **Market Instruments**), but the subjects of this order are:

   (a) any debt security (as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**)) that is a foreign security (as defined in NI 31-103) or a debt security that is denominated in a currency other than the Canadian dollar , including:

      (i) debt securities issued by the United States (**U.S.**) government (including agencies or instrumentalities thereof);

      (ii) debt securities issued by a foreign government;

      (iii) debt securities issued by corporate or other non-governmental issuers (U.S. and foreign); and

      (iv) asset-backed securities (including mortgage backed securities), denominated in either U.S. or foreign currencies (collectively, **Foreign Debt Securities**).[1]

   Pursuant to a marketplace conduit arrangement with the Applicant's Canadian alternative trading system affiliate, Bloomberg Tradebook Canada Company (**Tradebook Canada**), the Applicant provides transaction negotiation services for unlisted debt securities, as that term is defined in NI 21-101, and any debt securities denominated in Canadian dollars (**Canadian Debt Securities**), as set out in the term and condition to the Commission's order in *In the Matter of Bloomberg Tradebook Canada Company* (2021), 44 OSCB 6772. Following the date that the Commission grants the Requested Relief,

[1] For greater certainty, "Foreign Debt Securities" includes convertible debt securities and the following money market instruments (U.S. and foreign): commercial paper, agency discount notes, government treasury bills, certificates of deposit, bankers' acceptances, promissory notes and bearer deposit notes.

the Applicant will continue to provide transaction negotiation services for Canadian Debt Securities only under the marketplace conduit arrangement with Tradebook Canada;

(b) swaps, including:

(i) interest rate swaps (**IRS**), as defined in section 1a(47) of the U.S. *Commodity Exchange Act*;

(ii) credit default swaps (**CDS**), as defined in section 1a(47) of the U.S. *Commodity Exchange Act*;

(iii) foreign exchange swaps (**FX**), as defined in section 1a(47) of the U.S. *Commodity Exchange Act* (but without regard to any exclusions from the definition), including precious metals swaps, foreign exchange spot and deposits; and

(c) any foreign securities as defined in NI 31-103 that are not debt securities as defined in NI 31-103 (**Foreign Non-Debt Securities**, and together with Foreign Debt Securities, IRS, CDS and FX, the **Ontario Market Instruments**), including:

i. securities of foreign exchange-traded funds, which refers to a fund in continuous distribution that is incorporated, formed or created under the laws of a foreign jurisdiction; and

ii. stock loans, which refer to securities lending arrangements in which securities are temporarily transferred from one party (the lender) to another party (the borrower) in return for a fee. Under the lending arrangement, the borrower is obliged to redeliver to the lender the securities or identical securities to those that were transferred or lent, either on demand or at the end of the loan term

5. This order only relates to the Ontario Market Instruments and making BTBS protocols available to Ontario Users (as defined below) for such instruments. However, BTBS supports request-for-quote, request-for-trade and request-for-stream trade negotiation protocols that may be used to negotiate, but not legally execute, a trade in the following Market Instruments: equity shares, bonds, including sovereign bonds, credit bonds, and exchange-traded commodities and exchange-traded notes bond types, money market instruments, securities financing transactions (including repurchase transactions, buy-sell and sell-buy back transactions), exchange-traded funds, interest rate swaps, credit default swaps, foreign exchange derivatives (e.g., non-deliverable forwards and swaps, average rate forwards, options), deliverable foreign exchange derivatives (e.g., deliverable forwards and deliverable swaps), precious metal derivatives, OTC equity options, listed equity, index and exchange-traded funds options, foreign exchange spot and deposits;

6. The Applicant is subject to regulatory supervision by the MAS and is required to comply with applicable Singapore laws, subsidiary legislation, notices and guidelines issued by the MAS (collectively, the **Applicable Rules**), which include, among other things, rules on (i) the conduct of business (including rules regarding client categorization, communication with clients and other investor protections and client agreements), (ii) market conduct (including rules applicable to firms operating an OM), and (iii) systems and controls (including rules on outsourcing, governance, record-keeping and conflicts of interest). The MAS requires the Applicant to comply at all times with a set of threshold conditions for authorization and ongoing requirements, including requirements that the Applicant has sound business and controlled business operations and that it has appropriate resources for the activities it carries on. The Applicant is required to maintain a permanent and effective compliance function, which is headed by the Applicant's Compliance Officer. The Applicant's Compliance Department is responsible for implementing and maintaining adequate policies and procedures designed to ensure that the Applicant, its officers and all its employees comply with their obligations under the Applicable Rules;

7. An OM is obliged under MAS rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and report to the MAS (i) significant breaches of the rules in the BTBS Rulebook, (ii) disorderly trading conditions, and (iii) conduct that may involve market abuse. As required by the Applicable Rules, the Applicant has implemented a trade surveillance program. As part of the program and as required by the MAS, the Applicant's Compliance Department conducts market monitoring of certain trading activity on BTBS to identify disorderly trading and market abuse or anomalies. The trade surveillance program is designed to maintain a fair and orderly market for BTBS participants;

8. BTBS is available to participants via an approved service provider (Bloomberg Terminal access is provided this way) or via application programming interface (**API**), a non-Bloomberg API;

9. The Applicant requires that its Singapore participants be "professional investors" as defined in the Applicant's recognition letter from the MAS, "accredited investors" or "expert investors" as defined in sections 4A(1)(a) and 4A(1)(b) of the SFA. Each prospective participant must: comply and ensure that its authorised traders comply,

and, in each case, continue to comply, with the BTBS Rulebook and applicable law; have the legal capacity to trade in the Market Instruments it selects to trade on BTBS; have appropriate systems and arrangements for the orderly execution, clearance and/or settlement, as applicable, of transactions in all Market Instruments it selects to negotiate on BTBS; have all registrations, authorizations, approvals and/or consents required by applicable law in connection with the negotiation of Market Instruments on BTBS; have adequate experience, knowledge and competence to transact in the Market Instruments; have and shall maintain a valid LEI compliant with the ISO 17442 standard and included in the Global LEI database maintained by the Central Operating Unit appointed by the LEI Regulatory Oversight Committee; and not be a natural person, independent software provider, trading venue or unregulated organised trading platform or system;

10. All participants that are located in Ontario, including participants with their headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (LEI)) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (**Ontario Users**), are required to sign a user acknowledgment representing that they meet the criteria set forth in the user acknowledgment, including that they are appropriately registered under Ontario securities laws, exempt from registration or not subject to registration requirements. The user acknowledgment requires an Ontario User to make an ongoing representation each time it uses BTBS that it continues to meet the criteria set forth in the user acknowledgment. An Ontario User is required to immediately notify the Applicant if it ceases to meet any of the above criteria represented by it on an ongoing basis;

11. Because BTBS sets requirements for the conduct of its participants and surveils certain trading activity of its participants, it is considered by the Commission to be an exchange;

12. Because the Applicant seeks to provide Ontario Users with direct access to trading the Ontario Market Instruments in accordance with the Requested Relief on BTBS, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;

13. The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein; and

14. The Applicant satisfies the exemption criteria as described in Appendix I to Schedule "A";

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

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

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

AND WHEREAS based on the Application, together with the representations made by and acknowledgments of the Applicant to the Commission, the Commission has determined that the Applicant satisfies the criteria set out in Appendix I to Schedule "A" and that the granting of the Requested Relief would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission that (i) pursuant to section 147 of the Act, the Applicant is exempt from recognition as an exchange under subsection 21(1) of the Act, and (ii) pursuant to sections 15.1(1) of NI 21-101, 12.1 of NI 23-101 and 10 of NI 23-103, the Applicant is exempt from the requirements in NI 21-101, NI 23-101 and NI 23-103,

PROVIDED THAT the Applicant complies with the terms and conditions contained in Schedule "A".

DATED ●

SCHEDULE "A"

TERMS AND CONDITIONS

Meeting Criteria for Exemption

1. The Applicant will continue to meet the criteria for exemption included in Appendix I to this Schedule.

Regulation and Oversight of the Applicant

2. The Applicant will maintain its recognition as a Recognised Market Operator (**RMO**) with the Monetary Authority of Singapore (**MAS**) to operate an organised market (**OM**) and will continue to be subject to the regulatory oversight of the MAS.

3. The Applicant will continue to comply with the ongoing requirements applicable to it as an RMO recognised by the MAS.

4. The Applicant will promptly notify the Commission if its recognition as an RMO has been revoked, suspended, or amended by the MAS, or the basis on which its recognition as an RMO has been granted has significantly changed.

5. The Applicant must do everything within its control, which includes cooperating with the Commission as needed, to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

Access

6. The Applicant will not provide direct access to a participant in Ontario including a participant with its headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (LEI)) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.

7. For each Ontario User provided direct access to its OM, the Applicant will require, as part of its application documentation or continued access to the OM, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.

8. The Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, provided the Applicant notifies such Ontario User that this representation is deemed to be repeated each time it sends or responds to a request for quote, request for trade or request for stream, or otherwise uses the Applicant's OM.

9. The Applicant will require Ontario Users to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User's access to the Applicant's OM if the Ontario User is no longer appropriately registered or exempt from those requirements.

Trading by Ontario Users

10. The Applicant will not provide access to an Ontario User to trading in products other than the Ontario Market Instruments set out in Representation 4, without prior Commission approval.

11. With respect to debt securities:

    (a) the Applicant will only permit Ontario Users to trade Foreign Debt Securities[2] as defined in Representation 4;

    (b) the Applicant will only provide transaction negotiation services in accordance with the terms and conditions of Bloomberg Tradebook Canada Company's (**Tradebook Canada**) approval as an alternative trading system in Ontario with respect to Canadian Debt Securities, as defined in Representation 4;

[2] For greater certainty, this class of foreign debt securities includes the following money market instruments (U.S. and foreign): commercial paper, agency discount notes, government treasury bills, certificates of deposit, bankers' acceptances, promissory notes and bearer deposit notes.

12. With respect to swaps, the Applicant will only permit Ontario Users to trade IRS, CDS and FX, as defined in Representation 4.

13. With respect to equity securities, the Applicant will only permit Ontario Users to trade Foreign Non-Debt Securities as defined in Representation 4.

14. The Applicant will only permit Ontario Users to negotiate trades in those products outlined in terms and conditions 10 through 13 which are permitted to be traded in Singapore under applicable securities laws and regulations.

Submission to Jurisdiction and Agent for Service

15. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.

16. The Applicant will maintain with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the Applicant's activities in Ontario.

Prompt Reporting

17. The Applicant will notify staff of the Commission promptly of:

    (a) any authorization to carry on business granted by the MAS is revoked or suspended or made subject to terms or conditions on the Applicant's operations;

    (b) the Applicant institutes a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it;

    (c) a receiver is appointed for the Applicant or the Applicant makes any voluntary arrangement with creditors;

    (d) the Applicant marketplace is not in compliance with this Order or with any applicable requirements, laws or regulations of the MAS where it is required to report such non-compliance to the MAS;

    (e) any known investigations of, or disciplinary action against, the Applicant by the MAS or any other regulatory authority to which it is subject; and

    (f) the Applicant makes any material change to the eligibility criteria for Ontario Users.

Semi-Annual Reporting

18. The Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a semi-annual basis (by July 31 for the first half of the calendar year and by January 31 of the following year for the second half), and at any time promptly upon the request of staff of the Commission:

    (a) a current list of all Ontario Users and whether the Ontario User is registered under Ontario securities laws or is exempt from or not subject to registration, and, to the extent known by the Applicant, other persons or companies located in Ontario trading on the Applicant's OM as customers of Ontario Users (**Other Ontario Participants**);

    (b) the legal entity identifier assigned to each Ontario User, and, to the extent known by the Applicant, to Other Ontario Participants in accordance with the standards set by the Global Legal Entity Identifier System;

    (c) a list of all Ontario Users whom the Applicant has referred to the MAS, or, to the best of the Applicant's knowledge, whom have been disciplined by the MAS with respect to such Ontario Users' activities on the Applicant's OM and the aggregate number of all participants referred to the MAS since the previous report by the Applicant;

    (d) a list of all active investigations since the last report by the Applicant relating to Ontario Users and the aggregate number of active investigations since the last report relating to all participants undertaken by the Applicant;

    (e) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant since the last report, together with the reasons for each such denial;

    (f) for each product,

(i) the total trading volume and value originating from Ontario Users, and, to the extent known by the Applicant, from Other Ontario Participants, presented on a per Ontario User or per Other Ontario Participant basis; and

(ii) the proportion of worldwide trading volume and value on the Applicant's OM conducted by Ontario Users, and, to the extent known by the Applicant, by Other Ontario Participants, presented in the aggregate for such Ontario Users and Other Ontario Participants;

provided in the required format.

Information Sharing

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

APPENDIX I

CRITERIA FOR EXEMPTION OF A FOREIGN EXCHANGE TRADING OTC DERIVATIVES FROM RECOGNITION AS AN EXCHANGE

PART 1 REGULATION OF THE EXCHANGE

1.1 Regulation of the Exchange

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (**Foreign Regulator**).

1.2 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

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 its 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 for all officers, directors and employees, 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 and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

PART 3 REGULATION OF PRODUCTS

3.1 Review and Approval of Products

The products traded on the exchange and any changes thereto are submitted to the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

3.2 Product Specifications

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

3.3 Risks Associated with Trading Products

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.

PART 4 ACCESS

4.1 Fair Access

(a) The exchange has established appropriate written standards for access to its services including requirements to ensure

(i) participants are appropriately registered as applicable under Ontario securities laws, or exempted from these requirements,

(ii) the competence, integrity and authority of systems users, and

(iii) systems users are adequately supervised.

(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

(c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.

(d) The exchange does not

(i) permit unreasonable discrimination among participants, or

(ii) impose any burden on competition that is not reasonably necessary and appropriate.

(e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE

5.1 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 its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 6 RULEMAKING

6.1 Purpose of Rules

(a) The exchange has rules, policies and other similar instruments (**Rules**) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.

(b) The Rules are not contrary to the public interest and are designed to

(i) ensure compliance with applicable legislation,

(ii) prevent fraudulent and manipulative acts and practices,

(iii) promote just and equitable principles of trade,

(iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,

(v) provide a framework for disciplinary and enforcement actions, and

(vi) ensure a fair and orderly market.

PART 7 DUE PROCESS

7.1 Due Process

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, 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 8 CLEARING AND SETTLEMENT

8.1 Clearing Arrangements

The exchange has or requires its participants to have appropriate arrangements for the clearing and settlement of transactions for which clearing is mandatory through a clearing house.

8.2 Risk Management of Clearing House

The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

PART 9 SYSTEMS AND TECHNOLOGY

9.1 Systems and Technology

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

(a) order entry,

(b) order routing,

(c) execution,

(d) trade reporting,

(e) trade comparison,

(f) data feeds,

(g) market surveillance,

(h) trade clearing, and

(i) financial reporting.

9.2 System Capability/Scalability

Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

(a) makes reasonable current and future capacity estimates;

(b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;

(c) reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;

(d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;

(e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;

(f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and

(g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

9.3 Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and respond to market disruptions and disorderly trading.

PART 10 FINANCIAL VIABILITY

10.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 11 TRADING PRACTICES

11.1 Trading Practices

Trading practices are fair, properly supervised and not contrary to the public interest.

11.2 Orders

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

11.3 Transparency

The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or the Foreign Regulator. This information is also provided to all participants on an equitable basis.

PART 12 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT

12.1 Jurisdiction

The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

12.2 Member and Market Regulation

The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

12.3 Availability of Information to Regulators

The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.

PART 13 RECORD KEEPING

13.1 Record Keeping

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

PART 14 OUTSOURCING

14.1 Outsourcing

Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

PART 15 FEES

15.1 Fees

(a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 16 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

16.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

16.2 Oversight Arrangements

Satisfactory information sharing and oversight agreements exist between the Commission and the Foreign Regulator.

PART 17 IOSCO PRINCIPLES

17.1 IOSCO Principles

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organisation of Securities Commissions (IOSCO) including those set out in the “Principles for the Regulation and Supervision of Commodity Derivatives Markets” (2011).

BLOOMBERG TRADEBOOK CANADA COMPANY

NOTICE OF PROPOSED CHANGE AND REQUEST FOR COMMENT

Bloomberg Tradebook Canada Company ("**Tradebook Canada**") is publishing this Notice of Proposed Change and Request for Comment in accordance with the "Process for the Review and Approval of Rules and the Information Contained in Form 21-101F2 and the Exhibits Thereto" (the "**ATS Protocol**"). Market participants are invited to provide the Ontario Securities Commission (the "**OSC**") with comments on the proposed changes.

Comments on the proposed changes should be in writing and submitted by July 18, 2022 to:

Market Regulation Branch
Ontario Securities Commission
22nd Floor
20 Queen Street West Toronto, Ontario
M5H 3S8
Fax: (416) 595-8940

E-mail: marketregulation@osc.gov.on.ca

And to:

Soh Bridgeford, Chief Compliance Officer
Bloomberg Tradebook Canada Company
Brookfield Place – TD Canada Trust Tower
161 Bay Street, Suite 4300
Toronto, Ontario M5J 1G3

Email: sbridgeford@bloomberg.com

Comments received will be made public on the OSC website. Upon completion of the review by OSC staff, and in the absence of any regulatory concerns, notice will be published to confirm approval by the OSC and to specify the intended implementation date of the change.

If you have any questions concerning the information below, please contact Soh Bridgeford, Chief Compliance Officer, at (212) 617-4865.

1. Access to additional asset classes for negotiation on the system operated by Bloomberg Tradebook Singapore Pte Ltd

A. Description of the proposed change

Background

Under its current approvals, Tradebook Canada is the operator of an alternative trading system ("**ATS**") in Alberta, Nova Scotia, Ontario, Québec and Saskatchewan (collectively referred to as the "**ATS Jurisdictions**") that provides Canadian Participants (as defined below) located in an ATS Jurisdiction with access to the multilateral trading facilities operated by Tradebook Canada's affiliated entities, Bloomberg Trading Facility Limited ("**BTFL**") and Bloomberg Trading Facility B.V. ("**BTF BV**"), and the organised market operated by its affiliated entity, Bloomberg Tradebook Singapore Pte Ltd ("**Tradebook Singapore**") (each a "**Marketplace System**" and collectively referred to as the "**Marketplace Systems**"), to trade Canadian Debt Securities (as defined below).

With respect to the Marketplace System operated by Tradebook Singapore only, Tradebook Canada has provided Canadian Participants located in the Canadian Jurisdictions with access to negotiate trades in (1) IRS, CDS, Canadian Debt Securities and Foreign Debt Securities (as defined below) under a per-transaction fee model that commenced on September 13, 2021, and (2) FX (as defined below) that commenced on October 4, 2021.

Canadian Participants

Canadian Participants are participants that (1) are located in an ATS Jurisdiction, including participants with their headquarters or legal address in an ATS Jurisdiction (as indicated by a participant's Legal Entity Identifier ("**LEI**")) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-ATS Jurisdiction branches of ATS Jurisdiction legal entities), as well as any trader physically located in an ATS Jurisdiction who conducts transactions on behalf of any other entity, and (2) qualify as "institutional customers" as defined in Rule 1201(2) of the Investment Industry Regulatory Organization of Canada Rules.

Asset Classes Traded through Tradebook Canada

Tradebook Canada supports the trading of:

1. any unlisted debt securities, as that term is defined in National Instrument 21-101 *Marketplace Operation* ("**NI 21-101**"), and any debt securities denominated in Canadian dollars ("**Canadian Debt Securities**");

2. interest rate swaps, as defined in section 1a(47) of the U.S. Commodity Exchange Act ("**IRS**");

3. credit default swaps, as defined in section 1a(47) of the U.S. Commodity Exchange Act ("**CDS**") and single-name security (credit default) swaps;

4. foreign exchange swaps[1], as defined in section 1a(47) of the U.S. Commodity Exchange Act (but without regard to any exclusions from the definition) ("**FX**");

5. any debt security (as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("**NI 31-103**")) that is a foreign security (as defined in NI 31-103) or a debt security that is denominated in a currency other than the Canadian dollar ("**Foreign Debt Securities**"[2]), including:

    (a) debt securities issued by the U.S. government (including agencies or instrumentalities thereof);

    (b) debt securities issued by a foreign government;

    (c) debt securities issued by corporate or other non-governmental issuers (U.S. and foreign); and

    (d) asset-backed securities (including mortgage backed securities), denominated in either U.S. or foreign currencies.

Proposed Change

Tradebook Canada proposes to provide Canadian Participants with access to the Marketplace System operated by Tradebook Singapore for purposes of negotiating trades in Foreign Non-Debt Securities (as defined below).

[1] "FX" includes FX spot, deposits, trade finance and precious metals swaps for Tradebook Singapore only under the arrangement described above.

[2] For greater certainty, "Foreign Debt Securities" includes convertible debt securities and the following money market instruments (U.S. and foreign): commercial paper, agency discount notes, government treasury bills, certificates of deposit, bankers' acceptances, promissory notes and bearer deposit notes.

"**Foreign Non-Debt Securities**" are any foreign securities (as defined in NI 31-103) that are not debt securities (as defined in NI 31-103), including:

(a) securities of foreign exchange-traded funds, which refers to a fund in continuous distribution that is incorporated, formed or created under the laws of a foreign jurisdiction; and

(b) stock loans, which refer to securities lending arrangements in which securities are temporarily transferred from one party (the lender) to another party (the borrower) in return for a fee. Under the lending arrangement, the borrower is obliged to redeliver to the lender the securities or identical securities to those that were transferred or lent, either on demand or at the end of the loan term.

The proposed change is a significant change subject to public comment under the ATS Protocol. Tradebook Canada has filed with the OSC an amendment to its Form 21-101F2 *Information Statement – Alternative Trading System* ("**Form 21-101F2**") in respect of the proposed change.

B. The expected date of implementation

Tradebook Canada is aiming to implement the proposed change in Q3, 2022, after regulatory approval of the proposed change is granted.

C. Rationale for the proposed change

The proposed change will provide Canadian Participants with the ability to negotiate trades in additional asset classes via the Tradebook Singapore Marketplace System and will harmonize the trading functionality available to Canadian Participants through Tradebook Canada with the functionality currently offered by Tradebook Singapore to clients in Singapore and other foreign jurisdictions.

D. Expected impact of the proposed change on market structure, subscribers, investors and capital markets

Tradebook Canada does not foresee any impact on market structure, subscribers, investors or the capital markets because of the proposed change. The proposed change is consistent with the existing regulatory framework within Canada and will provide Canadian Participants with the ability to trade additional asset classes.

E. Expected impact of the proposed change on Tradebook Canada's compliance with Ontario securities law and the requirements for fair access and maintenance of a fair and orderly market

Tradebook Canada foresees no negative impact with respect to compliance with Ontario securities law and the requirements for fair access and the maintenance of a fair and orderly market. With regard to fair access, the proposed change will allow all Canadian Participants to trade additional asset classes, so there are no apparent fair-access concerns.

F. Consultations undertaken in formulating the proposed change, including internal governance followed

Tradebook Canada consulted with certain customers, including Canadian banks, before proceeding with the proposed change. The proposed change was approved by the management of Tradebook Canada.

G. For a Proposed Fee Change

N/A.

H. Whether the proposed change will require subscribers and vendors to modify their own systems

The proposed change does not constitute a material change to "technology requirements regarding interfacing with or accessing the marketplace" within the meaning of Part 12.3 of NI 21-101 because subscribers and service vendors will not be required to do any work to modify their systems. It will not have any effect on existing subscribers and service vendors of Tradebook Canada or existing clients of Tradebook Singapore.

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

N/A.

J. Alternatives considered

No alternatives to the proposed change were considered.

K. Whether the proposed change would introduce a feature that currently exists in other markets or jurisdictions

The proposed change introduces a feature that is currently offered by Tradebook Singapore in Singapore and other foreign jurisdictions.

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Editor's Note: On Friday, April 29, 2022, the Securities Commission Act, 2021, came into force by proclamation of the Lieutenant Governor of Ontario. The new structural and governance changes are now reflected in the Bulletin index with the use of the "Capital Markets Tribunal" designation to differentiate those proceedings from the proceedings of the Ontario Securities Commission: www.capitalmarketstribunal.ca.

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