The Ontario Securities Commission

OSC Bulletin

August 18, 2022

Volume 45, Issue 33

(2022), 45 OSCB

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

Published under the authority of the Commission by:
Thomson Reuters
One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4
416-609-3800 or 1-800-387-5164

42953158

The OSC Bulletin is published weekly by Thomson Reuters Canada, under the authority of the Ontario Securities Commission.

Thomson Reuters Canada offers every issue of the Bulletin, from 1994 onwards, fully searchable on S*ecuritiesSource*™, Canada's pre-eminent web-based securities resource. *SecuritiesSource*™ also features comprehensive securities legislation, expert analysis, precedents and a weekly Newsletter. For more information on *SecuritiesSource*™, as well as ordering information, please go to:

https://www.westlawnextcanada.com/westlaw-products/securitiessource/

or call Thomson Reuters Canada Customer Support at 1-416-609-3800 (Toronto & International) or 1-800-387-5164 (Toll Free Canada & U.S.).

Claims from *bona fide* subscribers for missing issues will be honoured by Thomson Reuters Canada up to one month from publication date.

Space is available in the Ontario Securities Commission Bulletin for advertisements. The publisher will accept advertising aimed at the securities industry or financial community in Canada. Advertisements are limited to tombstone announcements and professional business card announcements by members of, and suppliers to, the financial services industry.

The publisher is not engaged in rendering legal, accounting or other professional advice. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

Printed in the United States by Thomson Reuters.

ISSN 0226-9325

THOMSON REUTERS®

Address

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

Customer Support

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

Table of Contents

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.

A. Capital Markets Tribunal

A.2
Other Notices

A.2.1 Aurelio Marrone

FOR IMMEDIATE RELEASE
August 10, 2022

AURELIO MARRONE,
File No. 2020-16

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

A copy of the Order dated August 10, 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:

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

This page intentionally left blank

A.3
Orders

A.3.1 Aurelio Marrone

IN THE MATTER OF
AURELIO MARRONE

File No. 2020-16

Adjudicators: M. Cecilia Williams (chair of the panel)
Russell Juriansz
William Furlong

August 10, 2022

ORDER

WHEREAS on August 10, 2022, the Capital Markets Tribunal held a hearing by videoconference to set a schedule for a sanctions and costs hearing in this proceeding;

ON HEARING the submissions of the representatives for Staff of the Ontario Securities Commission and Aurelio Marrone;

IT IS ORDERED THAT:

1. Staff shall serve and file written evidence, if any, and submissions on sanctions and costs, by 4:30 p.m. on September 16, 2022;

2. Marrone shall serve and file written evidence, if any, and submissions on sanctions and costs, by 4:30 p.m. on October 7, 2022;

3. Staff shall serve and file reply written evidence, if any, and reply submissions on sanctions and costs, if any, by 4:30 p.m. on October 14, 2022; and

4. the hearing with respect to sanctions and costs is scheduled for October 21, 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.

“M. Cecilia Williams”

“Russell Juriansz”

“William Furlong”

This page intentionally left blank

B. Ontario Securities Commission

B.1
Notices

B.1.1 Notice of Ministerial Approval of Amendments to National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives and Changes to Companion Policy 94-101 Mandatory Central Counterparty Clearing of Derivatives

NOTICE OF MINISTERIAL APPROVAL OF
AMENDMENTS TO
NATIONAL INSTRUMENT 94-101
MANDATORY CENTRAL COUNTERPARTY CLEARING OF DERIVATIVES

AND CHANGES TO
COMPANION POLICY 94-101 *MANDATORY CENTRAL COUNTERPARTY CLEARING OF DERIVATIVES*

August 18, 2022

Amendments (the **Rule Amendments**) to National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives* (the **Rule**) have received Ministerial approval pursuant to section 143.3(3)(a) of the *Securities Act* (Ontario). In connection with the Rule Amendments, the Commission also adopted changes (the **Policy Changes**) to Companion Policy 94-101 *Mandatory Central Counterparty Clearing of Derivatives* (the **Policy**).

The Rule Amendments and Policy Changes were published in the Ontario Securities Commission's (**OSC**) Bulletin on January 27, 2022 at **(2022), 45 OSCB 999** and on the OSC website at **www.osc.ca**. The Rule Amendments and Policy Changes will become effective on September 1, 2022, with the exception of the amendments to Appendix A and B of the Rule, which became effective on April 12, 2022.

The full text of the Rule incorporating the Rule Amendments and the full text of the Policy incorporating the Policy Changes are reproduced in Chapter 5 of this Bulletin.

B.1.2 Notice of Correction – Investment Industry Regulatory Organization of Canada (IIROC) – Housekeeping Amendments to Form 1, Part II – Report on Compliance for Insurance, Segregation of Securities and Guarantee/Guarantor Relationships – Notice of Commission Deemed Approval

NOTICE OF CORRECTION

NOTICE OF COMMISSION DEEMED APPROVAL

HOUSEKEEPING AMENDMENTS TO FORM 1, PART II – REPORT ON COMPLIANCE FOR INSURANCE, SEGREGATION OF SECURITIES AND GUARANTEE/GUARANTOR RELATIONSHIPS

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

In the Notice of Commission Deemed Approval – Housekeeping Amendments to Form 1, Part II – Report on Compliance for Insurance, Segregation of Securities and Guarantee/Guarantor Relationships *published at (2022), 45 OSCB 7407, the coming into effect date was incorrect. The correct coming into effect date is October 1, 2022. The corrected Notice is republished in full in Chapter B.11 of this issue.*

B.2
Orders

B.2.1 Imperial Helium Corp.

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 Imperial Helium Corp.*, 2022 ABASC 109

August 15, 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
IMPERIAL HELIUM CORP.
(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, Nova Scotia, 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 #: 2022/0368

This page intentionally left blank

B.3
Reasons and Decisions

B.3.1 NOVA Gas Transmission Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – the Filer requests relief from the requirements in section 3.2 of National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards that financial statements be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises in order to permit the Filer to prepare financial statements in accordance with U.S. GAAP. Relief granted, subject to certain conditions.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles and Auditing Standard, ss. 3.2 and 5.1.

Citation: *Re NOVA Gas Transmission Ltd.*, 2022 ABASC 103

July 29, 2022

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

AND

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

AND

IN THE MATTER OF
NOVA GAS TRANSMISSION LTD.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption (the **Exemption Sought**) from the requirements of section 3.2 of National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards (**NI 52-107**) that the financial statements of the Filer (a) be prepared in accordance with Canadian generally accepted accounting principles (**Canadian GAAP**) applicable to publicly accountable enterprises and (b) disclose an unreserved statement of compliance with IFRS in the case of annual financial statements and an unreserved statement of compliance with IAS 34 in the case of an interim financial report.

The Exemption Sought is similar to the exemption granted to the Filer on October 25, 2018 in *Re Nova Gas Transmission Ltd., 2018 ABASC 166* (the **U.S. GAAP Relief**).

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

(a) the Alberta Securities Commission 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 by it in each of British Columbia, Saskatchewan, Manitoba, Québec, New

Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (the **Passport Jurisdictions**); 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

In this decision:

(a) unless otherwise defined herein, terms defined in National Instrument 14-101 *Definitions,* MI 11-102, National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) or NI 52-107 have the same meaning; and

(b) rate-regulated activities has the meaning ascribed thereto in the Chartered Professional Accountants of Canada Handbook (**Handbook**).

Representations

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

1. The Filer was incorporated under the *NOVA Corporation Act of Alberta* on April 8, 1954 and was continued under the *Business Corporations Act* (Alberta) on September 1, 1987. The head office of the Filer is located in Calgary, Alberta.

2. The Filer is an indirect wholly-owned subsidiary of TC Energy Corporation (**TC Energy**) by virtue of TC Energy's 100% ownership interest in TransCanada PipeLines Limited (**TCPL**). TCPL owns a direct 100% interest in the Filer.

3. The Filer is a reporting issuer in the Jurisdictions and each of the Passport Jurisdictions and is not in default of securities legislation in any jurisdiction in Canada.

4. The Filer currently prepares and files its financial statements for annual and interim periods in accordance with U.S. GAAP, relying on the U.S. GAAP Relief, or similar prior exemptive relief, and commenced reporting pursuant to U.S. GAAP on January 1, 2012.

5. The Filer has rate-regulated activities.

6. The Filer is not an SEC issuer.

7. TC Energy and TCPL as permitted by section 3.7 of NI 52-107, file financial statements prepared in accordance with U.S. GAAP. The financial statements of the Filer are consolidated with the financial statements of TC Energy and TCPL.

8. Were the Filer an SEC issuer, it would be permitted by section 3.7 of NI 52-107 to file its financial statements prepared in accordance with U.S. GAAP.

9. The U.S. GAAP Relief provided that it would cease to apply to the Filer on the earliest of: (a) January 1, 2024; (b) if the Filer ceased to have activities subject to rate regulation, the first day of the Filer's financial year that commenced after the Filer ceased to have activities subject to rate regulation; and (c) the effective date prescribed by the International Accounting Standards Board (**IASB**) for the mandatory application of a standard within IFRS specific to entities with activities subject to rate regulation. Accordingly, in the absence of further relief provided by Canadian securities regulators, the Filer would become subject to Canadian GAAP no later than January 1, 2024. Canadian GAAP includes IFRS as incorporated into the Handbook.

10. In January 2021, the IASB published the Exposure Draft - Regulatory Assets and Regulatory Liabilities, which introduces a proposed standard of accounting for regulatory assets and liabilities, applicable to entities with rate-regulated activities. The issuance by the IASB of a standard within IFRS for entities with rate-regulated activities (a **Mandatory Rate-regulated Standard**) would have resulted in the expiry of the U.S. GAAP Relief, giving rise to the obligation of the Filer to commence financial statement preparation and reporting in accordance with IFRS pursuant to NI 52-107.

11. It is not yet known when the IASB will finalize and implement such a standard and the Filer will require sufficient time to: (a) interpret and implement such standard and transition from financial statement preparation and reporting in accordance with U.S. GAAP to IFRS; and (b) interpret and reconcile the implications on the customer rate setting process resulting from the implementation.

Decision

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

The decision of the Decision Makers under the Legislation is that:

(a) the U.S. GAAP Relief is revoked;

(b) the Exemption Sought is granted to the Filer in respect of the Filer's financial statements required to be filed on or after the date of this order, provided that the Filer prepares such financial statements in accordance with U.S. GAAP; and

(c) the Exemption Sought will terminate in respect of the Filer on the earliest of the following:

(i) January 1, 2027;

(ii) if the Filer ceases to have rate-regulated activities, the first day of the Filer's financial year that commences after the Filer ceases to have rate-regulated activities; and

(iii) the first day of the Filer's financial year that commences on or following the later of:

A. the effective date prescribed by the IASB for a Mandatory Rate-regulated Standard; and

B. two years after the IASB publishes the final version of a Mandatory Rate-regulated Standard.

For the Commission:

“Tom Cotter”
Vice-Chair

“Kari Horn”
Vice-Chair

OSC File #: 2022/0328

B.3.2 Bank of Montreal et al. – s. 5.1 of OSC Rule 48-501

Headnote

Application for a decision, pursuant to section 5.1 of OSC Rule 48-501, exempting the applicants from trading restrictions imposed by section 2.2 of OSC Rule 48-501. Decision granted.

Rule Cited

Ontario Securities Commission Rule 48-501 – Trading During Distributions, Formal Bids and Share Exchange Transactions.

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

AND

ONTARIO SECURITIES COMMISSION RULE 48-501
TRADING DURING DISTRIBUTIONS, FORMAL BIDS AND SHARE EXCHANGE TRANSACTIONS
(the Rule)

AND

IN THE MATTER OF
BANK OF MONTREAL,
BANK OF MONTREAL EUROPE PLC,
BMO HARRIS BANK N.A.,
BMO NESBITT BURNS INC.,
BMO INVESTORLINE INC.,
BMO CAPITAL MARKETS CORP.,
BMO CAPITAL MARKETS LIMITED,
CLEARPOOL EXECUTION SERVICES, LLC,
BMO ASSET MANAGEMENT INC.,
BMO INVESTMENTS INC.,
BMO PRIVATE INVESTMENT COUNSEL INC.,
BMO NESBITT BURNS SECURITIES LIMITED,
BMO ASSET MANAGEMENT CORP.,
BMO DIRECT INVEST, INC.,
STOKER OSTLER WEALTH ADVISORS, INC.,
BMO FAMILY OFFICE, LLC,
BMO TRUST COMPANY,
AND
BMO DELAWARE TRUST COMPANY

DECISION
(Section 5.1 of the Rule)

UPON the Director (as defined in the Act) having received an application (the Application) from Bank of Montreal (BMO), Bank of Montreal Europe plc (BME), BMO Harris Bank N.A. (BMO Harris), BMO Nesbitt Burns Inc. (BMO Nesbitt), BMO InvestorLine Inc. (BMO InvestorLine), BMO Capital Markets Corp. (BMOCMC), BMO Capital Markets Limited (BMOCML), Clearpool Execution Services, LLC (Clearpool), BMO Asset Management Inc. (BMO Asset Management), BMO Investments Inc. (BMO Investments), BMO Private Investment Counsel Inc. (BMOPICI), BMO Nesbitt Burns Securities Limited (BMONBSL), BMO Asset Management Corp. (BMOAMC), BMO Direct Invest, Inc. (BMODI), Stoker Ostler Wealth Advisors, Inc. (Stoker) BMO Family Office, LLC (BMO Family Office) BMO Trust Company (BMO Trust) and BMO Delaware Trust Company (Delaware Trust) (collectively, the Applicants), for a decision (or its equivalent) pursuant to section 5.1 of the Rule exempting:

a) BMOCMC, BMO Asset Management, BMOPICI, BMONBSL, BMO Harris, BMOAMC, BMODI, Stoker, BMO Family Office, Delaware Trust and such other direct or indirect subsidiaries of BMO who, from time to time, hold discretionary investment authority over the assets in clients' accounts and are successors to any of the foregoing entities (the Asset Managers),

b) BMO Asset Management, BMO Investments, BMOPICI, BMOAMC, BMO Harris, Stoker, BMO Family Office and such other direct or indirect subsidiaries of BMO who, from time to time, act as investment fund manager to investment funds and are successors to any of the foregoing entities (the BMO Fund Managers),

c) BMO and direct or indirect subsidiaries of BMO who, from time to time, purchase common shares of BMO (Shares) on a regular basis in accordance with the terms and conditions of a Plan (defined below) and are successors to any of the foregoing entities (the Plan Facilitators),

d) BMO Harris, BMO Trust, Delaware Trust and such other direct or indirect subsidiaries of BMO who, from time to time, act as trustees, corporate service providers, administrators, executors or personal representatives of estates and trusts (including foundations, endowments, and retirement and other employee benefit plans) and are successors to any of the foregoing entities (the Trustees),

e) BMO Harris, Delaware Trust and such other direct or indirect subsidiaries of BMO who, from time to time, engages in the provision of custody services and are successors to any of the foregoing entities (the Custodians),

f) BMO Harris and such other direct or indirect subsidiaries of BMO who, from time to time, borrow and lend securities from and to clients as part of stock lending transactions in the ordinary course of business and are successors to BMO Harris (the SLAs),

g) BMO Nesbitt and BMO InvestorLine and such other direct or indirect subsidiaries of BMO who, from time to time, are registered as investment dealers in Canada in accordance with applicable securities legislation, are dealer-restricted entities as defined under OSC Rule 48-501 in respect of the Proposed Acquisition (defined below), and are successors to any of the foregoing entities (the Restricted Dealers),

h) BME, BMOCMC, BMOCML, BMONBSL and Clearpool and such other direct or indirect subsidiaries of BMO who, from time to time, engage in trading or brokerage activities for their own account or for the accounts of their clients and are successors to any of the foregoing entities, other than the Restricted Dealers (the Non-Restricted Dealers), and

i) BMO, from trading restrictions imposed upon issuer-restricted persons by section 2.2 of the Rule, during the issuer-restricted period (as defined in the Rule, the Issuer-Restricted Period) that will apply to any distribution of Shares (Arrangement Distribution) as consideration for the shares of Radicle Group Inc. (the Corporation) that BMO will acquire pursuant to the proposed acquisition of the Corporation (the Proposed Acquisition).

AND UPON considering the Application and the recommendation of staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicants having represented to the Director that:

1. BMO is a Schedule I bank under the *Bank Act* (Canada) and is regulated by the Office of the Superintendent of Financial Institutions.

2. BME is an Irish incorporated public limited company with its head office in Dublin, Ireland. It is authorized as a credit institution by the Central Bank of Ireland to conduct banking and investment business in the European Union.

3. BMO Harris is registered as a national bank in the United States and has its head office in Chicago, Illinois.

4. BMO Nesbitt is incorporated under the laws of Canada and has its head office in Toronto, Ontario. It is registered as an investment dealer in all provinces and territories of Canada, as a futures commission merchant in Ontario and Manitoba, as a derivatives dealer in Quebec and as an investment fund manager in Ontario, Quebec and Newfoundland and Labrador and is a member of Investment Industry Regulatory Organization of Canada (IIROC), the Toronto Stock Exchange (TSX), the TSX Venture Exchange, the TSX Alpha Exchange and the Canadian Securities Exchange, and an approved participant of the Montreal Exchange.

5. BMO InvestorLine is incorporated under the laws of Canada and has its head office in Toronto, Ontario. It is registered as an investment dealer under the securities legislation of all provinces and territories of Canada and as a derivatives dealer in Quebec, and is a member of IIROC. In addition to operating a discount brokerage service, BMO InvestorLine also operates the adviceDirect service, a fee-based non-discretionary brokerage service which includes advice through an online platform.

6. BMOCMC is organized under the laws of Delaware and has its head office in New York, New York. BMOCMC operates as a self-clearing, institutional broker-dealer providing investment banking and brokerage services to corporate, institutional, and affiliate clients. It conducts its principal operations from office facilities in New York City and Chicago,

maintains additional offices in New York State, California, Florida, Virginia, Arizona, New Jersey, Maryland, Massachusetts, Minnesota, Colorado, Texas, Washington, Wisconsin and Toronto, and also maintains an operations center in Jersey City, New Jersey. BMOCMC is registered with the SEC as a U.S. securities broker-dealer and as an investment adviser and is a member of the Financial Industry Regulatory Authority, Inc. (FINRA), the Securities Investor Protection Corporation (SIPC), and several other self-regulatory organizations (SROs).

7. BMOCML is incorporated in England with its head office in London, United Kingdom. It is an investment firm authorized and regulated by the Financial Conduct Authority in the United Kingdom to carry out broker dealer activities and investment banking activities.

8. Clearpool is a New York limited liability company and agency broker-dealer that is registered with the SEC. Clearpool is a member of FINRA, and several other SROs. Clearpool is registered to conduct business in several U.S. states and is a member of the SIPC.

9. BMO Asset Management is incorporated under the laws of the Province of Ontario and has its head office in Toronto, Ontario. It is registered as a portfolio manager and exempt market dealer under the securities legislation of all provinces and territories of Canada, a derivatives portfolio manager in Quebec and a commodity trading manager in Ontario and an investment fund manager in Ontario, Quebec and Newfoundland and Labrador.

10. BMO Investments is amalgamated under the laws of Canada and has its head office in Toronto, Ontario. It is registered as a mutual fund dealer under the securities legislation of all provinces and territories of Canada, and an investment fund manager in Ontario, Quebec and Newfoundland and Labrador. It is also a member of the Mutual Fund Dealers Association of Canada.

11. BMOPICI is incorporated under the laws of Canada and has its head office in Toronto, Ontario. It is registered as a portfolio manager and exempt market dealer under the securities legislation of all provinces and territories of Canada, a commodity trading manager and commodity trading counsel in Ontario, a derivatives portfolio manager in Quebec and an investment fund manager in Ontario, Quebec and Newfoundland and Labrador. It is also registered as an investment adviser with the SEC.

12. BMODI is incorporated under the laws of Delaware and has its head office in Chicago, Illinois. It is registered as an investment adviser with the SEC.

13. Stoker is incorporated under the laws of Arizona and has its head office in Scottsdale, Arizona. It is registered as an investment adviser with the SEC.

14. BMO Family Office is incorporated under the laws of Delaware and has its head office in Chicago, Illinois. It is registered as an investment adviser with the SEC.

15. BMONBSL is incorporated under the laws of Canada and has its head office in Toronto, Ontario. It is registered as a broker-dealer and an investment adviser with the SEC and is a member of FINRA.

16. BMOAMC is incorporated under the laws of Delaware and has its head office in Chicago, Illinois. It is registered as an investment adviser with the SEC.

17. BMO Trust is organized under the laws of Canada and has its head office in Toronto, Ontario. It is regulated by the Office of the Superintendent of Financial Institutions.

18. Delaware Trust is incorporated under the laws of Delaware and has its head office in Greenville, Delaware. It is regulated by the Delaware Office of the State Bank Commissioner.

19. Each of the Asset Managers manages accounts on behalf of clients who have granted the Asset Manager discretionary investment authority over the assets in the clients' accounts (including clients' accounts that are pooled investment funds) (Managed Accounts) and who have provided the Asset Managers with express written consent to exercise such discretionary investment authority to purchase Shares on behalf of the Managed Accounts (Authorized Managed Accounts).

20. Each investment fund managed by the BMO Fund Managers (each an Authorized BMO Fund) that is organized under the laws of a jurisdiction of Canada has an Independent Review Committee that has approved the purchase of Shares in the ordinary course (which would include the time period that would fall during an Issuer-Restricted Period) in accordance with either section 6.2 of National Instrument 81-107 - *Independent Review Committee for Investment Funds* or the terms and conditions of an exemption that has been granted by the Commission.

21. The Asset Managers and the BMO Fund Managers manage assets of the Authorized Managed Accounts and the Authorized BMO Funds. As part of their ordinary investment management activities on behalf of the Authorized Managed

Accounts or the Authorized BMO Funds, the Asset Managers and the BMO Fund Managers, as applicable, may buy and sell Shares for certain of the Authorized Managed Accounts or Authorized BMO Funds.

22. The Plan Facilitators each purchase Shares on a regular basis on behalf of persons or companies who are participants in (i) an Employee Plan (defined below); or (ii) the shareholder dividend reinvestment and share purchase plan of BMO (the DRIP, and together with the Employee Plans, the Plans).

23. BMO and its subsidiaries sponsor: (i) Employee Share Ownership Plan (BMO ESOP) for employees of BMO and its subsidiaries living and working in Canada or expatriates who continue to be on the Canadian payroll, (ii) Employee Share Ownership Plan (Nesbitt ESOP) for employees of BMO Nesbitt and its subsidiaries living and working in Canada or expatriates who continue to be on the Canadian payroll, (iii) Qualified Employee Share Purchase Plan (QESPP) for employees of certain of BMO's subsidiaries, (iv) Non-Qualified Employee Share Purchase Plan (NQESPP) for employees of BMO resident in the United States, and (v) All Employee Share Ownership Plan (UK ESOP) for employees of BMO or a subsidiary of BMO that are subject to income tax in the United Kingdom, and (vi) Employee Share Ownership Plan for employees of BME (BME ESOP), in each case, a voluntary savings program available to the employees of BMO and its affiliates.

24. As the sponsor of the BMO ESOP, Nesbitt ESOP, QESPP, NQESPP, UK ESOP and BME ESOP (collectively, the Employee Plans), BMO and its subsidiaries pay all administration fees associated with the Employee Plans. The Plan Facilitators make all Share purchases on behalf of the Plans (other than share purchases under the QESPP and the NQESPP) and their participants through BMO Nesbitt.

25. Each of the Employee Plans is an automatic securities purchase plan for purposes of Part 5 of National Instrument 55-104 – *Insider Reporting Requirements and Exemptions*.

26. BMO operates the DRIP to provide holders of Shares with a means to receive additional Shares rather than cash dividends. The requirements of the DRIP are satisfied either through open market share purchases of Shares by BMO Nesbitt or through issuance of Shares from treasury.

27. The Plan Facilitators, from time to time, purchase Shares on the open market to facilitate the grant of awards or exercises pursuant to the terms of the Employee Plans or in lieu of paying cash dividends under the DRIP. In respect of the Employee Plans, the Plan Facilitators make the purchases on a regular basis, depending on the applicable Employee Plan, solely to satisfy BMO's obligation to deliver Shares based on pre-determined payroll deductions of the employee or grants and exercise under the Plans. All purchases of Shares by the Plan Facilitators in connection with the Plans are in accordance with the terms and conditions of the applicable Plan.

28. The Trustees each act as trustees, corporate service providers, administrators, executors or personal representatives of estates and trusts (including foundations, endowments, and retirement and other employee benefit plans). As part of their responsibilities, the Trustees purchase Shares on a limited basis where permitted under applicable laws and with any required consents. Such activities are conducted in accordance with the Trustees' fiduciary duty to act in a manner that is in the best interests of the beneficiaries (except in certain circumstances where the Trustee acts on a client's direction, in which cases the Trustee does not have discretion as to the purchase or sale of Shares). The transactions that may result from these market activities may occur through the TSX, the New York Stock Exchange (NYSE) or other equity markets.

29. The Custodians each engage in the provision of custody services, including the settlement of trades in Shares, which clients or third parties authorized by clients to operate their accounts, such as a client's investment advisor or portfolio manager, arrange to be executed with a third-party broker. In connection with such custody services, a Custodian may also perform ancillary services, such as acting as a directed trustee and purchasing or selling Shares upon the direction of their clients or the clients' investment advisors or portfolio managers. Any purchases or sales of Shares that a Custodian may engage in as a directed trustee are incidental to their primary function of providing custodial services to their clients. The Custodians do not have any discretion as to such purchases or sales and execute transactions upon specific directions of clients or their investment advisors or portfolio managers. The transactions that may result from these market activities may be effected on the TSX, the NYSE or other equity markets.

30. The SLAs each borrows and lends securities, including Shares, from and to clients as part of stock lending transactions in the ordinary course of business. In some circumstances, a client may purchase Shares from a third party in anticipation of lending them to an SLA, or a client may arrange for a third party to purchase Shares after the client has borrowed them from an SLA. In addition, certain subsidiaries of BMO accept Shares as collateral for loans. In the event that the borrower defaults on a loan, such collateral may be foreclosed on and in some circumstances disposed of, including by selling it in the market. The transactions that may result from these market activities may be effected on the TSX, the NYSE or other equity markets.

31. The activities of the SLAs do not constitute bids for, purchases of or inducements to make bids for or purchases of Shares in the traditional sense. Nonetheless, in some circumstances (1) the activities of the SLAs could be construed as attempts

to induce a bid or purchase because a client may purchase Shares from a third party in anticipation of lending them to an SLA, or a client may arrange for a third party to purchase Shares after the client has borrowed them from an SLA; and (2) the activities of the SLAs could be construed as attempts to induce a bid or purchase because the SLA may foreclose on collateral that includes Shares and dispose of it, including by selling it in the market.

32. The Non-Restricted Dealers engage in trading or brokerage activities for their own account or for the accounts of their clients through ordinary client facilitation and related services. The Non-Restricted Dealers (and/or divisions thereof) may engage in unsolicited brokerage activities, or provide additional services, including discussions with clients regarding investment strategies (including with respect to Shares) and solicited and unsolicited brokerage strategies (including with respect to Shares) and solicited and unsolicited brokerage accounts in order to facilitate client transactions. The Non-Restricted Dealers may accomplish these activities by engaging in direct buying and selling of Shares or relaying buy and sell orders for Shares to affiliates or unaffiliated third parties.

33. The Non-Restricted Dealers may also effect trades in Shares for their own accounts and for the accounts of their clients, for the purpose of hedging positions (or adjusting or liquidating existing hedge positions) of BMO, its affiliates and of their clients in the ordinary course of their business.

34. BMO from time to time operates a normal course issuer bid (NCIB) to repurchase Shares for cancellation through the TSX and/or through other designated exchanges and Canadian alternative trading systems. BMO operates its NCIBs in compliance with the securities laws of Canada and the United States, as well as the rules of the TSX and other designated exchanges, as applicable. These rules are in place to prevent NCIBs from abnormally influencing the market price of an issuer's shares. BMO is subject to annual and daily share repurchase limits in respect of any of its NCIBs. Over a 12-month period, total shares repurchased must not exceed the greater of (i) 10% of the public float and (ii) 5% of common shares issued and outstanding. BMO strictly abides by these repurchase limits. In addition, share repurchases made by BMO must be made at a price which is not greater than the last independent trade of a board lot. BMO Nesbitt has built NCIB-specific trading algorithms to ensure that NCIB repurchases are made at a price that is not greater than the last independent trade of a board lot. During an Issuer-Restricted Period, BMO will conduct repurchases under any of its NCIBs only in accordance with the exemptive relief granted by this decision.

35. BMO has established information barrier policies and procedures in accordance with OSC Policy 33-601 — *Guidelines for Policies and Procedures Concerning Inside Information* to prevent material non-public information from passing between the sales/trading areas and other areas of BMO and its affiliates. Accordingly, during Issuer-Restricted Periods prior to announcements of earnings results or other material developments that have not yet become public, BMO's traders and sales force who conduct trading activities are generally able to continue their market activities, although senior management may restrict such activities in extraordinary circumstances. BMO will continue to maintain these policies and procedures during the Issuer-Restricted Period.

36. BMO, the Corporation and Edward Alfke, in his sole capacity as Securityholders' Representative, have entered into an arrangement agreement (the Arrangement Agreement) to acquire all of the issued and outstanding common shares of the Corporation in consideration for Shares of BMO (the Arrangement).

37. At the effective time of the Proposed Acquisition, the class "A" common shares, class "D" common shares, options and convertible debentures that have been elected for conversion into class "D" common shares of the Corporation will be exchanged for Shares in the Arrangement.

38. The Proposed Acquisition is subject to the approval of certain of the Corporation's securityholders.

39. BMO Nesbitt has been appointed by BMO as one of BMO's advisors in respect of the Proposed Acquisition.

40. The Corporation intends to mail an information circular to its securityholders as soon as practicable and, pursuant to the Arrangement Agreement, the meeting to consider the Proposed Acquisition must be held on or before September 19, 2022. Closing of the Proposed Acquisition is currently anticipated to occur in calendar Q4 following the receipt of all regulatory approvals and the approval of certain securityholders of the Arrangement.

41. As a result of the Arrangement Distribution, each of BMO, the Asset Managers, the BMO Fund Managers, the Plan Facilitators, the Trustees, the Custodians, the SLAs, the Restricted Dealers and the Non-Restricted Dealers is an issuer-restricted person for purposes of the Rule.

42. As an issuer-restricted person, each of BMO, the Asset Managers, the BMO Fund Managers, the Plan Facilitators, the Trustees, the Custodians, the SLAs, the Restricted Dealers and the Non-Restricted Dealers is subject to trading restrictions (the Trading Restrictions) that prohibit it from bidding for or purchasing Shares for its own account, the account of another issuer-restricted person or any account over which it exercises control or direction during the Issuer-Restricted Period. The Trading Restrictions also prohibit it from attempting to induce, or causing, any person or company to purchase any Shares during the Issuer-Restricted Period.

43. As a result of the Arrangement Distribution, each Restricted Dealer will also be a dealer-restricted person under the Rule and, if also a dealer-restricted person under UMIR, also be subject to the trading restrictions that are imposed on dealer-restricted persons by section 7.7 of the Universal Market Integrity Rules (as modified by the exemptions sought from IIROC by the Applicants concurrently with the filing of the Application, if granted) and the relevant definitions contained in section 1.1 of such rules (collectively, the UMIR Trading Restrictions).

44. The Issuer-Restricted Period begins on the date of the dissemination of the information circular in respect of the meeting of the securityholders of the Corporation and ends on the date on which the Proposed Acquisition is approved by the shareholders of the Corporation or when the Proposed Acquisition is terminated.

45. The Shares meet the requirements in the Rule to be considered a "highly-liquid security".

46. In the absence of an exemption from the Trading Restrictions, each Asset Manager would be unable to bid for or purchase Shares, or to attempt to induce or cause any person or company to purchase Shares, on behalf of Authorized Managed Accounts throughout the Issuer-Restricted Period.

47. In the absence of an exemption from the Trading Restrictions, each BMO Fund Manager will be unable to bid for or purchase Shares, or to attempt to induce or cause any person or company to purchase Shares, on behalf of Authorized BMO Funds throughout the Issuer-Restricted Period.

48. In the absence of an exemption from the Trading Restrictions, each Asset Manager would be precluded from discharging its fiduciary obligation to its Authorized Managed Accounts, and each BMO Fund Manager would be precluded from discharging its equivalent obligation to the Authorized BMO Funds, in accordance with their investment objectives throughout the Issuer-Restricted Period.

49. In the absence of an exemption from the Trading Restrictions, a Plan Facilitator would be unable to bid for or purchase Shares on behalf of a participant in a Plan, or to attempt to induce or cause any person or company to purchase Shares, to facilitate the fulfilment of the obligations of BMO to deliver Shares in accordance with the terms and conditions of the relevant Plan during the Issuer-Restricted Period.

50. In the absence of an exemption from the Trading Restrictions, a Trustee or a Custodian, as the case may be, would be unable to bid for or purchase Shares, or to attempt to induce or cause any person or company to purchase Shares, in connection with providing ordinary course trusteeship or custody services to its clients during the Issuer-Restricted Period.

51. In the absence of an exemption from the Trading Restrictions, an SLA would be unable to bid for or purchase Shares, or to attempt to induce or cause any person or company to purchase Shares, incidental to providing ordinary course securities lending and borrowing services to its clients during the Issuer-Restricted Period.

52. In the absence of an exemption from the Trading Restrictions, a Restricted Dealer or a Non-Restricted Dealer would be precluded from bidding for or purchasing Shares for its own account, the account of another issuer-restricted person and any account over which it exercises control or direction, and to attempt to induce or cause any person or company to purchase Shares throughout the Issuer-Restricted Period, even though the Shares are highly-liquid securities.

53. In the absence of an exemption from the Trading Restrictions, BMO would be unable to continue bidding for and purchasing Shares, or to attempt to induce or cause any person or company to purchase Shares, in connection with any NCIB of BMO during the Issuer-Restricted Period.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director pursuant to section 5.1 of the Rule that for purposes of the Proposed Acquisition, the following activities are exempt from section 2.2 of the Rule provided the Shares meet the requirements in the Rule to be considered a "highly liquid security" at the time of such activities:

(a) bids for or purchases of Shares by an Asset Manager on behalf of an Authorized Managed Account;

(b) bids for or purchases of Shares by a BMO Fund Manager on behalf of an Authorized BMO Fund;

(c) bids for or purchases of Shares by a Plan Facilitator on behalf of a person or company who is a participant in a Plan in accordance with the terms and conditions of the applicable Plan;

(d) bids for or purchases of Shares by a Trustee in connection with the provision of trusteeship services, corporate services, or administration, execution and personal representation of estates and trusts services;

(e) bids for or purchases of Shares by a Custodian in connection with the provision of custody services;

(f) bids for or purchases of Shares by an SLA in connection with the provision of securities lending and borrowing services;

(g) bids for or purchases of Shares by a Non-Restricted Dealer in connection with the provision of market making, trading facilitation, hedging, securities lending, repurchase transactions, derivatives, structured products, funds, index-related adjustments or other brokerage services;

(h) bids for or purchases of Shares by BMO in connection with any NCIB of BMO; and

(i) any activities conducted by BMO or any of its subsidiaries that may be considered an attempt to induce or cause any person or company to purchase Shares in furtherance of any of the activities or actions set out in paragraphs (a) to (h) above.

IT IS ALSO THE DECISION of the Director pursuant to section 5.1 of the Rule that for purposes of the Proposed Acquisition, the Restricted Dealers are exempt from section 2.2 of the Rule provided the Shares meet the requirements in the Rule to be considered a "highly liquid security" at the time of any activity undertaken by the Restricted Dealers that, but for this exemption, would be prohibited by section 2.2 of the Rule and provided further that the Restricted Dealers do so only in accordance with any applicable UMIR Trading Restrictions.

August 11, 2022

"Michelle Alexander"
Manager, Market Regulation
Ontario Securities Commission

B.3.3 Newton Crypto Ltd.

Headnote

Application for time-limited relief from suitability requirement, prospectus requirement and trade reporting requirements – relief to allow the Filer to distribute Crypto Contracts and operate a platform that facilitates the buying, selling and holding of crypto assets – relief granted subject to certain conditions set out in the decision, including investment limits, disclosure and reporting requirements – relief is time-limited to allow the Filer to operate while seeking registration as an investment dealer and membership with IIROC – relief will expire upon two (2) years – relief granted based on the particular facts and circumstances of the application with the objective of fostering innovative businesses in Canada – decision should not be viewed as precedent for other filers.

Statute cited

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

Instrument, Rule or Policy cited

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

August 15, 2022

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

AND

ALBERTA,
BRITISH COLUMBIA,
MANITOBA,
NEW BRUNSWICK,
NEWFOUNDLAND AND LABRADOR,
NORTHWEST TERRITORIES,
NOVA SCOTIA,
NUNAVUT,
PRINCE EDWARD ISLAND,
QUÉBEC,
SASKATCHEWAN,
AND
YUKON

AND

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

AND

IN THE MATTER OF
NEWTON CRYPTO LTD.
(the Filer)

DECISION

Background

As set out in Joint CSA/IIROC Staff Notice 21-329 *Guidance for Crypto-Asset Trading Platforms: Compliance with Regulatory Requirements* (**Staff Notice 21-329**) and CSA Staff Notice 21-327 *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets* (**Staff Notice 21-327**), securities legislation applies to crypto asset trading platforms (**CTPs**) that facilitate or propose to facilitate the trading of instruments or contracts involving crypto assets because the user's contractual right to the crypto asset may itself constitute a security and/or a derivative (**Crypto Contract**).

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

The Filer operates a CTP and has applied for registration as a restricted dealer in accordance with Staff Notice 21-329 in each province and territory of Canada. While registered as a restricted dealer, the Filer intends to seek membership with the Investment Industry Regulatory Organization of Canada (**IIROC**). This Decision has been tailored for the specific facts and circumstances of the Filer, and the securities regulatory authority or regulator in the Applicable Jurisdictions (as defined below) will not consider this Decision as constituting a precedent for other filers.

Relief Requested

The securities regulatory authority or regulator in the Jurisdiction has received an application from the Filer (the **Passport Application**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Filer from:

(a) the prospectus requirements of the Legislation in respect of the Filer entering into Crypto Contracts with clients (**Clients**, and each a **Client**) to purchase, hold and sell Crypto Assets (as defined below) (the **Prospectus Relief**); and

(b) the requirement in section 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) to take reasonable steps to ensure that, before it opens an account, takes investment action for a Client, or makes a recommendation or exercises discretion to take investment action, the action is suitable for the Client (the **Suitability Relief**, and together with the Prospectus Relief, the **Passport Relief**).

The securities regulatory authority or regulator in the Jurisdiction and each of the other jurisdictions referred to in Appendix A (the **Jurisdictions**) (the **Coordinated Review Decision Makers**) have received an application from the Filer for a decision under the securities legislation of the Jurisdictions exempting the Filer from certain reporting requirements under the Local Trade Reporting Rules (as defined in Appendix A) (the **Trade Reporting Relief**).

The Passport Relief and the Trade Reporting Relief are referred to collectively as the **Requested Relief**.

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

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

(b) in respect of the Passport Relief, the Filer has provided notice that, in the jurisdictions where required, subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (the **Non-Principal Jurisdictions**, and, together with the Jurisdiction, the **Applicable Jurisdictions**), and

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

Interpretation

For the purposes of this Decision, terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this Decision, unless otherwise defined.

Representations

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

The Filer

1. The Filer is a corporation incorporated under the federal laws of Canada with its principal and head office in Toronto, Ontario.

2. The Filer operates under the business name of "Newton".

3. The Filer does not have any securities listed or quoted on an exchange or marketplace in any jurisdiction inside or outside of Canada.

4. The Filer's personnel consist of software engineers, compliance professionals and client support representatives who each have experience operating in a regulated environment as a money services business (**MSB**) and expertise in

blockchain technology. All of the Filer's personnel have passed criminal records checks, and new personnel will have passed criminal records and credit checks.

5. The Filer is not in default of securities legislation of any jurisdiction in Canada, except in respect of the Filer's trading of Crypto Contracts prior to the date of this Decision.

Newton Platform

6. The Filer operates a proprietary and automated internet-based platform for the trading of crypto assets in Canada (the **Newton Platform**) that enables Clients of the Filer to buy, sell, hold, deposit and withdraw crypto assets such as Bitcoin, Ether, and anything commonly considered a crypto asset, digital or virtual currency, or digital or virtual token that are not themselves securities or derivatives (each a **Crypto Asset**, collectively the **Crypto Assets**) through the Filer.

7. The Filer's role under the Crypto Contracts is to buy or sell Crypto Assets and to provide custody services for all Crypto Assets held in accounts on the Newton Platform.

8. The Filer is registered as an MSB under regulations made under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) (**Canadian AML/ATF Law**).

9. To use the Newton Platform, each Client must open an account (a **Client Account**) using the Filer's website or mobile application. Client Accounts are governed by terms of service (the **Newton TOS**) that are accepted by Clients at the time of account opening. The Newton TOS govern all activities in Client Accounts, including with respect to all Crypto Assets purchased on, or transferred to, the Newton Platform (**Client Assets**).

10. Under the Newton TOS, the Filer maintains certain controls over Client Accounts to ensure compliance with applicable law and provide secure custody of Client Assets.

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

12. The Filer does not offer Clients any advice or recommendations regarding transactions in Crypto Contracts or Crypto Assets, nor does the Filer offer discretionary investment management services relating to Crypto Contracts or Crypto Assets.

13. The Filer is not a member firm of the Canadian Investor Protection Fund (**CIPF**) and the Crypto Assets custodied on the Newton Platform do not qualify for CIPF coverage. The Risk Statement (as defined below) includes disclosure that there is no CIPF coverage for the Crypto Assets and Clients must acknowledge that they have received, read and understood the Risk Statement before opening an account with the Filer.

14. Upon the Filer's registration as a restricted dealer, the Filer will make available to Clients the services of the Ombudsman for Banking Services and Investments to resolve complaints made by Clients.

OTC Trading

15. Newton OTC Inc. (**Newton OTC**), an affiliate of the Filer, will operate an over-the-counter (**OTC**) crypto asset desk for orders of a minimum size of C$30,000. Crypto Assets purchased from Newton OTC will be "immediately delivered", as described in Staff Notice 21-327, to the blockchain wallet address specified by the purchaser which is not under the ownership, possession or control of Newton OTC or the Filer.

Crypto Assets Made Available Through the Platform

16. The Filer has established and applies policies and procedures to review Crypto Assets and to determine whether to allow Clients on the Newton Platform to enter into Crypto Contracts to buy and sell the Crypto Asset on the Newton Platform (**KYP Policy**). Such review includes, but is not limited to, publicly-available information concerning:

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

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

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

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

17. The Filer only offers and only allows Clients to enter into Crypto Contracts to buy and sell Crypto Assets that are not each themselves a security and/or a derivative.

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

(a) assess the relevant aspects of the Crypto Asset pursuant to the KYP Policy and, as described in representation 16, to determine whether it is appropriate for its Clients,

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

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

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

20. As set out in the Filer's KYP Policy, the Filer determines whether a Crypto Asset available to be bought and sold through a Crypto Contract is a security and/or derivative and is being offered in compliance with securities and derivatives laws, which include but are not limited to:

(a) consideration of statements made by any regulators or securities regulatory authorities of the Applicable Jurisdictions, other regulators of the International Organization of Securities Commissions, or the regulator with the most significant connection to a Crypto Asset about whether the Crypto Asset, or generally about whether the type of Crypto Asset, is a security and/or derivative; and

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

21. The Filer monitors ongoing developments related to Crypto Assets available on its Platform that may cause a Crypto Asset's legal status as a security and/or derivative or the assessment conducted by the Filer pursuant to its KYP Policy and as described in representations 1616 to 20 to change.

22. The Filer acknowledges that any determination made by the Filer as set out in representations 16 to 20 of this Decision does not prejudice the ability of any of the regulators or securities regulatory authorities of any province or territory of Canada to determine that a Crypto Asset that a Client may enter into a Crypto Contract to buy and sell is a security and/or derivative.

23. As set out in the Filer's KYP Policy, the Filer applies policies and procedures to promptly stop the trading of any Crypto Asset available on the Newton Platform and to allow Clients to liquidate their positions in Crypto Contracts with underlying Crypto Assets that the Filer ceases to make available on the Newton Platform.

Know-Your-Client and Account Appropriateness Assessment

24. Each Client must open a Client Account using the Filer's website or mobile application to access the Newton Platform.

25. The Filer has adopted eligibility criteria for the onboarding of all Clients. All Clients on the Newton Platform must successfully complete the Filer's know-your-client (**KYC**) process which satisfies the identity verification requirements applicable to reporting entities under Canadian AML/ATF Law. Each Client who is an individual, and each individual who is authorized to give instructions for a Canadian Client that is a legal entity, must be: a Canadian citizen or permanent resident; and 18 years or older.

26. The Filer does not provide recommendations or advice to Clients or conduct a trade-by-trade suitability determination for Clients, but rather performs product assessments pursuant to the KYP Policy and account assessments taking into account the following factors (the **Account Appropriateness Factors**):

(a) the Client's experience and knowledge in investing in Crypto Assets;

(b) the Client's financial assets and income;

(c) the Client's risk tolerance; and

(d) the Crypto Assets approved to be made available to a Client by entering into Crypto Contracts on the Newton Platform.

27. The Account Appropriateness Factors are used by the Filer to evaluate whether entering into Crypto Contracts with the Filer is appropriate for a prospective Client before the opening of a Client Account.

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

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

30. The Filer monitors and will continue to monitor Client Accounts after opening to identify activity inconsistent with the Client Account and KYP Policy. If warranted, the Client may receive further messaging about the Newton Platform and the Crypto Assets, specific risk warnings and/or receive direct outreach from the Filer about their activity. The Filer monitors compliance with the Client Limits established by the Filer as described in representation 28. If warranted, the Client will receive messaging when their account is approaching its Client Limit and be given instructions on how they can place a sell order to prevent further losses.

31. As part of the account opening process:

(a) the Filer collects KYC information to verify the identity of the Client in accordance with Canadian AML/ATF Law;

(b) the Filer provides a prospective Client with a statement of risks (the **Risk Statement**) that clearly explains the following in plain language:

(i) the Crypto Contracts;

(ii) the risks associated with the Crypto Contracts;

(iii) prominently, a statement that no securities regulatory authority has expressed an opinion about the Crypto Contracts or any of the Crypto Assets made available through the Newton Platform, including any opinion that the Crypto Assets themselves are not securities and/or derivatives;

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

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

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

(vii) the location and manner in which Crypto Assets are held for the Client, the risks and benefits to the Client of the Crypto Assets being held in that manner,

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

(ix) the Filer is not a member of CIPF and the Crypto Assets held by the Filer (directly or indirectly through third parties) will not qualify for CIPF protection,

(x) a statement that the statutory rights in section 130.1 of the Act, and, if applicable, similar statutory rights under securities legislation of the other Applicable Jurisdictions, do not apply in respect of the

Risk Statement or a Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in this Decision; and

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

32. In order for a prospective Client to open and operate an account with the Filer, the Filer will obtain an electronic acknowledgement from the prospective Client confirming that the prospective Client has received, read and understood the Risk Statement. Such acknowledgement will be prominent and separate from other acknowledgements provided by the prospective Client as part of the account opening process.

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

34. The Filer has policies and procedures for updating the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts, Crypto Assets generally, or a specific Crypto Asset, as the case may be. In the event the Risk Statement is updated, existing Clients of the Filer will be promptly notified and provided with a copy of the updated Risk Statement. In the event a Crypto Asset Statement is updated, existing Clients of the Filer will be promptly notified through website and in-App disclosures, with links provided to the updated Crypto Asset Statement.

35. For Clients with pre-existing accounts with the Filer at the time of this Decision, the Filer will:

(a) conduct the account appropriateness assessment and establish the appropriate Client Limit for the Client as described in representations 26 to 29 and subject to representation 36,

(b) deliver to the Client the Risk Statement and will require the Client to provide electronic acknowledgement of having received, read and understood the revised Risk Statement, at the earlier of (i) before placing their next trade or deposit of Crypto Assets and (ii) the next time they log in to their account with the Filer. The Risk Statement must be prominent and separate from other disclosures given to the Client at that time, and the acknowledgement must be separate from other acknowledgements by the Client at that time.

36. In circumstances where the Filer has determined that entering into Crypto Contracts with the Filer is not appropriate, for a Client with a pre-existing account at the time of this Decision, the Client will be restricted on the Newton Platform to liquidating their existing Crypto Contracts or withdrawing Crypto Assets relating to Crypto Contracts.

37. Before a Client enters a Crypto Contract to buy a Crypto Asset, the Filer will provide instructions for the Client to read the Crypto Asset Statement for the Crypto Asset, which will include a link to the Crypto Asset Statement on the Filer's website or App.

38. Each Crypto Asset Statement will include:

(a) a prominent statement that no securities regulatory authority in Canada has expressed an opinion about the Crypto Contracts or any of the Crypto Assets made available through the Newton Platform, including an opinion that the Crypto Assets are not themselves securities and/or derivatives;

(b) a description of the Crypto Asset, including the background of the team that first created the Crypto Asset, if applicable;

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

(d) any risks specific to the Crypto Asset;

(e) a direction to the Client to review the Risk Statement for additional discussion of general risks associated with the Crypto Contracts and Crypto Assets made available through the Newton Platform;

(f) a statement that the statutory rights in section 130.1 of the Act, and, if applicable, similar statutory rights under securities legislation of other Applicable Jurisdictions, do not apply in respect of the Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in this Decision; and

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

39. The Filer will also periodically prepare and make available to its Clients, educational materials and other informational updates about trading on the Newton Platform and the ongoing development of Crypto Assets and Crypto Asset trading markets.

Operation of the Newton Platform

40. The Newton Platform operates 24 hours a day, seven days a week.

41. Clients on the Newton Platform enter orders to buy or sell Crypto Contracts relating to Crypto Assets through the Filer. Crypto Contract trading pairs available on the Newton Platform include Crypto Asset-for-fiat and Crypto Asset-for-Crypto Asset.

42. A Crypto Contract is a bilateral contract between a Client and the Filer. Accordingly, the Filer is the counterparty to all trades entered by Clients on the Newton Platform. For each Client transaction, the Filer will also be a counterparty to a corresponding Crypto Asset buy or sell transaction with a crypto asset trading firm or marketplace (**Liquidity Provider**).

43. The Filer relies upon multiple Liquidity Providers to act as sellers of Crypto Assets that may be purchased by the Filer for its Clients. Liquidity Providers also buy any Crypto Assets from the Filer that a Client has purchased using the Newton Platform and wishes to sell.

44. The Filer's primary Liquidity Provider is DV Chain (Canada) Inc. (**DV Chain Canada**), a subsidiary of DVX CM, which is a significant shareholder of the Filer.

    (a) DV Chain Canada is a corporation incorporated in Canada under the laws of the Province of Ontario with its principal and head office in Toronto, Ontario.

    (b) DV Chain Canada is an over-the-counter liquidity provider that trades Crypto Assets on a proprietary basis, as principal, with institutional clients in Canada.

    (c) The Filer has verified that DV Chain Canada is not in default under securities laws in the Jurisdictions.

45. The Filer relies upon the Liquidity Providers to act as sellers of Crypto Assets that may be purchased by the Filer for its Clients, including Crypto Assets relating to the Filer's obligations under Crypto Contracts. Liquidity Providers may also buy any Crypto Assets from the Filer that the Filer purchases from its Clients on the Newton Platform and wishes to sell.

46. The Filer evaluates and will continue to evaluate the price obtained from its Liquidity Providers on an ongoing basis against global benchmarks to provide fair and reasonable pricing to its Clients.

47. The Filer has taken or will take reasonable steps to verify that each Liquidity Provider is appropriately registered and/or licensed to trade in the Crypto Assets in their home jurisdiction, or that their activities do not require registration in their home jurisdiction, and that they are not in default of securities legislation in the Applicable Jurisdictions.

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

49. Clients can enter orders to the Newton Platform in two ways: (i) a market order which specifies the desired trading pair and quantity; and (ii) a limit order which specifies the desired trading pair, quantity and price at which the client wishes to transact.

50. By no later than 8:00 PM ET on August 15, 2022 (the **RFQ Implementation Time**), when a Client enters a market order, the Newton Platform will obtain a price for the Crypto Asset from a Liquidity Provider, after which the Newton Platform will incorporate a 'spread' to compensate the Filer and will present this adjusted price to the Client as a firm quote of the price at which the Filer is willing to transact against the Client. If the Client finds the price agreeable, the Client will confirm that it wishes to proceed and the Client's market order at the quoted price will be filled on the Newton Platform. If the Client does not accept the quoted price within the time indicated in the displayed countdown timer, the quoted price will be refreshed based on new pricing from the Liquidity Provider, the timer will be reset, and the Client will be able to transact against the new price for the time indicated in the timer. The quoted price will continue to be refreshed when the timer counts down to zero unless the Client transacts against the quoted price. The countdown timer will be approximately five to ten seconds, subject to each Liquidity Provider's specific requirements.

51. Until the RFQ Implementation Time, when a Client enters a market order, the Newton Platform obtains an indicative price for the Crypto Asset from a Liquidity Provider, after which the Newton Platform incorporates a 'spread' to compensate the Filer and presents this adjusted indicative price to the Client as an approximation of the price at which the Filer is willing to transact against the Client. If the Client finds the approximate price agreeable, the Client confirms that it wishes to proceed and may enter a market order to transact against the displayed price.

52. When a Client enters a limit order, the Newton Platform will not process the trade until such future time as when the price from the Liquidity Provider plus the 'spread' meets the price entered by the Client, then the Client's order will automatically be executed.

53. For each Client limit order, the limit order may be partially or completely filled if the Client's specified limit price is met. If the market price plus the 'spread' does not meet the price specified in the limit order, the limit order remains open in the Client Account until it is cancelled by the Client or filled. If a limit order is partially filled, the rest of the order remains open in the Client Account. Open limit orders entered by Clients are displayed on the Newton Platform; however, they are not available to trade against other client orders.

54. The Filer confirms the transaction with the applicable Liquidity Provider.

55. The Filer records in its books and records the particulars of each trade.

56. The Filer promptly, and no later than two days after the trade, settles transactions with the Liquidity Providers on a net basis. Where there are net purchases of Crypto Assets, the Filer arranges for the cash to be transferred to the Liquidity Providers and Crypto Assets to be sent by the Liquidity Providers to the Filer's hot wallets secured by Fireblocks Inc. (**Fireblocks**) or to the Filer's custodian. Where there are net sales of Crypto Assets, the Filer arranges for Crypto Assets to be sent from the Filer's custodian to the Liquidity Providers in exchange for cash received by the Filer from the Liquidity Providers.

57. All fees earned by the Filer are clearly disclosed on the Newton Platform, and the Filer's Clients can check the quoted prices for Crypto Assets on the Newton Platform against the prices available on other registered CTPs in Canada.

58. Clients will receive electronic trade confirmations and monthly statements setting out the details of the transaction history in their Client Account with the Filer. Clients will also have access to a complete record of all transactions in their account, including all transfers in of fiat or Crypto Assets, all purchases, sales and withdrawals, and the relevant prices, commissions and withdrawal fees charged in respect of such transactions.

59. The Filer does not, and will not, offer margin, credit or other forms of leverage to Clients on the Newton Platform and will not offer derivatives based on Crypto Assets to Clients other than Crypto Contracts.

60. Clients can fund their account by transferring in fiat currency or Crypto Assets. Clients can transfer in fiat currency by Interac e-transfer or bank wire, with the maximum amount for each transfer type set out on the Newton Platform. Interac e-transfers are subject to fees disclosed on the Newton Platform and incorporated by reference into the Newton TOS.

61. Clients may be charged a withdrawal fee when transferring Crypto Assets out of their Client Account to a blockchain address specified by the Client. This "on-chain" withdrawal fee varies by Crypto Asset and is disclosed on the Newton Platform under "Fees". The total withdrawal fee payable in respect of a withdrawal is disclosed to the Client prior to confirmation of the withdrawal.

62. Prior to transferring Crypto Assets out of a Client Account, the Filer conducts a secondary verification of the blockchain address and screens the blockchain address specified by the transferring Client using blockchain forensics software. The Filer has expertise in and has developed anti-fraud and anti-money laundering monitoring systems, for both fiat and Crypto Assets, to reduce the likelihood of fraud, money laundering, or client error in sending or receiving Crypto Assets to incorrect wallet addresses.

63. Clients can transfer fiat currency out of their Client Account by electronic funds transfer, Interac e-transfer, or bank wire, subject to a withdrawal fee. Part of the withdrawal fee covers fees charged by the Filer's payment processor to process the withdrawal transactions. The total withdrawal fee payable in respect of a fiat currency withdrawal is disclosed to the Client prior to confirmation of the withdrawal.

Custody of Crypto Assets

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

65. The Filer has and will retain the services of third-party custodians to hold not less than 80% of the total value of Crypto Assets held on behalf of Clients. The Filer primarily uses Coinbase Custody Trust Company LLC as custodian (the **Custodian**) and will use other custodians as necessary after reasonable due diligence. Up to 20% of the Filer's total Client Crypto Assets may be held online in hot wallets secured by Fireblocks. In addition to Fireblocks, the Filer is currently finalizing discussions with Copper Technologies (UK) Ltd. and Copper Technologies (Switzerland) AG (collectively, **Copper**) to potentially be used as a secondary hot wallet service provider and expects to complete onboarding in Q3 2022.

66. The Custodian is licensed as limited purpose trust company with the New York Department of Financial Services (**NYDFS**). The Custodian is a qualified custodian, as defined in section 1.1 of NI 31-103.

67. The Custodian has completed a Service Organization Controls (**SOC**) report under the SOC 1 – Type 2 and SOC 2 – Type 2 standards from a leading global audit firm. The Filer has conducted due diligence on the Custodian, including reviewing a copy of the SOC 2 – Type 2 audit report prepared by the Custodian's auditors, and has not identified any material concerns.

68. The Custodian holds all Crypto Assets for Clients of the Filer in a fully segregated account in the name of the Filer and separate and distinct from the assets of the Filer, the Filer's affiliates and all of the Custodian's other Clients.

69. Coinbase Global Inc., the parent company of the Custodian, maintains US$320 million of insurance (per-incident and overall) which covers losses of assets held by the Custodian, on behalf of its Clients due to third-party hacks, copying or theft of private keys, insider theft or dishonest acts by the Custodian employees or executives and loss of keys. The Filer has assessed the Custodian's insurance policy and has determined, based on information that is publicly available and on information provided by the Custodian and considering the scope of the Custodian's business, that the amount of insurance is appropriate.

70. The Custodian has established and applies policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian and to mitigate security breaches and cyber incidents.

71. The Custodian has established and applies written disaster recovery and business continuity plans.

72. The Filer has established, and will maintain and apply, policies and procedures that are reasonably designed to ensure the Custodian's records related to Crypto Assets that the Custodian holds in trust for Clients of the Filer are accurate and complete.

73. The Filer has assessed the risks and benefits of using the Custodian and, has determined that in comparison to a Canadian custodian (as that term is defined in NI 31-103) it is more beneficial to use the Custodian, a U.S. custodian, to hold Crypto Assets for the benefit of Clients than a Canadian custodian.

74. The Filer licenses software from Fireblocks which includes a crypto asset wallet that stores private and public keys and interacts with various blockchains to send and receive crypto assets and monitor balances. Fireblocks uses secure multiparty computation to share signing responsibility for a particular blockchain address among multiple independent persons.

75. Fireblocks has obtained a SOC report under the SOC 2 – Type 2 standard from a leading global audit firm. The Filer has reviewed a copy of the SOC 2 – Type 2 audit report prepared by the auditors of Fireblocks, and has not identified any material concerns.

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

77. The third-party insurance obtained by the Filer includes coverage for the Crypto Assets held by the Filer in cold storage in the event of loss or theft in accordance with the terms of the insurance policy in question.

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

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

80. Backup key material for the Filer's hot wallets is secured by Coincover and 100% guaranteed against loss or theft by a leading global insurance provider.

81. In addition to the insurance coverage available through its services providers and its insurance provider for the loss of Crypto Assets held in its hot wallets, the Filer has obtained a guarantee through Coincover for the assets held in the Filer's hot wallets. Depending on the circumstances, either funds from the Filer's insurance provider or the Coincover guarantee would be available in the event of loss of Crypto Assets held in the Filer's hot wallets.

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

Marketplace and Clearing Agency

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

84. The Filer will not operate a "clearing agency" or a "clearing house".

Decision

The Principal Regulator is satisfied that the Decision satisfies the test set out in the Legislation for the Principal Regulator to make the Decision and each Coordinated Review Decision Maker is satisfied that the Decision in respect of the Trade Reporting Relief satisfies the test set out in the securities legislation of its jurisdiction for the Coordinated Review Decision Maker to make the Decision in respect of the Trade Reporting Relief.

The decision of the Principal Regulator under the Legislation is that the Requested Relief is granted, and the Decision of each Coordinated Review Decision Maker under the securities legislation of its jurisdiction is that the Trade Reporting Relief is granted, provided that:

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

B. The Filer is registered as a restricted dealer or investment dealer in the Jurisdiction and the jurisdiction in which the Client is resident.

C. The Filer, and any representatives of the Filer, will not provide recommendations or advice to any Client or prospective Client.

D. The Filer will only engage in the business of trading Crypto Contracts in relation to Crypto Assets, and performing its obligations under those contracts, and does not offer derivatives based on Crypto Assets to Clients other than Crypto Contracts. The Filer will seek the appropriate approvals from the Principal Regulator and, if required under securities legislation, the regulator or securities regulatory authority of any other Applicable Jurisdiction, prior to undertaking any other activity governed by securities legislation.

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

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

G. Before the Filer holds Crypto Assets with a custodian referred to in condition F, the Filer will take reasonable steps to verify that the custodian:

   (a) has appropriate insurance to cover the loss of Crypto Assets held at the custodian,

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

   (c) has obtained a SOC 2-Type 2 report within the last 12 months, unless the Filer has obtained the prior written approval of the Principal Regulator to alternatively verify that the custodian has obtained a SOC 1 Type 1 or Type 2 or a SOC 2-Type 1 report within the last 12 months.

H. The Filer will promptly notify the Principal Regulator if the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the Financial Industry Regulatory Authority, the National Futures Association or the New York State Department of Financial Services makes a determination that the Custodian is not permitted by that regulatory authority to hold Client Crypto Assets.

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

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

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

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

J. The Filer will only use a Liquidity Provider that it has verified is registered and/or licensed, to the extent required in its home jurisdiction, to execute trades in the Crypto Assets and is not in default of securities legislation in any of the Applicable Jurisdictions, and will promptly stop using a Liquidity Provider if (i) the Filer is made aware that the Liquidity Provider is, or (ii) a court, regulator or securities regulatory authority in any jurisdiction of Canada determines it to be, not in compliance with securities legislation.

K. The Filer will evaluate the price obtained from its Liquidity Providers on an ongoing basis against global benchmarks and will provide fair and reasonable prices to its Clients.

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

M. For each Client with a pre-existing account at the date of this Decision, the Filer will deliver to the Client a Risk Statement and will require the Client to provide electronic acknowledgement of having received, read and understood the Risk Statement at the earlier of (a) before placing their next trade or deposit of Crypto Assets on the Newton Platform and (b) the next time they log in to their account with the Filer.

N. The Risk Statement delivered in condition L and M to new Clients or Clients with pre-existing accounts on the date of this Decision will be prominent and separate from other disclosures given to the Client at the time the Risk Statement is delivered, and the acknowledgement will be separate from other acknowledgements by the Client at that time.

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

P. Before a Client enters into a Crypto Contract to buy a Crypto Asset, the Filer will provide instructions for the Client to read the Crypto Asset Statement for the Crypto Asset, which will include a link to the Crypto Asset Statement on the website and in-Apps and includes the information set out in representation 38.

Q. The Filer will promptly update the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts and/or Crypto Assets and,

(a) in the event of any update to the Risk Statement, will promptly notify each existing Client of the update and deliver to them a copy of the updated Risk Statement, and

(b) in the event of any update to a Crypto Asset Statement, will promptly notify Clients through electronic disclosures on the Newton Platform and, when developed, the Newton app, with links provided to the updated Crypto Asset Statement.

R. Prior to the Filer delivering a Risk Statement to a Client, the Filer will deliver, or will have previously delivered, a copy of the Risk Statement delivered to theClient to the Principal Regulator.

S. For each Client, the Filer will perform an account appropriateness assessment and establish the appropriate Client Limit for the Client as described in representations 26 to 30, and subject to paragraph 36, prior to opening an account and on an ongoing basis at least annually.

T. For each Client with a pre-existing account at the date of this Decision, the Filer will perform an account appropriateness assessment and establish the appropriate Client Limit for the Client as described in representations 26 to 30, and subject to paragraph 36, the next time the Client uses their account. The Client will not be permitted to trade until the completion of the account appropriateness assessment and a determination that the account is appropriate.

U. The Filer will monitor Client activity and contact Clients to discuss their trading behaviour if it indicates a lack of knowledge or understanding of Crypto Asset trading, in an effort to identify and deter behaviours that may indicate that trading a Crypto Contract is not appropriate for the Client, or that additional education is required.

V. The Filer will ensure that the maximum amount of Crypto Assets, excluding Specified Crypto Assets (as set out in Appendix B to this Decision), that a Client, except those Clients resident in Alberta, British Columbia, Manitoba and Québec, may enter into Crypto Contracts to purchase and sell on the Newton Platform (calculated on a net basis and is an amount not less than $0) in the preceding 12 months does not exceed a net acquisition cost of $30,000.

W. The Filer has established and will apply and monitor the Client Limits as set out in representation 28.

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

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

(a) change of or use of a new custodian; and

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

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

AA. The Filer will only trade Crypto Contracts based on Crypto Assets that are not in and of themselves securities or derivatives.

BB. The Filer will evaluate Crypto Assets as set out in its KYP Policy and described in representations 16 to 21.

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

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

Data Reporting

EE. Commencing with the quarter ending September 30, 2022, the Filer will provide the following information to the Principal Regulator, and to the securities regulatory authority or regulator in each of the Non-Principal Jurisdictions with respect to Clients in those jurisdictions individually, within 30 days of the end of each March, June, September and December:

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

(i) number of Client Accounts opened each month in the quarter;

(ii) number of Client Accounts closed each month in the quarter;

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

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

(v) number of Client Accounts with a net acquisition cost greater than

$30,000 of Crypto Assets at the end of each month in the quarter;

(vi) number of Client Accounts with no trades during the quarter;

(vii) number of Client Accounts that have not been funded at the end of each month in the quarter; and

(viii) number of Client Accounts that hold a positive amount of Crypto Assets at the end of each month in the quarter;

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

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

(d) the amount of Crypto Assets held in hot wallets as of the end of the quarter;

(e) the amount of the guarantee described in representation 77 as of the end of the quarter;

(f) the name of the financial institution and the amount of money held at the end of the quarter in an account with the financial institution, separate from the Filer's operational accounts and Filer's Client accounts, to supplement any insurance policy or guarantee relating to the Filer's hot wallets; and

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

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

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

(b) jurisdiction where the Client is located;

(c) the date the account was opened;

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

(e) cumulative realized gains/losses since account opening in CAD;

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

(g) quantity traded, deposited and withdrawn by Crypto Asset during the quarter in number of units;

(h) Crypto Asset traded by the Client;

(i) quantity held of each Crypto Asset by the Client as of the report end date in units;

(j) CAD equivalent aggregate value for each Crypto Asset traded by the Client, calculated as the amount in (i) multiplied by the market price of the asset in (h) as of the report end date;

(k) age of account in months; and

(l) the Client Limit established by the Filer on each account.

GG. Within 7 calendar days from the end of each month, the Filer will deliver to the regulator or securities regulatory authority in each of the Applicable Jurisdictions, a report of all accounts for which the Client Limits established pursuant to representation 28 were exceeded during that month.

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

(a) blackline copies of changes made to the policies and procedures on the operations of its wallets that were previously delivered to the Principal Regulator; or

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

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

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

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

Time Limited Relief

LL. The Filer will, if it intends to operate the Newton Platform in Ontario and Québec after the expiry of the Decision, take the following steps:

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

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

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

MM. This Decision shall expire upon the date that is two years from the date of this Decision.

NN. This Decision may be amended by the Principal Regulator upon prior written notice to the Filer in accordance with applicable securities legislation.

In respect of the Prospectus Relief:

Date: August 15, 2022

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

In respect of the Suitability Relief:

Date: August 15, 2022

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

In respect of the Derivatives Trade Reporting Relief:

Date: August 15, 2022

"Kevin Fine"
Director, Derivatives
Ontario Securities Commission

Application File #: 2022/0117

APPENDIX A – LOCAL TRADE REPORTING RULES

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

(a) Part 3, Data Reporting of Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**OSC Rule 91-507**), and the power to grant exemption orders set out in Section 42 of OSC Rule 91-507;

(b) Part 3, Data Reporting of Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**MSC Rule 91-507**), and the power to grant exemption orders set out in Section 42 of MSC Rule 91-507; and

(c) Part 3, Data Reporting of Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan, and Yukon (**MI 96-101**), and the power to grant exemption orders set out in Section 43 of MI 96-101.

APPENDIX B – SPECIFIED CRYPTO ASSETS

Bitcoin

Ether

Bitcoin Cash

Litecoin

B.3.4 Horizons ETFS Management (Canada) Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exchange traded alternative mutual funds granted exemption from the concentration restriction in section 2.1(1.1) of NI 81-102 to permit each fund to enter into purchase and/or specified derivatives transactions to obtain two times daily leveraged exposure to the constituent banks of the Solactive Equal Weight Canada Banks Index in accordance with, and as limited by, its investment objective, subject to conditions.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.1(1.1) and 19.1.

August 15, 2022

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO

AND

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

AND

IN THE MATTER OF
HORIZONS ETFS MANAGEMENT (CANADA) INC.
(the Filer)

BETAPRO EQUAL WEIGHT CANADIAN BANK 2X DAILY BULL ETF
(HBKU)
AND
BETAPRO EQUAL WEIGHT CANADIAN BANK -2X DAILY BEAR ETF
(HBKD, together with HBKU, the Funds and each, a Fund)

DECISION

Background

The principal regulator in Ontario has received an application from the Filer, on behalf of the Funds, for a decision under the securities legislation of the principal regulator (the **Legislation**) relieving each Fund from subsection 2.1(1.1) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) (the **Concentration Restriction**) to permit each Fund to enter into purchase and/or specified derivatives transactions to obtain exposure to the Constituent Banks (defined below) of the Solactive Equal Weight Canada Banks Index (the **Index**) in accordance with, and as limited by, its investment objective of seeking daily investment results, before fees, expenses, distributions, brokerage commissions and other transaction costs, that correspond to: (a) in the case of HBKU, two times (200% of) the daily performance of the Index; and (b) in the case of HBKD, two times the inverse (opposite) of (-200% of) the daily performance of the Index (the **Proposed Transactions**) (the **Exemption Sought**).

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

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

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

Interpretation

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

Representations

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

The Filer and the Funds

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

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

3. Each of the Funds will be an exchange traded alternative mutual fund structured as a separate class of shares of Horizons ETF Corp., a mutual fund corporation established under the federal laws of Canada (**Horizons MFC**). Each Fund will launch with a single series.

4. Each Fund is a separate investment fund having specific investment objectives and is specifically referable to a separate portfolio of investments.

5. The shares of each Fund will be offered pursuant to a long form prospectus (the **Prospectus**) and ETF Facts prepared and filed for each Fund in accordance with National Instrument 41-101 *General Prospectus Requirements* with the securities regulatory authority in each of the Jurisdictions.

6. Each Fund will be a reporting issuer under the laws of the Jurisdictions and subject to NI 81-102, subject to any exemptions therefrom that may be granted by the securities regulatory authorities.

7. The shares of the Funds will be listed on the Toronto Stock Exchange (the **TSX**), subject to satisfying the TSX's listing requirements.

8. Neither the Filer nor any Fund is in default of any of its obligations under securities legislation in any of the Jurisdictions.

Rationale for the relief

9. The constituent securities of the Index are the TSX-listed common shares of the six largest Canadian banks by market capitalization (each, a **Constituent Bank**), currently: Canadian Imperial Bank of Commerce, Bank of Montreal, National Bank of Canada, Royal Bank of Canada, Toronto Dominion Bank and The Bank of Nova Scotia.

10. Each Fund will use leverage in order to seek to achieve its investment objective. The amount of leverage will be reset on a daily basis (referred to as the **Daily Leverage Reset**). Due to the Daily Leverage Reset, each Fund does not seek to achieve 2 times, or 2 times the inverse (opposite) of, the performance of the Index over a period of time greater than one day.

11. The Index is an equal-weight index and uses a rules-based methodology. The Index rules require its six Constituent Banks to be equally weighted as at each semi-annual rebalancing date in March and September (each, an **Index Rebalancing Date**). In accordance with the Index methodology, on each Index Rebalancing Date, the Index is rebalanced such that each Constituent Bank is once again equally weighted based on the closing prices on the second Friday in March and September of each year. The Fund's indirect exposure to the portfolio of Constituent Banks will be rebalanced at the same frequency as, and on or about the same date as, the Index, such that each Constituent Bank is once again equally weighted in the Fund's portfolio at that time (each, a **Portfolio Rebalancing Date**, together with the Index Rebalancing Date, the **Rebalancing Date**). Beginning at each Rebalancing Date, and until the immediately next Rebalancing Date, the composition of the Constituent Banks in the Index and in the Fund's portfolio will increase or decrease based on the Constituent Banks' relative and proportionate market values during that time. Similarly, any indirect exposure obtained or reduced by a Fund following a Portfolio Rebalancing Date (owing, for example, to subscriptions or redemptions received in respect of shares of the Fund or expenses or distributions paid by the Fund, if any) will be increased or decreased pro rata based on the Constituent Banks' relative and proportionate market values and corresponding weight in the Index and in the Fund's portfolio during that time (the Fund's rebalancing strategy as described in this paragraph, the **Rebalancing Strategy**).

12. The combination of a Daily Leverage Reset with a semi-annual rebalancing of the Index and Fund portfolio, as compared to a Daily Leverage Reset with a daily rebalancing of the Index and Fund portfolio, is not expected to have a material impact on the concentration levels of the Constituent Banks in the portfolio of any Fund. Since the inception of the Index in 2017, no Constituent Bank has exceeded 20% of the composition of the Index at any time following a semi-annual Index Rebalancing Date.

13. The investment objective and investment strategies of each Fund, as well as the risk factors associated therewith, including concentration risk and use of leverage, will be prominently disclosed in the Prospectus.

14. The Concentration Restriction restricts an alternative mutual fund from purchasing a security of an issuer, entering into a specified derivatives transaction or purchasing an index participation unit if, immediately after the transaction, more than 20% of its net asset value (**NAV**) would be invested in securities of any one issuer. Given the composition of the Index, it would be impossible for a Fund to achieve its investment objective and pursue its investment strategy without obtaining relief from the Concentration Restriction.

15. Absent the Exemption Sought, neither Fund would be able to achieve its investment objective, since each Constituent Bank, after taking into account the Daily Leverage Reset, would represent a greater portion of the NAV of the Fund than is permitted by the Concentration Restriction. As of May 31, 2022, in order to achieve the investment objectives of the Funds, the Constituent Banks would represent a percentage of initial NAV of each Fund as follows:

Constituent Bank	**Constituent Bank as a percentage of NAV on any given day** **(no leverage)**	**Constituent Bank as a percentage of NAV (based on Daily Leverage Reset)** **(two times (200%) daily leverage per the investment objectives)**
Canadian Imperial Bank of Commerce	15.41%	30.82%
Bank of Montreal	16.46%	32.92%
National Bank of Canada	17.48%	34.96%
Royal Bank of Canada	16.84%	33.68%
Toronto Dominion Bank	17.35%	34.70%
The Bank of Nova Scotia	16.45%	32.90%

16. The Filer notes that, in respect of the Funds, its strategy to obtain exposure to the Constituent Banks will be transparent, passive and fully disclosed to investors. The Funds will not invest in or provide exposure to securities other than securities of the Constituent Banks (or securities designed to gain exposure to the securities of the Constituent Banks as described herein). In addition, the names of the Constituent Banks will be listed in the Prospectus.

17. The Filer submits that the Constituent Banks consistently represent some of the most liquid equity securities listed on the Toronto Stock Exchange and are less likely to be subject to liquidity concerns than the securities of other issuers.

18. The liquidity of the common shares of the Constituent Banks is evidenced by the markets for options in connection therewith. A liquid market for options in the common shares of the Constituent Banks is provided by the Montreal Exchange.

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, for each Fund:

(a) the Proposed Transactions and investments in the Constituent Banks are in accordance with the Fund's investment objectives and investment strategies to seek daily investment results, before fees, expenses, distributions, brokerage commissions and other transaction costs, that correspond to: (i) in the case of HBKU, two times (200% of) the daily performance of the Index; and (ii) in the case of HBKD, two times the inverse (opposite) of (-200% of) the daily performance of the Index;

(b) the Fund's Prospectus and investment strategies disclose that the Fund will obtain exposure to the Constituent Banks based on its investment objectives, Daily Leverage Reset and Rebalancing Strategy as described in paragraphs 10 and 11 above; and

(c) the Fund includes in its Prospectus: (i) disclosure regarding the Exemption Sought under the heading "Exemptions and Approvals"; and (ii) a risk factor regarding the concentration of the Fund's investments in the Constituent Banks and the risks associated therewith.

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

Application File #: 2021/0457
SEDAR Project #: 3261161

B.3.5 CI Investments Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from subsection 2.1(1) of National Instrument 81-102 – Investment Funds to permit funds to invest more than 10 percent of net assets in debt securities issued, or guaranteed fully as to principal and interest, by foreign governments or supranational agencies – subject to conditions – decision includes revocation of prior relief from concentration restriction previously granted to certain funds.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.1(1) and 19.1.

August 16, 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.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of Global Fixed Income Corporate Class, Global Fixed Income Pool, CI Global Bond Fund, CI Global Green Bond Fund, CI Global Bond Currency Neutral Fund (the **Current Funds**), and other existing or future investment funds subject to National Instrument 81-102 *Investment Funds* (**NI 81-102**) that are or will be managed by the Filer or an affiliate or successor of the Filer (the **Future Funds** and together with the Current Funds, the **Funds**) for a decision under the securities legislation of the principal regulator (the **Legislation**):

(a) revoking the Previous Decisions (as described below) (the **Revocation**); and

(b) replacing the Previous Decisions with a decision pursuant to section 19.1 of NI 81-102 exempting the Funds from subsection 2.1(1) of NI 81-102 (the **Concentration Restriction**) to permit each Fund to invest up to:

(i) 20% of its net assets, taken at market value at the time of purchase in evidences of indebtedness of any one issuer if those evidences of indebtedness are issued, or guaranteed fully as to principal and interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction in Canada, or the government of the United States of America and are rated “AA” by S&P Global Ratings Canada (**S&P**) or its “DRO affiliate” (as defined in NI 81-102), or have an equivalent rating by one or more other “designated rating organizations” (as defined in NI 81-102) or their DRO affiliates; and

(ii) 35% of its net assets, taken at market value at the time of purchase, in evidences of indebtedness of any one issuer if those evidences of indebtedness are issued, or guaranteed fully as to principal and interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction in Canada, or the government of the United States of America and are

rated "AAA" by S&P or its DRO affiliate, or have an equivalent rating by one or more other designated rating organizations or their DRO affiliates

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

(collectively, the **Exemption Sought**).

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

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

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

Interpretation

Unless expressly defined herein, terms in this application have the respective meanings given to them in NI 81-102, National Instrument 14-101 *Definitions* and MI 11-102.

Representations

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

The Filer

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

2. The Filer 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 Canadian Jurisdictions; and

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

3. The Filer or an affiliate or associate of the Filer acts, or will act, as manager of each Fund.

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

The Previous Decisions

5. In a decision dated September 28, 2007, the Filer was granted relief exempting Global Fixed Income Corporate Class from the Concentration Restriction to permit the Fund to invest more than 10% of its net assets in a Foreign Government Security on similar representations and conditions as this decision.

6. The Filer also believes that it was granted similar relief (likely under National Policy Statement No. 39 (**NP 39**), the predecessor instrument to NI 81-102) exempting each of Global Fixed Income Pool and CI Global Bond Fund from the Concentration Restriction to permit the Funds to invest more than 10% of its net assets in a Foreign Government Security. Global Fixed Income Pool and CI Global Bond Fund have disclosed their reliance on this exemption in their disclosure documents since May 28, 1997 and June 27, 1997, respectively. However, such decisions cannot be located.

The Funds Generally

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

8. Each Fund is, or will be, governed by the applicable provisions of NI 81-102, subject to any exemptions therefrom that have been, or may in the future be, granted by the securities regulatory authorities.

9. Each Fund is, or will be, a reporting issuer in one or more Canadian Jurisdictions. Securities of Global Fixed Income Corporate Class and Global Fixed Income Pool are offered for sale pursuant to a simplified prospectus prepared in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) dated July 15, 2022. Securities of CI Global Bond Fund are offered for sale pursuant to a simplified prospectus prepared in accordance with NI 81-101 dated July 22, 2022. Securities of CI Global Green Bond Fund are offered for sale pursuant to a simplified prospectus prepared in accordance with NI 81-101 dated June 30, 2022. A preliminary simplified prospectus dated July 7, 2022 for CI Global Bond Currency Neutral Fund was prepared in accordance with NI 81-101 and filed in each of the Canadian Jurisdictions. Each of the Future Funds will prepare and file a prospectus either under NI 81-101 or under National Instrument 41-101 *General Prospectus Requirements* to distribute its securities in one or more of the Canadian Jurisdictions.

10. Each Current Fund is not in default of applicable securities legislation in any Canadian Jurisdiction.

Global Fixed Income Corporate Class

11. The investment objective of Global Fixed Income Corporate Class is to provide income and long-term capital growth primarily through investments in high quality debt securities of or guaranteed by governments, governmental agencies, other governmental entities and supranational agencies in a variety of countries throughout the world and denominated in the currencies of such countries. Global Fixed Income Corporate Class also invests in high quality publicly-traded debt securities, denominated in foreign currencies, of major corporations throughout the world and may invest in other mutual funds.

12. Global Fixed Income Corporate Class currently achieves its investment objectives by investing all of its assets in Global Fixed Income Pool (the underlying fund), which has the same portfolio adviser and similar investment objective as the Fund.

Global Fixed Income Pool

13. The investment objective of Global Fixed Income Pool is to provide income and long-term capital growth primarily through investments in high quality debt securities of or guaranteed by governments, governmental agencies, other governmental entities and supranational agencies in a variety of countries throughout the world and denominated in the currencies of such countries. Global Fixed Income Pool also invests in high quality publicly-traded debt securities, denominated in foreign currencies, of major corporations throughout the world.

14. The portfolio adviser of Global Fixed Income Pool employs an active, top-down, quantitative analytical process in selecting undervalued debt securities and currencies from around the world (including Foreign Government Securities).

15. Allowing the Fund to hold highly rated fixed income securities issued by foreign governments (such as the Foreign Government Securities) provides exposure to a fixed income sector that can deliver defensive characteristics during an equity market downturn – or other adverse market conditions – as investors seek higher quality and safe asset classes. Furthermore, allowing the Fund to hold Foreign Government Securities provides an opportunity for the portfolio adviser to express its view on interest rates, duration, credit spreads and government spreads based on the market environment.

16. The increased flexibility for the Fund to hold Foreign Government Securities can provide differentiated fixed income risk-return profiles relative to Canadian government or U.S. treasury securities. This may include enhanced yield or greater potential for price appreciation.

CI Global Bond Fund

17. The investment objective of CI Global Bond Fund is to obtain long-term total return. CI Global Bond Fund invests primarily in fixed income and floating rate securities of governments and companies throughout the world that the portfolio advisor believes offer an attractive yield and opportunity for capital gains. CI Global Bond Fund may make large investments in any country, including emerging markets and emerging industries of developed markets, and in high yield securities of developed markets.

18. The portfolio adviser of CI Global Bond Fund selects securities (including Foreign Government Securities) that it believes have fundamental value that is not reflected in their credit rating and yield. The portfolio adviser evaluates the financial condition and management of an issuer, its industry and the overall economies of the country and region.

19. Allowing the Fund to hold highly rated fixed income securities issued by foreign governments (such as the Foreign Government Securities) provides exposure to a fixed income sector that can deliver defensive characteristics during an equity market downturn – or other adverse market conditions – as investors seek higher quality and safe asset classes. Furthermore, allowing the Fund to hold Foreign Government Securities provides an opportunity for the portfolio adviser to express its view on interest rates, duration, credit spreads and government spreads based on the market environment.

20. The increased flexibility for the Fund to hold Foreign Government Securities can provide differentiated fixed income risk-return profiles relative to Canadian government or U.S. treasury securities. This may include enhanced yield or greater potential for price appreciation.

CI Global Green Bond Fund

21. The investment objective of CI Global Green Bond Fund is to provide long-term total return. CI Global Green Bond Fund follows an approach to investing that focuses on sustainable and responsible issuers by primarily investing in labelled green bonds issued by government, government-related and corporate issuers, located anywhere in the world.

22. CI Global Green Bond Fund seeks to achieve its investment objective by investing primarily in labelled green bonds (which may be Foreign Government Securities). The Fund may also invest in self-labelled bonds, unlabelled bonds and other fixed income securities that have met certain criteria. The portfolio adviser selects securities of sustainable and responsible issuers that it believes have fundamental value that is not reflected in their credit rating and yields. The portfolio adviser evaluates the financial condition and management of an issuer, its industry and the overall economies of the country and region. The Fund may invest in securities such as government and corporate bonds and debentures (including Foreign Government Securities).

23. Allowing the Fund to hold highly rated fixed income securities issued by foreign governments (such as the Foreign Government Securities) provides exposure to a fixed income sector that can deliver defensive characteristics during an equity market downturn – or other adverse market conditions – as investors seek higher quality and safe asset classes. Furthermore, allowing the Fund to hold Foreign Government Securities provides an opportunity for the portfolio adviser to express its view on interest rates, duration, credit spreads and government spreads based on the market environment.

24. Further, the market for environmental, social and governance (**ESG**) fixed income securities is significantly more developed in Europe than in Canada and the United States. Therefore, allowing the Fund to hold Foreign Government Securities provides flexibility to invest into a more diverse and potentially more liquid ESG fixed income universe.

25. The increased flexibility for the Fund to hold Foreign Government Securities can provide differentiated fixed income risk-return profiles relative to Canadian government or U.S. treasury securities. This may include enhanced yield or greater potential for price appreciation.

CI Global Bond Currency Neutral Fund

26. The investment objective of CI Global Bond Currency Neutral Fund will be to provide long-term total return. CI Global Bond Currency Neutral Fund will invest primarily in fixed income and floating rate securities of governments and companies throughout the world that the portfolio adviser believes offer an attractive yield and opportunity for capital gains. The Fund may make large investments in any country, including emerging markets and emerging industries of developed markets, and in high yield securities of developed markets. The Fund will use derivatives to minimize its exposure to foreign currency fluctuations against the Canadian dollar.

27. The portfolio adviser of CI Global Bond Currency Neutral Fund will select securities (including Foreign Government Securities) that it believes have fundamental value that is not reflected in their credit rating and yield. The portfolio adviser will evaluate the financial condition and management of an issuer, its industry and the overall economies of the country and region.

28. Allowing the Fund to hold highly rated fixed income securities issued by foreign governments (such as the Foreign Government Securities) provides exposure to a fixed income sector that can deliver defensive characteristics during an equity market downturn – or other adverse market conditions – as investors seek higher quality and safe asset classes. Furthermore, allowing the Fund to hold Foreign Government Securities provides an opportunity for the portfolio adviser to express its view on interest rates, duration, credit spreads and government spreads based on the market environment.

29. The increased flexibility for the Fund to hold Foreign Government Securities can provide differentiated fixed income risk-return profiles relative to Canadian government or U.S. treasury securities. This may include enhanced yield or greater potential for price appreciation.

The Future Funds

30. The Future Funds will have investment objectives and strategies that permit them to invest a majority of their net assets in fixed income securities, including Foreign Government Securities.

Necessity for Relief

31. The Concentration Restriction prohibits a fund from purchasing a security of an issuer, other than a "government security" as defined in NI 81-102, if immediately after the purchase more than 10% of the net asset value of the fund, taken at market value at the time of the purchase, would be invested in securities of the issuer.

32. Foreign Government Securities are not within the meaning of "government security" as defined in NI 81-102.

33. The Filer believes that the Exemption Sought will provide more flexibility and more favourable prospects for the Funds which would better enable the Funds to achieve their fundamental investment objectives, thereby benefitting the Funds' investors.

Generally

34. Each Fund will only purchase Foreign Government Securities if the purchase is consistent with that Fund's fundamental investment objectives.

35. The prospectus for each Fund will disclose the risks associated with concentration of net assets of the Fund in Foreign Government Securities.

36. The Filer believes the Exemption Sought will enhance the Funds' ability to pursue and achieve their investment objectives.

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:

1. The Revocation is granted; and

2. the Exemption Sought is granted provided that:

   (a) the Funds have investment objectives and strategies that permit them to invest a majority of their net assets in fixed income securities, including Foreign Government Securities;

   (b) paragraphs (b)(i) and (b)(ii) of the Exemption Sought cannot be combined for any one issuer;

   (c) any security that may be purchased under the Exemption Sought is traded on a mature and liquid market;

   (d) the acquisition of Foreign Government Securities purchased pursuant to this decision is consistent with the fundamental investment objectives of each Fund;

   (e) each Fund's prospectus discloses, or will disclose in its next renewal following the date of this decision, the additional risk associated with the concentration of the net asset value of the Fund in securities of fewer issuers, such as the potential additional exposure to the risk of default of the issuer in which the Fund has so invested and the risks, including foreign exchange risks, of investing in the country in which the issuer is located; and

   (f) each Fund's prospectus discloses, or will disclose in its next renewal following the date of this decision, in the investment strategies section, a summary of the nature and terms of the Exemption Sought, along with the conditions imposed and the type of securities covered by this decision.

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

Application File #: 2022/0343
SEDAR Project #: 3409857

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
Mobilum Technologies Inc.	August 8, 2022	August 10, 2022
INDVR Brands Inc.	August 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	
Rapid Dose Therapeutics Corp.	June 29, 2022	
Sproutly Canada, Inc.	June 30, 2022	
Gatos Silver, Inc.	July 7, 2022	
PlantX Life Inc.	August 4, 2022	
Radient Technologies Inc.	August 5, 2022	

This page intentionally left blank

B.5
Rules and Policies

B.5.1 National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives

NATIONAL INSTRUMENT 94-101
MANDATORY CENTRAL COUNTERPARTY CLEARING OF DERIVATIVES

PART 1
DEFINITIONS AND INTERPRETATION

Definitions and interpretation

1. (1) In this Instrument

"investment fund" has the meaning ascribed to it in National Instrument 81-106 *Investment Fund Continuous Disclosure*;

"local counterparty" means a counterparty to a derivative if, at the time of execution of the transaction, either of the following applies:

(a) the counterparty is a person or company, other than an individual, to which one or more of the following apply:

(i) the person or company is organized under the laws of the local jurisdiction;

(ii) the head office of the person or company is in the local jurisdiction;

(iii) the principal place of business of the person or company is in the local jurisdiction;

(b) the counterparty is an affiliated entity of a person or company referred to in paragraph (a) and the person or company is liable for all or substantially all the liabilities of the counterparty;

"mandatory clearable derivative" means a derivative within a class of derivatives listed in Appendix A;

"participant" means a person or company that has entered into an agreement with a regulated clearing agency to access the services of the regulated clearing agency and is bound by the regulated clearing agency's rules and procedures;

"prudentially regulated entity" means a person or company that is subject to the laws of Canada, a jurisdiction of Canada or a foreign jurisdiction where the head office or principal place of business of a Schedule III bank is located, and a political subdivision of that foreign jurisdiction, relating to minimum capital requirements, financial soundness and risk management, or the guidelines of a regulatory authority of Canada or a jurisdiction of Canada relating to minimum capital requirements, financial soundness and risk management;

"reference period" means the period beginning on September 1 in a given year and ending on August 31 of the following year;

"regulated clearing agency" means,

(a) in Alberta, New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan and Yukon, a person or company recognized or exempted from recognition as a clearing agency or clearing house pursuant to the securities legislation of any jurisdiction of Canada,

(b) in British Columbia, Manitoba and Ontario, a person or company recognized or exempted from recognition as a clearing agency in the local jurisdiction, and

(c) in Québec, a person recognized or exempted from recognition as a clearing house;

"transaction" means any of the following:

(a) entering into a derivative or making a material amendment to, assigning, selling or otherwise acquiring or disposing of a derivative;

(b) the novation of a derivative, other than a novation with a clearing agency or clearing house.

(2) In this Instrument, a person or company (the first party) is an affiliated entity of another person or company (the second party) if any of the following apply:

(a) the first party and the second party are consolidated in consolidated financial statements prepared in accordance with one of the following:

(i) IFRS;

(ii) generally accepted accounting principles in the United States of America;

(b) all of the following apply:

(i) the first party and the second party would have been, at the relevant time, required to be consolidated in consolidated financial statements prepared by the first party, the second party or another person or company, if the consolidated financial statements were prepared in accordance with the principles or standards referred to in subparagraphs (a)(i) or (ii);

(ii) neither the first party's nor the second party's financial statements, nor the financial statements of the other person or company, were prepared in accordance with the principles or standards referred to in subparagraph (a)(i) or (ii);

(c) except in British Columbia, the first party and the second party are both prudentially regulated entities and are consolidated for that purpose;

(d) in British Columbia, the first party and the second party are prudentially regulated entities that are required to report, on a consolidated basis, information relating to minimum capital requirements, financial soundness and risk management.

(3) (*Repealed*).

(4) In this Instrument, in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan and Yukon, "derivative" means a "specified derivative" as defined in Multilateral Instrument 91-101 *Derivatives: Product Determination*.

Application

2. This Instrument applies to,

(a) in Manitoba,

(i) a derivative other than a contract or instrument that, for any purpose, is prescribed by any of sections 2, 4 and 5 of Manitoba Securities Commission Rule 91-506 *Derivatives: Product Determination* not to be a derivative, and

(ii) a derivative that is otherwise a security and that, for any purpose, is prescribed by section 3 of Manitoba Securities Commission Rule 91-506 *Derivatives: Product Determination* not to be a security,

(b) in Ontario,

(i) a derivative other than a contract or instrument that, for any purpose, is prescribed by any of sections 2, 4 and 5 of Ontario Securities Commission Rule 91-506 *Derivatives: Product Determination* not to be a derivative, and

(ii) a derivative that is otherwise a security and that, for any purpose, is prescribed by section 3 of Ontario Securities Commission Rule 91-506 *Derivatives: Product Determination* not to be a security, and

(c) in Québec, a derivative specified in section 1.2 of Regulation 91-506 respecting derivatives determination, other than a contract or instrument specified in section 2 of that regulation.

In each other local jurisdiction, this Instrument applies to a derivative as defined in subsection 1(4) of this Instrument. This text box does not form part of this Instrument and has no official status.

PART 2
MANDATORY CENTRAL COUNTERPARTY CLEARING

Duty to submit for clearing

3. (0.1) Despite subsection 1(2), an investment fund is not an affiliated entity of another person or company for the purposes of paragraphs 3(1)(b) and (c).

(0.2) Despite subsection 1(2), a person or company is not an affiliated entity of another person or company for the purposes of paragraphs 3(1)(b) and (c) if the following apply:

(a) the person or company has, as its primary purpose, one of the following:

(i) financing a specific pool or pools of assets;

(ii) providing investors with exposure to a specific set of risks;

(iii) acquiring or investing in real estate or other physical assets;

(b) all the incurred indebtedness by the person or company whose primary purpose is one set out in subparagraphs (a)(i) or (ii), including obligations owing to its counterparty to a derivative, are secured solely by the assets of that person or company.

(1) A local counterparty to a transaction in a mandatory clearable derivative must submit, or cause to be submitted, the mandatory clearable derivative for clearing to a regulated clearing agency that offers clearing services in respect of the mandatory clearable derivative, if one or more of the following applies to each counterparty:

(a) the counterparty

(i) is a participant of a regulated clearing agency that offers clearing services in respect of the mandatory clearable derivative, and

(ii) subscribes to clearing services for the class of derivatives to which the mandatory clearable derivative belongs;

(b) the counterparty

(i) is an affiliated entity of a participant referred to in paragraph (a), and

(ii) had, for the months of March, April and May preceding the reference period in which the transaction was executed, an average month-end gross notional amount under all outstanding derivatives exceeding $1 000 000 000 excluding derivatives to which paragraph 7(1)(a) applies;

(c) the counterparty

(i) is a local counterparty in any jurisdiction of Canada,

(ii) had, during the previous 12-month period, a month-end gross notional amount under all outstanding derivatives, combined with each affiliated entity that is a local counterparty in any jurisdiction of Canada, exceeding $500 000 000 000 excluding derivatives to which paragraph 7(1)(a) applies, and

(iii) had, for the months of March, April and May preceding the reference period in which the transaction was executed, an average month-end gross notional amount under all outstanding derivatives exceeding $1 000 000 000 excluding derivatives to which paragraph 7(1)(a) applies.

(2) Unless paragraph (1)(a) applies, a local counterparty to which paragraph (1)(c) applies is not required to submit a mandatory clearable derivative for clearing to a regulated clearing agency if the transaction in the mandatory clearable derivative was executed before the 90th day after the end of the month in which the month-end gross notional amount first exceeded the amount specified in subparagraph (1)(c)(ii).

(3) Unless subsection (2) applies, a local counterparty to which subsection (1) applies must submit a mandatory clearable derivative for clearing no later than

(a) the end of the day of execution if the transaction is executed during the business hours of the regulated clearing agency, or

(b) the end of the next business day if the transaction is executed after the business hours of the regulated clearing agency.

(4) A local counterparty to which subsection (1) applies must submit the mandatory clearable derivative for clearing in accordance with the rules of the regulated clearing agency, as amended from time to time.

(5) A counterparty that is a local counterparty solely pursuant to paragraph (b) of the definition of "local counterparty" in section 1 is exempt from this section if the mandatory clearable derivative is submitted for clearing in accordance with the law of a foreign jurisdiction to which the counterparty is subject, set out in Appendix B.

Notice of rejection

4. If a regulated clearing agency rejects a mandatory clearable derivative submitted for clearing, the regulated clearing agency must immediately notify each local counterparty to the mandatory clearable derivative.

Public disclosure of clearable and mandatory clearable derivatives

5. A regulated clearing agency must do all of the following:

(a) publish a list of each derivative or class of derivatives for which the regulated clearing agency offers clearing services and state whether each derivative or class of derivatives is a mandatory clearable derivative;

(b) make the list accessible to the public at no cost on its website.

PART 3
EXEMPTIONS FROM MANDATORY CENTRAL COUNTERPARTY CLEARING

Non-application

6. This Instrument does not apply to a counterparty in respect of a mandatory clearable derivative if any counterparty to the mandatory clearable derivative is any of the following:

(a) the government of Canada, the government of a jurisdiction of Canada or the government of a foreign jurisdiction;

(b) a crown corporation for which the government of the jurisdiction where the crown corporation was constituted is liable for all or substantially all the liabilities;

(c) a person or company wholly owned by one or more governments referred to in paragraph (a) if the government or governments are liable for all or substantially all the liabilities of the person or company;

(d) the Bank of Canada or a central bank of a foreign jurisdiction;

(e) the Bank for International Settlements;

(f) the International Monetary Fund.

Intragroup exemption

7. (1) A local counterparty is exempt from section 3, with respect to a mandatory clearable derivative, if all of the following apply:

(a) the mandatory clearable derivative is between a counterparty and an affiliated entity of the counterparty;

(b) **(*Repealed*)**;

(c) the mandatory clearable derivative is subject to a centralized risk management program reasonably designed to assist in monitoring and managing the risks associated with the derivative between the counterparties through evaluation, measurement and control procedures;

(d) there is a written agreement between the counterparties setting out the terms of the mandatory clearable derivative between the counterparties.

(2) (*Repealed*).

(3) (*Repealed*).

Multilateral portfolio compression exemption

8. A local counterparty is exempt from section 3, with respect to a mandatory clearable derivative resulting from a multilateral portfolio compression exercise, if all of the following apply:

(a) the mandatory clearable derivative is entered into as a result of more than 2 counterparties changing or terminating and replacing existing derivatives;

(b) the existing derivatives do not include a mandatory clearable derivative entered into after the effective date on which the class of derivatives became a mandatory clearable derivative;

(c) the existing derivatives were not cleared by a clearing agency or clearing house;

(d) the multilateral portfolio compression exercise involved both counterparties to the mandatory clearable derivative;

(e) the multilateral portfolio compression exercise was conducted by an independent third-party.

Recordkeeping

9. (1) A local counterparty to a mandatory clearable derivative that relied on section 7 or 8 with respect to a mandatory clearable derivative must keep records demonstrating that the conditions referred to in those sections, as applicable, were satisfied.

(2) The records required to be maintained under subsection (1) must be kept in a safe location and in a durable form for a period of

(a) except in Manitoba, 7 years following the date on which the mandatory clearable derivative expires or is terminated, and

(b) in Manitoba, 8 years following the date on which the mandatory clearable derivative expires or is terminated.

PART 4
MANDATORY CLEARABLE DERIVATIVES

(*Repealed*)

PART 5
EXEMPTION

Exemption

11. (1) The regulator or the securities regulatory authority may grant an exemption to this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario, only the regulator may grant an exemption.

(3) Except in Alberta and Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction.

PART 6
TRANSITION AND EFFECTIVE DATE

Transition – regulated clearing agency filing requirement

12. No later than May 4, 2017, a regulated clearing agency must deliver electronically to the regulator or securities regulatory authority a completed Form 94-101F2 *Derivatives Clearing Services*, identifying all derivatives or classes of derivatives for which it offers clearing services on April 4, 2017.

Transition – certain counterparties' submission for clearing

13. A counterparty specified in paragraphs 3(1)(b) or (c) to which paragraph (3)(1)(a) does not apply is not required to submit a mandatory clearable derivative for clearing to a regulated clearing agency until October 4, 2017.

Effective date

14. (1) This Instrument comes into force on April 4, 2017.

(2) In Saskatchewan, despite subsection (1), if these regulations are filed with the Registrar of Regulations after April 4, 2017, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

APPENDIX A
TO
NATIONAL INSTRUMENT 94-101
MANDATORY CENTRAL COUNTERPARTY CLEARING OF DERIVATIVES

MANDATORY CLEARABLE DERIVATIVES
(Subsection 1(1))

Interest Rate Swaps

Type	Floating index	Settlement currency	Maturity	Settlement currency type	Optionality	Notional type
Fixed-to-float	CDOR	CAD	28 days to 30 years	Single currency	No	Constant or variable
Fixed-to-float	LIBOR	USD	28 days to 50 years	Single currency	No	Constant or variable
Fixed-to-float	EURIBOR	EUR	28 days to 50 years	Single currency	No	Constant or variable
Fixed-to-float	LIBOR	GBP	28 days to 50 years	Single currency	No	Constant or variable
Basis	LIBOR	USD	28 days to 50 years	Single currency	No	Constant or variable
Basis	EURIBOR	EUR	28 days to 50 years	Single currency	No	Constant or variable
Basis	LIBOR	GBP	28 days to 50 years	Single currency	No	Constant or variable
Overnight index swap	CORRA	CAD	7 days to 2 years	Single currency	No	Constant
Overnight index swap	FedFunds	USD	7 days to 3 years	Single currency	No	Constant
Overnight index swap	EONIA	EUR	7 days to 3 years	Single currency	No	Constant
Overnight index swap	SONIA	GBP	7 days to 3 years	Single currency	No	Constant

Forward Rate Agreements

Type	Floating index	Settlement currency	Maturity	Settlement currency type	Optionality	Notional type
Forward rate agreement	LIBOR	USD	3 days to 3 years	Single currency	No	Constant
Forward rate agreement	EURIBOR	EUR	3 days to 3 years	Single currency	No	Constant
Forward rate agreement	LIBOR	GBP	3 days to 3 years	Single currency	No	Constant

APPENDIX B
TO
NATIONAL INSTRUMENT 94-101
MANDATORY CENTRAL COUNTERPARTY CLEARING OF DERIVATIVES

LAWS, REGULATIONS OR INSTRUMENTS OF FOREIGN JURISDICTIONS APPLICABLE FOR SUBSTITUTED COMPLIANCE
(Subsection 3(5))

Foreign jurisdiction	Laws, regulations or instruments
European Union	Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, as amended by Regulation (EU) 2019/2099
United Kingdom	Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment etc., and Transitional Provision) (EU Exit) (No 2) Regulations 2019 The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 The Technical Standards (European Market Infrastructure Regulation) (EU Exit) (No 2) Instrument 2019 The Technical Standards (European Market Infrastructure Regulation) (EU Exit) (No 3) Instrument 2019
United States of America	Clearing Requirement and Related Rules, 17 CFR Part 50

FORM 94-101F1
INTRAGROUP EXEMPTION

(*Repealed*)

FORM 94-101F2
DERIVATIVES CLEARING SERVICES

(*Repealed*)

B.5.2 Companion Policy 94-101 Mandatory Central Counterparty Clearing of Derivatives

COMPANION POLICY 94-101
MANDATORY CENTRAL COUNTERPARTY CLEARING OF DERIVATIVES

GENERAL COMMENTS

Introduction

This Companion Policy sets out how the Canadian Securities Administrators (the "CSA" or "we") interpret or apply the provisions of National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives* ("NI 94-101" or the "Instrument") and related securities legislation.

The numbering of Parts and sections in this Companion Policy correspond to the numbering in NI 94-101. Any specific guidance on sections in NI 94-101 appears immediately after the section heading. If there is no guidance for a section, the numbering in this Companion Policy will skip to the next provision that does have guidance.

SPECIFIC COMMENTS

Unless defined in NI 94-101 or explained in this Companion Policy, terms used in NI 94-101 and in this Companion Policy have the meaning given to them in the securities legislation of the jurisdiction including National Instrument 14-101 *Definitions*.

In this Companion Policy, "Product Determination Rule" means,

> in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan and Yukon, Multilateral Instrument 91-101 *Derivatives: Product Determination*,
>
> in Manitoba, Manitoba Securities Commission Rule 91-506 *Derivatives: Product Determination*,
>
> in Ontario, Ontario Securities Commission Rule 91-506 *Derivatives: Product Determination*, and
>
> in Québec, Regulation 91-506 respecting Derivatives Determination.

In this Companion Policy, "TR Instrument" means,

> in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan and Yukon, Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting*,
>
> in Manitoba, Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting*,
>
> in Ontario, Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting*, and
>
> in Québec, Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting.

PART 1
DEFINITIONS AND INTERPRETATION

Subsection 1(1) – Definition of "participant"

A "participant" of a regulated clearing agency is bound by the rules and procedures of the regulated clearing agency due to the contractual agreement with the regulated clearing agency.

Subsection 1(1) – Definition of "regulated clearing agency"

It is intended that only a "regulated clearing agency" that acts as a central counterparty for over-the-counter derivatives be subject to the Instrument. The purpose of paragraph (a) of this definition is to allow, for certain enumerated jurisdictions, a mandatory clearable derivative involving a local counterparty in one of the listed jurisdictions to be submitted to a clearing agency that is not yet recognized or exempted in the local jurisdiction, but that is recognized or exempted in another jurisdiction of Canada. Paragraph (a) does not supersede any provision of the securities legislation of a local jurisdiction with respect to any recognition requirements for a person or company that is carrying on the business of a clearing agency in the local jurisdiction.

Subsection 1(1) – Definition of "transaction"

The Instrument uses the term "transaction" rather than the term "trade" in part to reflect that "trade" is defined in the securities legislation of some jurisdictions as including the termination of a derivative. We do not think the termination of a derivative should

trigger mandatory central counterparty clearing. Similarly, the definition of transaction in NI 94-101 excludes a novation resulting from the submission of a derivative to a clearing agency or clearing house as this is already a cleared transaction. Finally, the definition of "transaction" is not the same as the definition found in the TR Instrument as the latter does not include a material amendment since the TR Instrument expressly provides that an amendment must be reported.

In the definition of "transaction", the expression "material amendment" is used to determine whether there is a new transaction, considering that only new transactions will be subject to mandatory central counterparty clearing under NI 94-101. If a derivative that existed prior to the coming into force of NI 94-101 is materially amended after NI 94-101 is effective, that amendment will trigger the mandatory central counterparty clearing requirement, if applicable, as it would be considered a new transaction. A material amendment is one that changes information that would reasonably be expected to have a significant effect on the derivative's attributes, including its notional amount, the terms and conditions of the contract evidencing the derivative, the trading methods or the risks related to its use, but excluding information that is likely to have an effect on the market price or value of its underlying interest. We will consider several factors when determining whether a modification to an existing derivative is a material amendment. Examples of a modification to an existing derivative that would be a material amendment include any modification which would result in a significant change in the value of the derivative, differing cash flows, a change to the method of settlement or the creation of upfront payments.

Subsection 1(2) – Interpretation of "affiliated entity"

To determine whether two entities are affiliates, the Instrument uses an approach based on the concept of consolidated financial statements under IFRS or U.S. Generally Accepted Accounting Principles (U.S. GAAP). Consequently, two entities whose financial statements are consolidated, or would be consolidated if any financial statements were required, would be considered affiliated entities under the Instrument. We expect corporate groups that do not prepare financial statements in accordance with IFRS or U.S. GAAP to apply the consolidation test under either IFRS or U.S. GAAP to determine whether entities within the corporate group meet the "affiliated entity" interpretation.

PART 2
MANDATORY CENTRAL COUNTERPARTY CLEARING

Subsections 3(0.1) and (0.2) – Exclusion of investment funds and certain entities

An investment fund whose financial statements are consolidated with those of another entity should not be considered an affiliated entity of the other entity for the application of paragraphs 3(1)(b) and (c). Accordingly, the month-end exposure of an investment fund should not be considered when calculating the month-end gross notional amount in accordance with those paragraphs.

However, an investment fund will be subject to the clearing requirements if it, on its own, exceeds the $500 000 000 000 month-end gross notional amount for all outstanding derivatives.

Similarly, certain structured entities (commonly known as special purpose entities) should not be considered as affiliates for the purpose of paragraphs 3(1)(b) and (c) if they meet the conditions stated in subsection 3(0.2). An entity, including an entity such as a credit card securitization vehicle or an entity created to guarantee interest and principal payments under a covered bond program, that meets the conditions in subsection 3(0.2) would not be an affiliated entity. All obligations of such entities are required to be exclusively secured by their own assets to meet the condition in paragraph 3(0.2)(b). Also, a vehicle created to invest in real estate or an infrastructure that meets the conditions in subparagraph 3(0.2)(a)(iii) would not be an affiliated entity of another entity even if its financial statements are consolidated with the other entity.

Subsection 3(1) – Duty to submit for clearing

The duty to submit a mandatory clearable derivative for clearing to a regulated clearing agency only applies at the time the transaction is executed. If a derivative or class of derivatives is determined to be a mandatory clearable derivative after the date of execution of a transaction in that derivative or class of derivatives, we would not expect a local counterparty to submit the mandatory clearable derivative for clearing. Therefore, we would not expect a local counterparty to clear a mandatory clearable derivative entered into as a result of a counterparty exercising a swaption that was entered into before the date on which the requirement to submit a mandatory clearable derivative for clearing is applicable to that counterparty or the date on which the derivative became a mandatory clearable derivative. Similarly, we would not expect a local counterparty to clear an extendible swap that was entered into before the date on which the requirement to submit a mandatory clearable derivative for clearing is applicable to that counterparty or the date on which the derivative became a mandatory clearable derivative and extended in accordance with the terms of the contract after such date.

However, if after a derivative or class of derivatives is determined to be a mandatory clearable derivative, there is another transaction in that same derivative, including a material amendment to a previous transaction (as discussed in subsection 1(1) above), that derivative will be subject to the mandatory central counterparty clearing requirement.

Where a derivative is not subject to the mandatory central counterparty clearing requirement but the derivative is clearable through a regulated clearing agency, the counterparties have the option to submit the derivative for clearing at any time. For a complex

swap with non-standard terms that regulated clearing agencies cannot accept for clearing, adherence to the Instrument would not require market participants to structure such derivative in a particular manner or disentangle the derivative in order to clear the component which is a mandatory clearable derivative if it serves legitimate business purposes. However, considering that it would not require disentangling, we would expect the component of a packaged transaction that is a mandatory clearable derivative to be cleared.

For a local counterparty that is not a participant of a regulated clearing agency, we have used the phrase “cause to be submitted” to refer to the local counterparty’s obligation. In order to comply with subsection (1), a local counterparty would need to have arrangements in place with a participant for clearing services in advance of entering into a mandatory clearable derivative.

A transaction in a mandatory clearable derivative is required to be cleared when at least one of the counterparties is a local counterparty and one or more of paragraphs (a), (b) or (c) apply to both counterparties. For example, a local counterparty under any of paragraphs (a), (b) or (c) must clear a mandatory clearable derivative entered into with another local counterparty under any of paragraphs (a), (b) or (c). As a further example, a local counterparty under any of paragraphs (a), (b) or (c) must also clear a mandatory clearable derivative with a foreign counterparty under paragraphs (a) or (b). For instance, a local counterparty that is an affiliated entity of a foreign participant would be subject to mandatory central counterparty clearing for a mandatory clearable derivative with a foreign counterparty that is an affiliated entity of another foreign participant considering that there is one local counterparty to the transaction and both counterparties meet the criteria under paragraph (b).

Pursuant to paragraph (c) a local counterparty that had a month-end gross notional amount of outstanding derivatives exceeding the $500 000 000 000 threshold in subparagraph (c)(ii) must clear a mandatory clearable derivative entered into with another counterparty that meets the criteria under paragraph (a), (b) or (c). In order to determine whether the $500 000 000 000 threshold in subparagraph (c)(ii) is exceeded, a local counterparty must add the gross notional amount of all outstanding derivatives of its affiliated entities that are also local counterparties, to its own. However, investments funds and consolidated structured entities that meet the criteria under subsections 3(0.1) and (0.2) are not included in the calculation.

Where a local counterparty is a member of a group of affiliated entities that exceeds the $500 000 000 000 threshold but is not itself a counterparty to derivatives that have an average month-end gross notional amount exceeding the $1 000 000 000 threshold, calculated in accordance with subparagraph (c)(iii), it is not required to clear a mandatory clearable derivative.

A person or company that exceeds the $1 000 000 000 notional exposure, calculated according to paragraphs (b) and (c), is required to fulfill the mandatory clearing requirement from September 1 of a given year until August 31 of the next year. This is referred to as the “reference period” in the Instrument.

For example, local counterparty XYZ had an average month-end gross notional amount under all outstanding derivatives of $75 000 000 000 for the months of March, April and May of 2022. Counterparty XYZ also had, combined with each of its affiliated entities that are local counterparties, a month-end gross notional amount for all derivatives of $525 000 000 000 at the end of November 2021. Considering that (i) the aggregated month-end gross notional amount outstanding of $525 000 000 000 exceeds the $500 000 000 000 threshold, (ii) it occurred during the previous 12 months, and (iii) the average month-end gross notional amount of $75 000 000 000 for March, April and May of 2022 exceeds the $1 000 000 000 threshold, counterparty XYZ will need to comply with the Instrument in respect of mandatory clearable derivatives entered into during the reference period starting September 1, 2022. Conversely, if local counterparty XYZ does not exceed, on its own, the $1 000 000 000 threshold, it is not subject to clearance even if the aggregated month-end gross notional amount outstanding with all of its affiliated entities exceeds the $500 000 000 000 threshold.

Furthermore, in the example, even if local counterparty XYZ is subject to mandatory clearing from September 1, 2022 until August 31, 2023, but no longer exceeds the $1 000 000 000 threshold for the months of March, April and May of 2023, it will no longer be required to comply with section 3 for the next reference period starting September 1, 2023. However, the local counterparty will have to evaluate its application every year. Consequently, if local counterparty XYZ exceeds the $1 000 000 000 threshold again in a future year, it will become subject to the requirements of the Instrument until the following year.

The calculation of the gross notional amount outstanding under paragraphs (b) and (c) excludes derivatives with affiliated entities, which would be exempted under section 7 if they were mandatory clearable derivatives.

In addition, a local counterparty determines whether it exceeds the threshold in subaragraph (c)(ii) by adding the gross notional amount of all outstanding derivatives of its affiliated entities that are also local counterparties, to its own.

A local counterparty that is a participant at a regulated clearing agency, but does not subscribe to clearing services for the class of derivatives to which the mandatory clearable derivative belongs would still be required to clear if it is subject to paragraph (c).

A local counterparty subject to mandatory central counterparty clearing that engages in a mandatory clearable derivative is responsible for determining whether the other counterparty is also subject to mandatory central counterparty clearing. To do so, the local counterparty may rely on the factual statements made by the other counterparty, provided that it does not have reasonable grounds to believe that such statements are false.

We would not expect that all the counterparties of a local counterparty provide their status as most counterparties would not be subject to the Instrument. However, a local counterparty cannot rely on the absence of a declaration from a counterparty to avoid the requirement to clear. Instead, when no information is provided by a counterparty, the local counterparty may use factual statements or available information to assess whether the mandatory clearable derivative is required to be cleared in accordance with the Instrument.

We would expect counterparties subject to the Instrument to exercise reasonable judgement in determining whether a person or company may be near or above the thresholds set out in paragraphs (b) and (c). We would expect a counterparty subject to the Instrument to solicit confirmation from its counterparty where there is reasonable basis to believe that the counterparty may be near or above any of the thresholds.

The status of a counterparty under this subsection should be determined before entering into a mandatory clearable derivative. We would not expect a local counterparty to clear a mandatory clearable derivative entered into after the date on which the requirement to submit a mandatory clearable derivative for clearing is applicable to that counterparty, but before one of the counterparties was captured under one of paragraphs (a), (b) or (c) unless there is a material amendment to the derivative after the date that both counterparties are so captured.

Subsection 3(2) – 90-day transition

This subsection provides that only transactions in mandatory clearable derivatives executed on or after the 90th day after the end of the month in which the local counterparty first exceeded the threshold are subject to subsection 3(1). We do not intend that transactions executed between the 1st day on which the local counterparty became subject to subsection 3(1) and the 90th day be back-loaded after the 90th day.

Subsection 3(3) – Submission to a regulated clearing agency

We would expect that a transaction subject to mandatory central counterparty clearing be submitted to a regulated clearing agency as soon as practicable, but no later than the end of the day on which the transaction was executed or if the transaction occurs after business hours of the regulated clearing agency, the next business day.

Subsection 3(5) – Substituted compliance

Substituted compliance is only available to a local counterparty that is a foreign affiliated entity of a counterparty organized under the laws of the local jurisdiction or with a head office or principal place of business in the local jurisdiction and that is responsible for all or substantially all the liabilities of the affiliated entity. The local counterparty would still be subject to the Instrument, but its mandatory clearable derivatives, as per the definition under the Instrument, may be cleared at a clearing agency pursuant to a foreign law listed in Appendix B if the counterparty is subject to and compliant with that foreign law.

Despite the ability to clear pursuant to a foreign law listed in Appendix B, the local counterparty is still required to fulfill the other requirements in the Instrument, as applicable. This includes the retention period for the record keeping requirement.

PART 3
EXEMPTIONS FROM MANDATORY CENTRAL COUNTERPARTY CLEARING

Section 6 – Non-application

A mandatory clearable derivative involving a counterparty that is an entity referred to in section 6 is not subject to the requirement under section 3 to submit a mandatory clearable derivative for clearing even if the other counterparty is otherwise subject to it.

The expression “government of a foreign jurisdiction” in paragraph (a) is interpreted as including sovereign and sub-sovereign governments.

Section 7 – Intragroup exemption

The Instrument does not require an outward-facing transaction in a mandatory clearable derivative entered into by a foreign counterparty that meets paragraph 3(1)(a) or (b) to be cleared in order for the foreign counterparty and its affiliated entity that is a local counterparty subject to the Instrument to rely on this exemption. However, we would expect a local counterparty to not abuse this exemption in order to evade mandatory central counterparty clearing. It would be considered evasion if the local counterparty uses a foreign affiliated entity or another member of its group to enter into a mandatory clearable derivative with a foreign counterparty that meets paragraph 3(1)(a) or (b) and then do a back-to-back transaction or enter into the same derivative relying on the intragroup exemption where the local counterparty would otherwise have been required to clear the mandatory clearable derivative if it had entered into it directly with the non-affiliated counterparty.

Subsection 7(1) – Requisite conditions for intragroup exemption

The intragroup exemption is based on the premise that the risk created by mandatory clearable derivatives entered into between counterparties in the same group is expected to be managed in a centralized manner to allow for the risk to be identified and managed appropriately.

This subsection sets out the conditions that must be met for the counterparties to use the intragroup exemption for a mandatory clearable derivative.

Affiliated entities may rely on paragraph (a) for a mandatory clearable derivative as soon as they meet the criteria to consolidate their financial statements together. Indeed, we would not expect affiliated entities to wait until their next financial statements are produced to benefit from this exemption if they will be consolidated.

If the consolidated financial statements referred to in paragraph 7(1)(a) are not prepared in accordance with IFRS, Canadian GAAP or U.S. GAAP, we would expect that the consolidated financial statements be prepared in accordance with the generally accepted accounting principles of a foreign jurisdiction where one or more of the affiliated entities has a significant connection, such as where the head office or principal place of business of one or both of the affiliated entities, or their parent, is located.

Paragraph (c) refers to a system of risk management policies and procedures designed to monitor and manage the risks associated with a mandatory clearable derivative. We expect that such procedures would be regularly reviewed. We are of the view that counterparties relying on this exemption may structure their centralized risk management according to their unique needs, provided that the program reasonably monitors and manages risks associated with non-centrally cleared derivatives. We would expect that, for a risk management program to be considered centralized, the evaluation, measurement and control procedures would be applied by a counterparty to the mandatory clearable derivative or an affiliated entity of both counterparties to the derivative.

Paragraph (d) refers to the terms of the mandatory clearable derivative that is not cleared. A trade confirmation, for instance, would be acceptable.

Section 8 – Multilateral portfolio compression exemption

A multilateral portfolio compression exercise involves more than two counterparties who wholly change or terminate some or all of their existing derivatives submitted for inclusion in the exercise and replace those derivatives with, depending on the methodology employed, other derivatives whose combined notional amount, or some other measure of risk, is less than the combined notional amount, or some other measure of risk, of the derivatives replaced by the exercise.

The purpose of a multilateral portfolio compression exercise is to reduce operational or counterparty credit risk by reducing the number or notional amounts of outstanding derivatives between counterparties and the aggregate gross number or notional amounts of outstanding derivatives. We expect each amended derivative or replacement derivative generated by the multilateral portfolio compression exercise to be entered into for the sole purpose of reducing operational or counterparty credit risk and that such derivative(s) is (are) entered into between the same two counterparties as the original derivative(s).

Under paragraph (c), the existing derivatives submitted for inclusion in the exercise were not cleared either because they did not include a mandatory clearable derivative or because they were entered into before the class of derivatives became a mandatory clearable derivative or because the counterparty was not subject to the Instrument.

We would expect a local counterparty involved in a multilateral portfolio compression exercise to comply with its credit risk tolerance levels. To do so, we expect a participant to the exercise to set its own counterparty, market and cash payment risk tolerance levels so that the exercise does not alter the risk profiles of each participant beyond a level acceptable to the participant. Consequently, we would expect existing derivatives that would be reasonably likely to significantly increase the risk exposure of the participant to not be included in the multilateral portfolio compression exercise in order for this exemption to be available.

We would expect that a mandatory clearable derivative resulting from the multilateral portfolio compression exercise would have the same material terms (including the floating index, the maximum maturity of the derivative and the weighted average maturity of the derivative) as the derivatives that were replaced with the exception of reducing the number or notional amount of outstanding derivatives.

Section 9 – Recordkeeping

We would generally expect that reasonable supporting documentation kept in accordance with section 9 would include complete records of any analysis undertaken by the local counterparty to demonstrate it satisfies the conditions necessary to rely on the intragroup exemption under section 7 or the multilateral portfolio compression exemption under section 8, as applicable.

A local counterparty subject to the mandatory central counterparty clearing requirement is responsible for determining whether, given the facts available, an exemption is available. Generally, we would expect a local counterparty relying on an exemption to

retain all documents that show it properly relied on the exemption. It is not appropriate for a local counterparty to assume an exemption is available.

Counterparties using the intragroup exemption under section 7 should have appropriate legal documentation between them and detailed operational material outlining the risk management techniques used by the overall parent entity and its affiliated entities with respect to the mandatory clearable derivatives benefiting from the exemption.

APPENDIX A

MANDATORY CLEARABLE DERIVATIVES

In the course of determining whether a derivative or class of derivatives will be subject to mandatory central counterparty clearing, the factors we will consider include the following:

- the derivative is available to be cleared on a regulated clearing agency;
- the level of standardization of the derivative, such as the availability of electronic processing, the existence of master agreements, product definitions and short form confirmations;
- the effect of central clearing of the derivative on the mitigation of systemic risk, taking into account the size of the market for the derivative and the available resources of the regulated clearing agency to clear the derivative;
- whether mandating the derivative or class of derivatives to be cleared would bring undue risk to regulated clearing agencies;
- the outstanding notional amount of the counterparties transacting in the derivative or class of derivatives, the current liquidity in the market for the derivative or class of derivatives, the concentration of participants active in the market for the derivative or class of derivatives, and the availability of reliable and timely pricing data;
- the existence of third-party vendors providing pricing services;
- with regards to a regulated clearing agency, the existence of an appropriate rule framework, and the existence of capacity, operational expertise and resources, and credit support infrastructure to clear the derivative on terms that are consistent with the material terms and trading conventions on which the derivative is traded;
- whether a regulated clearing agency would be able to manage the risk of the additional derivatives that might be submitted due to the mandatory central counterparty clearing requirement determination;
- the effect on competition, taking into account appropriate fees and charges applied to clearing, and whether mandating clearing of the derivative could harm competition;
- alternative derivatives or clearing services co-existing in the same market;
- the public interest.

This page intentionally left blank

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:
Mackenzie Bluewater Global Innovative Growth Fund
Mackenzie Global Sustainable High Yield Bond Fund
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated Jul 29, 2022
NP 11-202 Preliminary Receipt dated Aug 9, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #34`4600

Issuer Name:
Emerge EMPWR Sustainable Dividend Equity ETF
Emerge EMPWR Sustainable Emerging Markets Equity ETF
Emerge EMPWR Sustainable Global Core Equity ETF
Emerge EMPWR Sustainable Select Growth Equity ETF
Emerge EMPWR Unified Sustainable Equity ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Aug 8, 2022
NP 11-202 Final Receipt dated Aug 12, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3380905

Issuer Name:
AlphaDelta Canadian Dividend Income Class (formerly, AlphaDelta Canadian Growth of Dividend Income Class)
AlphaDelta Global Dividend Income Class (formerly, AlphaDelta Growth of Dividend Income Class)
AlphaDelta Tactical Growth Class
Principal Regulator – British Columbia
Type and Date:
Final Simplified Prospectus dated Aug 12, 2022
NP 11-202 Final Receipt dated Aug 12, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3408810

Issuer Name:
Vanguard Global Equity Fund
Principal Regulator - Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated August 8, 2022
NP 11-202 Final Receipt dated Aug 9, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3250938

Issuer Name:
Ninepoint 2022 Short Duration Flow-Through Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated August 15, 2022
NP 11-202 Preliminary Receipt dated August 15, 2022
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3421131

Issuer Name:
Sprott Physical Platinum and Palladium Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus (NI 44-102) dated August 8, 2022
NP 11-202 Preliminary Receipt dated August 9, 2022
Offering Price and Description:
Maximum Offerings: U.S.$100,000,000 Trust Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3417503

Issuer Name:
Sprott Physical Gold Trust
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus (NI 44-102) dated August 10, 2022
NP 11-202 Receipt dated August 11, 2022
Offering Price and Description:
U.S.$2,000,000,000
Trust Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3417031

NON-INVESTMENT FUNDS

Issuer Name:
Adventus Mining Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated August 11, 2022
NP 11-202 Preliminary Receipt dated August 12, 2022
Offering Price and Description:
$125,000,000.00 - Common Shares, Debt Securities, Warrants, Subscription Receipts, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3419998

Issuer Name:
Candyverse Brands Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated August 12, 2022
NP 11-202 Preliminary Receipt dated August 12, 2022
Offering Price and Description:
2,500,000.00 Common Shares at a price of $0.40 per Common Share
Public Offering of $1,000,000.00
Underwriter(s) or Distributor(s):
-
Promoter(s):
Garrett Downes
Project #3420438

Issuer Name:
Chemtrade Logistics Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated August 15, 2022
NP 11-202 Preliminary Receipt dated August 15, 2022
Offering Price and Description:
$500,000,000.00 - Units Subscription Receipts Warrants Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3420997

Issuer Name:
FendX Technologies Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated August 12, 2022
Received on August 12, 2022
Offering Price and Description:
Qualifies for Distribution 13,138,000 Common Shares and 6,569,000 Warrants of the Company upon the Conversion of Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
Carolyn Myers
Project #3420763

Issuer Name:
Haviland Enviro Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated August 10, 2022
NP 11-202 Preliminary Receipt dated August 10, 2022
Offering Price and Description:
Minimum Offering: $500,000
Maximum Offering: $1,500,000
Minimum of 5,000,000 Common Shares and up to a Maximum of 15,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3418610

Issuer Name:
Mount Logan Capital Inc. (formerly, Marret Resource Corp.)
Principal Regulator - Ontario
Type and Date:
Amendment dated August 11, 2022 to Preliminary Shelf Prospectus dated May 16, 2022
NP 11-202 Preliminary Receipt dated August 11, 2022
Offering Price and Description:
$45,000,000.00 - Common Shares, Debt Securities, Subscription Receipts, Warrants, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3385349

Issuer Name:
RIOCAN REAL ESTATE INVESTMENT TRUST
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated August 12, 2022
NP 11-202 Preliminary Receipt dated August 15, 2022
Offering Price and Description:
$3,000,000,000 Debt Securities Units (Senior Unsecured) Preferred Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3420478

Issuer Name:
ShinyBud Corp. (formerly Cedarmont Capital Corp.)
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated August 10, 2022
NP 11-202 Preliminary Receipt dated August 11, 2022
Offering Price and Description:
$50,000,000.00 - Common Shares Subscription Receipts Warrants Debt Securities Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3419069

Issuer Name:
VSBLTY Groupe Technologies Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated August 10, 2022
NP 11-202 Preliminary Receipt dated August 10, 2022
Offering Price and Description:
$50,000,000.00 - Common Shares Warrants Subscription Receipts Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3418661

Issuer Name:
Xcite Resources Inc.
Principal Regulator - British Columbia
Type and Date:
Amendment dated August 11, 2022 to Final Long Form Prospectus dated May 16, 2022
Received on August 11, 2022
Offering Price and Description:
$800,000.00 - 8,000,000 Units PRICE: $0.10 per Unit
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
Chris Cooper
Project #3337779

Issuer Name:
Chemtrade Logistics Income Fund
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated August 15, 2022
NP 11-202 Receipt dated August 15, 2022
Offering Price and Description:
$500,000,000.00 - Units Subscription Receipts Warrants Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3420997

Issuer Name:
Element Nutritional Sciences Inc.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated August 12, 2022
NP 11-202 Receipt dated August 15, 2022
Offering Price and Description:
$28,000,000.00 - Common Shares Warrants Subscription Receipts Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3387825

Issuer Name:
Gold Digger Resources Inc.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated August 9, 2022
NP 11-202 Receipt dated August 10, 2022
Offering Price and Description:
C$750,000.00 - 3,000,000 Common Shares
Price of $0.25 per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
Allan Bezanson
Project #3397016

Issuer Name:
Hamilton Thorne Ltd.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated August 4, 2022
NP 11-202 Receipt dated August 10, 2022
Offering Price and Description:
$120,000,000.00 - Common Shares Preferred Shares Warrants Units Subscription Receipts Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3410957

Issuer Name:
Mandala Capital Inc.
Principal Regulator - British Columbia
Type and Date:
Final CPC Prospectus dated August 11, 2022
NP 11-202 Receipt dated August 12, 2022
Offering Price and Description:
Minimum Offering: $500,000.00 - 5,000,000 Common Shares
Maximum Offering: $750,000 - 7,500,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3358587

Issuer Name:
NervGen Pharma Corp.
Principal Regulator - British Columbia
Type and Date:
Final Shelf Prospectus dated August 12, 2022
NP 11-202 Receipt dated August 12, 2022
Offering Price and Description:
$100,000,000.00 - Common Shares,Debt Securities,Subscription Receipts,Warrants,Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3385504

Issuer Name:
Scope Carbon Corp.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated August 10, 2022
NP 11-202 Receipt dated August 15, 2022
Offering Price and Description:
$1,050,000.00 - 10,500,000 Common Shares
Price of $0.10 per Common Share Initial Public Offering
Underwriter(s) or Distributor(s):
Research Capital Corporation
Promoter(s):
Darien Lattanzi
Project #3398440

Issuer Name:
Spirit Blockchain Capital Inc. (formerly, 1284696 B.C. Ltd.)
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated August 8, 2022
NP 11-202 Receipt dated August 9, 2022
Offering Price and Description:
No Securities are being offered pursuant to this Prospectus
Underwriter(s) or Distributor(s):
-
Promoter(s):
Erich Perroulaz
Project #3367566

Issuer Name:
The Toronto-Dominion Bank
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated August 9, 2022
NP 11-202 Receipt dated August 10, 2022
Offering Price and Description:
$5,000,000,000.00 - Senior Medium Term Notes
Underwriter(s) or Distributor(s):
TD Securities Inc.
DESJARDINS SECURITIES INC.
iA PRIVATE WEALTH INC.
RICHARDSON WEALTH LIMITED
Promoter(s):
-
Project #3411598

Issuer Name:
Xcite Resources Inc.
Principal Regulator - British Columbia
Type and Date:
Amendment dated August 11, 2022 to Final Long Form Prospectus dated May 16, 2022
NP 11-202 Receipt dated August 15, 2022
Offering Price and Description:
$800,000.00 - 8,000,000 Units PRICE: $0.10 per Unit
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
Chris Cooper
Project #3337779

B.10
Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	CASTLEWOOD CAPITAL CORPORATION	Exempt Market Dealer	August 15, 2022
New Registration	Newton Crypto Ltd.	Restricted Dealer	August 15, 2022

This page intentionally left blank

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

B.11.1 SROs

B.11.1.1 Investment Industry Regulatory Organization of Canada (IIROC) – Housekeeping Amendments to Form 1, Part II – Report on Compliance for Insurance, Segregation of Securities and Guarantee/Guarantor Relationships – Notice of Commission Deemed Approval

NOTICE OF COMMISSION DEEMED APPROVAL

HOUSEKEEPING AMENDMENTS TO FORM 1, PART II – REPORT ON COMPLIANCE FOR INSURANCE, SEGREGATION OF SECURITIES AND GUARANTEE/GUARANTOR RELATIONSHIPS

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

The Ontario Securities Commission did not object to the classification of IIROC's proposed housekeeping amendments (**Amendments**) to Form 1, Part II – Report on compliance for insurance, segregation of securities and guarantee/guarantor relationships relied upon to reduce margin requirements during the year (**Report on Compliance**). As a result, the Amendments were deemed approved and the Report on Compliance is amended to comply with the Canadian Standard on Related Services 4400 *Agreed-Upon Procedures Engagements* (**CSRS 4400**), which came into effect for agreed-upon procedures engagements for which the terms of engagement were agreed to on or after January 1, 2022. CSRS 4400 was introduced by the Auditing and Assurance Standards Board.

The Amendments will be effective on October 1, 2022.

In addition, the Alberta Securities Commission; the Autorité des marchés financiers; the British Columbia Securities Commission; the Financial and Consumer Affairs Authority of Saskatchewan; the Financial and Consumer Services Commission of New Brunswick; the Manitoba Securities Commission; the Northwest Territories Office of the Superintendent of Securities; the Nova Scotia Securities Commission; the Nunavut Securities Office; the Office of the Superintendent of Securities, Service Newfoundland and Labrador; the Office of the Yukon Superintendent of Securities; and the Prince Edward Island Office of the Superintendent of Securities did not object to the Amendments.

A copy of the IIROC Notice of Approval/Implementation, including text of the approved Amendments, can be found at www.osc.ca.

B.11.2 Marketplaces

B.11.2.1 TriAct Canada Marketplace LP – Change to the MATCHNow Trading System – Notice of Proposed Change and Request for Comment

TRIACT CANADA MARKETPLACE LP

NOTICE OF PROPOSED CHANGE AND REQUEST FOR COMMENT

CHANGE TO THE MATCHNOW TRADING SYSTEM

TriAct Canada Marketplace LP (operating as **MATCHNow**) hereby announces plans to implement the change described below, following approval by the Ontario Securities Commission (the **OSC**). MATCHNow is publishing this Notice of Proposed Change and Request for Comment (the **Notice**) in accordance with the "Process for the Review and Approval of Rules and the Information Contained in Form 21-101F2 and the Exhibits Thereto." Marketplace participants are invited to provide the OSC with comments on the proposed change.

Comments on the proposed change should be in writing and submitted by **September 19, 2022** to:

Market Regulation Branch
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8
Email: marketregulation@osc.gov.on.ca

A copy should also be provided to:

Lorna Pile
Chief Compliance Officer
MATCHNow
65 Queen Street West, Suite 1900
Toronto, Ontario, M5H 2M5
Email: lpile@cboe.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 the completion of OSC staff's review and to specify the intended implementation date of the change.

Any questions concerning the information below should be addressed to Vince Poil, Head of Products for MATCHNow, at (416) 861-1010 or at vpoil@cboe.com.

Order Interaction Enhancements

MATCHNow proposes to implement a “Significant Change subject to Public Comment” to its Form 21-101F2 (the **Form F2**), through which it is proposing to implement several distinct technological changes, which will enhance the ability for existing MATCHNow order types to interact and thereby allow them to match to a greater degree (collectively, the **Order Interaction Enhancements**).

The Order Interaction Enhancements can be broken down into four individual, but related components, each of which is described in detail in Section A below, in order of relative significance.[1]

A. Detailed description of the proposed change

1. Allow Large Market Flow Orders to “Sweep” Cboe BIDS Canada

MATCHNow is proposing to allow certain Market Flow orders[2] (also known as “Immediate-or-Cancel orders” or **IOC orders**) to interact with Conditionals (whether at the initiation stage or post-firm-up). This new feature will be an opt-in that will allow large IOC orders (i.e., those that meet the minimum size threshold set out in UMIR 6.6 for dark orders to interact with lit orders, namely: (a) greater than 50 standard trading units *and* greater than $30,000 in notional value; *or* (b) greater than $100,000 in notional value) to “sweep” the MATCHNow Conditionals book (known as **Cboe BIDS Canada**) in order to interact and (i) automatically

[1] In the interests of efficiency, we are treating all four components as a single “Significant Change subject to Public Comment” to the Form F2 in this Notice and, accordingly, each of Sections B through J of this letter shall address all four components of this proposed change on a consolidated basis.

[2] Capitalized terms not defined herein are as defined in MATCHNow’s *In Detail Specification*, the current version of which is available on the Cboe website here: https://cdn.cboe.com/resources/membership/MN_In_Detail_Specification.pdf.

match with any firmed-up Conditional or any unfilled remainder of such firmed-up Conditional or (ii) generate an invitation for a Subscriber-originated Conditional[3] that has yet to be invited to firm up in the Cboe BIDS Canada engine.

The opt-in would be activated by a Subscriber (trader) at the IOC order level using a new FIX value to be introduced as part of this proposed change. Alternatively, the Subscriber would be able to activate the opt-in as part of a user-controlled port level default, which will allow all IOC orders sent on that FIX port, provided they are large enough to qualify, to automatically become eligible for Conditionals matching.

The ability for large IOC orders to sweep Cboe BIDS Canada (by matching with any firmed-up Conditional or residual thereof, or generating an invitation for a Subscriber-generated non-firm Conditional, or any residual thereof) will be based on the following priority:

1) MATCHNow: Midpoint

2) MATCHNow: Minimum Price Improvement

3) MATCHNow: At The Touch

4) Cboe BIDS Canada: At any price at or within the protected CBBO, depending on limit price

As usual within the MATCHNow ATS, broker preferencing will continue to apply to the matching logic (just as it does today, including within Cboe BIDS Canada).

In addition, where the sweep does not result in any match with any firmed-up Conditionals or residuals, or where it does not result in an exhaustive execution of the large IOC order, that order will be returned to the Subscriber in the normal course (as is the case today for any IOC order that does not find contra-side liquidity on the MATCHNow ATS).[4] Furthermore, in order to balance the costs and benefits of such a feature, the system will allow an opted-in large IOC order to "sweep" for no more than 300 milliseconds before causing it to be returned to the Subscriber.

2. Allow Firmed-Up "Buy-Side" Conditionals to Interact with all Firm Orders

This aspect of the proposed change will allow Sponsored Users (often referred to as "buy-side" or "institutional investor" firms) to opt in, at the moment of firm-up, to make their firmed-up Conditionals available for matching with Liquidity Providing orders that are resting in the regular matching engine, or IOC orders that arrive while the order is resting in the regular matching engine, to the extent that the firmed-up Conditionals (or any residuals thereof) cannot be matched within Cboe BIDS Canada. The feature would effectively allow the Sponsored User to elect to convert the residual of any firmed-up Conditional to a Liquidity Providing order (also known informally as a "Day Order") and, at the same time, may reduce the MinQty associated with the original order, thereby allowing it to match with other Liquidity Providing orders or IOC orders in the regular matching engine. The election for such matching would be available at any time during the trading day through the Sponsored User's Cboe BIDS Canada interface (known as "BIDS Trader").

A similar feature is offered in the United States by MATCHNow's affiliate BIDS Trading L.P. ("BIDS"), an SEC-registered ATS; in that jurisdiction, it is known as the "Overtime" function. See BIDS, Form ATS-N, Updating Amendment (dated June 14, 2022), available at https://www.sec.gov/Archives/edgar/data/1368727/000095012322006862/xslATS-N_X01/primary_doc.xml (the "June 14 BIDS Filing"), Part III, Item 11 (under the heading "Overtime").

3. "Clean Up" Feature

This feature allows Sponsored Users to expose a (typically small) portion of their uncommitted amounts of liquidity.[5] This will be accomplished by routing such opted-in uncommitted shares (which essentially become firm orders at the moment of opt-in) to the regular MATCHNow matching engine. A similar feature is provided in the United States by BIDS.[6] Sponsored Users will be able

[3] MATCHNow has deliberately limited this order interaction enhancement to Conditionals originated by Subscribers, which are all generated by automated systems (algorithms), as opposed to Conditionals originated by Sponsored Users, which are generated by human traders. Algorithms are responding to Conditional invitations to firm up very rapidly (i.e., within 100 milliseconds or less in the vast majority of cases), and we feel that this very short time frame for firm-up by an algorithm is an acceptable opportunity cost for the counterparty (i.e., the sender of the IOC order), given the benefit realized by that counterparty through the proposed interaction with the conditional liquidity within Cboe BIDS Canada. Conversely, however, the much longer time frame that Sponsored Users have to firm up (i.e., up to 30 seconds after receiving an invitation) would be too onerous an opportunity cost for the sender of the IOC order.

[4] By definition, an IOC order may only participate in one matching session; accordingly, MATCHNow systematically sends any unmatched IOC order (or any residual unmatched portion of such an order) back to the Subscriber or its Access Vendor for routing to other marketplaces. See, e.g., *In Detail Specification*, ss. 2.1 & 5.

[5] In this context "uncommitted" liquidity should be understood as a quantity of shares sitting in the Sponsored User's order management system, available for trading, but not yet selected for submission as a conditional or firm order via an execution management system (such as BIDS Trader).

[6] For a brief description of the US version of the "Clean Up" feature, please refer to the June 14 BIDS Filing at Part III, Item 11 (under the heading "Clean Up") (stating that "BIDS Trader Users also have the option of using 'clean up to work remaining volumes, which involves directing BIDS to route the remaining volume to a specified third party [sic] trading venue with which the BIDS ATS has connected").

to make the election at any time during the trading day by clicking a new button that will be added to BIDS Trader. The uncommitted shares will be displayed in BIDS Trader as separate from any Conditionals submitted by the Sponsored User.

Like any DEA order, a "Clean Up" order (i.e., the residual uncommitted shares for which the Sponsored User has activated the "Clean Up" feature), must be associated with a specific Subscriber (IIROC dealer), and that Subscriber is responsible for applying appropriate risk controls (in this case, via its Cboe BIDS Canada interface) and ensuring compliance with all other standard DEA requirements applicable to an IIROC dealer, including in particular, those that arise under section 3 of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* and the applicable rules of the Investment Industry Regulatory Organization of Canada (notably, Universal Market Integrity Rules 6.2, 7.1, 7.13, 10.15, and 10.18).

4. "Buy-Side" Auto-Firm-Up Feature

This feature will allow a Sponsored User to elect, at any time during the trading day, to have its Conditionals be automatically and immediately "firmed up" should an invitation to firm up be sent to the Sponsored User. The feature can also then be toggled off (or on again) at any time during the trading day.

B. Expected implementation date

The proposed change is expected to be implemented as follows:

- for the features described in A(1) and A(4), on November 1, 2022 or as soon as possible following OSC approval, if approval has not yet been granted as of November 1, 2022; and
- for the features described in A(2) and A(3), on December 1, 2022 or as soon as possible following OSC approval, if approval has not yet been granted as of December 1, 2022.

C. Rationale for the proposed change and supporting analysis

The four new features described in Section A have been designed to address the problem of untapped liquidity—and, in particular, the significant volume of untraded, marketable large IOC orders—which MATCHNow has observed on most trading days in the recent past. We have also received multiple requests from buy-side traders to implement the Auto-Firm-Up feature, to bring Cboe BIDS Canada in line with services offered in other regions served by BIDS technology, so that the buy-side trader knows they can still interact with potential liquidity, even if they do not act immediately when an invitation arrives.

D. The expected impact, including the quantitative impact, of the proposed change on market structure, subscribers, and, if applicable, investors and capital markets

The impact on market structure, Subscribers, investors, and capital markets is expected to be positive, through the resulting expansion of liquidity and increased matching and price improvement opportunities for large-sized orders. With the enhanced order interactions being proposed, we anticipate further electronification and growth of the block market in Canada, which presently represents approximately 5% to 10% of overall volume.

E. Expected impact of the proposed change on MATCHNow's compliance with Ontario securities law requirements and in particular requirements for fair access and maintenance of fair and orderly markets

The proposed change will have no impact on MATCHNow's continuing compliance with Ontario securities law, including requirements for fair access and the maintenance of fair and orderly markets. In particular, MATCHNow submits that the Order Interaction Enhancements are based on "reasonable standards for access" and do not "unreasonably create barriers to access to the services provided by the marketplace," consistent with the guidance provided in subsection 7.1(1) of the Companion Policy (**21-101CP**) with regard to section 5.1 of National Instrument 21-101 *Marketplace Operation* (**NI 21-101**). In addition, the features are expected to encourage greater adoption of Conditionals by MATCHNow Subscribers (and Sponsored Users) and thereby provide more price-improved matching opportunities for large orders, without any significant erosion of price discovery. This represents a net benefit to the Canadian capital markets as a whole.

With respect to the new feature described in Section A(1) above (i.e., the new IOC order sweep of Cboe BIDS Canada), MATCHNow submits the following:

1. Compliance with "Order Protection" Requirements

Section 6.1 of National Instrument 23-101 *Trading Rules* imposes an "order protection" requirement on all marketplaces, i.e., an obligation to adopt policies and procedures that are reasonably designed to prevent trade-throughs (unless the trade-through is expressly permitted by section 6.2). MATCHNow submits that the ability for a Subscriber to opt in to have its IOC orders sweep Cboe BIDS Canada for less than 300 milliseconds constitutes a policy or procedure that is reasonably designed to prevent trade-throughs.

2. No Information Leakage

MATCHNow submits that there is no concern with regard to any potential "information leakage" from the 300 milliseconds timeframe that applies to the interaction for an opted-in IOC order. The execution is still virtually immediate; and like any Subscriber whose order has interacted with a contra-side Conditional, the Subscriber that places the opted-in IOC order will know the contra side was a Conditional that got firmed up and executed from the marker that gets attached to that Conditional.

Moreover, the compliance mechanism that applies to Conditionals provides an additional measure of protection in favour of the policy objective underlying subsection 7.1(1) of NI 21-101—namely, fair access to pre-trade information—by allowing MATCHNow to monitor and combat potentially abusive order-cancellation behaviour, which could indicate a Subscriber's attempt to gain an unfair informational advantage.

3. Exemptive Relief from "Pre-Trade Transparency" Requirement

MATCHNow notes that, from a bird's eye view, where an invitation is automatically sent to a Subscriber that has entered a (non-firmed-up) Conditional because the system has detected a potential match with a large IOC order, that invitation could be considered to be a "display" of the firm order that generated it; as such, it could be argued that subsection 7.1(1) of NI 21-101 would require MATCHNow to immediately transmit that order information to an information processor—something that MATCHNow, as a "dark" marketplace, does not do. Therefore, MATCHNow is applying for exemptive from the pre-trade transparency requirements of subsection 7.1(1) for this new feature.

Specifically, under separate cover, MATCHNow is submitting an application to the OSC (with deemed notice to all other Canadian securities regulatory authorities), pursuant to section 15.1 of NI 21-101, for exemptive relief for the new IOC order opt-in feature and a variation and restatement of the decision issued by the OSC on June 7, 2021 for a similar opt-in for Liquidity Providing orders (published here: https://www.osc.ca/en/securities-law/orders-rulings-decisions/triact-canada-marketplace-lp-operating-matchnow-s-151-ni-21-101-marketplace-operation) (the "2021 Decision"). If granted, the exemptive relief would result in the variation and restatement of the 2021 Decision such that both Liquidity Providing orders *and* IOC orders would be permitted to opt in to interact with Conditionals, notwithstanding the pre-trade transparency requirements of subsection 7.1(1) of NI 21-101.[7] That being said, the new interaction in question will not be implemented until such time as the exemptive relief has been granted, or it has been determined in consultation with OSC staff that such relief is not required.

F. Summary of consultations undertaken in formulating the proposed change and the internal governance process followed to approve it

MATCHNow has conducted informal consultations with several Subscribers and Sponsored Users.

The proposed change was also fully reviewed, discussed, and approved by MATCHNow's senior management in the late spring/early summer of 2022.

G. If the proposed change will require subscribers or service vendors to modify their systems after implementation, the expected impact on the systems of subscribers and service vendors together with an estimate of the amount of time needed to perform the necessary work and how the estimated amount of time was deemed reasonable in light of the expected impact of the proposed change on MATCHNow, its market structure, subscribers, investors or the Canadian capital markets

Making use of the features that the proposed change will create is voluntary. For Subscribers and Sponsored Users that elect to make use of the features described in Section A (and the vendors who service those Subscribers and Sponsored Users), any impact on their systems will be minimal, as the proposed change will simply require creating the ability to enter a value for the new FIX Tags that MATCHNow will establish for the new features. MATCHNow believes that a reasonable estimate of the time needed for Subscribers, Sponsored Users, and service vendors to modify their own systems in this way is 30 days or less, based on previous experiences with the creation of new FIX Tags.

H. Where the proposed 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

Not applicable.

I. Alternatives considered

None.

[7] As is reflected in the application for exemptive relief being filed simultaneously with this "Significant Change subject to Public Comment" to the Form F2, the considerations that support exemptive relief for the new feature are identical to those set out in the 2021 Decision, including, in particular, the conditions listed in the five bullets set out in paragraph 10 of the 2021 Decision, all of which are expected to be maintained in the varied and restated decision and to apply equally to the new feature.

J. If applicable, whether the proposed Significant Change would introduce a feature that currently exists in other markets or jurisdictions

Two of the four features described in Section A (the "Overtime" and "Clean Up" features) are virtually identical to features that BIDS and Cboe currently offer marketplace participants in the United States[8] and Europe, respectively. In general, however, all four components of the proposed change described above have parallels in the BIDS ATS (in the United States) and the existing Cboe LIS offering (in Europe).

In addition, it is MATCHNow's understanding that, for several years now, Liquidnet Canada Inc. has offered its clients certain features that, in practice, are similar to aspects of the IOC opt-in, the Overtime feature, and the Clean Up feature proposed herein. See *Liquidnet Canada Trading Rules* (available at https://www.liquidnet.com/transparency-regulatory), s. 3.10 (noting that an "algo order" can be made to "interact with contra-side IOC orders"); see also, ibid., ss. 3.08 (describing "'implementation shortfall' algo order) and 4.02 (describing optional "Clean-up quantity" feature).

[8] See, e.g., the June 14 BIDS Filing, Part III, Item 11.

B.11.3 Clearing Agencies

B.11.3.1 Canadian Derivatives Clearing Corporation (CDCC) – Proposed Amendments to Rule C-18 and Section 6.6 of the Operations Manual of the CDCC to Modify the Delivery Period of the 30-year Government of Canada Bond Future Contracts (LGB) – OSC Staff Notice of Request for Comment

OSC STAFF NOTICE OF REQUEST FOR COMMENT

CANADIAN DERIVATIVES CLEARING CORPORATION (CDCC)

PROPOSED AMENDMENTS TO RULE C-18 AND SECTION 6.6 OF THE OPERATIONS MANUAL OF THE CDCC TO MODIFY THE DELIVERY PERIOD OF THE 30-YEAR GOVERNMENT OF CANADA BOND FUTURE CONTRACTS (LGB)

The Ontario Securities Commission is publishing for public comment the proposed amendments to Rule C-18 and Section 6.6 of the Operations Manual of the CDCC to modify the delivery period of the 30-year Government of Canada Bond Future Contracts (LGB).

The purpose of the proposed amendments is to align the CDCC Rules and Operations Manual with the proposed amendments of Bourse de Montréal Inc. to modify the delivery standards of the LGB.

The comment period ends on September 19, 2022.

A copy of the **CDCC Notice** is published on our website at http://www.osc.ca.

This page intentionally left blank

Index

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.