

The Ontario Securities Commission

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

The Ontario Securities Commission

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Rafael Lazer and ELAD Canada Inc.

NOTICE OF WITHDRAWAL

IN THE MATTER OF RAFAEL LAZER AND ELAD CANADA INC.

File No. 2017-60

NOTICE OF WITHDRAWAL

Rafael Lazer and ELAD Canada Inc. withdraw the Application for Hearing and Review.

DATED this 14th day of November, 2017.

Eliot Kolers
Stikeman Elliott LLP
199 Bay Street
Toronto, Ontario
M5L 1B9
(416) 869 – 5637
ekolers@stikeman.com

1.2 Notices of Hearing

1.2.1 Sandpiper Real Estate Fund Limited Partnership et al. – s. 8 and 21.7

FILE NO.: 2017-59

IN THE MATTER OF SANDPIPER REAL ESTATE FUND LIMITED PARTNERSHIP, SANDPIPER OPPORTUNITY FUND 3 LIMITED PARTNERSHIP and SANDPIPER GP INC.

NOTICE OF HEARING

Sections 8 and 21.7 of the Securities Act, RSO 1990, c S.5

PROCEEDING TYPE: Application for Hearing and Review

HEARING DATE AND TIME: December 6 and 7, 2017 at 10:00 a.m.

LOCATION: 20 Queen Street West, 17th Floor, Toronto, Ontario

PURPOSE

The purpose of this proceeding is to consider the Application dated October 19, 2017 made by the parties named above to review a decision of the Toronto Stock Exchange dated October 16, 2017.

REPRESENTATION

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

FAILURE TO ATTEND

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

FRENCH HEARING

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

AVIS EN FRANÇAIS

L'avis d'audience est disponible en français sur demande d'une partie, que la participation à l'audience peut se faire en français ou en anglais et que les participants doivent

aviser le Bureau du secrétaire par écrit le plus tôt si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

Dated at Toronto this 7th day of November, 2017

"Grace Knakowski"
Secretary to the Commission

For more information

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

1.2.2 Rafael Lazer and ELAD Canada Inc. – ss. 8 and 21.7

FILE NO.: 2017-60

**IN THE MATTER OF
RAFAEL LAZER AND ELAD CANADA INC.**

NOTICE OF HEARING

Sections 8 and 21.7 of the Securities Act, RSO 1990, c S.5

PROCEEDING TYPE: Application for Hearing and Review

HEARING DATE AND TIME: December 6 and 7, 2017 at 10:00 a.m.

LOCATION: 20 Queen Street West, 17th Floor, Toronto, Ontario

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

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Dated at Toronto this 7th day of November, 2017

"Grace Knakowski"
Secretary to the Commission

For more information

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

1.5 Notices from the Office of the Secretary

1.5.1 Sandpiper Real Estate Fund Limited Partnership et al.

**FOR IMMEDIATE RELEASE
November 8, 2017**

**SANDPIPER REAL ESTATE FUND
LIMITED PARTNERSHIP,
SANDPIPER OPPORTUNITY FUND 3
LIMITED PARTNERSHIP and
SANDPIPER GP INC.,
File No. 2017-59**

TORONTO – On November 7, 2017, the Commission issued a Notice of Hearing pursuant to Sections 8 and 21.7 of the *Securities Act*, R.S.O. 1990, c. S.5 to consider the Application dated October 19, 2017 made by the parties named above to review a decision of the Toronto Stock Exchange dated October 16, 2017.

The hearing will be held on December 6 and 7, 2017 at 10:00 a.m. at 20 Queen Street West, 17th Floor, Toronto, Ontario.

A copy of the Notice of Hearing dated November 7, 2017 and the Application dated October 19, 2017 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.2 Rafael Lazer and ELAD Canada Inc.

**FOR IMMEDIATE RELEASE
November 8, 2017**

**RAFAEL LAZER and
ELAD CANADA INC.,
File No. 2017-60**

TORONTO – On November 7, 2017, the Commission issued a Notice of Hearing pursuant to Sections 8 and 21.7 of the *Securities Act*, R.S.O. 1990, c. S.5 to consider the Application dated October 23, 2017 made by the parties named above to review a decision of the Toronto Stock Exchange dated October 16, 2017.

The hearing will be held on December 6 and 7, 2017 at 10:00 a.m. at 20 Queen Street West, 17th Floor, Toronto, Ontario.

A copy of the Notice of Hearing dated November 7, 2017 and the Application dated October 23, 2017 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
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416-593-8314
1-877-785-1555 (Toll Free)

1.5.3 Pro-Financial Asset Management Inc. et al.

FOR IMMEDIATE RELEASE
November 8, 2017

**PRO-FINANCIAL ASSET MANAGEMENT INC.,
STUART MCKINNON and
JOHN FARRELL**

TORONTO – The Commission issued its Reasons and Decision on a Motion in the above named matter.

A copy of the Reasons and Decision on a Motion dated November 7, 2017 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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1-877-785-1555 (Toll Free)

1.5.4 Sino-Forest Corporation et al.

FOR IMMEDIATE RELEASE
November 9, 2017

**SINO-FOREST CORPORATION,
ALLEN CHAN,
ALBERT IP,
ALFRED C.T. HUNG,
GEORGE HO,
SIMON YEUNG and
DAVID HORSLEY**

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

A copy of the Order dated November 7, 2017 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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media_inquiries@osc.gov.on.ca

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1-877-785-1555 (Toll Free)

1.5.5 Vicky Dancho (also known as Ju Huang)

FOR IMMEDIATE RELEASE
November 10, 2017

VICKY DANCHO
(also known as JU HUANG)

TORONTO – The Commission issued its Reasons for Decision and an Order pursuant to Subsections 127(1) and 127(10) of the *Securities Act* in the above noted matter.

A copy of the Reasons for Decision and the Order dated November 9, 2017 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.6 Techocan International Co. Ltd. and Haiyan (Helen) Gao Jordan

FOR IMMEDIATE RELEASE
November 14, 2017

TECHOCAN INTERNATIONAL CO. LTD. and
HAIYAN (HELEN) GAO JORDAN

TORONTO – Take notice that the hearing in the above named matter scheduled to be heard on November 17, 2017 at 10:00 a.m., will be heard on November 17, 2017 at 10:30 a.m.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.7 Rafael Lazer and ELAD Canada Inc.

**FOR IMMEDIATE RELEASE
November 14, 2017**

**RAFAEL LAZER and
ELAD CANADA INC.,
File No. 2017-60**

TORONTO –The Application dated October 23, 2017 made by the parties named above to review a decision of the Toronto Stock Exchange dated October 16, 2017 has been withdrawn.

A copy of the Notice of Withdrawal dated November 14, 2017 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For media inquiries:

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For investor inquiries:

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1-877-785-1555 (Toll Free)

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 GAIN Capital – FOREX.com Canada Ltd. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application by investment dealer (Canadian Filer) for relief from prospectus requirement in connection with distribution of contracts for difference (CFDs) and OTC foreign exchange contracts (collectively, OTC Contracts) to investors, subject to terms and conditions – Application by affiliates of Canadian Filer for relief from prospectus requirement in connection with distribution of OTC Contracts to Canadian Filer pursuant to offsetting transactions – Canadian Filer acts as both market intermediary and as principal or counterparty to OTC transaction with client – Canadian Filer registered as investment dealer and a member of the Investment Industry Regulatory Organization of Canada (IIROC) – Filer complies with IIROC rules and IIROC acceptable practices applicable to offerings of OTC Contracts – Canadian Filer seeking relief to permit Canadian Filer to offer OTC Contracts to investors on the basis of clear and plain language risk disclosure document rather than a prospectus – risk disclosure document contains disclosure substantially similar to risk disclosure document required for recognized options in OSC Rule 91-502 Trades in Recognized Options, the regime for OTC derivatives contemplated by former proposed OSC Rule 91-504 OTC Derivatives (which was not adopted), and the Quebec Derivatives Act – Relief consistent with relief contemplated by OSC Staff Notice 91-702 Offerings of contracts for difference and foreign exchange contracts to investors in Ontario (OSC SN 91-702) – Relief granted, subject to terms and conditions as described in OSC SN 91-702 including four-year sunset clause.

Applicable Legislative Provisions

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

OSC Rule 91-502 Trades in Recognized Options.

OSC Rule 91-503 Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario.

Proposed OSC Rule 91-504 OTC Derivatives (not adopted).

November 7, 2017

**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
GAIN CAPITAL – FOREX.COM CANADA LTD.
(the Canadian Filer)**

AND

**GAIN CAPITAL HOLDINGS, INC.,
GAIN CAPITAL GROUP, LLC AND
GAIN CAPITAL – FOREX.COM UK LTD.
(each a Canadian Filer Affiliate and collectively with the Canadian Filer, the Filers)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that:

- (a) the Canadian Filer and its respective officers, directors and representatives be exempt from the prospectus requirement in respect of the distribution of contracts for difference (**CFDs**), over-the-counter (**OTC**) foreign exchange contracts and other similar OTC contracts (collectively, **OTC Contracts**) to investors resident in the Applicable Jurisdictions (as defined below) (the **Client Prospectus Relief**) subject to the terms and conditions below; and
- (b) the Canadian Filer Affiliates and their respective officers, directors and representatives be exempt from the prospectus requirement in respect of the distribution of OTC Contracts to the Canadian Filer pursuant to an Off-setting Transaction, as described below (the **Canadian Filer Prospectus Relief**)

(collectively, the **Requested Relief**).

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 (the **Principal Regulator**); and
- (b) the Canadian Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each province and territory of Canada, other than the provinces of Québec and Alberta, with respect to the Client Prospectus Relief.

Interpretation

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

Representations

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

The Canadian Filer

1. The Canadian Filer is a corporation incorporated under the *Canada Business Corporations Act*, with its registered corporate head office located in Toronto, Ontario.
2. The Canadian Filer is registered as a dealer in the category of investment dealer in each of the provinces and territories of Canada, as a derivatives dealer in Québec, and is a dealer member of the Investment Industry Regulatory Organization of Canada (**IIROC**).
3. The Canadian Filer does not have any securities listed or quoted on an exchange or marketplace in any jurisdiction inside or outside of Canada.
4. The Canadian Filer currently offers OTC Contracts to “accredited investors” as defined in National Instrument 45-106 Prospectus Exemptions and to retail investors in compliance with the terms and conditions set out in In the Matter of *GAIN Capital – Forex.com Canada Ltd., GAIN Capital Holdings, Inc., GAIN Capital Group, LLC and GAIN Capital – Forex.com UK Ltd.* dated May 29, 2012 (the **Existing Relief**), except as explained in the following paragraph.
5. The Canadian Filer is not in default of any requirements of securities or derivatives legislation in Canada or the IIROC Rules or the IIROC Acceptable Practices (each, as defined below), except with respect to the fact that the Existing Relief has lapsed and was not renewed on a timely basis. The Canadian Filer has at all times since the Existing Relief lapsed acted in full compliance with the terms and conditions set out in such relief, except for the four year sunset clause.

The GAIN Capital Group

6. The Canadian Filer is an indirect, wholly owned subsidiary of GAIN Capital Holdings, Inc. and is part of the GAIN Capital Group of companies.

Decisions, Orders and Rulings

7. The Filers are all related companies within the GAIN Capital Group of companies. GAIN Capital Holdings, Inc. is the parent company of the Filers and is a publicly listed company with its common shares listed for trading on the New York Stock Exchange under the symbol "GCAP".
8. Operating under the global brand "Forex.com" the Canadian Filer Affiliates are each well-established leading providers of 24-hour online self-directed OTC trading services offering CFDs and spot forex contracts and servicing retail and institutional customers from more than 140 countries around the globe. The Filers offer these services to investors in Canada through the Canadian Filer.
9. GAIN Capital Group, LLC (**Forex.com US**), an indirect wholly owned subsidiary of GAIN Capital Holdings, Inc., is authorized and registered as a Retail Foreign Exchange Dealer with the United States National Futures Association and is registered as a Futures Commission Merchant with the United States Commodity Futures Trading Commission.
10. GAIN Capital – Forex.com UK Ltd. (**Forex.com UK**), an indirect wholly owned subsidiary of GAIN Capital Holdings, Inc., is authorized and regulated by the Financial Services Authority (the **FSA**) in the United Kingdom (**U.K.**) as a BIPRU 730k firm. Forex.com UK is licensed in the U.K., among other things, to act as principal to its clients in the products it offers and may deal with all categories of clients, including directly with retail clients. Furthermore, Forex.com UK is regulated on a consolidated basis in the U.K. by the FSA.

Offerings

11. The Canadian Filer offers OTC Contracts to investors in each of the provinces and territories of Canada, except Québec and Alberta, (each an **Applicable Jurisdiction**) in accordance with the representations, terms and conditions described in the Existing Relief and wants to continue to do so in accordance with the representations, terms and conditions set out in this Decision. During the Interim Period (as defined below), the Canadian Filer will rely on the Client Prospectus Relief in connection with the offering of OTC Contracts to investors in the Jurisdiction and intends to rely on this Decision and the "Passport System" described in MI 11-102 to offer OTC Contracts in the other Applicable Jurisdictions.
12. In Québec, the Canadian Filer is qualified by the Autorité des marchés financiers (**AMF**) pursuant to sections 82 and 83 of the *Derivatives Act* (Québec) (the **QDA**) and authorized to market certain forward contracts and CFDs offered to the public, subject to the terms and conditions of its qualification decision and related provisions of the QDA.
13. The Canadian Filer understands that staff of the Alberta Securities Commission have public interest concerns with CFD trading by retail clients and, accordingly, the Filers do not offer OTC Contracts to retail investors in Alberta. The Canadian Filer undertakes not to give notice that subsection 4.7(1) of MI 11-102 is intended to be relied upon in Alberta.

IIROC Rules and Acceptable Practices

14. As a member of IIROC, the Canadian Filer is only permitted to enter into OTC Contracts pursuant to the rules and regulations of IIROC (the **IIROC Rules**).
15. In addition, IIROC has communicated to its members certain additional expectations as to acceptable business practices (**IIROC Acceptable Practices**) as articulated in IIROC's paper "*Regulatory Analysis of Contracts for Differences (CFDs)*" published by IIROC on June 6, 2007, as amended on September 12, 2007, for any IIROC member proposing to offer OTC foreign exchange contracts or other types of CFDs to investors. To the best of its knowledge, the Canadian Filer is in compliance with IIROC Acceptable Practices in offering OTC Contracts. The Canadian Filer will continue to offer OTC Contracts in accordance with IIROC Acceptable Practices as may be established from time to time.
16. The Canadian Filer is required by IIROC to maintain a certain level of capital to address the business risks associated with its activities. The capital reporting required by IIROC (as per the calculation in the Form 1 and the Monthly Financial Reports to IIROC) is based predominantly on the generation of financial statements and calculations so as to ensure capital adequacy. The Canadian Filer, as an IIROC member, is required to have a specified minimum capital which includes having any additional capital required with regards to margin requirements and other risks. This risk calculation is summarized as a risk adjusted capital calculation which is submitted in the Canadian Filer's Form 1 and required to be kept positive at all times.

Online Trading Platform

17. The Canadian Filer has established an execution-only division to offer OTC Contracts whereby clients can self-direct trades in OTC Contracts through an on-line trading platform (the **Trading Platform**).

18. Clients of the Canadian Filer can access the Trading Platform by utilizing a proprietary order-entry system developed by Forex.com US and licensed to the Canadian Filer, or through Metatrader, a third-party order-entry system.
19. The Trading Platform is a key component in a comprehensive risk management strategy which helps the Canadian Filer's clients and the Canadian Filer to manage the risks associated with leveraged products. This risk management system has evolved over many years with the objective of meeting the mutual interests of all relevant parties (including, in particular, clients). These attributes and services are described in more detail below:
 - (a) *Real-time account status and client reporting.* Clients are provided with a real-time view of their account status. This includes how tick-by-tick movements affect their account balances and required margins. Clients can view this information throughout the trading day by including it on their trading screen, and can also set up alerts that instruct the trading system to automatically send an email notifying them of key identified levels being hit in the market. Clients have the ability to monitor their account and the profit/loss of their positions in real time.
 - (b) *Fully automated risk management system.* Clients are instructed that they must have at the time of order entry, and must maintain at all times, the required margin against their position(s). If a client's funds drop below the required margin, margin calls are regularly issued via email, alerting the client to the fact that the client is required to either deposit more funds to maintain the position or close/reduce it voluntarily. Where possible, daily telephone margin calls are provided as a supporting communication for clients. However, if a client fails to deposit more funds, where required, the client's position is liquidated. This liquidation procedure is intended to act as a mechanism to help reduce the risk of losses being greater than the amount deposited. The risk management functionality of the Trading Platform ensures that client positions are closed out when the client no longer maintains sufficient margin in their account to support the position, thereby preventing the client from being placed in a margin call situation or losing more than their stated risk capital or cumulative loss limit. This functionality also ensures that the Canadian Filer will not incur any credit risk vis-à-vis its customers in respect of OTC transactions.
 - (c) *Wide range of order types.* The Trading Platform also provides risk management tools such as stops, limits, and contingent orders. These tools are designed to help clients reduce the risk of loss.
 - (d) *Training programs and Practice Accounts.* Clients are provided with on-line user-friendly training programs and educational risk-free trading accounts. In addition, clients may contact Client Services via telephone, email or live chat with any questions they may have.
20. The Trading Platform is similar to those developed for on-line brokerages in that the client trades without other communication with, or advice from, the dealer.
21. The Trading Platform is not a "marketplace" as defined in National Instrument 21-101 *Marketplace Operation* since a marketplace is any facility that brings together multiple buyers and sellers by matching orders in fungible contracts in a nondiscretionary manner. The Trading Platform does not bring together multiple buyers and sellers, rather it offers clients direct access to real-time currency rates and price quotes for the OTC Contracts.
22. The OTC Contracts are not transferable or fungible with other contracts or financial instruments.
23. The Canadian Filer is the counterparty to trades by its clients in OTC Contracts (**OTC Transactions**); it will not act as an intermediary, broker or trustee in respect to the OTC Transactions. The Canadian Filer does not manage any discretionary accounts, nor does it provide any trading advice or recommendations regarding OTC Transactions.
24. The Canadian Filer manages the risk in its client positions by simultaneously placing an identical off-setting OTC trade on a back-to-back basis (an **Off-setting Transaction**) with a Canadian Filer Affiliate. Usually, Forex.com UK will act as the counterparty to the Canadian Filer for OTC contracts.
25. The Canadian Filer does not have an inherent conflict of interest with its clients since it does not profit on a position if the client loses on that position, and vice versa. Further, the Canadian Filer does not charge a trade commission; rather it is currently compensated by the "spread" between the bid and ask prices it offers. In the event the Canadian Filer wishes to introduce any other fees or charges in respect of OTC Contracts, it will provide not less than the minimum prior written notice required of IIROC member firms wishing to do so. Any additional charges shall be fully disclosed to the client prior to trading.
26. Each of the Canadian Filer Affiliates is an "acceptable counterparty" or a "regulated entity" (as those terms are defined in the Form 1). Each of the Canadian Filer Affiliates relies on the exemption from dealer registration requirements set

out in section 8.5 of NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) with respect to the Off-setting Transactions with the Canadian Filer.

27. In order to facilitate the distribution and offering of OTC Contracts to clients of the Canadian Filer in the manner described above, the Canadian Filer seeks the Client Prospectus Relief to allow it to offer OTC Contracts to its clients without a prospectus, and the Canadian Filer Affiliates seek the Canadian Filer Prospectus Relief to allow them to offer the corresponding Off-setting Transactions without a prospectus.
28. The ability to lever an investment is one of the principal features of OTC Contracts. Leverage allows clients to magnify investment returns (or losses) by reducing the initial capital outlay required to achieve the same market exposure that would be obtained by investing directly in the underlying instrument, asset or sector.
29. The IIROC Rules and the IIROC Acceptable Practices set out detailed requirements and expectations relating to leverage and margin for offerings of CFDs and other OTC Contracts. The degree of leverage may be amended in accordance with the IIROC Rules and the IIROC Acceptable Practices as may be established from time to time.
30. Pursuant to Section 13.12 [*Restriction on lending to clients*] of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, only those firms that are registered as investment dealers (a condition of which is to be a member of IIROC) may lend money, extend credit or provide margin to a client.

Structure of CFDs

31. A CFD is a derivative product that allows clients to obtain economic exposure to the price movement of an underlying instrument, asset or sector, such as a share, index, market sector, currency pair, treasury or commodity, without the need for ownership and physical settlement of the underlying instrument or asset. Unlike certain OTC derivatives, such as forward contracts, CFDs do not require or oblige either the principal counterparty (being the Canadian Filer for the purposes of the Client Prospectus Relief) nor any agent (also being the Canadian Filer for the purposes of the Client Prospectus Relief) to deliver the underlying instrument or asset.
32. The CFDs and OTC Contracts to be offered by the Canadian Filer will not confer the right or obligation to acquire or deliver the underlying security, instrument or asset itself, and will not confer any other rights of shareholders of the underlying security, instrument or asset, such as voting rights. Rather, a CFD is a derivative instrument which is represented by an agreement between a counterparty and a client to exchange the difference between the opening price of a CFD position and the price of the CFD at the closing of the position. The value of the CFD is generally reflective of the movement in prices at which the underlying instrument or asset is traded at the time of opening and closing the position in the CFD.
33. CFDs allow clients to take a long or short position on an underlying instrument, asset or sector, but unlike futures contracts they have no fixed expiry date or standard contract size or an obligation for physical delivery of the underlying instrument or asset.
34. CFDs allow clients to obtain exposure to markets, instruments and assets that may not be available directly, or may not be available in a cost-effective manner.

OTC Contracts Distributed in the Applicable Jurisdictions

35. Certain types of OTC Contracts may be considered to be “securities” under the securities legislation of the Applicable Jurisdictions.
36. Investors wishing to enter into an OTC Contract with the Canadian Filer must open an account with the Canadian Filer.
37. Prior to a client’s first trade in an OTC Contract and as part of the account-opening process, the Canadian Filer will provide the client with a separate risk disclosure document that clearly explains, in plain language, the transaction and the risks associated with the transaction (the **Risk Disclosure Document**). The Risk Disclosure Document includes the required risk disclosure set forth in Schedule A to the Regulations to the QDA and the leverage risk disclosure required under the IIROC Rules. The Risk Disclosure Document contains disclosure that is substantially similar to the risk disclosure statement required for recognized options in OSC Rule 91-502 *Trades in Recognized Options* (which provides both registration and prospectus exemptions) (**OSC Rule 91-502**) and the regime for OTC derivatives contemplated by OSC SN 91-702 (as defined below) and proposed OSC Rule 91-504 *OTC Derivatives* (which was not adopted) (**Proposed Rule 91-504**). The Canadian Filer will ensure that, prior to a client’s first trade in an OTC Contract, a complete copy of the Risk Disclosure Document provided to that client has been delivered, or has previously been delivered, to the Principal Regulator.

38. Prior to a client's first OTC transaction and as part of the account opening process, the Canadian Filer will obtain a written or electronic acknowledgement from the client confirming that the client has received, read and understood the Risk Disclosure Document. Such acknowledgement will be separate and prominent from other acknowledgements provided by the client as part of the account opening process.
39. As is customary in the industry, and due to the fact that this information is subject to factors beyond the control of the Canadian Filer (such as changes in the IIROC Rules), information such as the underlying instrument listing and associated margin rates will not be disclosed in the Risk Disclosure Document but will be available to the client at the time of account opening on both the Canadian Filer's website and the Trading Platform.

Satisfaction of the Registration Requirement

40. The role of the Canadian Filer as it relates to the offering of OTC Contracts (other than it being the principal under the OTC Contracts) is limited to acting as an execution-only dealer. In this role, the Canadian Filer, among other things, is responsible for approving all marketing, for holding all client funds and for client approval (including the review of know-your-client, due diligence and account opening suitability assessments).
41. The IIROC Rules exempt member firms that provide execution-only services such as discount brokerages from the obligation to determine whether each trade is suitable for a client. However, IIROC has exercised its discretion to impose additional requirements on members proposing to trade in CFDs and OTC Contracts (namely the IIROC Acceptable Practices described in paragraph 14) which requires, among other things, that:
 - (a) applicable risk disclosure documents and client suitability waivers provided be in a form acceptable to IIROC;
 - (b) the firm's policies and procedures, amongst other things, require the Canadian Filer to assess whether trading in OTC Contracts is appropriate for a client before an account is approved to be opened. This account opening suitability process includes an assessment of the client's investment knowledge and trading experience; client identification, screening applicants and customers against lists of prohibited/blocked persons, and detecting and reporting suspicious trading and potential terrorist financing and money laundering activities to applicable enforcement authorities;
 - (c) the Canadian Filer's registered dealing representatives, as well as their registered supervisors who oversee the KYC and initial product suitability analysis will meet, or be exempt from, the proficiency requirements for futures trading and will be registered with IIROC as Investment Representative for retail customers in the product category of Futures Contracts and Futures Contract Options (IR). In addition, the Canadian Filer must have a fully qualified Supervisor for such products; and
 - (d) cumulative loss limits for each client's account will be established (this is a measure normally used by IIROC in connection with futures trading accounts).
42. The OTC Contracts offered in Canada will be offered in compliance with the applicable IIROC Rules and other IIROC Acceptable Practices.
43. IIROC limits the underlying instruments in respect of which a member firm may offer OTC Contracts since only certain securities are eligible for reduced margin rates. For example, underlying equity securities must be listed or quoted on certain "recognized exchanges" (as that term is defined in the IIROC Rules) such as the Toronto Stock Exchange or the New York Stock Exchange. The purpose of these limits is to ensure that OTC Contracts offered in Canada will only be available in respect of underlying instruments that are traded in well-regulated markets, in significant enough volumes and with adequate publicly available information, so that clients can form a sufficient understanding of the exposure represented by a given OTC Contract.
44. The IIROC Rules prohibit the margining of OTC Contracts where the underlying instrument is a synthetic product (single U.S. sector or "mini-indices"). For example, Sector CFDs (i.e., basket of equities for the financial institutions industry) may be offered to non-Canadian clients; however, this is not permissible under the IIROC Rules.
45. IIROC members seeking to trade OTC Contracts are generally precluded, by virtue of the nature of the contracts, from distributing CFDs that confer the right or obligation to acquire or deliver the underlying security, instrument or asset itself (convertible CFDs), or that confer any other rights of shareholders of the underlying security, instrument or asset, such as voting rights.
46. The Requested Relief, if granted, will continue to harmonize the position of the regulators in the Applicable Jurisdictions (each a **Commission**) on the offering of OTC Contracts to investors in the Applicable Jurisdictions with how those products are offered to investors in Québec under the QDA. The QDA provides a legislative framework to govern

derivatives activities within that province. Among other things, the QDA requires such products to be offered to investors through an IIROC member and the distribution of a standardized risk disclosure document rather than a prospectus in order to distribute such contracts to investors resident in Québec.

47. The Requested Relief, if granted, is consistent with the guidelines articulated by Staff of the Principal Regulator in OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts to Investors (OSC SN 91-702)*. OSC SN 91-702 provides guidance with regards to the distributions of CFDs, forex contracts and similar OTC derivative products to investors in the Jurisdiction.
48. The Principal Regulator has previously recognized that the prospectus requirement may not be well suited for the distribution of certain derivative products to investors in the Jurisdiction, and that alternative requirements, including requirements based on clear and plain language risk disclosure, may be better suited for certain derivatives.
49. In Ontario, both OSC Rule 91-502 and OSC Rule 91-503 *Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario (OSC Rule 91-503)* provide for a prospectus exemption for the trading of derivative products to clients. The Requested Relief is consistent with the principles and requirements of OSC Rule 91-502, OSC Rule 91-503 and Proposed Rule 91-504.
50. The Filers submit that the Requested Relief, if granted, will harmonize the Principal Regulator's position on the offering of OTC Contracts with certain other foreign jurisdictions that have concluded that a clear, plain language risk disclosure document is appropriate for retail clients seeking to trade in foreign exchange contracts.
51. The Filers are of the view that requiring compliance with the prospectus requirement in order to enter into OTC Contracts with retail clients would not be appropriate since the disclosure of a great deal of the information required under a prospectus and under the reporting issuer regime is not material to a client seeking to enter into an OTC Contract. The information to be given to such a client should principally focus on enhancing the client's appreciation of product risk including counterparty risk. In addition, most OTC Contracts are of short duration (positions are generally opened and closed on the same day and are in any event marked to market and cash settled daily).
52. The Canadian Filer is regulated by IIROC, which has a robust compliance regime including specific requirements to address market, capital and operational risks.
53. The Canadian Filer submits that the regulatory regimes developed by the AMF and IIROC for OTC Contracts adequately address issues relating to the potential risk to the clients of the Canadian Filer acting as counterparty. In view of these regulatory regimes, investors would receive little or no additional benefit from requiring the Canadian Filer to also comply with the prospectus requirement.
54. The Requested Relief in respect of each Applicable Jurisdiction is conditional on the Canadian Filer being registered as an investment dealer with the Commission in such Applicable Jurisdiction and maintaining its membership with IIROC and that all OTC transactions be conducted pursuant to the IIROC Rules and in accordance with the IIROC Acceptable Practices.

Non-Resident Undertaking

55. The Canadian Filer has been approved by IIROC specifically as a non-resident dealer member because its designated head office and principal business location for regulatory purposes is situated in Bedminster, New Jersey.
56. The Canadian Filer complies with all IIROC requirements for non-resident dealer members as set out in IIROC's paper, Regulatory Analysis of Non-Resident IDA Members, dated November 10, 2005, except, with IIROC's consent, Part 2, paragraph (g), which requires a non-resident dealer member to enter into an introducing and carrying broker arrangement (**IB/CB Arrangement**) with a resident dealer member of IIROC in accordance with IIROC Rule 35.
57. In lieu of having to enter into an IB/CB Arrangement, the Canadian Filer has provided IIROC with a non-resident undertaking (the **Non-Resident Undertaking**) which terms include, among other things, its agreement to:
 - (a) maintain custody of all customer monies in Canada with a Canadian financial institution that is an Acceptable Institution (as defined by IIROC) and such customer monies will be held in trust for the customers separate and apart from its own property;
 - (b) provide each customer with a copy in writing of its Non-Resident Disclosure (as approved by IIROC);
 - (c) provide each customer with the names and addresses of its agents for service of process in each of the provinces and territories of Canada;

- (d) provide customers with the choice of law with respect to all contracts for securities trading and provide a waiver of its right to challenge the convenience of the forum chosen by the customer in any action brought against it;
- (e) pay all compliance costs associated with the travel and accommodations of IIROC staff to perform a compliance review or investigation outside of Canada; and
- (f) provide a facility within Ontario, through its Canadian-resident director, to make its books and records, including electronic records, readily accessible and to produce physical records for IIROC within a reasonable time if requested.

58. The Canadian Filer has determined that it complies with all requirements under NI 31-103 relating to non-resident registrants, including subsections 14.5 and 14.7 of NI 31-103, since all client assets (i.e., cash) will be held by the Canadian Filer, a registered dealer that is a member of IIROC and is a member of the Canadian Investor Protection Fund, and since the Canadian Filer will hold client assets in Canada separate and apart from its own property, in trust for clients and, in the case of cash, in a designated trust account at a Canadian financial institution or Schedule III bank.

Decision

The Principal Regulator is satisfied that the test set out in the Legislation to make the Decision is met.

The Decision of the Principal Regulator is that the Requested Relief is granted provided that:

- (a) all OTC Contracts traded with residents in the Applicable Jurisdictions shall be executed through the Canadian Filer;
- (b) with respect to residents of an Applicable Jurisdiction, the Canadian Filer remains registered as a dealer in the category of investment dealer with the Principal Regulator and the Commission in such Applicable Jurisdiction and a dealer member of IIROC;
- (c) all transactions in OTC Contracts with clients resident in the Applicable Jurisdictions shall be conducted pursuant to the IIROC Rules imposed on members seeking to trade in OTC Contracts and in accordance with the IIROC Acceptable Practices, as amended from time to time, and in accordance with the Non-Resident Undertaking;
- (d) all transactions in OTC Contracts with clients resident in the Applicable Jurisdictions be conducted pursuant to the rules and regulations of the QDA and the AMF, as amended from time to time, unless and to the extent there is a conflict between (i) the rules and regulations of the QDA and the AMF, and (ii) the requirements of the securities laws of the Applicable Jurisdictions, the IIROC Rules and the IIROC Acceptable Practices, in which case the latter shall prevail;
- (e) prior to a client first entering into a transaction in an OTC Contract, the Canadian Filer has provided to the client the Risk Disclosure Document described in paragraph 37 and has delivered, or has previously delivered, a copy of the Risk Disclosure Document provided to that client to the Principal Regulator;
- (f) prior to the client's first transaction in an OTC Contract and as part of the account opening process, the Canadian Filer has obtained a written or electronic acknowledgement from the client, as described in paragraph 38, confirming that the client has received, read and understood the Risk Disclosure Document;
- (g) the Canadian Filer has furnished to the Principal Regulator the name and principal occupation of its officers and directors, together with either the personal information form and authorization of indirect collection, use and disclosure of personal information provided for in National Instrument 41-101 *General Prospectus Requirements* or the registration information form for an individual provided for in Form 33-109F4 of National Instrument 33-109 *Registration Information Requirements* completed by any officer or director;
- (h) the Canadian Filer shall promptly inform the Principal Regulator in writing of any material change affecting the Canadian Filer or a Canadian Filer Affiliate, being any change in the business, activities, operations or financial results or condition of the Canadian Filer or Canadian Filer Affiliate that may reasonably be perceived by a counterparty to a derivative to be material;
- (i) the Canadian Filer shall promptly inform the Principal Regulator in writing if a self-regulatory organization or any other regulatory authority or organization initiates proceedings or renders a judgment related to

disciplinary matters against the Canadian Filer or a Canadian Filer Affiliate concerning the conduct of activities with respect to OTC Contracts;

- (j) within 90 days following the end of its financial year, the Canadian Filer shall submit to IIROC, and to the Principal Regulator upon request, the audited annual financial statements of the Canadian Filer; and
- (k) the Requested Relief shall immediately expire upon the earliest of:
 - (i) four years from the date that this Decision is issued;
 - (ii) in respect of a subject Applicable Jurisdiction or Québec, the issuance of an order or decision by a court, the Commission in such Applicable Jurisdiction, the AMF (in respect of Québec) or other similar regulatory body that suspends or terminates the ability of the Canadian Filer to offer CFDs to clients in such Applicable Jurisdiction or Québec; and
 - (iii) with respect to an Applicable Jurisdiction, the coming into force of legislation or a rule by its Commission regarding the distribution of OTC derivatives to investors in such Applicable Jurisdiction (the Interim Period).

“Tim Moseley”
Commissioner
Ontario Securities Commission

“Garnet Fenn”
Commissioner
Ontario Securities Commission

2.1.2 CGOV Asset Management

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the conflict of interest restrictions in the Securities Act (Ontario) to permit fund-of-fund structures between pooled funds under common management subject to conditions.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., ss. 111(2)(b), 111(4), 113.

November 3, 2017

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
CGOV ASSET MANAGEMENT
(the Filer)

AND

IN THE MATTER OF
THE TOP FUNDS
(as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of each of the Filer, CGOV Balanced Fund (the **Initial Top Fund**), and one or more investment funds which are not reporting issuers under the securities legislation of the principal regulator (the **Legislation**) and which are established, advised or managed by the Filer in the future (the **Future Top Funds**, and together with the Initial Top Fund, the **Top Funds**) for a decision under the Legislation in respect of the Fund-of-Fund Structure (as defined below) exempting the Filer and the Top Funds from:

- (a) the restriction in the Legislation that prohibits an investment fund from knowingly making an investment in any person or company in which the investment fund, alone or together with one or more related investment funds, is a substantial security holder; and
- (b) the restriction in the Legislation that prohibits an investment fund, its management company or its distribution company from knowingly holding an investment described in paragraph (a) (collectively, the **Investment Restrictions**),

to permit the Filer to cause the Top Funds to invest in the Underlying Funds (as defined below) (the **Requested Relief**).

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

- a) the Ontario Securities Commission (the "**Commission**") is the principal regulator for this application; and
- b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in respect of the Requested Relief in Alberta.

Interpretation

Unless otherwise defined herein, terms in this decision have the respective meanings given to them in National Instrument 14-101 *Definitions*, National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, National Instrument 81-102 *Investment Funds* and Multilateral Instrument 11-102 *Passport System*.

Representations

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

The Filer

1. The Filer is a partnership formed under the laws of Ontario with its head office in Toronto, Ontario.
2. The Filer is registered with the OSC in the categories of investment fund manager, portfolio manager and exempt market dealer. The Filer is also registered as: (i) a portfolio manager in Alberta, British Columbia, Manitoba, Nova Scotia and Saskatchewan, and (ii) a portfolio manager and investment fund manager in Québec.
3. The Filer is not a reporting issuer in any jurisdiction and is not in default of securities legislation of any jurisdiction of Canada, except as noted in paragraphs 13 and 16 below.

Top Funds

4. The Initial Top Fund is organized under the laws of Ontario as a trust. Each Future Top Fund will be organized as a trust under the laws of Ontario or another jurisdiction in Canada.
5. Each Top Fund is or will be a "mutual fund" for the purposes of the Legislation.
6. The Initial Top Fund is not, and each Future Top Fund will not be, a reporting issuer in any province or territory of Canada.
7. The Filer is, or will be, the investment fund manager and the portfolio manager of the Initial Top Fund and each of the Future Top Funds.
8. RBC Investor Services Trust acts as the trustee for the Initial Top Fund. RBC Investor Services Trust or another qualified third party will act as trustee of a Top Fund.
9. Securities of the Initial Top Fund and each Future Top Fund are, or will be, offered on a private placement basis to qualified investors pursuant to available exemptions from the prospectus requirements under Canadian securities legislation.
10. The investment objective of the Initial Top Fund is to preserve capital over the long-term and provide moderate interest income and capital growth. To achieve this objective the Initial Top Fund's strategy includes investing in a diversified portfolio of primarily Canadian and non-Canadian based equities and fixed income securities and in other types of securities including mutual and/or pooled funds, or holding the assets of the Initial Top Fund uninvested in cash or cash equivalents if economic, monetary or investment conditions indicate that the Initial Top Fund's objectives are more likely to be met through such investments or such holding..
11. The allowable range of investment in the fixed-income asset class for the Initial Top Fund is 15% to 60% of its portfolio assets.
12. The Initial Top Fund is not in default of securities legislation in any province or territory of Canada, except as noted in paragraphs 13 and 166.
13. On January 5, 2005, the Filer established CGOV Fixed Income Fund and on June 22, 2015, the CGOV Short Term Fixed Income Fund (the **Initial Underlying Funds**). The Filer decided it was in the best interest of the Initial Top Fund to replace the Initial Top Fund's fixed-income portion of the portfolio from individual securities to investments in the Initial Underlying Funds, also managed by the Filer, and thereby inadvertently made an investment in each of the Initial Underlying Funds which required the Requested Relief. The investment by the Initial Top Fund in the Initial Underlying Funds was also in the best interest of each of the Initial Underlying Funds as the increase size of the Initial Underlying Funds gave each Fund the ability to access better investment opportunities for the benefit of their respective Unitholders.

Decisions, Orders and Rulings

14. There was no duplication in fees between the Initial Top Fund and the Initial Underlying Funds.
15. The offering memorandum for the Initial Top Fund currently discloses that the Initial Top Fund's exposure to fixed income securities is expected to be achieved through its indirect investment in the wide range of broadly diversified holdings held by CGOV Fixed Income Fund and the CGOV Short Term Fixed Income Fund.
16. The need for the Requested Relief was recognized when the Filer was conducting an internal compliance review of its operations. As soon as the requirement to seek the Requested Relief came to the Filer's attention, the Filer initiated the process of seeking the Requested Relief and has strengthened its internal control systems to ensure future compliance with applicable laws and regulations.

Underlying Funds

17. The Initial Underlying Funds are not, and each investment fund that is established, managed, or advised by the Filer in the future (the *Future Underlying Funds*, and together with the Initial Underlying Funds, the *Underlying Funds*) will not be, a reporting issuer in any province or territory of Canada.
18. Each Initial Underlying Fund is organized as a trust under the laws of the Province of Ontario. Each Initial Underlying Fund is a "mutual fund" for the purposes of the Legislation.
19. The investment objective of the CGOV Fixed Income Fund is to provide regular income while maintaining security of capital. The investment objective of the CGOV Short Term Fixed Income Fund is also to provide regular income while maintaining security of capital. The Initial Underlying Funds both attempt to achieve their investment objective by investing in fixed-income securities issued by corporations and governments.
20. Each Future Underlying Fund will be organized as a trust under the laws of the Province of Ontario or another jurisdiction in Canada. Each Future Underlying Fund will be organized as a "mutual fund" for the purposes of the Legislation.
21. Securities of each Underlying Fund will be offered to qualified investors resident in Canada, including the Top Funds, on a private placement basis pursuant to available exemptions from the prospectus requirements under Canadian securities legislation.
22. The Filer is the investment fund manager and portfolio manager of the Initial Underlying Funds and will be the investment manager and the portfolio manager of each of the Future Underlying Funds.
23. Based on the current net asset value (**NAV**) of the Initial Top Fund and each of the Initial Underlying Funds, the Initial Top Fund is currently a substantial security holder of each of the Initial Underlying Funds. The holdings of each of the Initial Underlying Funds by the Initial Top Fund fluctuates according to market conditions and investment opportunities which are at the discretion of Filer as portfolio manager of the Initial Top Fund.
24. The Underlying Funds will primarily hold publicly traded securities and will not hold greater than 10% of their assets in "illiquid assets", as defined in National Instrument 81-102 *Investment Funds (NI 81-102)*.

Fund-of-Fund Structure

25. The Top Funds will invest directly in a portfolio of securities that is consistent with each Top Funds' investment strategy, however, the Filer may determine it would be in the best interest of a Top Fund to invest a portion of its portfolio in an Underlying Fund to achieve its investment objective on a more cost effective basis instead of directly purchasing individual securities (the **Fund-of-Fund Structure**). The Filer believes that the Fund-of-Fund Structure provides an efficient and cost-effective manner of achieving the investment objective and asset mix allocation on behalf of the Top Funds rather than through the direct purchase of individual securities and will not be detrimental to the interests of other securityholders of the Underlying Funds.
26. No Underlying Fund will be a Top Fund.
27. In the case of the Initial Top Fund, the Filer believes that investing in the Initial Underlying Funds in order to satisfy the fixed income securities portion of the Initial Top Fund is an efficient and cost-effective manner of achieving the investment objective and asset mix allocation of the Initial Top Fund, is in the best interest of the Initial Top Fund and is not detrimental to the interests of the other securityholders of the Initial Underlying Funds.
28. An investment in an Underlying Fund by a Top Fund will be effected at an objective price. According to the Filer's policies and procedures, an objective price for this purpose, will be the NAV per security of the applicable class or

series of the applicable Underlying Fund, calculated in accordance with section 14.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure (NI 81-106)*.

29. The amounts invested, from time to time, in an Underlying Fund by one or more of the Top Funds, may exceed 20% of the outstanding voting securities of any single Underlying Fund. Accordingly, each Top Fund could, either alone or together with Future Top Funds, become a substantial securityholder of an Underlying Fund.
30. Each Underlying Fund has, or is expected to have, other investors in addition to the Top Funds.
31. Securities of the Top Funds and their corresponding Underlying Funds have, or will have, matching daily redemption dates and matching daily valuation dates.
32. The Top Funds and Underlying Funds will prepare annual audited financial statements and interim financial reports in accordance with NI 81-106 and will otherwise comply with the requirements of NI 81-106.
33. In the absence of the Requested Relief, the Top Funds would be precluded by the Investment Restrictions from implementing the Fund-of-Fund Structure. Specifically, a Top Fund would be prohibited from becoming a substantial security holder of an Underlying Fund, either alone or together with related investment funds
34. The Fund-of-Fund Structure represents the business judgment of responsible persons as of the date hereof, uninfluenced by considerations other than the best interests of the Top Funds. The "responsible persons" of the Filer with respect to the Fund-of-Fund Structure are the executive committee of the Filer, which includes the lead portfolio managers for the applicable Top Fund(s) and Underlying Fund(s).

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 Requested Relief is granted provided that:

- (a) securities of a Top Fund are distributed in Canada solely pursuant to exemptions from the prospectus requirement under applicable securities legislation;
- (b) an investment by a Top Fund in an Underlying Fund is consistent with the fundamental investment objectives and strategy of the Top Fund;
- (c) an investment in an Underlying Fund by a Top Fund will be effected at an objective price, calculated in accordance with section 14.2 of NI 81-106;
- (d) a Top Fund will not invest in an Underlying Fund, unless the Underlying Fund complies with the provisions of NI 81-106 that apply to a "mutual fund in Ontario" as defined in the *Securities Act* (Ontario);
- (e) no Top Fund will purchase or hold a security of an Underlying Fund unless at the time of purchasing securities of the Underlying Fund, the Underlying Fund holds no more than 10% of its NAV in securities of other mutual funds, unless the Underlying Fund:
 - (i) is a clone fund (as defined in NI 81-102);
 - (ii) purchases or holds securities of a 'money market fund' (as defined in NI 81-102); or
 - (iii) purchases or holds securities that are "index participation units" (as defined by NI 81-102) issued by an investment fund;
- (f) no management fees or incentive fees are payable by a Top Fund that, to a reasonable person, would duplicate a fee payable by an Underlying Fund for the same service;
- (g) no sales fee or redemption fees are payable by a Top Fund in relation to its purchases or redemptions of securities of an Underlying Fund that, to a reasonable person, would duplicate a fee payable by an investor in the Top Fund, other than brokerage fees incurred for the purchase or sale of an index participation unit issued by an investment fund;

- (h) the Filer does not cause the securities of an Underlying Fund held by a Top Fund to be voted at any meeting of the holders of such securities, except that the Filer may arrange for the securities the Top Fund holds in the Underlying Fund to be voted by the beneficial owners of the securities of the Top Fund, who are not the Filer or an officer, director or substantial security holder of the Filer;
- (i) when purchasing and/or redeeming securities of an Underlying Fund, the Filer shall, as investment fund manager of the applicable Top Fund and Underlying Fund, act honestly, in good faith and in the best interests of the Top Fund and the Underlying Fund, respectively, and shall exercise the care and diligence that a reasonably prudent person would exercise in comparable circumstances;
- (j) a disclosure document, including an offering memorandum where available, of a Top Fund shall be provided to each investor in a Top Fund prior to the time of the investor's investment, and shall disclose:
 - (i) that the Top Fund may purchase securities of an applicable, identified Underlying Fund and that if the Top Fund decides to purchase securities of an Underlying Fund that is not identified in the disclosure document, the Top Fund will notify investors of the Top Fund at the time of the purchase;
 - (ii) that the Filer is the investment fund manager and portfolio manager of both the Top Fund and the Underlying Fund;
 - (iii) the approximate or maximum percentage of net assets of the Top Fund that is intended be invested in securities of Underlying Funds;
 - (iv) the fees, expenses and any performance or special incentive distributions payable by an Underlying Fund in which the Top Fund invests;
 - (v) the process or criteria used to select an Underlying Fund;
 - (vi) that investors are entitled to receive from the Filer, on request and free of charge, a copy of the offering memorandum or other similar disclosure document of each Underlying Fund, if available;
 - (vii) that investors are entitled to receive from the Filer, on request and free of charge, the annual audited financial statements and interim financial reports relating to each Underlying Fund in which the Top Fund invests; and
- (k) the Filer shall annually inform investors in a Top Fund of their right to receive from the Filer, on request and free of charge, a copy of the offering memorandum or other similar disclosure document of each Underlying Fund, if available, and the annual audited financial statements and interim financial reports relating to each Underlying Fund in which the Top Fund invests.

"Mark J. Sandler"
Commissioner
Ontario Securities Commission

"Frances Kordyback"
Commissioner
Ontario Securities Commission

2.1.3 Mackenzie Financial Corporation and Mackenzie Global Sustainability and Impact Balanced Fund

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from section 2.1(1) of National Instrument 81-102 Investment Funds to permit a mutual fund to invest more than 10 percent of net assets in debt securities issued by a foreign government or supranational agency, subject to conditions.

Applicable Legislative Provisions

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

October 6, 2017

**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
MACKENZIE FINANCIAL CORPORATION
(the Filer)**

AND

**IN THE MATTER OF
MACKENZIE GLOBAL SUSTAINABILITY AND IMPACT BALANCED FUND
(the Fund)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Fund for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption (the **Requested Relief**), pursuant to section 19.1 of National Instrument 81-102 *Investment Funds* (**NI 81-102**) from subsection 2.1(1) of NI 81-102 (the **Concentration Restriction**) to permit the Fund to invest up to:

- (a) 20% of its net asset value at the time of the transaction in evidences of indebtedness of any one issuer if those evidences of indebtedness are issued, or fully guaranteed 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 Standard & Poor’s Rating Services (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 or their DRO affiliates; and
- (b) 35% of its net asset value at the time of the transaction in evidences of indebtedness of any one issuer if those securities are issued, or fully guaranteed 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**).

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

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

Interpretation

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

Representations

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

1. The Filer is a corporation amalgamated under the laws of Ontario with its head office in Toronto, Ontario.
2. The Filer is registered as an investment fund manager, portfolio manager, exempt market dealer and commodity trading manager in Ontario. The Filer is also registered as a portfolio manager and exempt market dealer in the Other Jurisdictions and investment fund manager in Newfoundland and Labrador and Québec.
3. The Filer is the manager, trustee and portfolio manager of the Fund.
4. The Fund is an open-ended mutual fund trust established under the laws of Ontario.
5. Securities of the Fund are offered by simplified prospectus dated September 29, 2017, filed in all of the provinces and territories in Canada and, accordingly, the Fund is a reporting issuer in one or more provinces and territories of Canada (the "**Prospectus**", and collectively, with all future simplified prospectuses, the "**Simplified Prospectus**").
6. Neither the Filer nor the Fund are in default of securities legislation in any jurisdiction of Canada.
7. The investment objective of the Fund is: "The Fund seeks to provide a combination of income and capital appreciation by investing primarily in fixed-income and/or equity securities of issuers anywhere in the world. The Fund follows an approach to investing that focusses on sustainable and responsible issuers."
8. To achieve its investment objectives, the Fund's fixed-income portion is expected to invest in all types of fixed-income securities from around the world. Although the Fund aims to invest primarily in a diversified portfolio of fixed-income securities, depending on market conditions, the Fund's portfolio managers seek the discretion to gain exposure to any one issuer of Foreign Government Securities in excess of the Concentration Restriction.
9. The portfolio managers of the Fund will invest in countries selected by integrating Environmental, Social and Governance ("**ESG**") factors into their sovereign and fundamental credit risk analysis process such that the investment strategy maintains a focus on sustainable and responsible issuers. Applying these ESG factors in conjunction with fundamental investment analysis will serve to narrow the Fund's pool of potential investments, which may require a more concentrated portfolio to most effectively meet the Fund's objectives. For example there may be periods where the portfolio managers would not invest in US Treasuries due to their policies that do not support responsible investing guidelines. Instead, the portfolio managers would want the Fund to hold foreign government securities that better adhere to responsible investing rules, such as the German or UK Government bonds.
10. Section 2.1(1) of NI 81-102 prohibits the 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.
11. The Foreign Government Securities are not within the meaning of "government securities" as such term is defined in NI 81-102.
12. In Companion Policy 81-102CP (the "**Companion Policy**"), the Canadian Securities Administrators state their views on various matters relating to NI 81-102. Subsection 3.1(4) of the Companion Policy indicates that relief from paragraph 2.04(1)(a) of National Policy 39, which was replaced by the Concentration Restriction, has been provided to mutual funds generally under the following circumstances:

- a. the mutual fund has been permitted to invest up to 20% of its net asset value in evidences of indebtedness of any one issuer if those evidences of indebtedness are issued, or fully guaranteed as to principal and interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction, or the government of the United States of America and are rated “AA” by S&P or its DRO affiliates, or have an equivalent rating by one or more other designated rating organizations or their DRO affiliates; and
 - b. the mutual fund has been permitted to invest up to 35% of its net asset value in evidences of indebtedness of any one issuer, if those securities are issued, or fully guaranteed as to principal and interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction, 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.
13. The Simplified Prospectus for the Fund will disclose the risks associated with concentration of net assets of the Fund in securities of a limited number of issuers.
 14. The Fund seeks the Requested Relief to enhance its ability to pursue and achieve its 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 the Requested Relief is granted provided that:

1. Paragraphs (a) and (b) of the Requested Relief cannot be combined for any one issuer;
2. Any security that may be purchased under the Requested Relief is traded on a mature and liquid market;
3. The acquisition of the securities purchased pursuant to this Decision is consistent with the fundamental investment objectives of the Fund;
4. The Simplified Prospectus of the Fund discloses the additional risks associated with the concentration of 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
5. The Simplified Prospectus of the Fund will include a summary of the nature and terms of the Requested Relief under the investment strategies section along with the conditions imposed and the type of securities covered by this Decision.

“Vera Nunes”
Manager
Investment Funds and Structured Products Branch
Ontario Securities Commission

2.1.4 Franklin Templeton Investments Corp. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to exchange-traded mutual funds from certain mutual fund requirements and restrictions on borrowing from custodian and, if necessary, provision of a security interest to the custodian to fund distributions payable under the fund’s distribution policy – Relief granted to allow mutual funds to invest in ETFs under common management or managed by an affiliate, and to allow the top funds to pay brokerage commissions for the purchase and sale of the securities of ETFs – Underlying ETFs are subject to NI 81-102, are not commodity pools under NI 81-104 – Relief subject to terms and conditions as set out in the decision document.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.1(1), 2.2(1)(a), 2.5(2)(a), 2.5(2)(e), 2.6(a) , 19.1.

April 18, 2017

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

AND

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

AND

IN THE MATTER OF
FRANKLIN TEMPLETON INVESTMENTS CORP.
(the Filer)

AND

IN THE MATTER OF
FRANKLIN LIBERTY CANADIAN INVESTMENT GRADE CORPORATE ETF AND
FRANKLIN LIBERTY RISK MANAGED CANADIAN EQUITY ETF
(the Proposed ETFs)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer:

1. on behalf of the Proposed ETFs and any additional exchange-traded mutual funds (the **Future ETFs**, and, together with the Proposed ETFs, the **ETFs** and individually, an **ETF**) established now or in the future for which the Filer or an affiliate of the Filer is or may be the manager, for a decision under the securities legislation of the principal regulator (the **Legislation**) that permits each ETF to borrow cash from the custodian of the ETF (the **Custodian**) and, if required by the Custodian, to provide a security interest over any of its portfolio assets as a temporary measure to fund the portion of any distribution payable to Securityholders (as defined below) that represents, in the aggregate, amounts that are owing to, but not yet been received by, the ETF (the **Borrowing Requirement**);
2. on behalf of existing non-exchange traded mutual funds managed by the Filer or an affiliate of the Filer (the **Existing Top Funds**) and any additional mutual funds, including ETFs, established now or in the future for which the Filer or an affiliate of the Filer is or may be the manager (together with the Existing Top Funds, the **Top Funds**) for a decision under the Legislation that:
 - (a) permits each Top Fund to purchase a security of, or enter into a specified derivatives transaction with respect to, an ETF the securities of which are not “index participation units” (**IPUs**), as such term is defined in National Instrument 81-102 *Investment Funds (NI 81-102)* (collectively, the **Underlying ETFs**) even though,

immediately after the transaction, more than 10% of the net asset value of the Top Fund would be invested, directly or indirectly, in securities of the Underlying ETF (the **Concentration Restriction**);

- (b) permits each Top Fund to purchase a security of an Underlying ETF such that, after the purchase, the Top Fund would hold securities representing more than 10% of:
 - (i) the votes attaching to the outstanding voting securities of the Underlying ETF; or
 - (ii) the outstanding equity securities of the Underlying ETF (the **Control Restriction**);
- (c) permits each Top Fund to purchase and hold a security of an Underlying ETF that is not offered under a simplified prospectus prepared in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (NI 81-101) (the **Fund of Fund Restriction**); and
- (d) permits each Top Fund to pay brokerage commissions in relation to its purchase and sale on a recognized exchange (as defined in the *Securities Act* (Ontario)) in Canada of securities of the Underlying ETFs (the **Payment of Fees Restrictions**)

(collectively, the **Top Fund Exemptions**, and together with the Borrowing Requirement, the **Exemption Sought**).

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

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in all of the provinces and territories of Canada other than the Jurisdiction (together with the Jurisdiction, the **Jurisdictions**).

Interpretation

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

Prescribed Number of Listed Securities means the number of Listed Securities of an ETF determined by the Filer from time to time for the purpose of subscription orders, exchanges, redemptions or for other purposes.

Securityholders means beneficial or registered holders of Listed Securities or Unlisted Securities, as applicable.

TSX means the Toronto Stock Exchange.

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 located at 200 King Street West, Suite 1500, Toronto, Ontario. The Filer is not in default of securities legislation in any of the Jurisdictions.
2. The Filer is, or will be, the investment fund manager of the Top Funds and the Underlying ETFs and is, or will be, the trustee of the Top Funds and the Underlying ETFs where the Top Fund or the ETF is a trust. The Filer or an affiliate of the Filer is, or will be, the portfolio manager of the Top Funds and the Underlying ETFs.
3. The Filer is registered as an investment fund manager in Ontario, Québec, Alberta, British Columbia, Manitoba, Nova Scotia, and Newfoundland and Labrador, as a mutual fund dealer, portfolio manager and exempt market dealer in each province of Canada and the Yukon, and as a commodity trading manager in Ontario.

The Top Funds

4. The Top Funds are, or will be, open-ended mutual funds, including exchange-traded funds, organized and governed by the laws of a Jurisdiction or the laws of Canada.

5. The Top Funds are, or will be, governed by the provisions of NI 81-102, subject to any exemption therefrom that has been, or may be, granted by the securities regulatory authorities.
6. Each Top Fund distributes, or will distribute, some or all of its securities pursuant to a simplified prospectus prepared pursuant to NI 81-101 and Form 81-101F1 or a long form prospectus prepared pursuant to National Instrument 41-101 *General Prospectus Requirements (NI 41-101)* and Form 41-101F2.
7. The Top Funds are, or will be, reporting issuers in the provinces and territories of Canada in which their securities are distributed.
8. Each Top Fund wishes to have the ability to invest up to 100% of its net asset value in any one or more Underlying ETFs.
9. Each investment by a Top Fund in securities of an Underlying ETF will be made in accordance with the investment objectives of the Top Fund and will represent the business judgement of responsible persons uninfluenced by considerations other than the best interest of the Top Fund.
10. The Top Funds do not, and will not, sell short securities of any Underlying ETF.

The ETFs and Underlying ETFs

11. Each Proposed ETF will be a trust governed by the laws of the Province of Ontario. The Future ETFs will be either trusts or corporations or classes thereof governed by the laws of a Jurisdiction of Canada.
12. Each Underlying ETF will be an open-ended mutual fund subject to NI 81-102, subject to any exemption therefrom that has been, or may be, granted by the securities regulatory authorities.
13. Each ETF may issue more than one series of securities, including, but not limited to:
 - (a) a series of securities that will be distributed pursuant to a long form prospectus prepared pursuant to NI 41-101 and Form 41-101F2 that is listed on the Toronto Stock Exchange or another “recognized exchange” in Canada, as that term is defined in securities legislation (**Listed Securities**); and
 - (b) a series of securities that will be offered only on a private placement basis pursuant to available prospectus exemptions, including the accredited investor exemption, under securities laws (**Unlisted Securities**).
14. The Filer has filed, or will file, a long form prospectus prepared in accordance with NI 41-101 in respect of the Listed Securities of the ETFs, subject to any exemptions that may be granted by the applicable securities regulatory authorities.
15. Because the Listed Securities will be distributed pursuant to a long form prospectus prepared pursuant to NI 41-101 and NI 41-101F2, each ETF will be a reporting issuer in the provinces and territories of Canada in which its securities are distributed.
16. The Listed Securities will be listed on the TSX or another recognised exchange in Canada.
17. The net asset value per Listed Security will be calculated on any day when there is a trading session on the TSX or other marketplace and will be made available daily on the Filer’s website.
18. A holder of Listed Securities may:
 - (a) sell such securities on the TSX;
 - (b) redeem such securities in any number at a redemption price equal to 95% of the closing price for security on the TSX on the effective day of redemption; or
 - (c) if such holder is a designated broker or dealer or has the consent of the Filer, exchange a Prescribed Number of Listed Securities (and any additional multiple thereof) of the ETF for cash or securities and cash, the exchange price being equal to the net asset value of the securities of the ETF tendered for exchange on the effective day of the exchange request.
19. No Underlying ETF is, or will be, a commodity pool governed by National Instrument 81-104 *Commodity Pools (NI 81-104)* or any successor instrument.

20. No Underlying ETF has, or will have, a net market exposure greater than 100% of its net asset value.

Borrowing Requirement

21. Each ETF will make distributions on a monthly or quarterly basis or at such frequency as the Filer may, in its discretion, determine appropriate, may make additional distributions and, in each taxation year, will distribute sufficient net income and net realized capital gains so that it will not be liable to pay income tax under Part I of the *Income Tax Act* (Canada) (collectively, the **Distribution Policy**).
22. Amounts included in the calculation of net income and net realized capital gains of an ETF for a taxation year that must be distributed in accordance with the Distribution Policy sometimes include amounts that are owing to but have not actually been received by the ETF from the issuers of securities held in the ETF's portfolio (**Issuers**).
23. While it is possible for an ETF to maintain a portion of its assets in cash or to dispose of securities in order to obtain any cash necessary to make a distribution in accordance with the Distribution Policy, maintaining such a cash position or making such a disposition (which would generally be followed, when the cash is actually received from the Issuers, by an acquisition of the same securities) impacts the ETF's performance. Maintaining assets in cash or disposing of securities means that a portion of the net asset value of the ETF is not invested in accordance with its investment objective.
24. The Filer is of the view that it is in the interests of an ETF to have the ability to borrow cash from the Custodian and, if required by the Custodian, to provide a security interest over its portfolio assets as a temporary measure to fund the portion of any distribution payable to Securityholders that represents, in the aggregate, amounts that are owing to, but have not yet been received by, the ETF from the Issuers. While such borrowing will have a cost, the Filer expects that such costs will be less than the reduction in the ETF's performance if the ETF had to hold cash instead of securities in order to fund the distribution.

Fund of Fund Investments

25. No Underlying ETF will hold more than 10% of its net asset value in securities of another investment fund unless the securities of the other investment fund are securities of a money market fund, as defined in NI 81-102, or are IPUs.
26. No Top Fund will pay management or incentive fees which to a reasonable person would duplicate a fee payable by the applicable Underlying ETF for the same service.
27. The Underlying ETFs will primarily achieve their investment objectives through direct holdings of cash and securities, in accordance with their investment objectives and strategies and the requirements of NI 81-102.
28. All brokerage costs related to trades in Listed Securities will be borne by the Top Funds in the same manner as any other portfolio transactions made on the exchange.
29. The Listed Securities are highly liquid, as the Designated Broker acts as an intermediary between investors and each ETF, standing in the market with bid and ask prices for such securities to maintain a liquid market for them.
30. Holders of Unlisted Securities may redeem Unlisted Securities in any number for cash at a redemption price per Unlisted Security equal to the net asset value per Unlisted Security on the effective day of redemption.
31. Each Top Fund and each Underlying ETF is, or will be, subject to National Instrument 81-107 *Independent Review Committee for Investment Funds (NI 81-107)* generally and in respect of conflicts of interest matters arising from trades of securities of an Underlying ETF.
32. If a Top Fund makes a trade in securities of an Underlying ETF with or through the Filer or an affiliate of the Filer acting as dealer, the Filer will comply with its obligations under NI 81-107 in respect of any proposed related party transactions. All such related party transactions will be disclosed to securityholders of the relevant Top Fund in its management report of fund performance.

Reasons for Exemption Sought

Exemption from the Borrowing Requirement

33. Section 2.6(a)(i) of NI 81-102 prevents a mutual fund from borrowing cash or providing a security interest over its portfolio assets unless the transaction is a temporary measure to accommodate redemption requests or to settle

portfolio transactions and does not exceed five percent of the net assets of the mutual fund. As a result, an ETF is not permitted under section 2.6(a)(i) to borrow from the Custodian to fund distributions under the Distribution Policy.

Top Fund Exemptions

34. An investment in an Underlying ETF by a Top Fund is an efficient and cost effective alternative to administering one or more investment strategies similar to that of the Underlying ETF.
35. An investment in an Underlying ETF by a Top Fund should pose no additional investment risk to the Top Fund because each Underlying ETF will be subject to NI 81-102, subject to any exemption therefrom granted by the securities regulatory authorities.
36. Due to the potential size disparity between the Top Funds and the Underlying ETFs, it is possible that a relatively small investment, on a percentage of net asset value basis, by a relatively larger Top Fund in an Underlying ETF could result in such Top Fund holding securities representing more than 10% of: (i) the votes attaching to the outstanding voting securities of the applicable Underlying ETF; or (ii) the outstanding equity securities of that Underlying ETF, contrary to the Control Restriction.
37. It is anticipated that many of the trades in Listed Securities of an Underlying ETF conducted by a Top Fund will not be of the size necessary for the Top Fund to be eligible to purchase or redeem a Prescribed Number of Listed Securities of an Underlying ETF directly from or to, as the case may be, the Underlying ETF. As such, it is anticipated that many of the trades in Listed Securities by a Top Fund will be conducted in the secondary market through the TSX or another recognized exchange in Canada.
38. As each Underlying ETF is not an IPU, absent the Exemption Sought, an investment by a Top Fund in securities of the Underlying ETF do not qualify for the exemptions set out in:
 - (a) section 2.1(2)(d) of NI 81-102 from the Concentration Restriction;
 - (b) section 2.2(1.1)(b) of NI 81-102 from the Control Restriction; and
 - (c) section 2.5(3) of NI 81-102 from the Fund of Fund Restriction.

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.

Borrowing Requirement

1. The decision of the principal regulator is that the Exemption Sought in respect of the Borrowing Requirement is granted, provided that the Filer will be in compliance with the following conditions:
 - (a) the borrowing by the ETF in respect of a distribution does not exceed the portion of the distribution that represents, in the aggregate, amounts that are payable to the ETF but have not been received by the ETF from the Issuers and, in any event, does not exceed five percent of the net assets of the ETF;
 - (b) the borrowing is not for a period longer than 45 days;
 - (c) any security interest in respect of the borrowing is consistent with industry practice for the type of borrowing and is only in respect of amounts owing as a result of the borrowing;
 - (d) the ETF does not make any distribution to Securityholders where the distribution would impair the ETF's ability to repay any borrowing to fund distributions; and
 - (e) the final prospectus of the ETF discloses the potential borrowing, the purpose of the borrowing and the risks associated with the borrowing.

Top Fund Exemptions

2. The decision of the principal regulator under the Legislation is that the Exemption Sought in respect of the Top Fund Exemptions is granted, provided that:

- (a) the investment by a Top Fund in securities of an Underlying ETF is in accordance with the investment objectives of the Top Fund;
- (b) a Top Fund does not short sell securities of an Underlying ETF;
- (c) the Underlying ETF is not a commodity pool governed by NI 81-104;
- (d) other than any exemptive relief granted in favour of an Underlying ETF, the Underlying ETF complies with the requirements of:
 - (i) section 2.3 of NI 81-102 regarding the purchase of physical commodities;
 - (ii) sections 2.7 and 2.8 of NI 81-102 regarding the purchase, sale or use of specified derivatives; or
 - (iii) subsections 2.6(a) and 2.6(b) of NI 81-102 with respect to the use of leverage;
- (e) in connection with the Exemption Sought from the Concentration Restriction, the Top Fund shall, for each investment it makes in the securities of an Underlying ETF, apply, to the extent applicable, subsections 2.1(3), 2.1(4) and 2.1(5) of NI 81-102 as if those provisions applied to a Top Fund's investments in securities of the Underlying ETF, and, accordingly, limit a Top Fund's indirect holdings in securities of an issuer held by one or more Underlying ETFs as required by, and in accordance with, subsections 2.1(3), 2.1(4) and 2.1(5) of NI 81-102;
- (f) the investment by a Top Fund in securities of an Underlying ETF is made in compliance with section 2.5 of NI 81-102, with the exception of paragraph 2.5(2)(a) and, in respect only of brokerage fees incurred for the purchase and sale of Underlying ETFs by a Top Fund, paragraph 2.5(2)(e) of NI 81-102; and
- (g) the prospectus of each Top Fund discloses, or will disclose in the next renewal of its prospectus after the date of this decision, in the investment strategy section, the fact that the Top Fund has obtained the Exemption Sought to permit the relevant transactions on the terms described in this decision.

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

2.1.5 Franklin Templeton Investments Corp. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted to exchange-traded mutual funds for continuous distribution of units – relief to permit funds’ prospectus to include a modified statement of investor rights – relief to permit funds’ prospectus to not include an underwriter’s certificate – relief from take-over bid requirements for normal course purchases of units on the Toronto Stock Exchange – prospectus form and underwriting certificate relief granted subject to manager filing a prescribed summary document for each fund on SEDAR and other terms and conditions set out in decision document and subject to sunset clause tied to the implementation of proposed amendments to create new ETF Facts document to replace summary document.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., ss. 59(1), 147.
National Instrument 41-101 General Prospectus Requirements, s. 19.1.
Form 41-101F2 Information Required in an Investment Fund Prospectus, Item 36.2.
National Instrument 62-104 Take-Over Bids and Issuer Bids, Part 2 and s. 6.1.

April 18, 2017

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

AND

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

AND

IN THE MATTER OF
FRANKLIN TEMPLETON INVESTMENTS CORP.
(the Filer)

AND

IN THE MATTER OF
FRANKLIN LIBERTY CANADIAN INVESTMENT GRADE CORPORATE ETF AND
FRANKLIN LIBERTY RISK MANAGED CANADIAN EQUITY ETF
(the Proposed ETFs)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Proposed ETFs and any additional exchange-traded mutual funds (the **Future ETFs**, and, together with the Proposed ETFs, the **ETFs** and individually, an **ETF**) established now or in the future for which the Filer or an affiliate of the Filer is or may be the manager, for a decision under the securities legislation of the principal regulator (the **Legislation**) that:

- (a) exempts the Filer and each ETF from the requirement to include a certificate of an underwriter in an ETF’s prospectus (the **Underwriter’s Certificate Requirement**);
- (b) exempts the Filer and each ETF from the requirement to include in an ETF’s prospectus the statement respecting purchasers’ statutory rights of withdrawal and remedies of rescission or damages in substantially the form prescribed in Item 36.2 of Form 41-101F2 – *Information Required in an Investment Fund Prospectus* (the **Prospectus Form Requirement**); and

- (c) exempts all purchasers and holders purchasing Listed Securities (as defined below) in the normal course through the facilities of the TSX (as defined below) or another Marketplace (as defined below) from the Take-over Bid Requirements (as defined below)

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

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

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in all of the provinces and territories of Canada other than the Jurisdiction (together with the Jurisdiction, the **Jurisdictions**).

Interpretation

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

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an exchange-traded fund authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more exchange-traded funds on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an exchange-traded fund to perform certain duties in relation to an exchange-traded fund, including posting a liquid two-way market for the trading of the exchange-traded fund's listed securities on the TSX or another marketplace.

ETF Facts means a prescribed summary disclosure document required pursuant to amendments to the Legislation coming into force after the date of this decision, in respect of one or more classes or series of Listed Securities being distributed under a prospectus.

Marketplace means a "marketplace" as defined in National Instrument 21-101 *Marketplace Operations* that is located in Canada

Other Dealer means a registered dealer that acts as authorized dealer or designated broker to exchange-traded funds that are not managed by the Filer and that has received relief under a Prospectus Delivery Decision.

Prescribed Number of Listed Securities means the number of Listed Securities of an ETF determined by the Filer from time to time for the purpose of subscription orders, exchanges, redemptions or for other purposes.

Prospectus Delivery Decision means a decision granting relief from the Prospectus Delivery Requirement to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer dated August 24, 2015 and any subsequent decision granted to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer that grants similar relief.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Securityholders means beneficial or registered holders of Listed Securities or Unlisted Securities, as applicable.

Summary Document means a document, in respect of one or more classes or series of Listed Securities being distributed under a prospectus, prepared in accordance with Appendix A.

Take-Over Bid Requirements means the requirements of National Instrument 62-104 *Take-Over Bids and Issuer Bids* (**NI 62-104**) relating to take-over bids, including the requirement to file a report of a take-over bid and to pay the accompanying fee, in each Jurisdiction.

TSX means the Toronto Stock Exchange.

Representations

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

1. The Filer is a corporation amalgamated under the laws of the Province of Ontario, with its head office located at 200 King Street West, Suite 1500, Toronto, Ontario.
2. The Filer is not in default of securities legislation in any of the Jurisdictions.
3. The Filer or an affiliate of the Filer is, or will be, the investment fund manager or trustee of the ETFs. The Filer or an affiliate of the Filer is, or will be, the portfolio manager of the ETFs.
4. Each Proposed ETF will be a mutual fund structured as a trust that is governed by the laws of the Province of Ontario. The Future ETFs will be either trusts or corporations or classes thereof governed by the laws of a Jurisdiction of Canada. Each ETF will be a reporting issuer in the provinces and territories of Canada in which its securities are distributed.
5. Subject to any exemption that has been, or may be, granted by the securities regulatory authorities, each ETF will be an open-ended mutual fund subject to NI 81-102 and Securityholders of each ETF will have the right to vote at a meeting of Securityholders of the ETF in respect of matters prescribed by NI 81-102.
6. The Listed Securities will be listed on the TSX or another Marketplace.
7. The Filer has filed, or will file, a long form prospectus prepared in accordance with NI 41-101 in respect of the Listed Securities of the ETFs, subject to any exemptions that may be granted by the applicable securities regulatory authorities.
8. The Filer is registered as an investment fund manager in Ontario, Québec, Alberta, British Columbia, Manitoba, Nova Scotia, and Newfoundland and Labrador, as a mutual fund dealer, portfolio manager and exempt market dealer in each province of Canada and the Yukon, and as a commodity trading manager in Ontario.
9. Each ETF may issue more than one series of securities, including, but not limited to:
 - (a) a series of securities that will be distributed pursuant to a long form prospectus prepared pursuant to National Instrument 41-101 *General Prospectus Requirements (NI 41-101)* and Form 41-101F2 that is listed on the Toronto Stock Exchange or another "recognized exchange" in Canada, as that term is defined in securities legislation (**Listed Securities**); and
 - (b) a series of securities that will be offered only on a private placement basis pursuant to available prospectus exemptions, including the accredited investor exemption, under securities laws (**Unlisted Securities**).
10. Listed Securities will be distributed on a continuous basis in one or more of the Jurisdictions under a prospectus. Listed Securities may generally only be subscribed for or purchased directly from the ETFs (**Creation Units**) by Authorized Dealers or Designated Brokers that have entered into an agreement with the Filer. Generally, subscriptions or purchases may only be placed for a Prescribed Number of Listed Securities (or a multiple thereof) on any day when there is a trading session on the TSX or other Marketplace. Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of Listed Securities on the TSX or another Marketplace.
11. In addition to subscribing for and re-selling Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers will also generally be engaged in purchasing and selling Listed Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling Listed Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker or Affiliate Dealer that has entered into an agreement with the Filer.
12. According to Authorized Dealers and Designated Brokers, Creation Units will generally be commingled with other Listed Securities purchased by the Authorized Dealers, Designated Brokers and Affiliate Dealers in the secondary market. As such, it is not practicable for the Authorized Dealers, Designated Brokers or Affiliate Dealers to determine whether a particular re-sale of Listed Securities involves Creation Units or Listed Securities purchased in the secondary market.

13. Designated Brokers perform certain other functions, which include standing in the market with a bid and ask price for Listed Securities for the purpose of maintaining liquidity for the Listed Securities.
14. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, Listed Securities generally will not be able to be purchased directly from an ETF. Investors are generally expected to purchase and sell Listed Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another Marketplace. Listed Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

Exemption from Take-Over Bid Requirements

15. As equity securities that will trade on the TSX or another Marketplace, it is possible for a person or company to acquire such number of Listed Securities of an ETF so as to trigger the Take-Over Bid Requirements. However:
 - (a) it is not, or will not, be possible for one or more Securityholders to exercise control or direction over an ETF, as the constating documents of each ETF will provide that there can be no changes made to such ETF which do not have the support of the Filer;
 - (b) it will be difficult for purchasers of Listed Securities to monitor compliance with the Take-Over Bid Requirements because the number of outstanding Listed Securities will always be in flux as a result of the ongoing issuance and redemption of Listed Securities by the ETF; and
 - (c) the way in which the Listed Securities will be priced deters anyone from either seeking to acquire control, or offering to pay a control premium, for outstanding Listed Securities because pricing for the Listed Security will be dependent upon, among other things, the performance of the portfolio of the ETF as a whole.
16. The application of the Take-Over Bid Requirements to the ETFs would have an adverse impact upon the liquidity of the Listed Securities, because they could cause Designated Brokers and other large Securityholders to cease trading the Listed Securities once the prescribed take-over bid thresholds are met.

Exemption from Underwriters' Certificate Requirement

17. Authorized Dealers and Designated Brokers will not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting.
18. The Filer will generally conduct its own marketing, advertising and promotion of the ETFs.
19. Authorized Dealers and Designated Brokers will not be involved in the preparation of an ETF's prospectus, will not perform any review or any independent due diligence to the content of an ETF's prospectus, and will not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the Filer in connection with the distribution of Listed Securities. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem Listed Securities by engaging in arbitrage trading to capture spreads between the trading prices of Listed Securities and their underlying securities and by making markets for their clients to facilitate client trading in Listed Securities.

Exemption from Prospectus Form Requirement

20. Securities regulatory authorities have previously advised that they take the view that the first re-sale of a Creation Unit on the TSX or another Marketplace will generally constitute a distribution of Creation Units under the Legislation and that the Authorized Dealers, Designated Brokers and Affiliate Dealers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of Listed Securities in the secondary market that are not Creation Units would not ordinarily constitute a distribution of such Listed Securities.
21. Under the applicable Prospectus Delivery Decision, Authorized Dealers, Designated Brokers and Affiliate Dealers are exempt from the Prospectus Delivery Requirement in connection with the re-sale of Creation Units to investors on the TSX or another Marketplace. Under a Prospectus Delivery Decision, Other Dealers are also exempt from the Prospectus Delivery Requirement in connection with the re-sale of creation units of other exchange-traded funds that are not managed by the Filer.
22. Each Prospectus Delivery Decision includes a condition that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer undertakes that it will, unless it has previously done so, send or deliver to each purchaser of a Listed Security who is a customer of the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer in connection with the purchase, the latest Summary Document filed in respect

of the Listed Security not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the Listed Security.

23. The Filer will prepare and file with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (**SEDAR**) a Summary Document for each class or series of Listed Securities and will make available to the applicable Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers the requisite number of copies of the Summary Document for the purpose of facilitating their compliance with the Prospectus Delivery Decision within the timeframe necessary to allow Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers to effect delivery of the Summary Document as contemplated in the Prospectus Delivery Decision.
24. The Exemption Sought from the Prospectus Form Requirement is required to reflect the relief provided in the Prospectus Delivery Decision. Accordingly, the Filer will include language in each ETF's prospectus explaining the impact on a purchaser's statutory rights as a result of the Prospectus Delivery Decision in replacement of the language prescribed by the Prospectus Form Requirement.

Generally

25. Rule amendments coming into force on September 1, 2017 will require the Filer to file an ETF Facts in connection with the filing of a prospectus. Upon the expiry of the transition period, the requirement for the Filer to file an ETF Facts will supersede the requirement for the Filer to file a Summary Document under the Exemption Sought. Since the introduction of the ETF Facts is subject to a transition period, there may be a period of time where some ETFs have an ETF Facts while other ETFs have a Summary Document. If the Filer files an ETF Facts with respect to a class or series of ETF Securities, the Filer will use such ETF Facts instead of a Summary Document to satisfy its obligations under the Exemption Sought with respect to any purchase of such class or series of ETF Securities that occurs after the filing of such ETF Facts.

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.

1. The decision of the principal regulator is that the Exemption Sought in respect of the Underwriter's Certificate Requirement and Prospectus Form Requirement is granted, provided that the Filer will be in compliance with the following conditions:
 - (a) the Filer files with the applicable Jurisdictions on SEDAR the Summary Document for each class or series of Listed Securities concurrently with the filing of the final prospectus for that ETF;
 - (b) the Filer displays on its website in a manner that would be considered prominent to a reasonable investor the Summary Document for each class or series of Listed Securities for each ETF;
 - (c) the Filer amends the Summary Document at the same time it files any amendments to the ETF's prospectus that affect the disclosure in the Summary Document and files the amended Summary Document with the applicable Jurisdictions on SEDAR and makes it available on its website in a manner that would be considered prominent to a reasonable investor;
 - (d) the Filer provides or makes available to each Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, the number of copies of the Summary Document of each Listed Security that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer reasonably requests in support of compliance with its respective Prospectus Delivery Decision;
 - (e) each ETF's prospectus, as the same may be amended from time to time, will:
 - (i) incorporate the relevant Summary Document by reference;
 - (ii) contain the disclosure referred to in paragraph 24 above; and
 - (iii) disclose both the relief granted pursuant to the Exemption Sought and the Prospectus Delivery Decision under Item 34.1 of Form 41-101F2 – *Information Required in an Investment Fund Prospectus*, as applicable;
 - (f) the Filer obtains an executed acknowledgement from each Authorized Dealer, Designated Broker and Affiliate Dealer, and uses its best efforts to obtain an acknowledgment from each Other Dealer:

- (i) indicating each dealer's election, in connection with the re-sale of Creation Units on the TSX or another Marketplace, to send or deliver the Summary Document in accordance with a Prospectus Delivery Decision or, alternatively, to comply with the Prospectus Delivery Requirement; and
 - (ii) if the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer agrees to deliver the Summary Document in accordance with a Prospectus Delivery Decision:
 - (A) an undertaking that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under the Prospectus Delivery Decision at the same time to an investor purchasing Listed Securities of each such ETF; and
 - (B) confirming that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer has in place written policies and procedures to ensure that it is in compliance with the conditions of the Prospectus Delivery Decision;
 - (g) the Filer will keep records of which Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers have provided it with an acknowledgement under a Prospectus Delivery Decision, and which intend to rely on and comply with the Prospectus Delivery Decision or intend to comply with the Prospectus Delivery Requirement;
 - (h) the Filer files with its principal regulator, to the attention of the Director, Investment Funds and Structured Products Branch, on or before January 31st in each calendar year, a certificate signed by its ultimate designated person certifying that, to the best of the knowledge of such person, after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year;
 - (i) if the Filer files an ETF Facts instead of a Summary Document with respect to a class or series of Listed Securities, the latest ETF Facts filed in respect of such class or series of Listed Securities must be substituted for a Summary Document in order to satisfy the foregoing conditions with respect to any purchase in such class or series of Listed Securities that occurs after the date of filing such ETF Facts;
 - (j) conditions (a), (b), (c) and (e)(i) above do not apply to the Exemption Sought with respect to a class or series of an Listed Security if the Filer files an ETF Facts for such class or series of the Listed Security; and
 - (k) conditions (d), (e)(ii), (e)(iii), (f), (g) and (h) above do not apply to the Exemption Sought after any new legislation or rule dealing with the Prospectus Delivery Decision takes effect and any applicable transition period has expired.
2. The Exemption Sought from the Prospectus Form Requirement, as it relates to one or more of the Jurisdictions, will terminate on the latest of: (i) the coming into force of any legislation or rule dealing with the Exemption Sought from the Prospectus Form Requirement or (ii) the end date of any applicable transition period for any legislation or rule dealing with the Exemption Sought from the Prospectus Form Requirement.
3. The decision of the principal regulator is that the Exemption Sought in respect of the Take-Over Bid Requirements is granted.

As to the Exemption Sought from the Underwriter's Certificate Requirement:

"Janet Leiper"
Commissioner
Ontario Securities Commission

"Garnet Fenn"
Commissioner
Ontario Securities Commission

As to the Exemption Sought from the Prospectus Form Requirement and the Take-Over Bid Requirements:

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

APPENDIX A

CONTENTS OF SUMMARY DOCUMENT

General Instructions

1. *Items 1 to 10 represent the minimum disclosure required in a Summary Document for a fund. The inclusion of additional information is not precluded so long as the Summary Document does not exceed a total of four pages in length (two pages double-sided).*
2. *Terms defined in National Instrument 81-102 Investment Funds, National Instrument 81-105 Mutual Fund Sales Practices or National Instrument 81-106 Investment Fund Continuous Disclosure and used in this Summary Document have the meanings that they have in those national instruments.*
3. *Information in the Summary Document must be clear and concise and presented in plain language.*
4. *The format and presentation of information in the Summary Document is not prescribed but the information must be presented in a manner that assists in readability and comprehension.*
5. *The order of the Items outlined below is not prescribed, except for Items 1 and 2, which must be presented as the first 2 items in the Summary Document.*
6. *Each reference to a fund in this Appendix A refers to an ETF as defined in the decision above.*

Item 1 – Introduction

Include at the top of the first page a heading consisting of:

- (a) the title “Summary Document”;
- (b) the name of the manager of the fund;
- (c) the name of the fund to which the Summary Document pertains; and
- (d) the date of the document.

Item 2 – Cautionary Language

Include a statement in italics in substantially the following form:

“The following is a summary of the principal features of this fund. You can find more detailed information about the fund in the prospectus. The prospectus is available on [insert name of the manager of the fund] website at [insert manager of the fund website], or by contacting [insert name of the manager of the fund] at [insert manager of the fund’s email address], or by calling [insert telephone number of the manager of the fund].”

Item 3 – Fund Details

Include the following disclosure:

- (a) ticker symbol;
- (b) fund identification code(s);
- (c) index ticker (as applicable);
- (d) exchange;
- (e) currency;
- (f) inception date;
- (g) RSP eligibility;

- (h) DRIP eligibility;
- (i) expected frequency and timing of distributions, and if applicable, the targeted amount for distributions;
- (j) management expense ratio, if available; and
- (k) portfolio manager, when the fund is actively managed.

Item 4 – Investment Objectives

Include a description of the fundamental nature of the fund, or the fundamental features of the fund that distinguishes it from other funds.

INSTRUCTIONS:

Include a description of what the fund primarily invests in, or intends to primarily invest in, such as:

- (a) *a description of the fund, including what the fund invests in, and if it is trying to replicate an index, the name of the index, and an overview of the nature of securities covered by the index or the purpose of the index; and*
- (b) *the key investment strategies of the fund.*

Item 5 – Investments of the Fund

1. Include a table disclosing:
 - (a) the top 10 positions held by the fund; and
 - (b) the percentage of net asset value of the fund represented by the top 10 positions.
2. Include at least one, and up to two, charts or tables that illustrate the investment mix of the fund's investment portfolio.

INSTRUCTIONS:

- (a) *The information required under this Item is intended to give a snapshot of the composition of the fund's investment portfolio. The information required to be disclosed under this Item must be as at a date within 60 days before the date of the Summary Document.*
- (b) *The information required under Item 5(2) must show a breakdown of the fund's investment portfolio into appropriate subgroups and the percentage of the aggregate net asset value of the fund constituted by each subgroup. The names of the subgroups are not prescribed and can include security type, industry segment or geographic location. The fund should use the most appropriate categories given the nature of the fund. The choices made must be consistent with disclosure provided under "Summary of Investment Portfolio" in the fund's MRFP.*
- (c) *For new funds where the information required to be disclosed under this Item is not available, provide a brief statement explaining why the required information is not available.*

Item 6 – Risk

1. Include a statement in italics in substantially the following form:

"All investments involve risk. When you invest in the fund the value of your investment can go down as well as up. For a description of the specific risks of this fund, see the fund's prospectus."
2. If the cover page of the fund's prospectus contains text box risk disclosure, also include a description of those risk factors in the Summary Document.

Item 7 – Fund Expenses

1. Include an introduction using wording similar to the following:

"You don't pay these expenses directly. They affect you because they reduce the fund's returns."

2. Provide information about the expenses of the fund in the form of the following table:

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee and operating expenses.	_____
Trading expense ratio (TER) These are the fund's trading costs.	_____
Fund expenses The amount included for fund expenses is the amount arrived at by adding the MER and the TER.	_____

3. If the information in (2) is unavailable because the fund is new including wording similar to the following:

"The fund's expenses are made up of the management fee, operating expenses and trading costs. The fund's annual management fee is [●]% of the fund's value. Because this fund is new, its operating expenses and trading costs are not yet available."

INSTRUCTIONS:

Use a bold font or other formatting to indicate that fund expenses is the total of all ongoing expenses set out in the chart and is not a separate expense charged to the fund.

Item 8 – Trailing Commissions

1. If the manager of the fund or another member of the fund's organization pays trailing commissions, include a brief description of these commissions.
2. The description of any trailing commission must include a statement in substantially the following words:

"The trailing commission is paid out of the management fee. The trailing commission is paid for as long as you own the fund."

Item 9 – Other Fees

1. Provide information about the amount of fees payable by an investor, other than those already described or payable by designated brokers and underwriters.
2. Include a statement using wording similar to the following:

"You may pay brokerage fees to your dealer when you purchase and sell units of the fund."

INSTRUCTIONS:

- (a) *Examples include any redemption charges, sales charges or other fees, if any, associated with buying and selling securities of the fund.*
- (b) *Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee.*

Item 10 – Statement of Rights

State in substantially the following words:

Under securities law in some provinces and territories, you have:

the right to cancel your purchase within 48 hours after you receive confirmation of the purchase, or

other rights and remedies if this document or the fund's prospectus contains a misrepresentation. You must act within the time limit set by the securities law in your province or territory.

For more information, see the securities law of your province or territory or ask a lawyer.

Item 11 – Past Performance

If the fund includes past performance:

1. Include an introduction using wording similar to the following:

This section tells you how the fund has performed over the past [insert the lesser of 10 years or the number of completed calendar years] years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

It's important to note that this doesn't tell you how the fund will perform in the future as past performance may not be repeated. Also, your actual after-tax return will depend on your personal tax situation.

2. Show the annual total return of the fund, in chronological order for the lesser of:
 - (a) each of the 10 most recently completed calendar years; and
 - (b) each of the completed calendar years in which the fund has been in existence and which the fund was a reporting issuer.
3. Show the:
 - (a) final value, of a hypothetical \$1,000 investment in the fund as at the end of the period that ends within 60 days before the date of the Summary Document and consists of the lesser of:
 - (i) 10 years, or
 - (ii) the time since inception of the fund,and
 - (b) the annual compounded rate of return that would equate the initial \$1,000 investment to the final value.

INSTRUCTIONS:

In responding to the requirements of this Item, a fund must comply with the relevant sections of Part 15 of National Instrument 81-102 Investment Funds as if those sections applied to a Summary Document.

Item 12 – Benchmark Information

If the Summary Document includes benchmark information, ensure this information is consistent with the fund's MRFP and presented in the same format as Item 11.

2.2 Orders

2.2.1 Carrie Arran Resources Inc. – s. 144

Headnote

Application by an issuer for a revocation of a cease trade order issued by the Commission – cease trade order issued because the issuer had failed to file certain continuous disclosure materials required by Ontario securities law – defaults subsequently remedied by bringing continuous disclosure filings up-to-date – cease trade order revoked.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.

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

AND

**IN THE MATTER OF
CARRIE ARRAN RESOURCES INC.**

**ORDER
(Section 144 of the Act)**

WHEREAS the securities of Carrie Arran Resources Inc. (the **Applicant**) were subject to a temporary cease trade order dated December 3, 2015 issued by the Director of the Ontario Commission (the **Commission**) pursuant to paragraph 2 of subsection 127(1) and subsection 127(5) of the Act, as extended by a further cease trade order dated December 16, 2015 issued by the Director pursuant to paragraph 2 of subsection 127(1) of the Act (as extended, the **Ontario Cease Trade Order**), directing that all trading in the securities of the Applicant, whether direct or indirect, cease until the Ontario Cease Trade Order is revoked by the Director;

AND WHEREAS the Ontario Cease Trade Order was made on the basis that the Applicant was in default of certain filing requirements under Ontario securities law as described in the Ontario Cease Trade Order;

AND WHEREAS the Applicant has applied to the Commission pursuant to section 144 of the Act to revoke the Ontario Cease Trade Order;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant was incorporated under the *Canada Business Corporations Act* on April 5, 2006.
2. The Applicant's head office is located at 141 Adelaide Street West, Suite 301, Toronto, Ontario, M5H 3L5.
3. The Applicant is a resource company focused on exploring and developing mineral properties.
4. The Applicant is a reporting issuer under the securities legislation of the provinces of British Columbia, Alberta and Ontario (collectively, the **Reporting Jurisdictions**) and is not a reporting issuer in any other jurisdiction. The Commission is the principal regulator of the Applicant.
5. The authorized capital of the Applicant consists of an unlimited number of common shares with one vote each, the right to receive dividends and the right to receive the remaining property of the Applicant upon dissolution.
6. Currently there are 4,526,600 common shares issued and outstanding. There are no options, warrants or other securities convertible or exchangeable into common shares currently outstanding.
7. The common shares of the Applicant were previously listed on the TSX Venture Exchange under the symbol SCO. Effective on or about November 25, 2015, the Applicant's listing was transferred to the NEX Board of the TSX Venture Exchange (the **NEX**) and the trading symbol was changed from SCO to SCO.H. The listing was then terminated effective May 10, 2017.

8. The Ontario Cease Trade Order was issued as a result of the Applicant's failure to file its audited annual financial statements and related management's discussion & analysis (**MD&A**) for the year ended July 31, 2015 within the prescribed time frame as required under National Instrument 51-102 *Continuous Disclosure Obligations* and related certifications (the **NI 52-109 Certificates**) as required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*.
9. The Applicant is also subject to a cease trade order issued by the British Columbia Securities Commission (**BCSC**) on December 10, 2015 (the **BC Cease Trade Order**, and together with the Ontario Cease Trade Order, the **Cease Trade Orders**). The Ontario Cease Trade Order is also effective in Alberta due to the Government of Alberta's 2015 adoption of statutory reciprocal order provisions. The Applicant has concurrently applied to the BCSC for a revocation of the BC Cease Trade Order.
10. Subsequent to the issuance of the Ontario Cease Trade Order, the Applicant has filed the following continuous disclosure documents with the Reporting Jurisdictions:
 - (a) audited annual financial statements, MD&A and NI 52-109 Certificates for the year ended July 31, 2015;
 - (b) audited annual financial statements, MD&A and NI 52-109 Certificates for the year ended July 31, 2016;
 - (c) unaudited interim financial statements, MD&A and NI 52-109 Certificates for the three month period ended April 30, 2017; and
 - (d) audited annual financial statements, MD&A and NI 52-109 Certificates for the year ended July 31, 2017.
11. The Applicant has not filed the unaudited interim financial statements, MD&A and NI 52-109 Certificates for the periods ended October 31, 2015 through to and including January 31, 2017 (collectively, the **Outstanding Filings**).
12. The Applicant has filed all outstanding continuous disclosure documents that are required to be filed in the Reporting Jurisdictions other than (i) the Outstanding Filings and (ii) information circulars for shareholder meetings following the 2015 and 2016 year-ends (the **Circulars**) and (iii) material change reports regarding the resignations of officers and directors as disclosed in a news release in November 2015 and the expiration of the Applicant's option to acquire a material exploration property (collectively, the **Other Filings**) in respect of which Other Filings the material information has been disclosed in the continuous disclosure documents filed with the Reporting Jurisdictions as described in Paragraph 10 above.
13. The Applicant has requested that the Commission exercise its discretion in accordance with section 6 of National Policy 12-202 *Revocation of a Compliance-related Cease Trade Order* and elect not to require the Applicant to file the Outstanding Filings.
14. Except for the failure to file the Outstanding Filings, the Circulars and the Other Filings, the Applicant (i) is up-to-date with all of its other continuous disclosure obligations; (ii) is not in default of any of its obligations under the Ontario Cease Trade Order; and (iii) is not in default of any requirements under the Act or the rules and regulations made pursuant thereto.
15. The Applicant's securities are not listed or quoted on any other exchange or market in Canada or elsewhere.
16. As of the date hereof, the Applicant has paid all outstanding activity, participation and late filing fees that are required to be paid to the Commission and has filed all forms associated with such payments.
17. Since the issuance of the Ontario Cease Trade Order, the Applicant has been dormant and there have not been any material changes in the business, operations or affairs of the Applicant, other than the resignations of officers and directors and the expiration of the Applicant's option to acquire a material exploration property, which have since been disclosed in the continuous disclosure documents filed with the Reporting Jurisdictions.
18. As of the date hereof, the Applicant's profiles on the System for Electronic document Analysis and Retrieval (**SEDAR**) and the System for Electronic Disclosure by Insiders (**SEDI**) are current and accurate.
19. The Applicant has filed all outstanding continuous disclosure documents that are required to be filed in the Reporting Jurisdictions other than the Outstanding Filings, the Circulars and the Other Filings.
20. Other than the Cease Trade Orders, the Applicant has not previously been subject to a cease trade order issued by any securities regulatory authority.

21. The Applicant is not considering, nor is it involved in any discussions relating to a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing.
22. The Applicant has given the Commission a written undertaking that:
- (a) The Applicant will hold an annual meeting of shareholders within three months after the date on which the Ontario Cease Trade Order is revoked; and
 - (b) The Applicant will not complete:
 - i. A restructuring transaction involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada,
 - ii. A reverse takeover with a reverse takeover acquirer that has a direct or indirect, existing or proposed, material underlying business which is not located in Canada, or
 - iii. A significant acquisition involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada,
- unless
- A. The Applicant files a preliminary prospectus and a final prospectus with the Commission and obtains receipts for the preliminary and final prospectus from the Director under the Act,
 - B. The Applicant files or delivers with the preliminary prospectus and the final prospectus the documents required by Part 9 of National Instrument 41-101 *General Prospectus Requirements (NI 41-101)* including a completed personal information form and authorization in the form set out in Appendix A of NI 41-101 for each current and incoming director, executive officer and promoter of the Applicant, and
 - C. The preliminary prospectus and final prospectus contain the information required by applicable securities legislation, including the information required for a probable restructuring transaction, reverse takeover or significant acquisition (as applicable).
23. Upon the revocation of the Ontario Cease Trade Order, the Applicant will issue a news release and concurrently file a material change report on SEDAR announcing the revocation of the Ontario Cease Trade Order, the Other Filings and outlining the Applicant's future plans.

AND UPON considering the application and the recommendation of the staff of the Commission;

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to revoke the Ontario Cease Trade Order;

IT IS ORDERED pursuant to section 144 of the Act that the Ontario Cease Trade Order is revoked.

DATED at Toronto, this 3rd day of November, 2017.

"Sonny Randhawa"
Deputy Director, Corporate Finance
Ontario Securities Commission

2.2.2 Sino-Forest Corporation et al.

IN THE MATTER OF
SINO-FOREST CORPORATION,
ALLEN CHAN,
ALBERT IP,
ALFRED C.T. HUNG,
GEORGE HO,
SIMON YEUNG and
DAVID HORSLEY

D. Grant Vingoe, Vice-Chair and Chair of the Panel
Deborah Leckman, Commissioner
Garnet W. Fenn, Commissioner

November 7, 2017

ORDER

WHEREAS on November 2, 2017, the representatives for Allen Chan, Albert Ip, Alfred C.T. Hung, George Ho, Simon Yeung and David Horsley (the **Individual Respondents**) served and filed an affidavit with an attached expert report (the **Expert Report**).

ON CONSIDERING the written submissions from the representatives for Staff of the Ontario Securities Commission (**Staff**) received on November 6, 2017 that Staff did not receive timely notice of the Individual Respondents' intention to call expert evidence prior to receiving the Expert Report and that the Individual Respondents now require leave to file the Expert Report, and, further, that the subject matter of the Expert Report is not relevant to the sanctions hearing;

IT IS ORDERED THAT:

1. The Individual Respondents shall file written submissions on the admissibility and relevance of the Expert Report by November 10, 2017; and
2. Staff shall file written submissions on the admissibility and relevance of the Expert Report by November 13, 2017.

"D. Grant Vingoe"

"Deborah Leckman"

"Garnet W. Fenn"

2.2.3 Tele-Find Technologies Corp. – s. 144

Headnote

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

Statutes Cited

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

**IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED
(the “Act”)**

AND

**IN THE MATTER OF
TELE-FIND TECHNOLOGIES CORP.**

**ORDER
(Section 144 of the Act)**

WHEREAS the securities of Tele-Find Technologies Corp. (the “**Applicant**”) are subject to a cease trade order dated May 19, 2009 issued by the Director of the Ontario Securities Commission (the “**Commission**”) pursuant to paragraph 2 and 2.1 of subsection 127(1) and subsection 127(5) of the Act, as extended by a further cease trade order issued by the Director on June 1, 2009 pursuant to paragraph 2 and 2.1 of subsection 127(1) of the Act (the “**Ontario Cease Trade Order**”) directing that all trading in securities of the Applicant, whether direct or indirect, shall cease until further order by the Director;

AND WHEREAS the Ontario Cease Trade Order was made on the basis that the Applicant was in default of certain filing requirements under Ontario securities law as described in the Ontario Cease Trade Order and below;

AND WHEREAS the Applicant has applied to the Commission pursuant to section 144 of the Act to revoke the Ontario Cease Trade Order;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant was duly formed by amalgamation pursuant to the *Business Corporations Act* (Ontario) on January 18, 2002. The amalgamating corporations are Name Brand Sales Inc. and Tele-Find Technologies Corp.
2. The Applicant’s head office is located at 2905 – 77 King St West, Toronto, Ontario, M5K 1H1.
3. The Applicant is a reporting issuer in the provinces of Ontario, Alberta and British Columbia (the “**Reporting Jurisdictions**”) and is not a reporting issuer in any other jurisdiction in Canada.
4. The Applicant’s authorized capital consists of an unlimited number of common shares without par value (the “**Common Shares**”) and an unlimited number of Class “A” non-voting preference shares entitled to a cumulative dividend at the rate of 8% per annum. As at the date hereof, there are 15,248,000 Common Shares issued and outstanding.
5. The Applicant has no other securities, including debt securities, issued and outstanding.
6. The Ontario Cease Trade Order was issued as a result of the Applicant failing to file its audited annual financial statements and accompanying management’s discussion and analysis (“**MD&A**”) for the year ended December 31, 2008 within the timeframe as required under National Instrument 51-102 *Continuous Disclosure Obligations* (“**NI 51-102**”).

7. The Applicant is also subject to a cease trade orders issued by the British Columbia Securities Commission dated May 20, 2009 (the “**BC Cease Trade Order**”) and the Alberta Securities Commission dated September 4, 2009 (the “**Alberta Cease Trade Order**”, and together with the Ontario Cease Trade Order and the BC Cease Trade Order, the “**Cease Trade Orders**”).
8. The Applicant has concurrently applied for revocations of the BC Cease Trade Order and Alberta Cease Trade Order.
9. The Common Shares were delisted from the TSX Venture Exchange (**TSX-V**) on July 13, 2009. No securities of the Applicant are listed or traded on any other stock exchange or market in Canada or elsewhere. The Applicant does not have plans or intentions to re-list or resume trading on the TSX-V or on another exchange at this time.
10. The Applicant subsequently failed to file other continuous disclosure documents with the Commission within the prescribed timeframe in accordance with the requirements of Ontario securities law, including the following:
 - i) all audited financial statements, accompanying MD&A and related certificates as required under National Instrument 52-109 *Certification of Disclosure in Issuers’ Annual and Interim Filings* (“**NI 52-109 Certificates**”) and statement of executive compensation for the years ended December 31, 2009 to December 31, 2016; and
 - ii) all unaudited interim financial statements, accompanying MD&A and NI 52-109 Certificates for the interim periods ended March 31, 2009 to June 30, 2017.
11. Since the issuance of the Cease Trade Orders, the Applicant has filed the following continuous disclosure documents with the Reporting Jurisdictions:
 - i) audited annual financial statements, accompanying MD&A and NI 52-109 Certificates for the years ended December 31, 2014 to December 31, 2016;
 - ii) unaudited interim financial statements, accompanying MD&A and NI 52-109 Certificates for the interim periods ended June 30, 2016, September 30, 2016, March 31, 2017 and June 30, 2017; and
 - iii) a management information circular dated August 28, 2017.
12. The Applicant has not filed the following:
 - i) audited financial statements, accompanying MD&A and NI 52-109 Certificates for the years ended December 31, 2008 to December 31, 2013;
 - ii) unaudited interim financial statements, accompanying MD&A and NI 52-109 Certificates for the periods ended March 31, 2009 to March 31, 2016; and
 - iii) the statements of executive compensation for the years ended December 31, 2009 to December 31, 2015.(collectively, the **Outstanding Filings**).
13. The Applicant has filed with the Commission all continuous disclosure that it is required to file under the Legislation, except for the Outstanding Filings and any other continuous disclosure that the Commission elected not to require as contemplated under Sections 6 and 7 of National Policy 12-202 *Revocation of a Compliance-related Cease Trade Order* (**NP 12-202**).
14. Except for the failure to file the Outstanding Filings, the Applicant (i) is up-to-date with all of its other continuous disclosure obligations; (ii) is not in default of any of its obligations under the Cease Trade Orders; and (iii) is not in default of any requirements under the Act or the rules and regulations made pursuant thereto.
15. As of the date hereof, the Applicant has paid all outstanding activity, participation and late filing fees that are required to be paid to the Commission and has filed all forms associated with such payments.
16. As of the date hereof, the Applicant’s profiles on the System for Electronic Document Analysis and Retrieval (**SEDAR**) and the System for Electronic Disclosure by Insiders (**SEDI**) are current and accurate.
17. Since the issuance of the Cease Trade Orders, the Applicant has announced and disclosed the following material changes:
 - i) on April 27, 2017, the Applicant filed a Notice of Change of Auditor, Letter of Former Auditor and Letter of Successor Auditor in connection with its representation;

- ii) on June 15, 2017, the Applicant filed a news release announcing the appointment of Mr. Jeremy Rozen to the Applicant's Board of Directors and as the Applicant's President; and
- iii) on October 16, 2017, the Applicant filed a news release announcing the election of Mr. Lior Ishai to the Applicant's Board of Directors.

There have been no other material changes in the business, operations or affairs of the Applicant.

- 18. Other than the Cease Trade Orders, the Applicant has not previously been subject to a Cease Trade Order issued by any securities regulatory authority.
- 19. The Applicant is not considering, nor is it involved in any discussions relating to a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing.
- 20. The Applicant has given the Commission a written undertaking (the "**Undertaking**") that:
 - (a) The Applicant will hold an annual meeting of shareholders within three months after the date on which the Ontario Cease Trade Order is revoked; and
 - (b) The Applicant will not complete:
 - i. A restructuring transaction involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada,
 - ii. A reverse takeover with a reverse takeover acquirer that has a direct or indirect, existing or proposed, material underlying business which is not located in Canada, or
 - iii. A significant acquisition involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada,including in each such case, any such transaction contemplated under the LOI
unless
 - A. The Applicant files a preliminary prospectus and a final prospectus with the Commission and obtains receipts for the preliminary and final prospectus from the Director under the Act,
 - B. The Applicant files or delivers with the preliminary prospectus and the final prospectus the documents required by Part 9 of National Instrument 41-101 *General Prospectus Requirements* ("**NI 41-101**") including a completed personal information form and authorization in the form set out in Appendix A of NI 41-101 for each current and incoming director, executive officer and promoter of the Applicant, and
 - C. The preliminary prospectus and final prospectus contain the information required by applicable securities legislation, including the information required for a probable restructuring transaction, reverse takeover or significant acquisition (as applicable).
- 21. Upon the revocation of the Ontario Cease Trade Order, the Applicant will issue a news release and concurrently file a material change report on SEDAR announcing the revocation of the Ontario Cease Trade Order and outlining the Applicant's future plans.

AND UPON considering the Application and the recommendation of the staff of the Commission;

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to revoke the Ontario Cease Trade Order;

IT IS ORDERED, pursuant to section 144 of the Act, that the Ontario Cease Trade Order is revoked.

DATED at Toronto this 9th day of November, 2017.

"Sonny Randhawa"
Deputy Director, Corporate Finance
Ontario Securities Commission

2.2.4 Vicky Dancho (also known as Ju Huang) – ss. 127(1), 127(10)

**IN THE MATTER OF
VICKY DANCHO
(also known as JU HUANG)**

Philip Anisman, Chair of the Panel

November 9, 2017

**ORDER
(Subsections 127(1) and (10) of the Securities Act)**

WHEREAS on November 6, 2017, the Ontario Securities Commission held a hearing at 20 Queen Street West, 17th Floor, Toronto, Ontario to consider an application by staff of the Commission (**Staff**) for an order imposing sanctions pursuant to subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5 (the Act);

ON READING the Settlement Agreement between Vicky Dancho (**Dancho**) and the Executive Director of the British Columbia Securities Commission (the **Executive Director**) and the Order of the Executive Director (the **BC Order**), both dated February 16, 2017;

AND ON READING the Affidavit of Service of Lee Crann, sworn November 2, 2017, and on hearing the submissions of the representative for Staff, Dancho not appearing, although properly served;

IT IS ORDERED pursuant to paragraphs 127(1)2, 7, 8, 8.1, 8.2, 8.3, 8.4 and 8.5 of the Act that Dancho:

1. henceforth, shall not trade in securities, except in a single account in her own name so long as every trade is made through a registrant who has been given a copy of the BC Order and a copy of this Order;
2. shall resign any position she holds as a director or officer of an issuer, registrant, or investment fund manager;
3. henceforth, shall not become or act as a director or officer of an issuer, registrant, or investment fund manager; and
4. henceforth, shall not become or act as a registrant, investment fund manager or promoter.

“Philip Anisman”

2.2.5 Northern Lights Resources Corp. – s. 144

Headnote

Application by an issuer for a revocation of a cease trade order issued by the Commission – cease trade order issued because the issuer had failed to file certain continuous disclosure materials required by Ontario securities law – defaults subsequently remedied by bringing continuous disclosure filings up-to-date – cease trade order revoked.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.

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

AND

**IN THE MATTER OF
NORTHERN LIGHTS RESOURCES CORP.**

**ORDER
(Section 144 of the Act)**

WHEREAS the securities of Northern Lights Resources Corp. (the **Applicant**) are subject to a cease trade order dated September 12, 2013, issued by the Director of the Ontario Securities Commission (the **Commission**) pursuant to paragraph 2 of subsection 127(1) and subsection 127(5) of the Act, and as extended by a further cease trade order issued by the Director on September 24, 2014 pursuant to paragraph 2 of subsection 127(1) of the Act (the **Ontario Cease Trade Order**), directing that all trading in the securities of the Applicant, whether direct or indirect, cease until the Ontario Cease Trade Order is revoked by the Director;

AND WHEREAS the Ontario Cease Trade Order was made on the basis that the Applicant was in default of certain filing requirements under Ontario securities law as described in the Ontario Cease Trade Order;

AND WHEREAS the Applicant has applied to the Commission under section 144 of the Act for a full revocation of the Ontario Cease Trade Order;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant was incorporated on March 28, 2007 under the *Business Corporations Act* (British Columbia) under the name “Northern Lights Uranium Corp.” On April 22, 2008, the Applicant changed its name to “Northern Lights Resources Corp.”.

2. The Applicant's head office is located at 1000 – 355 Burrard Street, Vancouver, British Columbia, V6C 2G8.
3. The Applicant is a reporting issuer under the securities legislation of the provinces of British Columbia, Alberta, and Ontario (the **Reporting Jurisdictions**). The Applicant is not a reporting issuer in any other jurisdiction in Canada. The Applicant's principal regulator is the British Columbia Securities Commission (the **BCSC**).
4. The Applicant's authorized share capital consists of an unlimited number of common shares without nominal or par value (the **Common Shares**). As of the date hereof, there are 26,437,152 Common Shares are issued and outstanding.
5. The Applicant has no other securities, including debt securities, issued and outstanding.
6. The Common Shares were delisted from the Canadian Securities Exchange on January 22, 2014. The Common Shares have not been, and are not currently listed on any other exchange or market in Canada or elsewhere.
7. The Ontario Cease Trade Order was issued as a result of the Applicant's failure to file its annual audited financial statements, accompanying management's discussion and analysis (**MD&A**) and related certifications as required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (**NI 52-109 Certificates**) for the fiscal year ended April 30, 2013 (collectively, the **2013 Annual Filings**).
8. The Applicant is also subject to a cease trade order issued by the BCSC dated September 10, 2013 (the **BC Cease Trade Order**) and a cease trade order issued by the Alberta Securities Commission (the **ASC**) dated December 10, 2014 (the **Alberta Cease Trade Order**) (collectively with the Ontario Cease Trade Order, the **Cease Trade Orders**);
9. The Applicant has concurrently applied to the BCSC for a full revocation of the BC Cease Trade Order; and has concurrently applied to the ASC for a full revocation of the Alberta Cease Trade Order.
10. Subsequent to the issuance of the Ontario Cease Trade Order, the Applicant failed to file in the Reporting Jurisdictions the following continuous disclosure documents within the prescribed time-frame in accordance with the requirements of applicable securities laws:
 - (i) all audited annual financial statements, accompanying MD&A and related NI 52-109 Certificates for the financial years ended April 30, 2014 to April 30, 2017;
 - (ii) all unaudited interim financial statements, accompanying MD&A and related NI 52-109 Certificates for interim periods ended July 31, 2013 through July 31, 2017; and
 - (iii) the statements of executive compensation for the financial years ended April 30, 2014 to April 30, 2017.
11. Since the issuance of the Ontario Cease Trade Order, the Applicant has filed in the Reporting Jurisdictions:
 - (i) the 2013 Annual Filings;
 - (ii) the audited annual financial statements, accompanying MD&A and related NI 52-109 Certificates for the financial years ended April 30, 2014, 2015, 2016 and 2017;
 - (iii) the unaudited interim financial statements, accompanying MD&A and related NI 52-109 Certificates for the three months ended July 31, 2017; and
 - (iv) the statements of executive compensation for the financial years ended April 30, 2016 and 2017.
12. The Applicant has not filed the unaudited interim financial statements, accompanying MD&A, related NI 52-109 Certificates for the interim periods ended July 31, 2013 to January 31, 2017 and statements of executive compensation for the years ended April 30, 2014 and 2015 (collectively, the **Outstanding Filings**) and has requested the Commission to exercise its discretion in accordance with section 6 of National Policy 12-202 – *Revocation of Certain Cease Trade Orders* and elect not to require the Applicant to file the Outstanding Filings.
13. Except for the Outstanding Filings, the Applicant is
 - (i) up-to-date with all of its continuous disclosure obligations;
 - (ii) not in default of any requirements under applicable securities legislation or the rules and regulations made pursuant thereto in any of the Reporting Jurisdictions, except for the existence of the Cease Trade Orders; and
 - (iii) not in default of any of its obligations under the Cease Trade Orders.
14. The Applicant's issuer profile on the System for Electronic Document Analysis and Retrieval (**SEDAR**) and issuer profile supplement on the System for Electronic Disclosure by Insiders (**SEDI**) are current and accurate.
15. As of the date hereof, the Applicant has paid all outstanding activity, participation and late filing fees that are required to be paid to the

Commission and has filed all forms associated with such payments.

16. The Applicant is not considering nor is it involved in any discussions related to, a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing.
17. Since the issuance of the Cease Trade Orders, there have not been any material changes in the business, operations or affairs of the Applicant that have not been disclosed to the public.
18. The Applicant has given the Commission a written undertaking that the Applicant will hold an annual meeting of shareholders within three months after the date on which the Ontario Cease Trade Order is revoked.
19. Upon the issuance of this revocation order and concurrent revocation orders from the ASC and BCSC, the Applicant will issue a news release announcing the revocation of the Cease Trade Orders and concurrently file the news release and a related material change report on SEDAR.

AND UPON considering the application and the recommendation of the staff of the Commission;

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to revoke the Ontario Cease Trade Order;

IT IS ORDERED pursuant to section 144 of the Act that the Ontario Cease Trade Order is revoked.

DATED at Toronto, Ontario on this 09th day of November, 2017.

“Sonny Randhawa”
Deputy Director, Corporate Finance
Ontario Securities Commission

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Pro-Financial Asset Management Inc. et al.

**IN THE MATTER OF
PRO-FINANCIAL ASSET MANAGEMENT INC.,
STUART MCKINNON and
JOHN FARRELL**

REASONS AND DECISION ON A MOTION

Citation: *Pro-Financial Asset Management Inc. (Re)*, 2017 ONSEC 39

Date: 2017-11-07

Hearing: September 28, 2017

Decision: November 7, 2017

Panel: AnneMarie Ryan Commissioner and Chair of the Panel
Janet Leiper Commissioner
Timothy Moseley Commissioner

Appearances: Derek J. Ferris For Staff of the Commission
Catherine Weiler
Stuart McKinnon On his own behalf and on behalf of Pro-Financial Asset Management Inc.

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 - G. Standard applicable to an Ultimate Designated Person
- V. CONCLUSION

REASONS AND DECISION

I. OVERVIEW

- [1] In a merits decision issued on April 20, 2017 (the **Merits Decision**), the Ontario Securities Commission (the **Commission**) found that the respondents Pro-Financial Asset Management Inc. (**PFAM**) and Stuart McKinnon had committed numerous contraventions of Ontario securities law. A sanctions and costs hearing has not yet been held.

- [2] Mr. McKinnon and PFAM have applied under section 144 of the *Securities Act*¹ (the **Act**) for an order varying the Merits Decision. Mr. McKinnon and PFAM (who were respondents in the merits hearing; together, the **Applicants**) contend that there are numerous errors in that decision, and that the Commission ought not to have made many of the findings that it did.
- [3] Staff of the Commission (**Staff**) challenges the factual and legal basis advanced by the Applicants in support of their section 144 application, and have brought a motion to dismiss the application. Although Staff originally framed its argument as jurisdictional in nature, during oral submissions Staff agreed that its motion is analogous to the approach adopted by the courts for applications under the *Canadian Charter of Rights and Freedoms*; that is, applying discretion to consider, on a preliminary basis, whether the material filed by an applicant demonstrates a “tenable legal basis” for an application for relief.²
- [4] In this case, Staff says that the basis of the application fails substantively to meet the applicable standard for a section 144 application and that the Applicants seek section 144 relief on the basis of evidence that is neither new nor compelling. Staff submits that the application is essentially an appeal of the Commission’s decision and that such an appeal must be made to the Superior Court of Justice (Divisional Court), and not to the Commission. Staff asserts that the Commission should not revoke or vary its decisions in such circumstances.
- [5] At the conclusion of the hearing of Staff’s motion, we issued an order granting Staff’s motion, and dismissing the section 144 application, with reasons to follow. These are our reasons.

II. BACKGROUND FACTS

A. The merits hearing

- [6] Staff commenced a proceeding against Mr. McKinnon, John Farrell and PFAM by Notice of Hearing dated December 9, 2014, under sections 127 and 127.1 of the Act.
- [7] Mr. Farrell, PFAM’s former Vice President and Chief Compliance Officer, entered into a settlement agreement with Staff on June 24, 2015. The Commission approved that settlement on June 26, 2015.³
- [8] Mr. McKinnon was the indirect owner, President and directing mind of PFAM from inception. As PFAM’s Ultimate Designated Person (**UDP**), Mr. McKinnon was responsible for ensuring that PFAM was in compliance with Ontario securities law as well as promoting a culture of compliance and overseeing the effectiveness of PFAM’s compliance system.
- [9] The merits hearing against Mr. McKinnon and PFAM commenced on April 11, 2016, and was conducted over 17 days, ending with closing oral submissions on September 15, 2016. Mr. McKinnon was represented by counsel throughout the hearing; PFAM was not represented at the hearing and did not appear or participate.
- [10] On April 20, 2017, the Commission released the Merits Decision, in which it found that:
- a. PFAM failed to deal fairly, honestly and in good faith with its clients, contrary to subsection 2.1(1) of OSC Rule 31-505 *Conditions of Registration (Rule 31-505)*, resulting in a shortfall of \$1.2 million and harm to investors;
 - b. PFAM failed to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances and, in doing so, breached the standard of care for investment fund managers, contrary to paragraph 116(b) of the Act;
 - c. PFAM failed to maintain the minimum working capital required of a registered firm and failed to report its capital deficiency, contrary to section 12.1 of NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)*;
 - d. PFAM failed to keep satisfactory books, records or other documents, contrary to subsection 19(1) of the Act and sections 11.5 and 11.6 of NI 31-103;
 - e. PFAM failed to establish, maintain and apply policies and procedures that establish an adequate system of controls and supervision, contrary to subsection 32(2) of the Act and section 11.1 of NI 31-103;

¹ RSO 1990, c S.5.

² See, e.g., *R v Garrick*, 2014 ONCA 752, referring to *R v Kutynec*, 1992 CanLII 7751 (Ont. C.A.).

³ *Re Pro-Financial Asset Management Inc.* (2015), 38 OSCB 5994.

- f. Mr. McKinnon, as a director and officer of PFAM, authorized, permitted or acquiesced in PFAM's breaches as set out above in (a) through (e) and was therefore deemed not to have complied with Ontario securities law, pursuant to section 129.2 of the Act;
- g. Mr. McKinnon breached his obligations as Ultimately Responsible Person (**URP**) and UDP of PFAM, contrary to section 5.2 of NI 31-103; and
- h. PFAM and Mr. McKinnon's conduct was contrary to the public interest.

[11] In arriving at its findings, the Commission found portions of Mr. McKinnon's testimony not credible or congruent with other evidence.

B. The section 144 application

[12] On August 18, 2017, Mr. McKinnon filed a section 144 application on his own behalf and on behalf of PFAM. The Applicants state that the findings in the Merits Decision were "incorrect, unfair and unduly harsh", and argue that the Merits Decision effectively terminated Mr. McKinnon's ability to work in a registered capacity.

[13] The application cites the following grounds for the request:

- a. conflicts of interest with Staff that were not disclosed;
- b. denial of full disclosure;
- c. conflicts of interest with PFAM's former legal counsel, to whom we shall refer as "R.S.";
- d. the credibility of PFAM's former manager of operations, Ralph Bozzo;
- e. factual errors;
- f. the standard to which a UDP is held; and
- g. evidence that was not considered.

[14] The Applicants request that the Commission issue an order revoking all of the findings of the Merits Decision set out in paragraph [10] above, except the findings related to the failure to maintain working capital and report a capital deficiency, and the failure to keep satisfactory books and records or other documents.

III. LEGAL FRAMEWORK

[15] Section 144 allows the Commission to revoke or vary a decision it has made if, in the Commission's opinion, doing so would not be prejudicial to the public interest.

[16] The Commission has consistently held that an order under section 144 ought to be made only in the rarest of circumstances.⁴ Relief under the section may be available if:

- a. an applicant at the original hearing misrepresented a fact to the Commission or failed to state a material fact;⁵
- b. unbeknown to an applicant at the original hearing, there was a material fact not brought to the attention of the original panel;⁶
- c. new facts come to light that were not discoverable at the time of the original hearing, or new law is enacted, that make it desirable to change the original decision;⁷ or
- d. a conclusive and binding decision was not brought to the attention of the original panel.⁸

⁴ See, e.g., *Re Black* (2014), 37 OSCB 9697 at para 13; *Re Khan* (2014), 37 OSCB 1035 at para 21.

⁵ *Re X Inc.* (2010), 33 OSCB 11380 at para 32 (**X Inc.**); *Re Ultramar plc* (1991), 14 OSCB 5221 (**Ultramar**) at 5222.

⁶ *Ultramar* at 5222.

⁷ *X Inc.* at para 32; *Re Universal Settlements International Inc.* (2003), 26 OSCB at para 22.

⁸ *X Inc.* at para 32.

[17] If any of those circumstances is raised, the Commission ought also to consider whether the new information would have been “compelling”, *i.e.*, likely to have affected the original decision.⁹

[18] As the Commission stated in *X Inc.*, “if a section 144 application is, in effect, simply an appeal, it should be rejected as contrary to the intention of the *Act* and contrary to the public interest.”¹⁰

IV. ANALYSIS

A. Introduction

[19] With that framework in mind, we review in turn the sufficiency of each of the section 144 arguments raised by the Applicants.

B. Disclosure of notes and audio tape

[20] The Applicants argue that Staff failed to make timely disclosure of notes and an audio recording of a meeting that took place at the Commission’s offices on September 28, 2011. The meeting came about because of a pre-existing connection between Marianne Bridge, then a Deputy Director at the Commission, and Anthony Cox, PFAM’s Chief Financial Officer and Chief Operating Officer from November 2010 until he resigned in April 2011. Ms. Bridge and Mr. Cox had previously worked at Deloitte at the same time, before Mr. Cox began working for PFAM in 2010.

[21] In September 2011, five months after Mr. Cox had resigned from PFAM, Mr. Cox saw Ms. Bridge at a function. Mr. Cox mentioned to Ms. Bridge that he and Michael Butler, PFAM’s President from November 2010 until his employment was terminated by Mr. McKinnon in April 2011, had sued PFAM, Mr. McKinnon, and others. At Ms. Bridge’s request, Mr. Cox sent her a copy of the claim. Messrs. Cox and Butler requested a meeting with Staff to discuss the claim.

[22] Messrs. Cox and Butler attended the meeting, along with six members of Staff, including Michael Denyszyn, counsel in the Commission’s Compliance and Registrant Regulation branch. The disclosure provided to the Applicants shortly before the hearing included Mr. Denyszyn’s handwritten notes of the meeting.

[23] On the fourth day of the merits hearing, Staff advised the panel that on the previous evening, it had become aware, for the first time, that an audio recording had been made of the meeting. Prior to the start of the hearing that day, Staff began to listen to the recording along with counsel for Mr. McKinnon, but there was insufficient time to listen to the entire recording.

[24] At counsel’s request, the hearing was recessed for two hours to allow counsel to complete their review of the recording. Staff noted that Mr. Denyszyn had begun to testify at the hearing but had not yet finished, and that Mr. Butler was to be called as a witness. Accordingly, both individuals could be cross-examined about the contents of the recording.

[25] When the hearing resumed, Staff confirmed that the review had been completed. Counsel for Mr. McKinnon raised no issues about the timing of the disclosure, or about any prejudice that might accrue to Mr. McKinnon as a result of the late discovery of the recording.

[26] The recording was referred to numerous times in subsequent examination and cross-examination of witnesses. On the eleventh day of the merits hearing, Mr. McKinnon’s counsel asked that three portions of the recording be played for the panel, and initially suggested that the entire recording be made an exhibit. Following a discussion among the chair of the panel, Staff counsel, and Mr. McKinnon’s counsel, the chair advised that only those portions that had been played for the panel would be included in the exhibit.

[27] At no time during the merits hearing did Mr. McKinnon’s counsel express concern about the timing of the disclosure. Had he done so, the panel would have had an opportunity to hear submissions and to determine whether, under the circumstances, there was any prejudice that warranted relief.

[28] There is nothing in the Applicants’ complaint about this issue that is new or that could not have been raised with the panel at the merits hearing. The Applicants’ material does not establish a basis for a section 144 application relating to disclosure of either the notes or the audio recording.

⁹ *Re Northern Securities Inc.* (2014), 37 OSCB 161 at para 28; *X Inc.* at para 32; *Ultramar* at 5222.

¹⁰ *X Inc.* at para 35. See also *Re Rankin* (2011), 34 OSCB 11797 at para 56.

C. Alleged conflict of interest involving Staff

[29] The Applicants also expressed concern about the pre-existing connection between Ms. Bridge and Mr. Cox, referred to above. The Applicants assert that Ms. Bridge was influenced by that connection, and that members of Staff working on the matter were biased against PFAM and Mr. McKinnon.

[30] The Applicants have not established any basis for relief under section 144 in relation to this alleged conflict. We reach that conclusion for three reasons:

- a. There is no evidence that any member of Staff acted improperly during the investigation of this matter, or in the conduct of the merits hearing, nor was there any evidence of bias on the part of Staff.
- b. There is no evidence that the connection between Ms. Bridge and Mr. Cox was anything more than their having worked at the same firm at the same time. Most importantly, there was no evidence of anything that might possibly motivate Ms. Bridge to act improperly, whether consciously or otherwise.
- c. The Applicants' complaint contains nothing new. All of the information that they now rely on with respect to this issue was within their knowledge at the time of the merits hearing. The Applicants raised no concern at the hearing, and therefore lost any opportunity for them or for Staff to elicit evidence that might bear upon this question.

[31] In addition, the Applicants refer to a formal application they made under the *Freedom of Information and Protection of Privacy Act*,¹¹ for information that might assist them in "uncovering the extent of the conflict as well as the extent of the personal agenda with respect to [Messrs.] Butler, Cox and Staff towards PFAM and Mr. McKinnon." The Applicants contend that the application was denied, although Staff advises that its information is that the application was not pursued because of the cost. We saw no documents related to the application, and we are left with conflicting unsworn assertions about its status. In any event, the Applicants have not indicated any reason why a denial, if there was one, would assist them in establishing a basis for their section 144 application.

D. Alleged conflict of interest involving PFAM's former counsel

[32] The Applicants submit that PFAM was at a disadvantage because its former lawyer R.S. provided advice to PFAM during regulatory discussions with Staff in 2012, at a time when that same lawyer was acting for the banks who were the issuers of the principal protected notes (PPNs). The Applicants say that although R.S. disclosed the conflict in March of 2013, the impact of that conflict was "downplayed". The Applicants allege that, but for this conflict, PFAM would have brought the responsibilities of the banks to Staff's attention before the commencement of enforcement proceedings against them. The Applicants argue that PFAM received conflicted and prejudicial advice from R.S. that it should not "point fingers" at other players, that is the banks, who were involved with the issuance of the PPNs.

[33] Staff argues that R.S.'s retainer and any potential related issues were known and available to the Applicants prior to and during the merits hearing. During the cross-examination of Staff investigator Michael Ho by Mr. McKinnon's hearing counsel (not R.S., who was no longer counsel to PFAM as of May 2014), Mr. Ho was asked if he was aware that R.S.'s firm acted for the banks in relation to the issuing of the PPNs. Mr. Ho testified that he recalled that there had been a conflict at the time of the investigation and that the firm had represented at least one of the banks. In addition, offering documents filed at the merits hearing revealed that R.S.'s firm had been acting for one of the banks.

[34] On this preliminary motion, Staff filed copies of the written submissions from the merits hearing. Mr. McKinnon's merits hearing submissions did not raise the issue of a conflict on the part of R.S.

[35] We agree with Staff's position. Any conflict or constraint arising from the retainer of R.S. by PFAM and one or both of the banks was known to the Applicants and to Mr. McKinnon's counsel prior to the hearing. The fact of the potential conflict arose during evidence at the merits hearing, but was not argued as having any part in the determinations made by the merits panel. It is not new evidence, nor does it compel a different finding on the merits, by virtue of its existence. We conclude that there is no foundation for any section 144 relief in relation to this alleged conflict.

E. Credibility of witnesses

[36] The Applicants claim that the evidence provided at the merits hearing by Mr. Bozzo, PFAM's former manager of operations, was not credible and kept changing. In the Merits Decision, the panel commented on the issue of credibility and recognized the obvious animosity between Messrs. McKinnon and Bozzo. The panel specifically noted that it relied upon Mr. Bozzo's evidence only when it was supported by other factual evidence.

¹¹ RSO 1990, c F.31.

[37] The Applicants also state that they were unaware that an affidavit suggesting that Mr. Bozzo had tampered with two email documents was not submitted. The affidavit was sworn by Mr. McKinnon's counsel's law clerk on April 28, 2016, after 12 hearing days had completed. It referred to and attached the two emails, which had already been marked as Exhibits 186 and 187 earlier in the merits hearing. The affidavit adds no further information about the emails other than the opinion of Mr. McKinnon's counsel's law clerk as to why the time-stamps on the two emails might be different. This affidavit was available to Mr. McKinnon and his counsel during the hearing. The fact that they chose not to use it is not a basis for a section 144 application. Further, there is nothing compelling about the law clerk's opinion.

F. Alleged factual errors

[38] The Applicants assert that a number of statements and findings in the Merits Decision were incorrect. The arguments put forth regarding these alleged errors, for the most part, repeat the arguments made in Mr. McKinnon's submissions at the merits hearing. Each of the findings in the Merits Decision was based on extensive evidence presented and submissions by both Staff and Mr. McKinnon.

[39] Many of the alleged errors cited deal with the processing of PPNs. The Applicants repeat the arguments made in Mr. McKinnon's closing submissions that none of the PPN problems were PFAM's responsibility. As in previous submissions, the Applicants assert that Mr. Bozzo alone was responsible for the estimation process, that Mr. Bozzo is not credible, and that other parties such as IAS (the record keeper for the PPNs), Concentra (the custodian trustee for the PPNs) and the banks were responsible for ensuring that the processing was reconciled and that payments to or from the banks were handled efficiently.

[40] However, the panel in the Merits Decision was clear that it did not accept Mr. McKinnon's view and that his arguments were not congruent with the evidence provided by the representatives of the banks, Concentra, IAS, PFAM staff and investigative Staff. Further, the panel rejected Mr. McKinnon's claim that PFAM's role was similar to that of a "back-office" entity and found that PFAM's lack of reconciliation processes and lack of controls and documentation of the trust account did not meet the standards expected of a registrant acting as a market intermediary. The panel found that PFAM neglected the duty of care applicable to it in the PPN transactions.

[41] The Applicants also raise a concern relating to the settlement agreement between Staff and Mr. Farrell. The merits panel noted in paragraph 3 of the Merits Decision that the agreement was not relied upon in the merits hearing (although it was admitted as an exhibit). Mr. McKinnon himself confirms that the agreement was not used in the merits hearing. However, he contends that Mr. Farrell's admitted breaches should mitigate Mr. McKinnon's own liability. Mr. McKinnon asserts that he is being held responsible for failures that Mr. Farrell admitted to in his settlement, and that Mr. Farrell was more directly responsible for day-to-day compliance. However, the fact that Mr. Farrell may not have fulfilled his responsibilities as Chief Compliance Officer did not preclude the merits panel from making findings with respect to Mr. McKinnon's responsibilities as UDP/URP. The Merits Decision articulated Mr. McKinnon's responsibilities as UDP and the areas in which he did not fulfill his obligations under the Act. Further, this argument was available to the Applicants to make at the merits hearing, and they did not raise it.

[42] The Applicants further claim that the following findings in the Merits Decision were erroneous:

- a. PFAM and Mr. McKinnon's conduct was contrary to the public interest.
- b. Rule 31-505 only applies to transactional activities requiring registration.
- c. Mr. McKinnon did not personally perform operational tasks, but he was an engaged and involved senior officer.
- d. The late filings and late delivery of T3 slips are supportive of a willful disregard for the best interests of the investment fund.
- e. PFAM did not report its working capital deficiency as required.
- f. Mr. McKinnon was responsible for ensuring that PFAM maintained adequate working capital and it is not credible that Mr. McKinnon was unaware of the working capital problems.

[43] Of the Applicants' evidence in support of their submission that there were errors in the Merits Decision, only the affidavit of Samantha Pinto sworn August 18, 2017, could be described as new, although little of its content is new. Ms. Pinto was PFAM's Chief Financial Officer for approximately two years beginning in late 2012. She was a witness at the merits hearing.

- [44] The exhibits attached to Ms. Pinto's affidavit are not new, in that they were all contained in exhibits filed at the merits hearing. The only exception is a two-line email dated January 21, 2013, from Mr. McKinnon to another PFAM employee, with a copy to Ms. Pinto, inquiring about a variance revealed by a PPN reconciliation. That email is inconsequential for the purposes of this application.
- [45] The only content of Ms. Pinto's affidavit that is new is her statement that in early 2013 she spoke to R.S., PFAM's counsel at the time, to discuss a remedy for the variance referred to above. She asserts, without substantiating or corroborative evidence, that R.S. advised that PFAM should use some excess proceeds from another PPN series to cover the shortfall. She further states that Mr. McKinnon was not involved with that recommendation. Her affidavit evidence refers to events that preceded the merits hearing, but contradicts evidence presented at that hearing. We heard no explanation as to why she did not testify to this effect at the merits hearing. In light of those circumstances, we have real doubts about the reliability of the new evidence. The Applicants have failed to demonstrate that the new contradictory evidence should supplant the evidence that was tendered at the merits hearing, and that was relied on by the merits panel.
- [46] Most importantly, however, Ms. Pinto's new evidence is not compelling, in that even if we accepted it, it relates to a redemption that is only one of many examples of unsupported redemptions. Her evidence, even if true, would have had no appreciable effect on findings contained in the Merits Decision, and we therefore find that it does not support section 144 relief.
- [47] We conclude that none of the above alleged errors is a basis for a section 144 application. The Applicants' disagreements with the panel's findings are essentially an appeal, as evidenced by the Applicants' request in their application that the Merits Decision be "reviewed and reconsidered".

G. Standard applicable to an Ultimate Designated Person

- [48] The merits panel explicitly found that:
- a. as PFAM's UDP since October 26, 2009, Mr. McKinnon was obligated to comply with the responsibilities of a UDP as set out in section 5.1 of NI 31-103;
 - b. at the merits hearing, Mr. McKinnon attempted to absolve himself of responsibility to ensure that PFAM was being appropriately managed to ensure compliance;
 - c. Mr. McKinnon was wilfully blind to the seriousness of the PPN discrepancies, and he failed to discharge his obligations to ensure that the PPNs were processed properly, that the firm kept adequate records, and that the working capital calculations were being done correctly;
 - d. Mr. McKinnon failed to promote a culture of compliance and oversee the effectiveness of PFAM's compliance system; and
 - e. Mr. McKinnon's failures as UDP "were extensive and significant".
- [49] In their section 144 application, the Applicants challenge the merits panel's conclusions. Mr. McKinnon submits that the evidence does not support those conclusions and that the panel has held him to a higher standard than that imposed by NI 31-103. However, Mr. McKinnon does not point to any new evidence or change in law that might form the basis for section 144 relief. Mr. McKinnon's concerns are in the nature of alleged grounds for appeal.

V. CONCLUSION

- [50] In response to Staff's objection to the section 144 application, the Applicants were provided with an opportunity to demonstrate a tenable legal basis for their application. The affidavit evidence, and submissions made in support of the application, were neither new nor compelling and do not meet that standard. Staff's objection to proceeding further has merit and we decline to hold a further hearing with respect to the section 144 application, on the basis proposed by the Applicants.
- [51] The section 144 application is dismissed. The sanctions and costs hearing in this matter will proceed on November 16, 2017, as scheduled, absent further order of the Commission.

Dated at Toronto this 7th day of November, 2017.

“AnneMarie Ryan”

AnneMarie Ryan

“Janet Leiper”

Janet Leiper

“Timothy Moseley”

Timothy Moseley

3.1.2 Vicky Dancho (also known as Ju Huang) – ss. 127(1), 127(10)

IN THE MATTER OF
VICKY DANCHO
(also known as JU HUANG)

REASONS FOR DECISION
(Subsections 127(1) and (10) of the Securities Act, RSO 1990, c S.5)

Citation: Dancho (Re), 2017 ONSEC 40

Date: 2017-11-09

Hearing: November 6, 2017

Reasons: November 9, 2017

Panel: Philip Anisman Commissioner

Appearances by: Keir Wilmut For Staff of the Commission
Peter Kott (Student-at-law)

Vicky Dancho not appearing

REASONS FOR DECISION

- [1] On February 16, 2017, the Executive Director of the British Columbia Securities Commission (the **BCSC**) signed a settlement agreement (the **Settlement Agreement**) with the respondent, Vicky Dancho, and made an order (the **BC Order**) imposing the agreed sanctions.¹ Ms. Dancho admitted in the Settlement Agreement that she had performed a limited role as a director of Careseng Cancer Institute Inc. (**Careseng Cancer**). She did not control Careseng Cancer and took no active role in its business or affairs; her sole directorial activity was to sign, as a director of the guarantor, approximately 800 promissory notes issued by Pegasus Pharmaceuticals Group Inc. (**Pegasus**) between April 2008 and August 2012, which notes said that Careseng Cancer guaranteed repayment at maturity. Approximately \$22.9 million of these notes were part of distributions of Pegasus bonds to investors in Taiwan that contravened the prospectus requirements of the BC *Securities Act* (the **BC Act**).² Ms. Dancho admitted that in signing the promissory notes she acted in furtherance of trades in Pegasus bonds, constituting trading in securities contrary to the BC Act's prospectus requirements, and she undertook to pay the BCSC \$70,000.³
- [2] The BC Order prohibits Ms. Dancho from trading in securities permanently, except in a single account in her own name through a registrant to whom she has provided a copy of the BC Order, from becoming or acting as a director or officer of any issuer or registrant, from becoming or acting as a registrant or promoter, and from "acting in a management or consultative capacity in connection with activities in the securities market."⁴
- [3] On October 23, 2017, Commission enforcement staff (**Staff**) filed a Statement of Allegations and the Commission issued a Notice of Hearing based on the BC Order and Settlement Agreement and paragraphs 127(10)4 and 5 of the Ontario *Securities Act* (the Act),⁵ seeking a reciprocating order under subsection 127(1) of the Act.⁶ The Statement of Allegations expressly relies on a provision in the Settlement Agreement in which Ms. Dancho consented to a regulatory order being made by any other provincial securities regulatory authority in Canada "containing any or all of the Orders set out in" the BC Order.⁷
- [4] Staff served Ms. Dancho by courier with the Notice of Hearing, Statement of Allegations and other materials on October 25, 2017.⁸ Staff's materials included a covering letter which informed Ms. Dancho that at the hearing on November 6, 2017, Staff would request the Commission to make an order, a copy of which was attached.⁹

¹ *Re Dancho*, 2017 BCSECCOM 40 (Settlement Agreement); 2017 BCSECCOM 51 (Order). The Settlement Agreement and BC Order were marked as Exhibit 2.

² See *Securities Act*, RSBC 1996, c 418, s 61.

³ Settlement Agreement, para 1; BC Act, ss 1(1) "trade" (f) and 61.

⁴ BC Order, para 2.

⁵ *Securities Act*, RSO 1990, c S.5, ss 127(1) and 127(10)4-5.

⁶ Notice of Hearing (2017), 40 OSCB 8811; Statement of Allegations (2017), 40 OSCB 8812.

⁷ Settlement Agreement, para 3; Statement of Allegations, para 16.

⁸ Exhibit 1, Affidavit of Service of Lee Crann, sworn November 2, 2017, paras 2-5 (**Crann Affidavit**); see *Ontario Securities Commission Rules of Procedure* (2014), 37 OSCB 4168, rr 1.5.1(1)(g) and (2)(d) (**Former Rules of Procedure**).

- [5] The order sought by Staff is broader than the BC Order. It would prohibit Ms. Dancho from trading in securities and derivatives and from acquiring securities, except as provided in the carveout in the BC Order. Despite their reliance on the consent in the Settlement Agreement, which is limited to the terms of the BC Order, Staff argued that this extension is necessary to protect investors in Ontario and that an order in Ontario based on conduct like Ms. Dancho's would invariably prohibit trading in both securities and derivatives and acquisitions of securities.
- [6] In a proceeding under subsection 127(10) of the Act, the Commission retains a discretion to fashion an appropriate order under subsection 127(1). Orders based on regulatory action in another province generally mirror the order being reciprocated, except to the extent required to address differences between the Act and the legislation under which the order being reciprocated was made and except as necessary to ensure protection of investors in Ontario.¹⁰
- [7] In this case, no such extension is required in view of the fact that Ms. Dancho's conduct was limited to assisting an improper distribution by signing, on behalf of the guarantor, guarantees of payment of the promissory notes issued by Pegasus. She did not actually sell or purchase securities or derivatives.¹¹ On these facts, it is far from clear that the order sought by Staff would be granted if her conduct had occurred in Ontario.¹² In view of Staff's reliance on the consent in the Settlement Agreement, the statement to this effect in its covering letter to Ms. Dancho and the fact that Ms. Dancho was not represented at the hearing, such an extension would not be appropriate.
- [8] Although the Settlement Agreement does not contain a full picture of the facts relating to Pegasus' sales of its bonds, or of Careseng Cancer's and Ms. Dancho's participation, the crux of the Settlement Agreement appears to be Ms. Dancho's conduct as a director of Careseng Cancer in furtherance of Pegasus' trading. Staff's proposed order would prohibit Ms. Dancho from acting as a director or officer of an issuer or registrant and from acting as a registrant, an investment fund manager or a promoter. Staff's explanation for the failure to include investment fund managers in both prohibitions was that the prohibition of her acting as a director or officer tracked the BC Order. As subsection 127(1) of the Act does not refer to "acting in a management or consultative capacity",¹³ the prohibition against her acting as a registrant, investment fund manager or promoter was intended to reciprocate the prohibition of these activities in the BC Order to the extent and in the manner authorized by the Act.
- [9] As noted in *McClure*,¹⁴ managerial and consultative activities in the securities market can be engaged in by a director or officer of an issuer, a registrant, an investment fund manager, a promoter or a third party. An "investment fund manager", as defined in the Act, is "a person or company that directs the business, operations or affairs of an investment fund."¹⁵ In view of Ms. Dancho's conduct as a director of Careseng Cancer, she should not be allowed to act as a director or officer of an investment fund manager. Moreover, if the Commission's order is to mirror the BC Order, it must prohibit her from doing so.
- [10] As investment fund managers are required to register, they are also registrants; a prohibition against acting as a registrant or a director or officer of a registrant would usually include acting as or for an investment fund manager.¹⁶ As a result of a potential ambiguity in the Act, this overlap has been reflected in some orders by adding "including an investment fund manager" after each prohibition relating to registrants.¹⁷ A prohibition against acting as a registrant, however, would not cover activities that are exempt from registration.¹⁸ As the BC Order does not address the use of exemptions, and as Staff did not address this question, it would not be appropriate to deny the exemptions in this case. To reciprocate the BC Order, an order must therefore deal directly with investment fund management activities.
- [11] Accordingly, it is in the public interest to make an order prohibiting Ms. Dancho from trading in securities, except in a single account in her own name with a registrant who has been provided with a copy of the BC Order and the Commission's order, from acting as a director or officer of an issuer, registrant, or investment fund manager and from becoming or acting as a registrant, investment fund manager or promoter.

Dated at Toronto this 9th day of November, 2017.

"Philip Anisman"

⁹ Crann Affidavit, Exhibit 2.

¹⁰ *Re Dhanani* (2017), 40 OSCB 4457, paras 8-9; *Re Jawhari* (2017), 40 OSCB 8551, para 7. See also *Re Pierce*, 2016 BCSECCOM 188; 2016 BCSECCOM 264; *Re Rada*, 2017 BCSECCOM 299; *Re Bochinski*, 2017 BCSECCOM 300 (more onerous orders made).

¹¹ *Re Jawhari* (2017), 40 OSCB 8551, para 6.

¹² Conduct in Ontario is not a prerequisite for an order under section 127; *Re Dhanani* (2017), 40 OSCB 4457, paras 5, 6 and 8 and note 17.

¹³ See BC Act, s 161(1)(d)(iv).

¹⁴ *Re McClure* (2017), 40 OSCB 8135, paras 8-9.

¹⁵ Act, s 1(1).

¹⁶ See *Re Dhanani* (2017), 40 OSCB 4457, para 14.

¹⁷ See *ibid*; *Re Dhanani* (2017), 40 OSCB 4444, paras 5 and 6 (Order); *Re McClure* (2017), 40 OSCB 8101, paras 6-7 (Order).

¹⁸ The orders referred to in the preceding note also denied the respondent the use of the exemptions in the Act.

3.2 Director's Decisions

3.2.1 Hugh Smilestone

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
THE REGISTRATION IN AN ADDITIONAL JURISDICTION OF
HUGH SMILESTONE

1. This decision relates to an application for reinstatement of registration and registration in an additional jurisdiction as a mutual fund dealing representative under the *Securities Act* (Ontario) (the "**Act**") by Hugh Smilestone ("**Smilestone**") with Keybase Financial Group Inc. ("**Keybase**") (the "**Application**"). The Application was filed in the form of an application for registration in an additional jurisdiction as Smilestone was already registered in Nova Scotia, his principal jurisdiction.
2. Smilestone had previously been registered as a mutual fund dealing representative in Nova Scotia for a period of approximately 14 years ending on March 10, 2010, at which time certain of his conduct became the subject of an investigation of the Mutual Fund Dealers Association of Canada ("**MFDA**").
3. On August 8, 2013, a Hearing Panel of the MFDA released its Reasons for Decision for its Order dated July 8, 2013 confirming a Settlement Agreement (the "**Settlement Agreement**") entered into with Smilestone related to conduct that had occurred between June 1, 2004 and March 10, 2010 while Smilestone was registered as a mutual fund dealing representative with an MFDA member firm.
4. In the Settlement Agreement, Smilestone admitted that he had engaged in the following activities in violation of MFDA Rules:
 - (a) he falsified client signatures and initials on account documents and falsified the content of other documents;
 - (b) he engaged in authorized and unauthorized discretionary trading;
 - (c) he provided false signature guarantees on trade tickets after falsifying the signature of the client on trade tickets;
 - (d) he failed to comply with conditions imposed on him by his sponsoring firm to provide each customer of his outside business activity with a disclosure and acknowledgement form and to maintain documentation from the outside business activity separate and apart from his mutual fund files; and
 - (e) he provided false responses to his sponsoring firm's compliance staff when being interviewed about his business practices.
5. In the Settlement Agreement, Smilestone agreed to the following sanctions:
 - (a) that he be prohibited for a period of two years from conducting securities related business on behalf of an MFDA firm;
 - (b) that he pay a fine of \$10,000; and
 - (c) that he pay costs of \$5,000.
6. In the Settlement Agreement, Smilestone also consented to the following conditions to be sponsored by an MFDA firm in the future:
 - (a) that he successfully complete an ethics course satisfactory to the MFDA;
 - (b) that he be subject to close supervision by his sponsoring MFDA firm for the first 12 months during which he conducts securities related business; and

- (c) that he comply in the future with relevant MFDA rules and requirements.
7. On March 30, 2015, following satisfaction of the sanctions imposed by the MFDA, the Nova Scotia Securities Commission approved Smilestone's application for registration in Nova Scotia subject to certain customized supervisory terms and conditions which are set out in Schedule "A" (the "**Nova Scotia Terms and Conditions**").
8. Staff reviewed the Application and the Nova Scotia Terms and Conditions and sent a letter to Smilestone (the "**Letter**") informing him that Staff had recommended to the Director that the Application be granted subject to the terms and conditions found in Schedule "B" (the "**Terms and Conditions**").
9. The Letter stated that Staff's recommendation was based on the following considerations:
- (a) Staff was of the view that the Nova Scotia Terms and Conditions reflected the very serious misconduct which Smilestone admitted to in the Settlement Agreement.
 - (b) Staff had similar substantive regulatory concerns as that of the Nova Scotia Securities Commission.
 - (c) Staff was of the view that registration in Ontario would be objectionable if Smilestone were subject to any less rigorous supervision than that which governed his registration with his principal regulator.
 - (d) The Terms and Conditions were designed to be consistent with the Nova Scotia Terms and Conditions while also being consistent with terms and conditions imposed on other Ontario registrants where similar suitability concerns were present.
 - (e) Staff was of the view that the Terms and Conditions were necessary to fulfil its mandate under the Act to ensure transparency and investor protection.
 - (f) The Terms and Conditions were intended to address the risk that Smilestone might engage in similar misconduct in the future, emphasize that the conduct described in the Settlement Agreement was not acceptable for a securities professional and to enhance this sponsoring firm's oversight of his business practices.
10. The Letter advised Smilestone that he would have the ability to apply to remove the Terms and Conditions after the later of:
- (a) one year; or
 - (b) the Nova Scotia Securities Commission removing the terms and conditions applicable to his registration in Nova Scotia.
11. The Letter also informed Smilestone of his right to request an opportunity to be heard ("**OTBH**") before terms and conditions were imposed pursuant to section 31 of the Act.
12. Smilestone did not request an OTBH and Keybase provided notification on October 10, 2017 that both Keybase and Smilestone accepted the Terms and Conditions. Accordingly, Smilestone's registration in Ontario was reinstated effective October 12, 2017, subject to the Terms and Conditions.

November 10, 2017

"Debra Foubert"
Director
compliance and Registrant Regulation

SCHEDULE "A"

Terms and Conditions for the Registration of Hugh Smilestone in Nova Scotia

1. Any document that is required to be signed or initialed by a client must be approved by the assigned supervisor prior to any actions taking place. Copies of all signed or initial client documents will be delivered electronically to the Nova Scotia Securities Commission.
2. Every trade must be sufficiently recorded in a manner that clearly states the following:
 - When the trade was placed
 - Who gave the instructions to place the trade
 - When the client's KYC information was last updated
3. Monthly close supervision reports will be delivered to the Nova Scotia Securities Commission.
4. Monthly copies of all trading activity will be delivered to the Nova Scotia Securities Commission.
5. Any client complaint will be delivered to the Nova Scotia Securities Commission within 3 days that it is received by the firm.
6. The individual may not recommend leverage to any client.
7. The individual may not have any trading authority or power of attorney over any client accounts.
8. The firm to conduct quarterly in person audits for the first 24 months and semi-annually thereafter with a written copy of the audit report being delivered to the NSSC within 90 days of the audit.

SCHEDULE "B"

Terms and Conditions for the Registration of Hugh Smilestone in Ontario

The registration of Hugh Smilestone (the **Registrant**) as a dealing representative in the category of mutual fund dealer is subject to the terms and conditions set out below. These terms and conditions were imposed by the Director pursuant to section 27 of the *Securities Act* (Ontario) (the **Act**)

1. The registration of the Registrant shall be subject to strict supervision by his sponsoring firm.
2. The Registrant's sponsoring firm must submit written monthly supervision reports (in the form specified in Appendix "A") to the OSC at registrations@osc.gov.on.ca. These reports must be submitted within 15 calendar days after the end of each month.
3. The Registrant must not use limited trading authorization for any of his clients.
4. The Registrant may not recommend leverage to any client.
5. Any document submitted by the Registrant to his sponsoring firm that bears a client's signature or initial must be the original document and client signatures must be verified by a supervisor at the sponsoring firm prior to any actions taking place.
6. The Registrant firm shall conduct in person audits of the Registrant and his business location at least semi-annually.
7. An outside business activity (OBA) disclosure form clearly identifying the Registrant's outside business activities must be provided to and signed by all of the Registrant's mutual fund clients. The OBA disclosure form shall provide clients with the option to contact the sponsoring firm's Chief Compliance Officer (CCO) or Branch Manager in order to discuss the OBA disclosure form or to request that they be transferred to another dealing representative

These terms and conditions of registration constitute Ontario securities law and a failure by the Registrant to comply with these terms and conditions may result in further regulatory action against him, including a suspension of his registration.

APPENDIX "A"

Strict Supervision Report

This strict supervision report must be completed by the firm's chief compliance officer or his or her designate.

The undersigned certifies that all supervisory activities required by this strict supervision report have been properly performed, and that reasonable steps have been taken to confirm the accuracy of the information provided in this report.

Print name: _____

Sign name: _____

Position: _____

Date: _____

Instructions

1. This is a strict supervision report and is required by the terms and conditions (the "**Terms and Conditions**") on the registration of the individual to which it relates (the "**Registered Individual**").
2. While the Registered Individual is subject to the Terms and Conditions:
 - (a) each trade made by the Registered Individual must be pre-approved by their sponsoring firm (excluding trades made through pre-authorized contribution plans implemented prior to the imposition of the Terms and Conditions); and
 - (b) on a monthly basis, this report must be completed and a copy must be sent to staff of the [applicable securities regulator] ("**Staff**").
3. For the purpose of this report, "trade" means the purchase, sale, or any other form of transfer of securities.
4. The review of trades undertaken by the firm pursuant to the Terms and Conditions must check for the following:
 - (a) no trades have been made in any client account until the full and correct documentation is in place;
 - (b) the Registered Individual has not been granted any power of attorney over any client accounts;
 - (c) all payments for the purchase of securities were made payable to the dealer or the fund company, and there were no cash payments accepted by the Registered Individual;
 - (d) all applicable fees have been appropriately disclosed to the client in writing;
 - (e) investment suitability (including the suitability of leveraging, if any);
 - (f) the use of pre-signed, forged, or otherwise irregular documents;
 - (g) excess trading or switching;
 - (h) any additional issues specifically identified in the Terms and Conditions as being subject to trade reviews for the purpose of this strict supervision report; and
 - (i) any other issues identified by the firm during the review;(collectively, the "**Review Issues**").
5. If a Review Issue has been identified with respect to a proposed trade, the firm must not approve the trade until the Review Issue has been resolved to the firm's satisfaction.
6. The firm must maintain a copy of this report in its records, including following the removal of the Terms and Conditions or the termination of the Registered Individual's employment with the firm.

3.2.2 Pierre Prieur

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
THE REGISTRATION OF
PIERRE PRIEUR

1. At all material times, Pierre Prieur ("Prieur") was registered under the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") as a mutual fund dealing representative. Prieur's registration was sponsored by National Bank Investments Inc.
2. Prieur resides in Québec, and his principal regulator was the *Autorité des marchés financiers*.
3. On September 28, 2017, the *Chambres de la sécurité financière* ordered that Prieur's registration under the securities laws of Québec be suspended for two months, effective October 31, 2017, following his admission that he forged a client's signature on two discretionary management agreements.
4. On November 3, 2017, staff of the Ontario Securities Commission ("Staff") sent a letter to Prieur (the "Letter") informing him that they were recommending to the Director that his registration under the Act be suspended pursuant to section 28 of that statute on the grounds that it would be objectionable for him to be registered in Ontario during such time as his registration in Quebec was suspended. The Letter also informed Prieur of his right to request an opportunity to be heard under section 31 of the Act if he wished to oppose Staff's recommendation that his registration be suspended.
5. Prieur has provided written confirmation to Staff that he consents to a suspension of his registration, and accordingly his registration was suspended pursuant to section 28 of the Act, effective November 6, 2017.

November 7, 2017

"Debra Foubert"
Director
Compliance and Registrant Regulation

3.2.3 R. Alan Filer – s. 31

**IN THE MATTER OF
STAFF'S RECOMMENDATION TO IMPOSE TERMS AND CONDITIONS
ON THE REGISTRATION OF
R. ALAN FILER**

**OPPORTUNITY TO BE HEARD BY THE DIRECTOR
UNDER SECTION 31 OF THE SECURITIES ACT (ONTARIO)**

Decision

1. For the reasons outlined below, my decision is that the registration of R. Alan Filer (**Filer**) be subject to close supervision terms and conditions as set out in paragraph two and that the required close supervision report be filed in the form set out in CSA Staff Notice 31-349 *Change to Standard Form Reports for Close Supervision and Strict Supervision Terms and Conditions*.

Background

2. By letter dated February 10, 2017, staff (**Staff**) of the Ontario Securities Commission (**Commission**) advised Filer that it had recommended to the Director that the registration of Filer as a mutual fund dealing representative with FundEX Investments Inc. be subject to the following terms and conditions until such time as his financial obligations under the consumer proposal described below are satisfied:
 - a. The registrant is subject to close supervision
 - b. Monthly close supervision reports are to be completed on the registrant's sales activities and dealings with clients. The supervision reports are to be retained by the sponsoring firm and must be made available for review upon request.
3. Pursuant to section 31 of the *Securities Act* (Ontario) (**Act**), Filer is entitled to an opportunity to be heard (**OTBH**) before I, as Director, decide whether to accept Staff's recommendation. Staff and Filer agreed that the OTBH would proceed by written submissions from Filer and Staff.

Brief outline of relevant dates and facts

4. The facts of this case are simple and are undisputed. Filer invested in tax shelters over a 15 year period for some time prior to 2014 and the Canada Revenue Agency (**CRA**) denied the deductions associated with these tax shelters. When Filer disputed CRA's position, he incurred penalties and interest on the taxes owing. Rather than pursue litigation against the CRA, Filer entered into a consumer proposal and agreed to pay a high six figure amount to the CRA over a defined five year payment schedule.
5. The consumer proposal was made by Filer on July 14, 2016. The proposal was accepted by the CRA, and approved by the Ontario Superior Court of Justice on December 13, 2016.
6. On December 20, 2016, Filer submitted a financial disclosure change notice (**Disclosure**) under National Instrument 33-109 *Registration Information* (**NI 33-109**). On December 22, 2016, Staff sent an email requesting further information regarding the Disclosure. Filer responded on January 6, 2017.
7. On February 10, 2017, Staff advised Filer that it had recommended to the Director that the registration of Filer be subject to close supervision terms and conditions.
8. Filer's written submissions were dated February 23, 2017. Staff's written submissions were dated October 23, 2017.

Submission

Solvency criterion

9. The mandate of the Commission includes protecting investors from unfair, improper or fraudulent practices. It is well established that registration is a privilege and not a right. Paragraph 28(a) of the Act provides that the Director may impose terms and conditions on the registration of an individual if it appears to the Director that the individual is not suitable for registration or has failed to comply with Ontario securities law, or the registration is otherwise objectionable. The factors to be considered by the Director in determining suitability for registration are found in section 27(2) of the

Act and include proficiency, solvency and integrity, and such other factors as the Director considers relevant. Staff submits that Filer's solvency and proficiency are at issue here.

10. The solvency criterion has been addressed numerous times in case law. It was described in *Re Sabeh* (2009), 32 OSCB 6101 as "an indicator of a firm's capacity to fulfil its obligations and can be an indicator of the risk that an individual will engage in self-interested activities at the expense of clients". In response to an identified solvency concern and in order to mitigate this risk, it is Staff's practice to impose terms and conditions for monthly close supervision reporting on an individual's registration.

11. Filer submits that:

- a. he sincerely believes that he was entitled to the tax deductions claimed and that he was forced to enter into the consumer proposal due to the high cost and long duration of tax litigation,
- b. the amount of the consumer proposal is considerably less than the amount owed in taxes, penalties and interest, and he has the financial means to meet the payment schedule,
- c. he runs his business with integrity and has never been the subject of a client complaint or criminal charge, and
- d. other employees of the branch provide necessary checks and balances with respect to his activities.

12. In response to these submissions, Staff notes that the solvency concern need not rise to the level of personal bankruptcy to warrant close supervision terms and conditions. As the Director noted in *Re Sabeh*:

It is [Commission] staff practice to impose terms and conditions for monthly close supervision reporting on an individual's registration when, among other things, a person files for bankruptcy, receives a notice of garnishment, receives a requirement to pay overdue taxes, or files for a consumer proposal. The terms and conditions are removed when the financial obligations resulting from the event have been satisfied. This practice is consistent with the investor protection mandate of the OSC.

13. Staff also submits that the large debt owed by Filer and the lengthy repayment schedule are cause for concern and notes that close supervision has been imposed for far less onerous solvency issues.

Proficiency criterion

14. Section 4.1 of NI 33-109 requires a registered individual to notify the Commission within 10 days of a change of information previously submitted in respect of the individual's Form 33-105F4 *Registration of Individuals and Review of Permitted Individuals*, including a direction to pay issued by a federal or provincial authority. Guidance on this ongoing disclosure obligation was recently published in CSA Staff Notice 33-320 *The Requirement for True and Complete Applications for Registration*. The notice states that:

if Staff discovers after an individual has become registered that their application was false or misleading, or that they have failed to meet their ongoing disclosure obligation, the matter will be investigated and could result in regulatory action being taken against the registrant

15. Staff also submitted that Filer failed to meet the proficiency criterion for the reasons outlined elsewhere in this decision.

Reasons for decision

16. My decision is that the registration of Filer should be subject to the following terms and conditions until such time as his financial obligation under the consumer proposal to the CRA is satisfied:

- a. The registrant is subject to close supervision
- b. Monthly close supervision reports are to be completed on the registrant's sales activities and dealings with clients. The supervision reports are to be retained by the sponsoring firm and must be made available for review upon request.

17. I do not see any reason to vary from the Commission's long standing practice to impose close supervision terms and conditions in circumstances where Staff has solvency concerns with a registrant. This long standing practice, which in my view is also appropriate in this case, is consistent with the Commission's investor protection mandate. Filer clearly did not meet the solvency criterion once he entered into a consumer proposal with the CRA. The Commission's views

have been set out in numerous decisions such as *Re Sabeh*, *Re Brown* (2008), 31 OSCB 5567, *Re Camden* (2009), 32 OSCB 4684, *Re Olea* (2009), 32 OSCB 4684, *Re Coalsworth* (2003), 26 OSCB 2348, *Re Collins* (2008), 31 OSCB 4855 and *Re Fitzgerald* (2008), 31 10865.

18. In my view, Filer's failure to meet the solvency criterion has a negative impact on his suitability for registration and is sufficient for me to impose terms and conditions. I was not convinced that, as Filer submitted, other employees of the branch he worked in could provide the necessary checks and balances with respect to Filer's activities to rectify Filer's failure to meet the solvency criterion.
19. Although Staff submitted that Filer also failed to meet the proficiency criterion, Staff's arguments were less clear regarding the specific details of Filer's failure to meet the proficiency criterion. It is clear that Filer was disputing the CRA for a significant number of years regarding tax shelter deductions. Staff also submitted that Filer had received CRA's direction to pay some years prior to the consumer proposal, which Staff submits should have been disclosed on a timely basis. It is also clear that Filer filed a consumer proposal on July 14, 2016, yet did not provide disclosure to the Commission until December 13, 2016 (after the consumer proposal had been approved by the Court). In my view, Filer failed to meet the proficiency criterion by failure to file timely disclosure of both CRA's direction to pay and the filing of the consumer proposal.

"Marriane Bridge", FCPA, FCA
Deputy Director, Compliance and Registrant Regulation Branch
Ontario Securities Commission

Dated: November 13, 2017

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Northern Lights Resources Corp.	12 September 2013	24 September 2013	24 September 2013	9 November 2017
Tele-Find Technologies Corp.	19 May 2009	1 June 2009	1 June 2009	9 November 2017

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Hunter Oil Corp.	5 May 2017	10 November 2017

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse

THERE IS NOTHING TO REPORT THIS WEEK.

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Performance Sports Group Ltd.	19 October 2016	31 October 2016	31 October 2016		

Company Name	Date of Order	Date of Lapse
Katanga Mining Limited	15 August 2017	
Canada House Wellness Group Inc.	13 September 2017	

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 11

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:

Bitcoin Trust
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated November 10, 2017

NP 11-202 Preliminary Receipt dated November 13, 2017

Offering Price and Description:

ETF Units, CAD ETF Non-Currency Hedged Units, and
USD ETF Non-Currency Hedged Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Purpose Investments Inc.

Project #2693860

Issuer Name:

BMO Money Market Fund
BMO Core Bond Fund
BMO Core Plus Bond Fund
BMO Diversified Income Portfolio
BMO Global Diversified Fund
BMO Global Monthly Income Fund
BMO Growth & Income Fund
BMO Laddered Corporate Bond Fund
BMO Monthly Dividend Fund Ltd.
BMO Monthly Income Fund
BMO Mortgage and Short-Term Income Fund
BMO World Bond Fund
BMO Asset Allocation Fund
BMO Canadian Large Cap Equity Fund
BMO Dividend Fund
BMO Global Growth & Income Fund
BMO North American Dividend Fund
BMO Tactical Dividend ETF Fund
BMO Global Small Cap Fund
BMO Precious Metals Fund
BMO Resource Fund
BMO Fixed Income ETF Portfolio
BMO Income ETF Portfolio
BMO Conservative ETF Portfolio
BMO Balanced ETF Portfolio
BMO Growth ETF Portfolio
BMO Equity Growth ETF Portfolio
BMO U.S. Dollar Balanced Fund
BMO U.S. Dollar Dividend Fund
BMO U.S. Dollar Equity Index Fund
BMO U.S. Dollar Money Market Fund
BMO U.S. Dollar Monthly Income Fund
BMO Asian Growth and Income Class
BMO Canadian Equity Class
BMO Dividend Class
BMO Global Dividend Class
BMO Global Energy Class
BMO Global Equity Class
BMO Global Low Volatility ETF Class
BMO Greater China Class
BMO International Value Class
BMO U.S. Equity Class
BMO SelectClass® Income Portfolio
BMO SelectClass® Balanced Portfolio
BMO SelectClass® Growth Portfolio
BMO SelectClass® Equity Growth Portfolio
BMO Income ETF Portfolio Class
BMO Balanced ETF Portfolio Class
BMO Growth ETF Portfolio Class
BMO Equity Growth ETF Portfolio Class
BMO LifeStage Plus 2022 Fund
BMO LifeStage Plus 2025 Fund
BMO LifeStage Plus 2026 Fund

BMO LifeStage Plus 2030 Fund
BMO FundSelect® Income Portfolio
BMO FundSelect® Balanced Portfolio
BMO FundSelect® Growth Portfolio
BMO FundSelect® Equity Growth Portfolio
Principal Regulator – Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
November 10, 2017

Received on November 10, 2017

Offering Price and Description:

N/A

Underwriter(s) or Distributor(s):

BMO Investments Inc.

Promoter(s):

BMO Investments Inc.

Project #2596960

Issuer Name:

First Trust AlphaDEX U.S. Dividend ETF (CAD-Hedged)
Principal Regulator – Ontario

Type and Date:

Amendment #4 to Final Long Form Prospectus dated
November 10, 2017

Received on November 10, 2017

Offering Price and Description:

–

Underwriter(s) or Distributor(s):

FT Portfolios Canada Co.

Promoter(s):

FT PORTFOLIOS CANADA CO.,

Project #2600148

Issuer Name:

Mackenzie Balanced ETF Portfolio
Mackenzie Conservative ETF Portfolio
Mackenzie Conservative Income ETF Portfolio
Mackenzie Growth ETF Portfolio
Mackenzie Moderate Growth ETF Portfolio
Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus dated November 13,
2017

Received on November 13, 2017

Offering Price and Description:

–

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2694335

Issuer Name:

PowerShares Ultra Liquid Long Term Government Bond
Index ETF

Principal Regulator – Ontario

Type and Date:

Amendment #2 to Final Long Form Prospectus dated
November 8, 2017

Received on November 8, 2017

Offering Price and Description:

–

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

INVESCO CANADA LTD.

Project #2575422

Issuer Name:

Sphere FTSE Asia Sustainable Yield Index ETF
Sphere FTSE Canada Sustainable Yield Index ETF
Sphere FTSE Emerging Markets Sustainable Yield Index
ETF

Sphere FTSE Europe Sustainable Yield Index ETF

Sphere FTSE US Sustainable Yield Index ETF

Principal Regulator – Ontario

Type and Date:

Amendment # 1 to Final Long Form Prospectus dated
November 10, 2017

Received on November 13, 2017

Offering Price and Description:

–

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2584700

Issuer Name:

Sun Life Infrastructure Fund
Principal Regulator – Ontario

Type and Date:

Amendment #3 to Final Simplified Prospectus dated
November 10, 2017

Received on November 10, 2017

Offering Price and Description:

–

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Sun Life Global Investments (Canada) Inc .

Project #2559217

Issuer Name:

Timbercreek Global Real Estate Income Fund
Principal Regulator – Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
November 10, 2017

Received on November 10, 2017

Offering Price and Description:

–

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2623910

Issuer Name:

Vanguard Balanced ETF Portfolio
Vanguard Conservative ETF Portfolio
Vanguard Global Liquidity Factor ETF
Vanguard Global Minimum Volatility ETF
Vanguard Global Momentum Factor ETF
Vanguard Global Value Factor ETF
Vanguard Growth ETF Portfolio
Principal Regulator – Ontario

Type and Date:

Combined Preliminary and Pro Forma Long Form

Prospectus dated November 7, 2017

NP 11-202 Preliminary Receipt dated November 9, 2017

Offering Price and Description:

Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Vanguard Investments Canada Inc.

Project #2692070

Issuer Name:

Cambridge Monthly Income Fund
Principal Regulator – Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated
October 24, 2017

NP 11-202 Receipt dated November 7, 2017

Offering Price and Description:

–

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

CI Investments Inc.

Project #2636189

Issuer Name:

Dynamic Alternative Yield Class
Dynamic Alternative Yield Fund
Dynamic Dividend Income Class
Dynamic Equity Income Fund
Dynamic Global Infrastructure Class
Dynamic Global Infrastructure Fund
Dynamic Premium Yield Class
Dynamic Premium Yield Fund
Dynamic Small Business Fund
Dynamic Strategic Yield Fund
Dynamic Canadian Dividend Fund
Dynamic Dividend Advantage Class
Dynamic Dividend Advantage Fund
Dynamic Energy Income Fund
Dynamic European Value Fund
Dynamic Global Dividend Fund
Dynamic Global Value Fund
Dynamic Power American Growth Class
Dynamic Power American Growth Fund
Dynamic Power Canadian Growth Fund
Dynamic Power Global Balanced Class
Dynamic Power Global Growth Class
Dynamic Power Global Growth Fund
Dynamic Power Global Navigator Class
Dynamic Strategic Gold Class
Dynamic Strategic Resource Class
Dynamic U.S. Dividend Advantage Fund
Dynamic U.S. Sector Focus Class
DMP Power Global Growth Class
Principal Regulator – Ontario

Type and Date:

Amendment #6 to Final Simplified Prospectus and

amendment #7 to AIF dated October 25, 2017

NP 11-202 Receipt dated November 7, 2017

Offering Price and Description:

–

Underwriter(s) or Distributor(s):

1832 Asset Management L.P.

GCIC Ltd.

Promoter(s):

1832 Asset Management L.P.

Project #2540701

Issuer Name:

Dynamic Alternative Investments Private Pool Class
Principal Regulator – Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
October 25, 2017

NP 11-202 Receipt dated November 7, 2017

Offering Price and Description:

Series F, FH, FT and O shares

Underwriter(s) or Distributor(s):

1832 Asset Management L.P.

Promoter(s):

1832 Asset Management L.P.

Project #2609787

Issuer Name:

Excel Global Balanced Asset Allocation ETF
Excel Global Growth Asset Allocation ETF
Principal Regulator – Ontario

Type and Date:

Amendment #2 to Final Long Form Prospectus dated
October 30, 2017
NP 11-202 Receipt dated November 13, 2017

Offering Price and Description:

–

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Excel Funds Management Inc.

Project #2591976

Issuer Name:

Faircourt Split Trust
Principal Regulator – Ontario

Type and Date:

Final Short Form Prospectus (NI 44-101) dated November
10, 2017
NP 11-202 Receipt dated November 13, 2017

Offering Price and Description:

302,100 Preferred Securities @ \$10.08 per Preferred
Security and 302,100 Units @ \$6.50 per Unit

Underwriter(s) or Distributor(s):

National Bank Financial Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.

Canaccord Genuity Corp.

GMP Securities L.P.

Raymond James Ltd.

Desjardins Securities Inc.

Echelon Wealth Partners Inc.

Industrial Alliance Securities Inc.

Mackie Research Capital Corporation

Manulife Securities Incorporated

Promoter(s):

N/A

Project #2689532

Issuer Name:

Franklin LibertyQT Emerging Markets Index ETF
Franklin LibertyQT Global Dividend Index ETF
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated November 9, 2017
NP 11-202 Receipt dated November 10, 2017

Offering Price and Description:

Units @ Net Asset Value

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Franklin Templeton Investments Corp.

Project #2661826

Issuer Name:

Horizons Robotics and Automation Index ETF
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated November 7, 2017
NP 11-202 Receipt dated November 9, 2017

Offering Price and Description:

Class A Units @ Net Asset Value

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Horizon ETFs Management (Canada) Inc.

Project #2678403

Issuer Name:

Mackenzie Canadian Short Term Fixed Income ETF
Mackenzie Global Leadership Impact ETF
Mackenzie Ivy Global Equity ETF
Mackenzie Portfolio Completion ETF
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated November 7, 2017
NP 11-202 Receipt dated November 9, 2017

Offering Price and Description:

Mutual Fund Units @ Net Asset Value

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Mackenzie Financial Corporation

Project #2667318

Issuer Name:

Marquis Balanced Income Portfolio
Principal Regulator – Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated
October 25, 2017
NP 11-202 Receipt dated November 7, 2017

Offering Price and Description:

Series A, F and I units

Underwriter(s) or Distributor(s):

1832 Asset Management L.P.

Promoter(s):

1832 Asset Management L.P.

Project #2542470

Issuer Name:

Next Edge Bio-Tech Plus Fund
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated November 10, 2017
NP 11-202 Receipt dated November 13, 2017

Offering Price and Description:

Class A and Class F Units @ Net Asset Value

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Next Edge Capital Corp.

Project #2682498

Issuer Name:

Timbercreek Global Real Estate Income Fund
Principal Regulator – Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
November 10, 2017

NP 11-202 Receipt dated November 13, 2017

Offering Price and Description:

–

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2623910

Issuer Name:

Tangerine Balanced Growth Portfolio
Tangerine Balanced Income Portfolio
Tangerine Balanced Portfolio
Tangerine Dividend Portfolio
Tangerine Equity Growth Portfolio
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated November 2, 2017
NP 11-202 Receipt dated November 8, 2017

Offering Price and Description:

Mutual Fund Units @ Net Asset Value

Underwriter(s) or Distributor(s):

Tangerine Investment Funds Limited

Promoter(s):

Tangerine Investment Management Inc.

Project #2680560

Issuer Name:

The Children's Educational Foundation of Canada
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated November 6, 2017
NP 11-202 Receipt dated November 9, 2017

Offering Price and Description:

Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2681711

NON-INVESTMENT FUNDS

Issuer Name:

AQTWM, Inc.
Principal Regulator – Alberta (ASC)

Type and Date:

Amendment dated November 7, 2017 to Preliminary Long Form Prospectus dated October 30, 2017

NP 11-202 Preliminary Receipt dated November 7, 2017

Offering Price and Description:

C\$* – 6,190,477 Common Shares

Price: C\$* per Common Share

Underwriter(s) or Distributor(s):

TD Securities Inc.
Canaccord Genuity Corp.
RBC Dominion Securities Inc.
AltaCorp Capital Inc.
National Bank Financial Inc.
GMP Securities L.P.
Peters & Co. Limited

Promoter(s):

–

Project #2681726

Issuer Name:

BELLUS Health Inc.
Principal Regulator – Quebec

Type and Date:

Preliminary Shelf Prospectus dated November 10, 2017

NP 11-202 Preliminary Receipt dated November 10, 2017

Offering Price and Description:

\$25,000,000.00 – Common Shares, Preferred Shares, Debt Securities, Warrants, Subscription Receipts, Units

Underwriter(s) or Distributor(s):

–

Promoter(s):

–

Project #2693603

Issuer Name:

Cannabis Strategies Acquisition Corp.
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated November 13, 2017

NP 11-202 Preliminary Receipt dated November 13, 2017

Offering Price and Description:

\$125,000,000.00

12,500,000 Class A Restricted Voting Units

Price: \$10.00 per Class A Restricted Voting Unit

Underwriter(s) or Distributor(s):

Canaccord Genuity Corp.

Promoter(s):

Mercer Park CB, L.P.

Project #2694302

Issuer Name:

Govermedia Plus Canada Corp.
Principal Regulator – British Columbia

Type and Date:

Preliminary Long Form Prospectus dated November 9, 2017

Received on November 9, 2017

Offering Price and Description:

Minimum \$250,000.00 – 500,000 Common Shares

Maximum \$2,250,000.00 – 4,500,000 Common Shares And

Up to 3,500,000 Common Shares Issuable on the Deemed Exercise or Exchange of Up to 3,500,000 Outstanding Subscription Receipts

Price: \$0.50 Per Common Share

Underwriter(s) or Distributor(s):

Mackie Research Capital Corporation

Promoter(s):

Roland J. Bopp

Project #2693259

Issuer Name:

Intact Financial Corporation
Principal Regulator – Ontario

Type and Date:

Preliminary Shelf Prospectus dated November 8, 2017

NP 11-202 Preliminary Receipt dated November 9, 2017

Offering Price and Description:

\$7,000,000,000.00 – Debt Securities, Class A Shares, Common Shares, Subscription Receipts, Warrants, Share Purchase Contracts, Units

Underwriter(s) or Distributor(s):

–

Promoter(s):

–

Project #2692404

Issuer Name:

LeoNovus Inc.
Principal Regulator – Ontario

Type and Date:

Preliminary Short Form Prospectus dated November 7, 2017

NP 11-202 Preliminary Receipt dated November 8, 2017

Offering Price and Description:

\$12,000,000.00 – 24,000,000 Units consisting of Common Shares and Warrants

Price: \$0.50 per Unit

Underwriter(s) or Distributor(s):

Clarus Securities Inc.

Canaccord Genuity Corp.

Haywood Securities Inc.

Paradigm Capital Inc.

PI Financial Corp.

Promoter(s):

–

Project #2691170

Issuer Name:

Lucky Minerals Inc.
Principal Regulator – British Columbia

Type and Date:

Preliminary Short Form Prospectus dated November 8, 2017
NP 11-202 Preliminary Receipt dated November 8, 2017

Offering Price and Description:

\$2,500,035.00 – 16,666,900 Units
Price: \$0.15 per Unit

Underwriter(s) or Distributor(s):

Clarus Securities Inc.

Promoter(s):

–

Project #2691218

Issuer Name:

Neo Performance Materials Inc.
Principal Regulator – Ontario

Type and Date:

Amendment dated November 9, 2017 to Preliminary Long Form Prospectus dated October 17, 2017
NP 11-202 Preliminary Receipt dated November 9, 2017

Offering Price and Description:

C\$300,000,000.00 – * Common Shares
Offering Price: C\$ * per Common Share

Underwriter(s) or Distributor(s):

Scotia Capital Inc.
RBC Dominion Securities Inc.
Cormark Securities Inc.
CIBC World Markets Inc.
Barclays Capital Canada Inc.
Canaccord Genuity Corp.
GMP Securities L.P.
Raymond James Ltd.

Promoter(s):

OCM Neo Holdings (Cayman), L.P.

Project #2683928

Issuer Name:

Northern Empire Resources Corp.
Principal Regulator – British Columbia

Type and Date:

Preliminary Short Form Prospectus dated November 10, 2017
NP 11-202 Preliminary Receipt dated November 10, 2017

Offering Price and Description:

\$13,043,478.60 – 14,492,754 Common Shares
Price: \$0.90 per Offered Share

Underwriter(s) or Distributor(s):

Cormark Securities Inc.
GMP Securities L.P.
Canaccord Genuity Corp.
Haywood Securities Inc.
M Partners Inc.

Promoter(s):

–

Project #2693894

Issuer Name:

Cardinal Resources Limited
Principal Regulator – Ontario

Type and Date:

Final Short Form Prospectus dated November 8, 2017
NP 11-202 Receipt dated November 8, 2017

Offering Price and Description:

\$12,000,040.00 – 18,461,600 Ordinary Shares at a price of \$0.65 per Offered Share

Underwriter(s) or Distributor(s):

Clarus Securities Inc.
Beacon Securities Limited
Mackie Research Capital Corporation
Paradigm Capital Inc.

Promoter(s):

–

Project #2685487

Issuer Name:

NAV CANADA
Principal Regulator – Ontario

Type and Date:

Final Shelf Prospectus dated November 9, 2017
NP 11-202 Receipt dated November 9, 2017

Offering Price and Description:

\$750,000,000.00 – General Obligation Notes

Underwriter(s) or Distributor(s):

RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
Laurentian Bank Securities Inc.

Promoter(s):

–

Project #2689453

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Amalgamation	Horizons ETFs Management (Canada) Inc. and Alphapro Management Inc. To Form: Horizons ETFs Management (Canada) Inc.	Commodity Trading Adviser, Commodity Trading Manager, Exempt Market Dealer, Investment Fund Manager and Portfolio Manager	September 30, 2017
New Registration	OurCrowd Canada Inc.	Exempt Market Dealer	November 8, 2017
New Registration	C.S.T. Spark Inc.	Investment Fund Manager and Scholarship Plan Dealer	November 9, 2017
New Registration	Van Den Berg Management I, Inc.	Portfolio Manager	November 9, 2017
Change in Registration Category	3iQ Corp.	From: Investment Fund Manager To: Investment Fund Manager and Portfolio Manager	November 10, 2017

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Chapter 25

Other Information

25.1 Approvals

25.1.1 Redwood Asset Management Inc. – s. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager, with prior track record acting as trustee, for approval to act as trustee of mutual fund trusts and any future mutual fund trusts to be established and managed by the applicant and offered pursuant to a prospectus exemption.

Statutes Cited

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

November 14, 2017

Osler, Hoskin & Harcourt LLP
P.O. Box 50, 1 First Canadian Place
Toronto, Ontario
M5X 1B8

Attention: Vanessa Hansford

Dear Sirs/Mesdames:

Re: Redwood Asset Management Inc. (the “Applicant”)

Application under paragraph 213(3)(b) of the Loan and Trust Corporations Act (Ontario) for approval to act as trustee

Application #2017/0595

Further to your application dated October 27, 2017 (the “**Application**”) filed on behalf of the Applicant, and based on the facts set out in the Application and the representation by the Applicant that the assets of LOGiQ Credit Opportunities Fund, LOGiQ Select Equity Fund and any future mutual fund trusts that the Applicant may establish and manage from time to time, the securities of which will be offered pursuant to prospectus exemptions, will be held in the custody of a trust company incorporated and licensed or registered under the laws of Canada or a jurisdiction, or a bank listed in Schedule I, II or III of the *Bank Act* (Canada), or a qualified affiliate of such bank or trust company, the Ontario Securities Commission (the “**Commission**”) makes the following order:

Pursuant to the authority conferred on the Commission in paragraph 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario), the Commission approves the proposal that the Applicant act as trustee of LOGiQ Credit Opportunities Fund, LOGiQ Select Equity Fund and any future mutual fund trusts which may be established and managed by the Applicant from time to time, the securities of which are or will be offered pursuant to an exemption from the prospectus requirement.

Yours truly,

“Janet Leiper”
Commissioner
Ontario Securities Commission

“Frances Kordyback”
Commissioner
Ontario Securities Commission

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