



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

**IN THE MATTER OF
COINSQUARE LTD., COLE DIAMOND,
VIRGILE ROSTAND and FELIX MAZER**

SETTLEMENT AGREEMENT

PART I - INTRODUCTION

1. While the Ontario Securities Commission (the **Commission** or **OSC**) seeks to foster innovation in the capital markets, innovators must operate with the same honesty and responsibility as all other market participants. This Settlement Agreement serves to emphasize the obligation to comply with Ontario securities law for crypto asset trading platforms. Firms and individuals that are found to have disregarded these obligations in the future are on notice and can expect Staff of the Commission (**Staff**) to seek more significant sanctions.
2. Staff bring this proceeding against Coinsquare Ltd. (**Coinsquare**), Cole Diamond (**Diamond**), Virgile Rostand (**Rostand**) and Felix Mazer (**Mazer**) (collectively, the **Respondents**) to hold them accountable for their misconduct and to send a message to other market participants in the crypto asset sector that deceptive conduct will not be tolerated in Ontario's capital markets.
3. The Settlement Agreement reflects the Respondents' admission to breaches of Ontario securities laws and/or conduct contrary to the public interest, including:
 - (a) Coinsquare admits that it engaged in market manipulation through the reporting of inflated trading volumes;
 - (b) Coinsquare admits that it misled its clients about trading volumes and Diamond and Rostand admit to authorizing, permitting or acquiescing in this conduct; and
 - (c) Coinsquare admits to taking a reprisal against an internal whistleblower and Diamond admits to authorizing, permitting or acquiescing in this conduct.

4. Coinsquare is a crypto asset trading platform located in Toronto. Between July 2018 and December 2019, Coinsquare inflated its trading volumes by reporting fake or “wash” trades representing over 90% of its reported trading volume.

5. Diamond, Coinsquare’s CEO, directed that Coinsquare inflate its reported trading volumes. At Diamond’s direction, Rostand, Coinsquare’s founder and President, wrote the algorithm to inflate Coinsquare’s trading volume.

6. Despite several Coinsquare employees raising concerns about inflated trading volumes, Coinsquare stuck with the practice. This tone from the top undermined the compliance culture at Coinsquare and contributed to:

- (a) Coinsquare misleading clients and members of the public who raised suspicions that Coinsquare was reporting inflated trading volumes;
- (b) Coinsquare concealing the inflated trading volumes from Staff; and
- (c) Coinsquare taking a reprisal against an employee whistleblower for repeatedly raising concerns internally about Coinsquare inflating its reported trading volumes.

7. The parties shall jointly file a request that the Commission issue a Notice of Hearing (the **Notice of Hearing**) to announce that it will hold a hearing (**Settlement Hearing**) to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5 (the **Act**), it is in the public interest for the Commission to make certain orders against the Respondents.

PART II - JOINT SETTLEMENT RECOMMENDATION

8. Staff recommend settlement of the proceeding (the **Proceeding**) against the Respondents commenced by the Notice of Hearing, in accordance with the terms and conditions set out in Part VI of this Settlement Agreement. The Respondents consent to the making of an order (the **Order**) substantially in the form attached as Schedule “A” to this Settlement Agreement based on the facts set out herein.

9. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondents agree with the facts set out in Part III of this Settlement Agreement and the conclusions in Part V of this Settlement Agreement.

PART III - AGREED FACTS

A. THE RESPONDENTS

10. Coinsquare¹ operates a crypto asset trading platform based in Toronto (the **Coinsquare Platform**) that facilitates the buying and selling of crypto assets, including bitcoin, litecoin and ether. The Coinsquare Platform opened to the public in late 2014. As of December 14, 2019, it had approximately 235,000 client accounts.

11. Rostand founded Coinsquare and developed the Coinsquare Platform. Rostand is Coinsquare's President and acted as Chief Technology Officer until January 2019, after which time he continued to be in charge of the technological aspects of the Coinsquare Platform.

12. Diamond is Coinsquare's Chief Executive Officer (**CEO**) and has been its *de facto* Chief Financial Officer since approximately January 2019.

13. Mazer held the title of Chief Compliance Officer (**CCO**) at Coinsquare from May 2018 to June 2020. In this role, Mazer reported directly to Diamond. Coinsquare is not registered with the Commission and Mazer is not registered in connection with his role as Coinsquare's CCO.

B. INFLATED TRADING VOLUMES

14. Coinsquare inflated the trading volumes on the Coinsquare Platform through reporting "wash" trades representing over 90% of its reported trading volume between July 2018 and December 2019. Diamond directed that Coinsquare engage in this activity and Rostand developed and implemented the algorithm that made it happen. Coinsquare misled clients about its trading volumes including when questioned about the suspicious trading activity. This took place while the Respondents were engaging with Staff for the purpose of registering a Coinsquare subsidiary, Coinsquare Capital Markets Ltd. (**Coinsquare Capital Markets**), and the Respondents concealed these activities from Staff.

(1) Chronology of Key Events

15. In February 2018, Coinsquare submitted its first request for support to the OSC LaunchPad. The request for support process is an opportunity for firms to discuss their business with the OSC LaunchPad team, obtain informal guidance and discuss potential next steps for registration

¹ Formerly goNumerical Ltd. The company name was changed to Coinsquare Ltd. in September 2018.

and/or exemptive relief, if required. LaunchPad staff commenced a dialogue regarding Coinsquare's intention to obtain registration with the Commission to permit the Coinsquare Platform to trade securities and derivatives in Ontario.

16. Shortly after reaching out to OSC LaunchPad, in March 2018, Diamond began directing Rostand to significantly inflate Coinsquare's reported trading volumes. Diamond continued to follow up with Rostand until Rostand implemented a solution on July 17, 2018.

17. On that day, Rostand implemented an algorithm to inflate the trading volumes reported on the Coinsquare Platform (the **Market Volume Function**). The Market Volume Function created simultaneous matching buy and sell orders from an internal Coinsquare account designated with the user identification number 100001 (**Account #100001**) and resulted in Coinsquare reporting "wash trades".² These wash trades had no economic substance and involved no change in beneficial or legal ownership over any assets. No funds or financial interests were actually exchanged in these transactions.

18. Between July 17, 2018 and December 4, 2019, the Market Volume Function resulted in approximately 840,000 wash trades on the Coinsquare Platform, with an aggregate value of approximately 590,000 bitcoins. The wash trades represented over 90% of the trading volume on the Coinsquare Platform during this period.

19. Coinsquare reported the inflated volumes on its website and through its application programming interface (the **Coinsquare API**),³ which was in turn used by third-party websites (e.g. CoinMarketCap.com) that aggregated information on crypto asset trading platforms (the **Data Aggregators**). The Data Aggregators report trading volumes and rank international crypto asset trading platforms based on their reported trading volumes. They were accessible by the public at large, including Coinsquare's existing and prospective shareholders and clients. As a result, the inflated trading volumes on the Coinsquare Platform were also reported to the public by the Data Aggregators.

20. Almost immediately after Coinsquare commenced reporting the inflated trading volumes, clients and members of the public started to identify the suspicious activity and raise questions about

² The account numbers associated with the trades were never made visible on the Coinsquare Platform. As a result, Coinsquare's clients could not see that the trades originated from orders from the same account or that the orders came from an internal Coinsquare account.

³ At its most basic, an API is an intermediary that allows two applications to interact with each other.

it. In response to these questions, Coinsquare made misleading statements, including in responses to posts on Reddit.com about the significant increase in reported trading volumes on the Coinsquare Platform.

21. One such instance arose from a July 21, 2018 post created on Reddit titled “Coinsquare Fake Volume”. In the post, the author questioned the sudden increase in Coinsquare’s reported trading volumes and speculated that the reported figures were false. Coinsquare responded to the post on July 23, 2018 through the “Coinsquare_Support” Reddit account and suggested that the increase in volume was the result of over-the-counter (OTC) trades and/or third-party trading bots on the Coinsquare Platform that Coinsquare was working to remove.

22. In response to another Reddit post about potential inflated trading volumes on the Coinsquare Platform, the “Coinsquare_Support” Reddit account stated unequivocally on August 29, 2018 that “[w]e do not fake our volume”.

23. Several Coinsquare clients also raised concerns regarding the unusual trading activity directly with Coinsquare, including through emails. In its responses, Coinsquare failed to disclose the wash trades and inflated volume. Instead, Coinsquare suggested that the unusual activity could be the result of “robo traders” or large orders and telling clients that Coinsquare was looking into the issue or working on solutions.

24. Coinsquare’s responses were misleading. Coinsquare and its senior management knew the increase in trading volumes was the result of Coinsquare inflating those volumes.

25. During this same period, Coinsquare responded to questions from Staff regarding market integrity on the Coinsquare Platform and failed to provide complete responses to these questions. Rather than self-reporting that it was inflating trading volumes, Coinsquare asserted that it was taking steps to prevent market manipulation and highlighted controls it claimed could help detect such conduct.

26. In early 2019, Coinsquare Capital Markets submitted applications for registration as an investment dealer and to operate an Alternative Trading System with the Commission and the Investment Industry Regulatory Organization of Canada (**IIROC**).

27. Coinsquare failed to disclose that it was engaging in wash trading to Staff, including during an on-site pre-registration review at Coinsquare’s offices between March 15 and March 19, 2019.

28. Beginning in March 2019, several employees raised concerns with senior management about Coinsquare reporting inflated trading volumes. These employees included professionals concerned about how Coinsquare's conduct could impact their professional designations. Nonetheless, Coinsquare continued to inflate its reported trading volumes.

29. On December 3, 2019, Staff of the Enforcement Branch of the Commission (**Enforcement Staff**) attended the Coinsquare office for an unannounced on-site inspection.

30. The next day, Coinsquare turned off the Market Volume Function and stopped reporting the inflated trading volumes.

(2) Market Manipulation

31. As a result of the above, Coinsquare engaged in market manipulation contrary to the Ontario *Securities Act*.

32. While the Coinsquare Platform facilitated purchases and sales of crypto assets, in practice, clients did not take possession or control of crypto assets purchased on the Coinsquare Platform unless and until they requested a withdrawal from Coinsquare and it was only at this time that transactions were completed on the blockchain. Instead, the crypto assets purchased and sold on the Coinsquare Platform were held in crypto wallets Coinsquare controlled and transactions were recorded on Coinsquare's internal ledger. As a result, in the normal course, Coinsquare provided its clients with contractual rights or claims to these crypto assets rather than the crypto assets themselves. These contractual rights constituted securities and derivatives, whereas the crypto assets themselves constituted commodities and/or the underlying interests of derivatives.

33. By inflating the reported trading volumes on the Coinsquare Platform, Coinsquare engaged in a course of conduct that it knew or reasonably ought to have known resulted in or contributed to a misleading appearance of trading activity in a security, derivative and/or underlying interest of a derivative, contrary to paragraph 126.1(1)(a) of the Act.

(3) Misleading Investors

34. By reporting the inflated trading volumes on the Coinsquare Platform through the Coinsquare website and the Coinsquare API, Coinsquare falsely represented that this trading volume was an accurate reflection of the trading activity on the Coinsquare Platform. In doing so, Coinsquare made

statements about its trading volumes that were untrue and omitted information necessary to prevent the statements from being false or misleading.

35. Furthermore, Coinsquare's false and misleading statements to existing and prospective clients of the Coinsquare Platform to conceal the inflated trading volumes misled these investors regarding the nature of the trading activities on the Coinsquare Platform.

36. The trading volume on a platform is a factor that a reasonable investor would consider relevant in deciding whether to enter into or maintain a trading relationship.

37. In light of the above, Coinsquare contravened subsection 44(2) of the Act. Diamond, and Rostand each authorized, permitted or acquiesced in Coinsquare's failure to comply with Ontario securities law, contrary to section 129.2 of the Act.

(4) Conduct Contrary to the Public Interest

38. Coinsquare, Diamond, and Rostand engaged in conduct contrary to the public interest as a result of the conduct set out above, including concealing the fact that Coinsquare was reporting inflated trading volumes from Staff.

C. REPRISAL AGAINST INTERNAL WHISTLEBLOWER

39. In addition to the conduct set out above, Coinsquare took a reprisal against an internal whistleblower (the **Internal Whistleblower**) for raising concerns regarding the inflated trading volumes to Coinsquare's senior management. Diamond authorized, permitted and/or acquiesced in the reprisal.

40. Coinsquare hired the Internal Whistleblower to work on its automated trading strategies team (the **Automated Trading Team**) in November 2018. This meant that the Internal Whistleblower was responsible for internal trading operations at Coinsquare and could be viewed as responsible for the wash trading.

41. The Internal Whistleblower learned about the Market Volume Function and between March 2019 and October 2019 reported his concerns with this practice to senior management, including Rostand and Diamond. Despite the Internal Whistleblower's complaints, Coinsquare continued to engage in the wash trading.

42. In March 2019, after learning that the OSC planned to conduct an on-site review as part of Coinsquare's pending application for registration, the Internal Whistleblower raised his concerns about the inflated trading volumes with Rostand, his immediate supervisor at the time, who in turn deactivated the Market Volume Function. However, within days, Rostand reversed course after Diamond learned it had been disabled and directed that Rostand turn it back on.

43. The Internal Whistleblower continued to escalate his concerns. However, the message he received back was that the issue was not open for further discussion. The Internal Whistleblower was told that Coinsquare planned to slowly decrease the volume of wash trading in the lead up to registration but that if he continued to raise these concerns it would impact his employment at Coinsquare.

44. In October 2019, two members of Coinsquare staff approached the Internal Whistleblower in an open area of the office and proceeded to ask the Internal Whistleblower questions about wash trades appearing in records to be produced to the OSC. Following this conversation, the Internal Whistleblower again reported his concerns regarding wash trading, this time to his new supervisor.

45. On October 21, 2019, the Internal Whistleblower sent a further email to Coinsquare senior management asking for the Automated Trading Team to be left out of any and all discussions regarding wash trading and expressing his deep discomfort with the practice. A few days later, the Internal Whistleblower notified Coinsquare that he was taking stress leave as a result of the stress he was experiencing from the "wash trading" and a recent inquiry from the OSC.

46. Coinsquare formally terminated the Internal Whistleblower's employment on December 3, 2019.

47. Coinsquare's response to the Internal Whistleblower providing information regarding the inflated trading volumes adversely affected the Internal Whistleblower's employment and constituted a prohibited reprisal contrary to section 121.5 of the Act.

48. Diamond authorized, permitted, and/or acquiesced in Coinsquare's failure to comply with Ontario securities law as set out above, contrary to section 129.2 of the Act.

D. FAILURE TO IMPLEMENT CONTROLS

49. In addition to the conduct described above, Coinsquare failed to implement appropriate controls to prevent other inappropriate trading practices.

(1) Non-Economic Trading (Market Maker Function)

50. Early in its operations, Coinsquare implemented a function to act as a market maker on the Coinsquare Platform (the **Market Maker Function**). The Market Maker Function operated to generate liquidity on the Coinsquare Platform by placing buy and sell orders from an internal Coinsquare account to match orders placed by Coinsquare's clients.

51. However, without appropriate controls in place, the Market Maker Function also caused certain orders from Coinsquare's internal accounts to match each other.

52. As a result, between December 2014 and December 2019, Coinsquare reported additional non-economic, internal trades valued at approximately 112,000 bitcoins. These trades had no economic substance and involved no change in beneficial or legal ownership over any assets.

(2) Misleading Orders (Market Bot Function)

53. In January 2017, Coinsquare implemented another function that also purported to serve a market making purpose on the Coinsquare Platform (the **Market Bot Function**). The Market Bot Function placed orders from an internal Coinsquare account to buy and sell the equivalent of approximately 57 million bitcoins up to December 2019.

54. However, these automated orders were priced outside a range likely to result in executed trades and automatically cancelled after three minutes, further reducing the chance that the orders would match with client orders. Coinsquare operated the Market Bot Function despite the fact that over 99% of the orders it generated never resulted in executed trades.

55. Between January 2017 and December 2019, the Market Bot Function resulted in Coinsquare placing more than 10.5 million of these orders, representing approximately 30% of all orders on the Coinsquare Platform during this period.

(3) Conclusion

56. Coinsquare's failure to implement adequate controls over trading activities as set out above was contrary to the public interest.

E. FAILURE TO FULFILL ROLE AS CHIEF COMPLIANCE OFFICER

57. The chief compliance officer of a registered firm is responsible for promoting a culture of compliance, overseeing the effectiveness of the firm's compliance system and assessing the firm's compliance with securities law. In carrying out these duties, a chief compliance officer "should be vigilant and ensure that all the employees and senior staff are aware of compliance issues within the firm and monitor compliance with regulatory requirements". The Commission has described the chief compliance officer role as "critical to securities law compliance oversight".

58. Mazer held the title of CCO at Coinsquare from May 2018 until his resignation in June 2020. Mazer was not acting in a registered capacity in connection with his role as Coinsquare's CCO but was held out as the CCO both within Coinsquare and to the general public.

59. Although Mazer was not the CCO of a registered firm, the public would reasonably expect that an employee with this title and held out as performing this role would generally fulfil the critical compliance responsibilities described above. Mazer failed to fulfill this critical compliance role at Coinsquare. Mazer learned about the wash trading in or around March 2019 and failed to take steps that a reasonable CCO would have taken in the circumstances. Mazer's conduct was contrary to the public interest.

F. MITIGATING FACTORS

60. The Respondents cooperated with Enforcement Staff's investigation, including by sharing the eDiscovery platform used by Coinsquare to facilitate document production at the outset of the investigation.

61. Diamond and Rostand had no experience in the capital markets or the securities industry prior to running Coinsquare.

62. The Respondents have no prior disciplinary record with any securities regulatory authority, including the Commission.

63. The Respondents sought to reach an early resolution of this matter, prior to the commencement of proceedings.

PART IV – THE RESPONDENTS’ POSITION

64. The Respondents request that the Settlement Hearing panel consider the following circumstances. Staff do not object to the Respondents putting forward the circumstances set out below.

65. During the relevant period, Coinsquare was a new company in the novel and fast-evolving crypto asset industry. The Respondents obtained legal advice that the crypto assets traded on the Coinsquare Platform were not subject to Ontario securities law. Until recently, the Respondents wrongly believed that the trading activity on the Coinsquare Platform was not subject to Ontario securities law.

66. The Market Volume Function did not affect the bid-ask spread and was not designed to impact the execution price that clients received on the Coinsquare Platform.

67. Coinsquare admits that its response to the Internal Whistleblower providing information regarding the inflated trading volumes adversely affected the Internal Whistleblower’s employment and constituted a prohibited reprisal. Coinsquare was in active litigation with the Internal Whistleblower. Coinsquare’s position is that it did not *terminate* the Internal Whistleblower’s employment as a reprisal in response to the Internal Whistleblower providing information regarding the inflated trading volumes.

68. Coinsquare discontinued the Market Volume Function in December 2019 and has enhanced its internal controls by developing a new automated trading program that prevents the opportunity to create inflated trading volumes.

69. Coinsquare’s independent director was not aware of the Market Volume Function and the resulting inflation of trading volumes, the reprisal against the Internal Whistleblower and the failure to implement controls until December 2019, after Enforcement Staff commenced its investigation. At no time did the independent director authorize, permit or acquiesce in such conduct.

PART V - NON-COMPLIANCE WITH ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

70. By engaging in the conduct described above, the Respondents acknowledge and admit the following:

- (a) Coinsquare engaged in a course of conduct that it knew or reasonably ought to have known resulted in or contributed to a misleading appearance of trading activity in a security, derivative and underlying interest of a derivative, contrary to paragraph 126.1(1)(a) of the Act;
- (b) Coinsquare made statements about matters that a reasonable investor would consider relevant in deciding whether to enter into or maintain a trading relationship with Coinsquare which were untrue or omitted information necessary to prevent the statements from being false or misleading in the circumstances in which they were made, contrary to subsection 44(2) of the Act;
- (c) Diamond and Rostand as officers and/or directors of Coinsquare, authorized, permitted or acquiesced in Coinsquare's failure to comply with subsection 44(2) of the Act, contrary to section 129.2 of the Act;
- (d) Coinsquare took a reprisal against an employee of Coinsquare because the employee provided information to Coinsquare and its senior management about acts of Coinsquare and its senior management that have occurred, and that the employee reasonably believed were contrary to Ontario securities law, contrary to section 121.5 of the Act;
- (e) Diamond, as an officer and/or director of Coinsquare, authorized, permitted or acquiesced in Coinsquare's failure to comply with paragraph 121.5 of the Act, contrary to section 129.2 of the Act; and
- (f) Coinsquare, Diamond, Rostand and Mazer acted in a manner contrary to the public interest.

PART VI - TERMS OF SETTLEMENT

71. The Respondents agree to the terms of settlement set forth below.

72. The Respondents consent to the Order, pursuant to which it is ordered that:

- (a) this Settlement Agreement be approved;
- (b) Coinsquare shall pay costs in the amount of \$200,000 by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to section 127.1 of the Act;

- (c) Diamond shall:
- (i) resign any position that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act, subject to the following exception:
 - A. Diamond may continue to act as a director or officer of a private issuer as defined in section 2.4 of National Instrument 45-106 *Prospectus Exemptions* (NI 45-106) that is not affiliated with Coinsquare and is not a market participant;
 - (ii) be prohibited from becoming or acting as a director or officer of any issuer for a period of 3 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act, subject to the following exceptions:
 - A. Diamond may become or act as a director or officer of a private issuer as defined in section 2.4 of NI 45-106 that is not affiliated with Coinsquare and is not a market participant, and
 - B. after 1 year from the date of the Order, Diamond may become or act as a director or officer of Coinsquare and/or affiliated issuers, other than Coinsquare Capital Markets, provided that Coinsquare and/or the affiliated issuer is not a market participant and that Diamond is not involved in the mind, management and control of a market participant or the supervision of any person exercising such authority or influence;
 - (iii) be prohibited from becoming or acting as a director or officer of a registrant for a period of 3 years commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act, and for greater certainty, Diamond shall not perform functions similar to those normally performed by an officer or director of a registrant, including:
 - A. proposing, nominating and appointing new officers,

- B. participating in any meeting of the board of directors (the **Board**) or any committee of the Board,
- C. providing instructions or directions to management or to any legal or financial advisors on behalf of the registrant,
- D. having signing authority for the registrant, including signing authority over any bank or other accounts of the registrant,
- E. hiring, supervising or terminating staff of the registrant or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation,
- F. participating in any decisions with or attempt in any way to influence management or the Board of the registrant, or make any recommendations in relation to decisions: (a) affecting the compliance by the registrant with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed by the registrant under Ontario securities law, except as required by law in respect of Diamond's individual filing requirements,
- G. marketing the services of the registrant to clients or potential clients,
- H. playing any role (other than as a representative of the shareholder) in the financial affairs of the registrant,
- I. playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of the registrant,
- J. supervising any person performing any of the above enumerated activities, and
- K. nothing in paragraph 72(c)(iii) is intended to restrict the ability of Coinsquare or Coinsquare Capital Markets' Board to request and receive information from Diamond where the independent directors determine that such information is necessary to fulfil their duties as

directors and in the best interest of the company or companies, provided the Board maintains a record of all the requests and information received;

- (iv) be prohibited from becoming or acting as a registrant for a period of 3 years commencing on the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
 - (v) pay an administrative penalty in the amount of \$1,000,000 by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subparagraph 3.4(2)(b)(i) or (ii) of the Act; and
 - (vi) pay costs in the amount of \$50,000 by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to section 127.1 of the Act.
- (d) Rostand shall:
- (i) resign any position that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act, subject to the following exception:
 - A. Rostand may continue to act as a director or officer of a private issuer as defined in section 2.4 of NI 45-106 that is not affiliated with Coinsquare and is not a market participant;
 - (ii) be prohibited from becoming or acting as a director or officer of any issuer for a period of 2 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act, subject to the following exceptions:
 - A. Rostand may become or act as a director or officer of a private issuer as defined in section 2.4 of NI 45-106 that is not affiliated with Coinsquare and is not a market participant, and

- B. after 1 year from the date of the Order, Rostand may become or act as a director or officer of Coinsquare and/or affiliated issuers, other than Coinsquare Capital Markets, provided that Coinsquare and/or the affiliated issuer is not a market participant and that Rostand is not involved in the mind, management and control of a market participant or the supervision of any person exercising such authority or influence;
- (iii) be prohibited from becoming or acting as a director or officer of a registrant for a period of 3 years commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act, and for greater certainty, Rostand shall not perform functions similar to those normally performed by an officer or director of a registrant, including:
- A. proposing, nominating and appointing new officers,
 - B. participating in any meeting of the Board or any committee of the Board,
 - C. providing instructions or directions to management or to any legal or financial advisors on behalf of the registrant,
 - D. having signing authority for the registrant, including signing authority over any bank or other accounts of the registrant,
 - E. hiring, supervising or terminating staff of the registrant or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation,
 - F. participating in any decisions with or attempt in any way to influence management or the Board of the registrant, or make any recommendations in relation to decisions: (a) affecting the compliance by the registrant with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed

by the registrant under Ontario securities law, except as required by law in respect of Rostand's individual filing requirements,

- G. marketing the services of the registrant to clients or potential clients,
 - H. playing any role (other than as a representative of the shareholder) in the financial affairs of the registrant,
 - I. playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of the registrant,
 - J. supervising any person performing any of the above enumerated activities, and
 - K. nothing in paragraph 72(d)(iii) is intended to restrict the ability of Coinsquare or Coinsquare Capital Markets' Board to request and receive information from Rostand where the independent directors determine that such information is necessary to fulfil their duties as directors and in the best interest of the company or companies, provided that the Board maintain a record of all the requests and information received;
- (iv) be prohibited from becoming or acting as a registrant for a period of 3 years commencing on the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
 - (v) pay an administrative penalty in the amount of \$900,000 by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subparagraph 3.4(2)(b)(i) or (ii) of the Act; and
 - (vi) pay costs in the amount of \$50,000 by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to section 127.1 of the Act.

(e) Mazer shall:

- (i) be prohibited from becoming or acting as a director or officer of a registrant for a period of 1 year commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act, and for greater certainty, Mazer shall not perform functions similar to those normally performed by an officer or director of a registrant, including:
 - A. proposing, nominating and appointing new officers,
 - B. participating in any meeting of the Board or any committee of the Board,
 - C. providing instructions or directions to management or to any legal or financial advisors on behalf of the registrant,
 - D. having signing authority for the registrant, including signing authority over any bank or other accounts of the registrant,
 - E. hiring, supervising or terminating staff of the registrant or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation,
 - F. participating in any decisions with or attempt in any way to influence management or the Board of the registrant, or make any recommendations in relation to decisions: (a) affecting the compliance by the registrant with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed by the registrant under Ontario securities law, except as required by law in respect of Mazer's individual filing requirements,
 - G. marketing the services of the registrant to clients or potential clients,
 - H. playing any role (other than as a representative of the shareholder) in the financial affairs of the registrant,

- I. playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of the registrant,
 - J. supervising any person performing any of the above enumerated activities, and
 - K. nothing in paragraph 72(e)(i) is intended to restrict the ability of Coinsquare or Coinsquare Capital Markets' Board to request and receive information from Mazer where the independent directors determine that such information is necessary to fulfil their duties as directors and in the best interest of the company or companies, provided the Board maintains a record of all the requests and information received.
- (ii) be prohibited from becoming or acting as a registrant for a period of 1 year commencing on the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act.

73. Mazer further agrees to make a voluntary payment in the amount of \$50,000 by wire transfer to the Commission before the commence of the Settlement Hearing, which amount be designated for allocation or use by the Commission in accordance with subparagraph 3.4(2)(b)(i) or (ii) of the Act.

74. The Respondents acknowledge that this Settlement Agreement and the Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondents. The Respondents should contact the securities regulator of any other jurisdiction in which the Respondents intend to engage in any securities- or derivatives-related activities, prior to undertaking such activities.

75. Coinsquare and Coinsquare Capital Markets have both given an undertaking (the **Undertaking**) to the Commission in the form attached as Schedule "B" to this Settlement Agreement, under which Coinsquare and Coinsquare Capital Markets undertake to do the following:

- (a) within 45 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, Coinsquare and Coinsquare Capital Markets shall each:

- (i) create and permanently maintain an independent Board that meets the following terms and conditions:
- A. the Board shall be comprised of more than 50% independent directors,
 - B. the Chair of the Board shall be an independent director,⁴
 - C. the quorum for the Board shall consist of a majority of the Board members, with at least 50% of the majority being independent directors,
 - D. for the purposes of this undertaking, an individual is an independent director if the individual is "independent" within the meaning of section 1.4 of National Instrument 52-110 *Audit Committees*, as amended from time to time, but is not independent if the individual:
 - I. is a shareholder that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets, or a partner, officer or employee of Coinsquare or Coinsquare Capital Markets or an associate of that shareholder, partner, officer or employee,
 - II. is a shareholder, partner, officer, director or employee of an affiliated entity of Coinsquare or Coinsquare Capital Markets or an associate of that shareholder, partner, officer, director or employee,
 - III. is a shareholder, partner, officer, director or employee of a person or company that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets,
 - IV. is a client or marketplace participant of Coinsquare Capital Markets or is a shareholder, partner, officer, director or

⁴ However, where this provision conflicts with applicable regulatory requirements, Staff may permit Coinsquare Capital Markets to implement an alternative that is acceptable to Staff.

employee of a client or marketplace participant of Coinsquare Capital Markets who is responsible for or is actively engaged in the day-to-day operations or activities of that Coinsquare Capital Markets client or marketplace participant,

V. is a director that was nominated, and as a result appointed or elected, by a founding shareholder or launch shareholder, or

VI. has, or has had, any relationship with a shareholder that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets that could, in the view of the Board, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgment as a director of Coinsquare or Coinsquare Capital Markets;

(ii) create and permanently maintain a whistleblower program that contains reporting channels that are independent, broadly communicated and accessible (the **Internal Whistleblower Program**) and meets the following terms and conditions:

A. the Internal Whistleblower Program reports directly to an independent committee of the Board (the **Independent Board Committee**),

B. the Internal Whistleblower Program shall include protections from reprisal and mechanisms for anonymous reporting,

C. the Independent Board Committee shall exercise oversight of the Internal Whistleblower Program and ensure that information being submitted is properly investigated and resolved, and

D. the Independent Board Committee shall ensure that information received from the Internal Whistleblower Program is reported to the Commission, a recognized self-regulatory organization or law enforcement agency where appropriate or otherwise required by law; and

- (iii) in the event that Coinsquare and/or Coinsquare Capital Markets fail(s) to meet any of the requirements of paragraph 75(a)(i) or (ii) above, it shall immediately advise the Commission and take appropriate measures to promptly remedy such failure;

- (b) within 90 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, the Board of Coinsquare and Coinsquare Capital Markets shall each:
 - (i) appoint a CEO; and
 - (ii) appoint a CCO;

- (c) within 15 days of the appointment of the CEO and CCO, unless an alternative timeline is agreed to by Staff, Coinsquare and Coinsquare Capital Markets shall each:
 - (i) submit an attestation, in a format acceptable to Staff and signed by the CEO and CCO, attesting to the fact that, from the date of their appointment, the CEO and CCO have and will continue to:
 - A. supervise the activities of the firm that are directed towards ensuring compliance with Ontario securities law by the firm and each individual acting on the firm's behalf, and
 - B. promote and require compliance by the firm, and individuals acting on its behalf, with Ontario securities law; and
 - (ii) submit an attestation, in a format acceptable to Staff and signed by the CCO, attesting to the fact that, from the date of the CCO's appointment, the CCO has and will continue to:
 - A. establish and maintain policies and procedures designed to monitor and assess compliance by the firm, and individuals acting on its behalf, with Ontario securities law,
 - B. monitor and assess compliance by the firm, and the individuals acting on its behalf, with Ontario securities law,

- C. immediately report to the CEO of the firm if the CCO becomes aware of any circumstances indicating that the firm, or any individual acting on its behalf, may be in non-compliance with Ontario securities law, and
 - D. submit an annual report to the firm's Board for the purpose of assessing compliance by the firm, and individuals acting on its behalf, with Ontario securities law;
- (d) after Coinsquare and Coinsquare Capital Markets have complied with the above and within 105 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, Coinsquare Capital Markets shall:
- (i) resubmit complete and updated applications for registration as an investment dealer and to operate a marketplace with the Commission, including a complete and accurate Form 21-101F2 *Information Statement Alternative Trading System*, and for membership with IIROC;
 - (ii) submit a report from Coinsquare and Coinsquare Capital Market's Board that includes in a manner acceptable to Staff:
 - A. a description of the steps taken to ensure the fitness of its directors, officers and any person that plays a role in the decision-making that impacts the business, day-to-day management or operations of Coinsquare or Coinsquare Capital Markets and the policies and procedures designed to ensure continued fitness with respect to the operation of the Coinsquare Platform with integrity,
 - B. a description of the controls it has implemented or the steps it has taken to address the matters giving rise to the Settlement Agreement,
 - C. confirmation that it is the view of each Board that the directors and officers will perform their duties with integrity and in a manner consistent with the public interest, and

- D. confirmation that each Board will take reasonable steps to ensure that any person that plays a role in the decision-making that impacts the business, day-to-day management or operations of Coinsquare or Coinsquare Capital Markets is a fit and proper person and that past conduct of each person or company affords reasonable grounds for the belief that the business of the Coinsquare Platform will be conducted with integrity;
- (e) for three years from the date of the approval of this Settlement Agreement by the Commission, Coinsquare Capital Markets and any affiliated companies carrying on activities that require registration under Ontario securities law (the **Coinsquare Affiliates**) shall not permit Diamond or Rostand to perform functions similar to those normally performed by an officer or director, including:
- (i) proposing, nominating and appointing new officers;
 - (ii) participating in any meeting of the Board or any committee of the Board;
 - (iii) providing instructions or directions to management of Coinsquare or Coinsquare Capital Markets or to any legal or financial advisors on behalf of Coinsquare or Coinsquare Capital Markets;
 - (iv) having signing authority for Coinsquare or Coinsquare Capital Markets, including signing authority over any bank or other accounts of Coinsquare or Coinsquare Capital Markets;
 - (v) hiring, supervising or terminating staff of Coinsquare or Coinsquare Capital Markets or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation;
 - (vi) participating in any decisions with or attempt in any way to influence management or the Board of Coinsquare or Coinsquare Capital Markets, or make any recommendations in relation to decisions: (a) affecting the compliance by Coinsquare or Coinsquare Capital Markets with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to

be submitted or filed by Coinsquare or Coinsquare Capital Markets under Ontario securities law, except as required by law in respect of Diamond and/or Rostand's individual filing requirements;

- (vii) marketing the services of the registrant to clients or potential clients;
 - (viii) playing any role (other than as a representative of the shareholder) in the financial affairs of Coinsquare or Coinsquare Capital Markets;
 - (ix) playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of Coinsquare or Coinsquare Capital Markets;
 - (x) supervising any person performing any of the above enumerated activities; and
 - (xi) nothing in paragraph 75(e) is intended to restrict the ability of Coinsquare or Coinsquare Capital Markets' Board to request and receive information from Diamond and/or Rostand where the independent directors determine that such information is necessary to fulfil their duties as directors and in the best interest of the company or companies, provided the Board maintains a record of all the requests and information received;
- (f) Coinsquare and Coinsquare Capital Markets shall establish, maintain and require compliance with policies and procedures reasonably designed to ensure compliance with paragraph 75(e) above, including compliance by all directors, officers and employees of Coinsquare and Coinsquare Capital Markets; and
- (g) in the event that Coinsquare and/or Coinsquare Capital Markets fail(s) to meet any of the requirements of paragraph 75(e) or (f) above, it shall immediately advise the Commission and take appropriate measures to promptly remedy such failure.

76. This Settlement Agreement, as well as any failure to satisfy the terms of the Settlement Agreement, including the Undertaking, may be considered as a factor relevant to suitability for registration in any application for registration by any of the Respondents or affiliated companies.

PART VII - FURTHER PROCEEDINGS

77. If the Commission approves this Settlement Agreement, Staff will not commence or continue any proceeding against the Respondents under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, unless one or all of the Respondents fail to comply with any term in this Settlement Agreement (including the Undertaking), in which case Staff may bring proceedings under Ontario securities law against that or those Respondents that may be based on, among other things, the facts set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement.

78. The Respondents acknowledge that, if the Commission approves this Settlement Agreement and any of the Respondents fail to comply with any term in it, Staff or the Commission, as the case may be, is entitled to bring any proceedings necessary to enforce compliance with the terms of the Settlement Agreement.

79. The Respondents waive any defences to a proceeding referenced in paragraph 77 or 78 that are based on the limitation period in the Act, provided that no such proceeding shall be commenced later than six years from the date of the occurrence of the last failure to comply with this Settlement Agreement.

PART VIII - PROCEDURE FOR APPROVAL OF SETTLEMENT

80. The parties will seek approval of this Settlement Agreement at the Settlement Hearing before the Commission, which shall be held on a date determined by the Secretary to the Commission in accordance with this Settlement Agreement and the Commission's *Rules of Procedure* (2019), 42 O.S.C.B. 9714.

81. The parties confirm that this Settlement Agreement sets forth all of the agreed facts that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

82. If the Commission approves this Settlement Agreement:

- (a) the Respondents irrevocably waive all rights to a full hearing, judicial review or appeal of this matter under the Act; and

- (b) neither Staff nor the Respondents will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the Settlement Hearing.

83. Whether or not the Commission approves this Settlement Agreement, the Respondents will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness or any other remedies or challenges that may be available.

PART IX - DISCLOSURE OF SETTLEMENT AGREEMENT

84. If the Commission does not make the Order or an order substantially in the form attached as Schedule "A" to this Settlement Agreement:

- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondents before the Settlement Hearing will be without prejudice to Staff and the Respondents; and
- (b) Staff and the Respondents will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations contained in the Statement of Allegations in respect of the Proceeding. Any such proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

85. The parties will keep the terms of this Settlement Agreement confidential until the Settlement Hearing, unless they agree in writing not to do so or unless otherwise required by law.

PART X - EXECUTION OF SETTLEMENT AGREEMENT

86. This Settlement Agreement may be signed in one or more counterparts which together constitute a binding agreement.

87. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

DATED at Toronto, Ontario this 16th day of July, 2020.

“Lewis Bateman”

Witness: Lewis Bateman

“Cole Diamond”

COLE DIAMOND

“Karine Roy-Loubier”

Witness: Karine Roy-Loubier

“Virgile Rostand”

VIRGILE ROSTAND

“James Smith”

Witness: James Smith

“Felix Mazer”

FELIX MAZER

COINSQUARE LTD.

By: “Jason Theofilos”

Name: Jason Theofilos

Title: Director

DATED at Toronto, Ontario this 16th day of July, 2020.

ONTARIO SECURITIES COMMISSION

By: “Jeff Kehoe”

Name: Jeff Kehoe

Title: Director, Enforcement Branch

SCHEDULE “A”



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

**IN THE MATTER OF
COINSQUARE LTD., COLE DIAMOND,
VIRGILE ROSTAND and FELIX MAZER**

File No.: 2020-21

(Name(s) of Commissioner(s) comprising the panel)

[*Day and date Order made*]

ORDER
**(Sections 127 and 127.1 of the
Securities Act, RSO 1990, c S.5)**

WHEREAS on July 21, 2020, the Ontario Securities Commission (the **Commission**) held a hearing by video conference to consider the request made jointly by Coinsquare Ltd. (**Coinsquare**), Cole Diamond (**Diamond**), Virgile Rostand (**Rostand**) and Felix Mazer (**Mazer**) (collectively, the **Respondents**) and Staff (**Staff**) of the Commission (**Commission**) for approval of a settlement agreement dated July 16, 2020 (the **Settlement Agreement**).

AND WHEREAS Coinsquare and its subsidiary Coinsquare Capital Markets Ltd. have both given an undertaking to the Commission, in the form attached as Annex I to this Order (the **Undertaking**).

ON READING the Joint Application for a Settlement Hearing, including the Statement of Allegations dated July 16, 2020 and the Settlement Agreement, and on hearing the submissions of the representatives of each of the parties, appearing by video conference, and on considering the Undertaking and Mazer having made a voluntary payment of \$50,000 to the Commission,

IT IS ORDERED THAT:

1. this Settlement Agreement is approved;

2. Coinsquare shall pay costs in the amount of \$200,000, pursuant to section 127.1 of the *Securities Act*, RSO 1990, c S.5 (the **Act**);
3. Diamond shall:
 - (a) resign any position that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act, subject to the following exception:
 - (i) Diamond may continue to act as a director or officer of a private issuer as defined in section 2.4 of National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**) that is not affiliated with Coinsquare Ltd. and is not a market participant;
 - (b) be prohibited from becoming or acting as a director or officer of any issuer for a period of 3 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act, subject to the following exceptions:
 - (i) Diamond may become or act as a director or officer of a private issuer as defined in section 2.4 of NI 45-106 that is not affiliated with Coinsquare Ltd. and is not a market participant, and
 - (ii) after 1 year from the date of the Order, Diamond may become or act as a director or officer of Coinsquare Ltd. and/or affiliated issuers, other than Coinsquare Capital Markets Ltd., provided that Coinsquare Ltd. and/or the affiliated issuer is not a market participant and that Diamond is not involved in the mind, management and control of a market participant or the supervision of any person exercising such authority or influence;
 - (c) be prohibited from becoming or acting as a director or officer of a registrant for a period of 3 years commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act, and for greater certainty, Diamond shall not perform functions similar to those normally performed by an officer or director of a registrant, including:
 - (i) proposing, nominating and appointing new officers,

- (ii) participating in any meeting of the board of directors or any committee of the board of directors,
- (iii) providing instructions or directions to management or to any legal or financial advisors on behalf of the registrant,
- (iv) having signing authority for the registrant, including signing authority over any bank or other accounts of the registrant,
- (v) hiring, supervising or terminating staff of the registrant or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation,
- (vi) participating in any decisions with or attempt in any way to influence management or the board of directors of the registrant, or make any recommendations in relation to decisions: (a) affecting the compliance by the registrant with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed by the registrant under Ontario securities law, except as required by law in respect of Diamond's individual filing requirements,
- (vii) marketing the services of the registrant to clients or potential clients,
- (viii) playing any role (other than as a representative of the shareholder) in the financial affairs of the registrant,
- (ix) playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of the registrant,
- (x) supervising any person performing any of the above enumerated activities, and
- (xi) nothing in paragraph 3(c) is intended to restrict the ability of Coinsquare Ltd. or Coinsquare Capital Markets Ltd.' board of directors to request and receive information from Diamond where the independent directors determine that such information is necessary to fulfil their duties as directors and in the best

interest of the company or companies, provided the board of directors maintains a record of all the requests and information received;

- (d) be prohibited from becoming or acting as a registrant for a period of 3 years commencing on the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
- (e) pay an administrative penalty in the amount of \$1,000,000, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount is designated for allocation or use by the Commission in accordance with subparagraph 3.4(2)(b)(i) or (ii) of the Act; and
- (f) pay costs in the amount of \$50,000, pursuant to section 127.1 of the Act.

4. Rostand shall:

- (a) resign any position that he holds as a director or officer of an issuer, pursuant to paragraph 7 of subsection 127(1) of the Act, with the following exception:
 - (i) Rostand may continue to act as a director or officer of a private issuer as defined in section 2.4 of NI 45-106 that is not affiliated with Coinsquare Ltd. and is not a market participant;
- (b) be prohibited from becoming or acting as a director or officer of any issuer for a period of 2 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act, subject to the following exception:
 - (i) Rostand may become or act as a director or officer of a private issuer as defined in section 2.4 of NI 45-106 that is not affiliated with Coinsquare Ltd. and is not a market participant, and
 - (ii) after 1 year from the date of the Order, Rostand may become or act as a director or officer of Coinsquare Ltd. and/or affiliated issuers, other than Coinsquare Capital Markets Ltd., provided that Coinsquare Ltd. and/or the affiliated issuer is not a market participant and that Rostand is not involved in the mind, management and control of a market participant or the supervision of any person exercising such authority or influence;

- (c) be prohibited from becoming or acting as a director or officer of a registrant for a period of 3 years commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act, and for greater certainty, Rostand shall not perform functions similar to those normally performed by an officer or director of a registrant, including:
- (i) proposing, nominating and appointing new officers,
 - (ii) participating in any meeting of the board of directors or any committee of the board of directors,
 - (iii) providing instructions or directions to management or to any legal or financial advisors on behalf of the registrant,
 - (iv) having signing authority for the registrant, including signing authority over any bank or other accounts of the registrant,
 - (v) hiring, supervising or terminating staff of the registrant or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation,
 - (vi) participating in any decisions with or attempt in any way to influence management or the board of directors of the registrant, or make any recommendations in relation to decisions: (a) affecting the compliance by the registrant with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed by the registrant under Ontario securities law, except as required by law in respect of Rostand's individual filing requirements,
 - (vii) marketing the services of the registrant to clients or potential clients,
 - (viii) playing any role (other than as a representative of the shareholder) in the financial affairs of the registrant,
 - (ix) playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of the registrant,

- (x) supervising any person performing any of the above enumerated activities, and
- (xi) nothing in paragraph 4(c) is intended to restrict the ability of Coinsquare Ltd. or Coinsquare Capital Markets Ltd.'s board of directors to request and receive information from Rostand where the independent directors determine that such information is necessary to fulfil their duties as directors and in the best interest of the company or companies, provided the board of directors maintain a record of all the requests and information received;
- (d) be prohibited from becoming or acting as a registrant for a period of 3 years commencing on the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
- (e) pay an administrative penalty in the amount of \$900,000, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount is designated for allocation or use by the Commission in accordance with subparagraph 3.4(2)(b)(i) or (ii) of the Act; and
- (f) pay costs in the amount of \$50,000, pursuant to section 127.1 of the Act.

5. Mazer shall:

- (a) be prohibited from becoming or acting as a director or officer of a registrant for a period of 1 year commencing on the date of the Order, pursuant to paragraph 8.2 of subsection 127(1) of the Act, and for greater certainty, Mazer shall not perform functions similar to those normally performed by an officer or director of a registrant, including:
 - (i) proposing, nominating and appointing new officers,
 - (ii) participating in any meeting of the board of directors or any committee of the board of directors,
 - (iii) providing instructions or directions to management or to any legal or financial advisors on behalf of the registrant,
 - (iv) having signing authority for the registrant, including signing authority over any bank or other accounts of the registrant,

- (v) hiring, supervising or terminating staff of the registrant or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation,
 - (vi) participating in any decisions with or attempt in any way to influence management or the board of directors of the registrant, or make any recommendations in relation to decisions: (a) affecting the compliance by the registrant with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed by the registrant under Ontario securities law, except as required by law in respect of Mazer's individual filing requirements,
 - (vii) marketing the services of the registrant to clients or potential clients,
 - (viii) playing any role (other than as a representative of the shareholder) in the financial affairs of the registrant,
 - (ix) playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of the registrant,
 - (x) supervising any person performing any of the above enumerated activities, and
 - (xi) nothing in paragraph 5(a) is intended to restrict the ability of Coinsquare Ltd. or Coinsquare Capital Markets Ltd.'s board of directors to request and receive information from Mazer where the independent directors determine that such information is necessary to fulfil their duties as directors and in the best interest of the company or companies, provided the board of directors maintains a record of all the requests and information received; and
- (b) be prohibited from becoming or acting as a registrant for a period of 1 year commencing on the date of the Order, pursuant to paragraph 8.5 of subsection 127(1) of the Act.
6. the voluntary payment of \$50,000 made by Mazer is designated for allocation or use by the Commission in accordance with subparagraph 3.4(2)(b)(i) or (ii) of the Act.

[Chair of the Panel]

[Commissioner]

[Commissioner]

ANNEX I

**UNDERTAKING OF COINSQUARE LTD.
and COINSQUARE CAPITAL MARKETS LTD.**

**IN THE MATTER OF
COINSQUARE LTD., COLE DIAMOND,
VIRGILE ROSTAND and FELIX MAZER**

UNDERTAKING TO THE ONTARIO SECURITIES COMMISSION

1. This Undertaking is given in connection with the settlement agreement dated July 16, 2020 (the **Settlement Agreement**) between Coinsquare Ltd. (**Coinsquare**), Cole Diamond (**Diamond**), Virgile Rostand (**Rostand**), Felix Mazer and Staff ("**Staff**") of the Ontario Securities Commission (the "**Commission**"). All terms shall have the same meanings in this Undertaking as in the Settlement Agreement.

2. Coinsquare and Coinsquare Capital Markets Ltd. (**Coinsquare Capital Markets**) undertake to do the following:

- (a) within 45 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, Coinsquare and Coinsquare Capital Markets shall each:
 - (i) create and permanently maintain an independent board of directors (the **Board**) that meets the following terms and conditions:
 - A. the Board shall be comprised of more than 50% independent directors,
 - B. the Chair of the Board shall be an independent director,⁵
 - C. the quorum for the Board shall consist of a majority of the Board members, with at least 50% of the majority being independent directors,
 - D. for the purposes of this undertaking, an individual is an independent director if the individual is "independent" within the meaning of section

⁵ However, where this provision conflicts with applicable regulatory requirements, Staff may permit Coinsquare Capital Markets to implement an alternative that is acceptable to Staff.

1.4 of National Instrument 52-110 *Audit Committees*, as amended from time to time, but is not independent if the individual:

- I. is a shareholder that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets, or a partner, officer or employee of Coinsquare or Coinsquare Capital Markets or an associate of that shareholder, partner, officer or employee,
- II. is a shareholder, partner, officer, director or employee of an affiliated entity of Coinsquare or Coinsquare Capital Markets or an associate of that shareholder, partner, officer, director or employee,
- III. is a shareholder, partner, officer, director or employee of a person or company that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets,
- IV. is a client or marketplace participant of Coinsquare Capital Markets or is a shareholder, partner, officer, director or employee of a client or marketplace participant of Coinsquare Capital Markets who is responsible for or is actively engaged in the day-to-day operations or activities of that Coinsquare Capital Markets client or marketplace participant,
- V. is a director that was nominated, and as a result appointed or elected, by a founding shareholder or launch shareholder, or
- VI. has, or has had, any relationship with a shareholder that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets that could, in the view of the Board, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or

her independent judgment as a director of Coinsquare or Coinsquare Capital Markets;

- (ii) create and permanently maintain a whistleblower program that contains reporting channels that are independent, broadly communicated and accessible (the **Internal Whistleblower Program**) and meets the following terms and conditions:
 - A. the Internal Whistleblower Program reports directly to an independent committee of the Board (the **Independent Board Committee**),
 - B. the Internal Whistleblower Program shall include protections from reprisal and mechanisms for anonymous reporting,
 - C. the Independent Board Committee shall exercise oversight of the Internal Whistleblower Program and ensure that information being submitted is properly investigated and resolved, and
 - D. the Independent Board Committee shall ensure that information received from the Internal Whistleblower Program is reported to the Commission, a recognized self-regulatory organization or law enforcement agency where appropriate or otherwise required by law; and
 - (iii) in the event that Coinsquare and/or Coinsquare Capital Markets fail(s) to meet any of the requirements of paragraph 2(a)(i) or (ii) above, it shall immediately advise the Commission and take appropriate measures to promptly remedy such failure;
- (b) within 90 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, the Board of Coinsquare and Coinsquare Capital Markets shall each:
- (i) appoint a Chief Executive Officer (**CEO**); and
 - (ii) appoint a Chief Compliance Officer (**CCO**);

- (c) within 15 days of the appointment of the CEO and CCO, unless an alternative timeline is agreed to by Staff, Coinsquare and Coinsquare Capital Markets shall each:
- (i) submit an attestation, in a format acceptable to Staff and signed by the CEO and CCO, attesting to the fact that, from the date of their appointment, the CEO and CCO have and will continue to:
 - A. supervise the activities of the firm that are directed towards ensuring compliance with Ontario securities law by the firm and each individual acting on the firm's behalf, and
 - B. promote and require compliance by the firm, and individuals acting on its behalf, with Ontario securities law; and
 - (ii) submit an attestation, in a format acceptable to Staff and signed by the CCO, attesting to the fact that, from the date of the CCO's appointment, the CCO has and will continue to:
 - A. establish and maintain policies and procedures designed to monitor and assess compliance by the firm, and individuals acting on its behalf, with Ontario securities law,
 - B. monitor and assess compliance by the firm, and the individuals acting on its behalf, with Ontario securities law,
 - C. immediately report to the CEO of the firm if the CCO becomes aware of any circumstances indicating that the firm, or any individual acting on its behalf, may be in non-compliance with Ontario securities law, and
 - D. submit an annual report to the firm's Board for the purpose of assessing compliance by the firm, and individuals acting on its behalf, with Ontario securities law;
- (d) after Coinsquare and Coinsquare Capital Markets have complied with the above and within 105 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, Coinsquare Capital Markets shall:

- (i) resubmit complete and updated applications for registration as an investment dealer and to operate a marketplace with the Commission, including a complete and accurate Form 21-101F2 *Information Statement Alternative Trading System*, and for membership with IIROC;
- (ii) submit a report from Coinsquare and Coinsquare Capital Market's Board that includes in a manner acceptable to Staff:
 - A. a description of the steps taken to ensure the fitness of its directors, officers and any person that plays a role in the decision-making that impacts the business, day-to-day management or operations of Coinsquare or Coinsquare Capital Markets and the policies and procedures designed to ensure continued fitness with respect to the operation of the Coinsquare Platform with integrity,
 - B. a description of the controls it has implemented or the steps it has taken to address the matters giving rise to the Settlement Agreement,
 - C. confirmation that it is the view of each Board that the directors and officers will perform their duties with integrity and in a manner consistent with the public interest, and
 - D. confirmation that each Board will take reasonable steps to ensure that any person that plays a role in the decision-making that impacts the business, day-to-day management or operations of Coinsquare or Coinsquare Capital Markets is a fit and proper person and that past conduct of each person or company affords reasonable grounds for the belief that the business of the Coinsquare Platform will be conducted with integrity;
- (e) for three years from the date of the approval of this Settlement Agreement by the Commission, Coinsquare Capital Markets and any affiliated companies carrying on activities that require registration under Ontario securities law (the **Coinsquare Affiliates**) shall not permit Diamond or Rostand to perform functions similar to those normally performed by an officer or director, including:

- (i) proposing, nominating and appointing new officers;
- (ii) participating in any meeting of the Board or any committee of the Board;
- (iii) providing instructions or directions to management of Coinsquare or Coinsquare Capital Markets or to any legal or financial advisors on behalf of Coinsquare or Coinsquare Capital Markets;
- (iv) having signing authority for Coinsquare or Coinsquare Capital Markets, including signing authority over any bank or other accounts of Coinsquare or Coinsquare Capital Markets;
- (v) hiring, supervising or terminating staff of Coinsquare or Coinsquare Capital Markets or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation;
- (vi) participating in any decisions with or attempt in any way to influence management or the Board of Coinsquare or Coinsquare Capital Markets, or make any recommendations in relation to decisions: (a) affecting the compliance by Coinsquare or Coinsquare Capital Markets with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed by Coinsquare or Coinsquare Capital Markets under Ontario securities law, except as required by law in respect of Diamond and/or Rostand's individual filing requirements;
- (vii) marketing the services of the registrant to clients or potential clients;
- (viii) playing any role (other than as a representative of the shareholder) in the financial affairs of Coinsquare or Coinsquare Capital Markets;
- (ix) playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of Coinsquare or Coinsquare Capital Markets;
- (x) supervising any person performing any of the above enumerated activities; and

- (xi) nothing in paragraph 2(e) is intended to restrict the ability of Coinsquare or Coinsquare Capital Markets' Board to request and receive information from Diamond and/or Rostand where the independent directors determine that such information is necessary to fulfil their duties as directors and in the best interest of the company or companies, provided the Board maintains a record of all the requests and information received;
- (f) Coinsquare and Coinsquare Capital Markets shall establish, maintain and require compliance with policies and procedures reasonably designed to ensure compliance with paragraph 2(e) above, including compliance by all directors, officers and employees of Coinsquare and Coinsquare Capital Markets; and
- (g) in the event that Coinsquare and/or Coinsquare Capital Markets fail(s) to meet any of the requirements of paragraph 2(e) or (f) above, it shall immediately advise the Commission and take appropriate measures to promptly remedy such failure.

DATED at Toronto, Ontario this 16th day of July, 2020.

COINSQUARE LTD.

By: "Jason Theofilos"
Name: Jason Theofilos
Title: Director

DATED at Toronto, Ontario this 16th day of July, 2020.

COINSQUARE CAPITAL MARKETS LTD.

By: "Jason Theofilos"
Name: Jason Theofilos
Title: Authorized Signatory

SCHEDULE “B”

**UNDERTAKING OF COINSQUARE LTD.
and COINSQUARE CAPITAL MARKETS LTD.**

**IN THE MATTER OF
COINSQUARE LTD., COLE DIAMOND,
VIRGILE ROSTAND and FELIX MAZER**

UNDERTAKING TO THE ONTARIO SECURITIES COMMISSION

1. This Undertaking is given in connection with the settlement agreement dated July 16, 2020 (the **Settlement Agreement**) between Coinsquare Ltd. (**Coinsquare**), Cole Diamond (**Diamond**), Virgile Rostand (**Rostand**), Felix Mazer and Staff (“**Staff**”) of the Ontario Securities Commission (the “**Commission**”). All terms shall have the same meanings in this Undertaking as in the Settlement Agreement.

2. Coinsquare and Coinsquare Capital Markets Ltd. (**Coinsquare Capital Markets**) undertake to do the following:

- (a) within 45 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, Coinsquare and Coinsquare Capital Markets shall each:
 - (i) create and permanently maintain an independent board of directors (the **Board**) that meets the following terms and conditions:
 - A. the Board shall be comprised of more than 50% independent directors,
 - B. the Chair of the Board shall be an independent director,⁶
 - C. the quorum for the Board shall consist of a majority of the Board members, with at least 50% of the majority being independent directors,
 - D. for the purposes of this undertaking, an individual is an independent director if the individual is "independent" within the meaning of section

⁶ However, where this provision conflicts with applicable regulatory requirements, Staff may permit Coinsquare Capital Markets to implement an alternative that is acceptable to Staff.

1.4 of National Instrument 52-110 *Audit Committees*, as amended from time to time, but is not independent if the individual:

- I. is a shareholder that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets, or a partner, officer or employee of Coinsquare or Coinsquare Capital Markets or an associate of that shareholder, partner, officer or employee,
- II. is a shareholder, partner, officer, director or employee of an affiliated entity of Coinsquare or Coinsquare Capital Markets or an associate of that shareholder, partner, officer, director or employee,
- III. is a shareholder, partner, officer, director or employee of a person or company that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets,
- IV. is a client or marketplace participant of Coinsquare Capital Markets or is a shareholder, partner, officer, director or employee of a client or marketplace participant of Coinsquare Capital Markets who is responsible for or is actively engaged in the day-to-day operations or activities of that Coinsquare Capital Markets client or marketplace participant,
- V. is a director that was nominated, and as a result appointed or elected, by a founding shareholder or launch shareholder, or
- VI. has, or has had, any relationship with a shareholder that owns or controls, directly or indirectly, more than 5% of the shares of Coinsquare or Coinsquare Capital Markets that could, in the view of the Board, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or

her independent judgment as a director of Coinsquare or Coinsquare Capital Markets;

- (ii) create and permanently maintain a whistleblower program that contains reporting channels that are independent, broadly communicated and accessible (the **Internal Whistleblower Program**) and meets the following terms and conditions:
 - A. the Internal Whistleblower Program reports directly to an independent committee of the Board (the **Independent Board Committee**),
 - B. the Internal Whistleblower Program shall include protections from reprisal and mechanisms for anonymous reporting,
 - C. the Independent Board Committee shall exercise oversight of the Internal Whistleblower Program and ensure that information being submitted is properly investigated and resolved, and
 - D. the Independent Board Committee shall ensure that information received from the Internal Whistleblower Program is reported to the Commission, a recognized self-regulatory organization or law enforcement agency where appropriate or otherwise required by law; and
 - (iii) in the event that Coinsquare and/or Coinsquare Capital Markets fail(s) to meet any of the requirements of paragraph 2(a)(i) or (ii) above, it shall immediately advise the Commission and take appropriate measures to promptly remedy such failure;
- (b) within 90 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, the Board of Coinsquare and Coinsquare Capital Markets shall each:
- (i) appoint a Chief Executive Officer (**CEO**); and
 - (ii) appoint a Chief Compliance Officer (**CCO**);

- (c) within 15 days of the appointment of the CEO and CCO, unless an alternative timeline is agreed to by Staff, Coinsquare and Coinsquare Capital Markets shall each:
- (i) submit an attestation, in a format acceptable to Staff and signed by the CEO and CCO, attesting to the fact that, from the date of their appointment, the CEO and CCO have and will continue to:
 - A. supervise the activities of the firm that are directed towards ensuring compliance with Ontario securities law by the firm and each individual acting on the firm's behalf, and
 - B. promote and require compliance by the firm, and individuals acting on its behalf, with Ontario securities law; and
 - (ii) submit an attestation, in a format acceptable to Staff and signed by the CCO, attesting to the fact that, from the date of the CCO's appointment, the CCO has and will continue to:
 - A. establish and maintain policies and procedures designed to monitor and assess compliance by the firm, and individuals acting on its behalf, with Ontario securities law,
 - B. monitor and assess compliance by the firm, and the individuals acting on its behalf, with Ontario securities law,
 - C. immediately report to the CEO of the firm if the CCO becomes aware of any circumstances indicating that the firm, or any individual acting on its behalf, may be in non-compliance with Ontario securities law, and
 - D. submit an annual report to the firm's Board for the purpose of assessing compliance by the firm, and individuals acting on its behalf, with Ontario securities law;
- (d) after Coinsquare and Coinsquare Capital Markets have complied with the above and within 105 days of the approval of this Settlement Agreement, unless an alternative timeline is agreed to by Staff, Coinsquare Capital Markets shall:

- (i) resubmit complete and updated applications for registration as an investment dealer and to operate a marketplace with the Commission, including a complete and accurate Form 21-101F2 *Information Statement Alternative Trading System*, and for membership with IIROC;
- (ii) submit a report from Coinsquare and Coinsquare Capital Market's Board that includes in a manner acceptable to Staff:
 - A. a description of the steps taken to ensure the fitness of its directors, officers and any person that plays a role in the decision-making that impacts the business, day-to-day management or operations of Coinsquare or Coinsquare Capital Markets and the policies and procedures designed to ensure continued fitness with respect to the operation of the Coinsquare Platform with integrity,
 - B. a description of the controls it has implemented or the steps it has taken to address the matters giving rise to the Settlement Agreement,
 - C. confirmation that it is the view of each Board that the directors and officers will perform their duties with integrity and in a manner consistent with the public interest, and
 - D. confirmation that each Board will take reasonable steps to ensure that any person that plays a role in the decision-making that impacts the business, day-to-day management or operations of Coinsquare or Coinsquare Capital Markets is a fit and proper person and that past conduct of each person or company affords reasonable grounds for the belief that the business of the Coinsquare Platform will be conducted with integrity;
- (e) for three years from the date of the approval of this Settlement Agreement by the Commission, Coinsquare Capital Markets and any affiliated companies carrying on activities that require registration under Ontario securities law (the **Coinsquare Affiliates**) shall not permit Diamond or Rostand to perform functions similar to those normally performed by an officer or director, including:

- (i) proposing, nominating and appointing new officers;
- (ii) participating in any meeting of the Board or any committee of the Board;
- (iii) providing instructions or directions to management of Coinsquare or Coinsquare Capital Markets or to any legal or financial advisors on behalf of Coinsquare or Coinsquare Capital Markets;
- (iv) having signing authority for Coinsquare or Coinsquare Capital Markets, including signing authority over any bank or other accounts of Coinsquare or Coinsquare Capital Markets;
- (v) hiring, supervising or terminating staff of Coinsquare or Coinsquare Capital Markets or providing input or participating in decisions relating to hiring, supervising or terminating staff or executive compensation;
- (vi) participating in any decisions with or attempt in any way to influence management or the Board of Coinsquare or Coinsquare Capital Markets, or make any recommendations in relation to decisions: (a) affecting the compliance by Coinsquare or Coinsquare Capital Markets with Ontario securities law, including its system of controls and supervision; and (b) relating to the preparation of any filing or disclosure documents required to be submitted or filed by Coinsquare or Coinsquare Capital Markets under Ontario securities law, except as required by law in respect of Diamond and/or Rostand's individual filing requirements;
- (vii) marketing the services of the registrant to clients or potential clients;
- (viii) playing any role (other than as a representative of the shareholder) in the financial affairs of Coinsquare or Coinsquare Capital Markets;
- (ix) playing any role (other than as a shareholder) in the decision-making that impacts the business or day-to-day management of Coinsquare or Coinsquare Capital Markets;
- (x) supervising any person performing any of the above enumerated activities; and

- (xi) nothing in paragraph 2(e) is intended to restrict the ability of Coinsquare or Coinsquare Capital Markets' Board to request and receive information from Diamond and/or Rostand where the independent directors determine that such information is necessary to fulfil their duties as directors and in the best interest of the company or companies, provided the Board maintains a record of all the requests and information received;
- (f) Coinsquare and Coinsquare Capital Markets shall establish, maintain and require compliance with policies and procedures reasonably designed to ensure compliance with paragraph 2(e) above, including compliance by all directors, officers and employees of Coinsquare and Coinsquare Capital Markets; and
- (g) in the event that Coinsquare and/or Coinsquare Capital Markets fail(s) to meet any of the requirements of paragraph 2(e) or (f) above, it shall immediately advise the Commission and take appropriate measures to promptly remedy such failure.

DATED at Toronto, Ontario this 16th day of July, 2020.

COINSQUARE LTD.

By: "Jason Theofilos"
Name: Jason Theofilos
Title: Director

DATED at Toronto, Ontario this 16th day of July, 2020.

COINSQUARE CAPITAL MARKETS LTD.

By: "Jason Theofilos"
Name: Jason Theofilos
Title: Authorized Signatory