The Ontario Securities Commission

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

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1.1 Notices

1.1.1 CSA Staff Notice 11-337 Notice of Local Amendments and Changes in Alberta, Manitoba and New Brunswick

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA Staff Notice 11-337
Notice of Local Amendments and Changes in Alberta, Manitoba and New Brunswick

December 7, 2017

From time to time, a local jurisdiction may amend a national or multilateral instrument or change a policy or companion policy that affects activity only in that jurisdiction. The CSA recognize that such a local amendment or change may nonetheless be of interest or importance beyond the local jurisdiction and CSA staff are issuing this Notice to identify amendments and changes implemented in Alberta, Manitoba and New Brunswick. For public convenience, CSA members in other jurisdictions will update the text of the applicable material on their websites to reflect these local amendments and changes.

The local amendments and changes referred to in this notice comprise those shown in Annexes A to D of this notice. These local amendments are to the following instruments:

- Multilateral Instrument 11-102 *Passport System* (Alberta, Manitoba and New Brunswick);
- National Policy 11-207 *Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions* (Manitoba and New Brunswick);
- National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* (Alberta, Manitoba and New Brunswick); and
- National Instrument 14-101 *Definitions* (New Brunswick).

The text of rule and policy consolidations on the websites of CSA members will be updated, as necessary, to reflect these local amendments and changes. You may direct questions regarding this Notice to:

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ANNEX A

Local Amendments to Multilateral Instrument 11-102 *Passport System* in Alberta, Manitoba and New Brunswick

1. Multilateral Instrument 11-102 Passport System is amended by this Instrument.

2. Appendix D is amended by replacing the following row:

Provision	*British Columbia*	*Alberta*	*Saskatchewan*	*Manitoba*	*Quebec*	*Nova Scotia*	*New Brunswick*	*Prince Edward Island*	*Newfoundland and Labrador*	*Yukon*	*Northwest Territories*	*Nunavut*	*Ontario*
Protection of minority security holders in special transactions	***n/a***				***MI 61-101***	***n/a***							***MI 61-101***

with the following:

Provision	*British Columbia*	*Alberta*	*Saskatchewan*	*Manitoba*	*Quebec*	*Nova Scotia*	*New Brunswick*	*Prince Edward Island*	*Newfoundland and Labrador*	*Yukon*	*Northwest Territories*	*Nunavut*	*Ontario*
Protection of minority security holders in special transactions	***n/a***	***MI 61-101***	***n/a***	***MI 61-101***		***n/a***	***MI 61-101***	***n/a***					***MI 61-101***

These amendments became effective in Alberta, Manitoba and New Brunswick on July 31, 2017.

ANNEX B

Local Changes to National Policy 11-207 *Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions* in Manitoba and New Brunswick

Annex C to National Policy 11-207 Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions is changed by adding the following under the headings "*Jurisdiction*" and "*Legislative reference*":

Manitoba	Subsections 148.4(3) to (8)
New Brunswick	Section 184.1

The Manitoba change became effective on June 2, 2017 and the New Brunswick change became effective on June 28, 2016.

ANNEX C

Local Amendments to National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* in Alberta, Manitoba and New Brunswick

1. National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR) is amended by this Instrument.

2. Appendix A – Mandated Electronic Filings, section II Other Issuers (Reporting/Non-reporting), under C. Securities Acquisitions is amended by replacing item 3. with the following:

3. Issuer Bid Reports	Alta, Man, Ont, Que & NB.

3. Appendix A – Mandated Electronic Filings, section II Other Issuers (Reporting/Non-reporting), under D. Going Private and Related Party Transactions is amended by replacing items 1. and 2. with the following:

1. Going Private Transaction Filings	Alta, Man, Ont, Que & NB
2. Related Party Transaction Filings	Alta, Man, Ont, Que & NB.

4. Appendix A – Mandated Electronic Filings, section III Third Party Filers is amended by replacing item 5. with the following:

5. Take-over Bid Reports	Alta, Man, Ont, Que & NB.

These amendments became effective in Alberta, Manitoba and New Brunswick on July 31, 2017.

ANNEX D

Local Amendment to National Instrument 14-101 *Definitions*
in New Brunswick

Appendix C of National Instrument 14-101 Definitions is amended by replacing "New Brunswick Securities Commission***" with "***Financial and Consumer Services Commission***".***

This amendment became effective on February 1, 2017.

1.1.2 Notice of Memorandum of Understanding Concerning Consultation Cooperation and the Exchange of Information Related to the Supervision of Cross-Border Alternative Investment Fund Managers

NOTICE OF MEMORANDUM OF UNDERSTANDING
CONCERNING CONSULTATION, COOPERATION AND THE EXCHANGE OF INFORMATION
RELATED TO THE SUPERVISION OF
CROSS-BORDER ALTERNATIVE INVESTMENT FUND MANAGERS

December 7, 2017

The Ontario Securities Commission, together with the Autorité des marchés financiers, Alberta Securities Commission and British Columbia Securities Commission (the "Canadian Authorities"), recently entered into a supervisory Memorandum of Understanding (the "Supervisory MOU") with the Gibraltar Financial Services Commission.

The Canadian Authorities entered into similar supervisory MOUs with other European Union and European Economic Area member state financial securities regulators in 2013. The entering into of such supervisory MOUs was a pre-condition under the EU Alternative Investment Fund Managers Directive (AIFMD) for allowing non-EU Alternative Investment Fund Managers (AIFMs) to manage and market Alternative Investment Funds (AIFs) in the EU and to perform fund management activities on behalf of EU Managers. Under the AIFMD, AIFMs are legal persons whose regular business is the risk and/or portfolio management of AIFs and AIFs are collective investment undertakings other than those that comply with the EU Undertakings for Collective Investment in Transferable Securities Directive.

The purpose of the Supervisory MOU is to facilitate consultation, cooperation and the exchange of information related to the supervision of AIFMs that operate on a cross-border basis in the jurisdictions of both the Gibraltar Financial Services Commission and the relevant Canadian Authority.

The Supervisory MOU is subject to the approval of the Minister of Finance and was delivered to the Minister of Finance on December 4, 2017.

Questions may be referred to:

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MOU CONCERNING CONSULTATION, COOPERATION AND THE EXCHANGE OF INFORMATION RELATED TO THE SUPERVISION OF MANAGERS OF ALTERNATIVE INVESTMENT FUNDS

In view of the growing globalization of the world's financial markets and the increase in cross-border operations and activities of Managers of alternative investment funds, the Ontario Securities Commission, the Autorité des marchés financiers (Québec), the Alberta Securities Commission and the British Columbia Securities Commission on one side, and the Gibraltar Financial Services Commission on the other side have reached this Memorandum of Understanding (MoU) regarding mutual assistance in the supervision and oversight of Managers of Covered Funds, and their delegates and depositaries that operate on a cross-border basis in the jurisdictions of the signatories of this MoU. The authorities express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates, particularly in the areas of investor protection, fostering market and financial integrity, and maintaining confidence and systemic stability. The authorities also express through this MoU, their desire to provide one another with the fullest mutual assistance possible to facilitate the performance of the functions with which they are entrusted within their respective jurisdictions to secure compliance with their laws and regulations.

This MoU is a bilateral arrangement between each Canadian Authority and each EU Authority and should not be considered a bilateral arrangement between each Canadian Authority.

Article 1. Definitions

For the purpose of this MoU:

a) **"Authority"** means:

i. An EU Authority (including the EEA authorities listed above) or any successor, or any other EU authority which may become a party to this MoU in the manner set out in Article 9; or

ii. The Autorité des marchés financiers (Québec) (**AMF**), the Ontario Securities Commission (**OSC**), the Alberta Securities Commission (**ASC**), the British Columbia Securities Commission (**BCSC**), or any other Canadian securities regulatory authority which may become a party to this MOU in the manner set out in Article 9 (individually a **Canadian Authority**, or collectively the **Canadian Authorities**).

b) **"Requested Authority"** means:

i. Where the Requesting Authority is an EU Authority, the Canadian Authority to which a request is made under this MoU; or

ii. Where the Requesting Authority is a Canadian Authority, the EU Authority to which a request is made under this MoU.

c) **"Requesting Authority"** means the Authority making a request under this MoU.

d) **"EU competent authority"** means any authority appointed in an EU or an European Economic Area (**EEA**) Member State in accordance with Article 44 of the AIFMD for the supervision of Managers, delegates, depositaries and, where applicable, Covered Funds, or a European territory for whose external relations a Member State is responsible in accordance with Article 355(3) of the Treaty on the Functioning of the European Union.[1]

e) **"AIFMD"** means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.

f) **"Manager"** means a legal person whose regular business is managing one or more Covered Funds in accordance with the AIFMD or a person or company that acts as an adviser or as an investment fund manager, as those terms are defined by the Securities Act of the relevant Canadian Authority, to one or more Covered Funds. For clarity, an "**EU Manager**" means a Manager that is established in an EU member state and a "**Canadian Manager**" means a Manager that is registered in one or more jurisdictions of a Canadian Authority.

g) **"Covered Fund"** means a collective investment undertaking, including investment compartments thereof, which: (i) raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and (ii) is not a UCITS. For clarity, an "EU Covered Fund" means a Covered Fund that is

[1] Some EU Member States have more than one competent authority designated to carry out the duties provided under the AIFMD.

domiciled in an EU member state and a "Canadian Covered Fund" means a Covered Fund that is domiciled in one or more jurisdictions of a Canadian Authority.

h) **"UCITS"** means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC.

i) **"Delegate"** means an entity to which a Manager delegates the tasks of carrying out the portfolio management or risk management of one or more Covered Funds under its management.

j) **"Depositary"** means an entity appointed to perform the depositary functions of a Covered Fund.

k) **"Operate(s) on a cross-border basis"** includes the following situations:

i. EU Managers managing Canadian Covered Funds,

ii. EU Managers marketing Canadian Covered Funds in an EU Member State,

iii. EU Managers marketing, Canadian and/or non-Canadian Covered Funds in Canada,

iv. Canadian Managers marketing EU Covered Funds and/or non-EU Covered Funds, including Canadian Covered Funds, in an EU Member State,

v. EU Managers marketing Canadian Covered Funds in the EU with a passport,

vi. Canadian Managers managing EU Covered Funds,

vii. Canadian Managers marketing EU Covered Funds in the EU with a passport,

viii. Canadian Managers marketing non-EU Covered Funds in the EU with a passport,

ix. Non-EU Managers marketing Canadian Covered Funds in the EU with a passport,

x. Non-Canadian managers marketing EU Covered Funds in Canada

l) Insofar as there is a link to the activity of the Managers and the Covered Funds, the MoU also covers delegates and depositaries as defined in letters i) and j) of this Article. "**Covered Entity**" means a Manager that operates on a cross border basis, a Covered Fund, where applicable, and, insofar as there is a link to the Manager and the Covered Fund, delegates and depositaries as defined in letters i) and j) of this Article, including the persons employed by such entities, provided that these entities are subject to the regulatory authority of an EU Authority or a Canadian Authority, as applicable.

m) **"Cross-border on-site visit"** means any regulatory visit by one Authority to the premises of a Covered Entity located in the other Authority's jurisdiction, for the purposes of on-going supervision.

n) **"Governmental Entity"** means:

i. Those Ministries of Finance, Central Banks and other national prudential authorities listed in Appendix A, if the Requesting Authority is an EU Authority;

ii. The Bank of Canada or the Office of the Superintendent of Financial Institutions of Canada, if the Requesting Authority is the ASC, BCSC or OSC;

iii. The Alberta Treasury Board and Finance, if the Requesting Authority is the ASC;

iv. The British Columbia Ministry of Finance, if the Requesting Authority is the BCSC;

v. The Ontario Ministry of Finance, if the Requesting Authority is the OSC;

vi. The Québec ministère des Finances, if the Requesting Authority is the AMF; and

vii. Such other entity, as agreed to by the signatories, as may be responsible for any other Canadian Authority which may become a party to this MOU in the manner set out in Article 9.

o) **"Local Authority"** means the Authority in whose jurisdiction a Covered Entity is physically located.

p) **"Emergency Situation"** means:

i. In the EU, the occurrence of an event that could materially impair the financial or operational condition of a Covered Entity, investors or the markets, independently from a decision of the European Council within the meaning of Article 18 of the ESMA Regulation (**Regulation 1095/2010/EU**); and

ii. In Canada, the occurrence of an event that could materially impair the financial operational condition of a Covered Entity, investors or the markets

q) **"ESMA"** means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council, of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority).

r) **"ESRB"** means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

Article 2. General provisions

1) This MoU is a statement of intent to consult, cooperate and exchange information in connection with the supervision and oversight of Covered Entities that operate on a cross-border basis in the jurisdictions of the signatories, in a manner consistent with, and permitted by, the laws, regulations and requirements that govern the Authorities. This MoU provides for consultation, cooperation and exchange of information related to the supervision and oversight of Covered Entities between each EU Authority and each Canadian Authority individually. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, oral consultations, supplemented by more in-depth, ad hoc cooperation. The provisions of this MoU are intended to support such informal and oral communication as well as to facilitate the written exchange of nonpublic information where necessary.

2) This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations. This MoU does not confer upon any person the right or ability directly or indirectly to obtain, suppress, or exclude any information or to challenge the execution of a request for assistance under this MoU.

3) This MoU does not intend to limit an Authority to taking solely those measures described herein in fulfilment of its supervisory or oversight functions. In particular, this MoU does not affect any right of any Authority to communicate with, or obtain information or documents from, any person or Covered Entity subject to its jurisdiction that is established in the territory of the other Authority.

4) This MoU complements, but does not alter the terms and conditions of the IOSCO *Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information* (the "**IOSCO MMoU**"), to which the Authorities are signatories, which also covers information-sharing in the context of enforcement investigations; and any of the existing arrangements concerning cooperation in securities matters between the signatories.

5) The Authorities will, within the framework of this MoU, provide one another with the fullest cooperation permissible under the law in relation to the supervision and oversight of Covered Entities. Following consultation, cooperation may be denied:

a) Where the cooperation would require an Authority to act in a manner that would violate domestic law;

b) Where a request for assistance is not made in accordance with the terms of the MoU; or

c) On the grounds of the public interest.

6) No domestic banking secrecy, blocking laws or regulations should prevent an Authority from providing assistance to other Authority.

7) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the Authorities with a view, *inter alia*, to expanding or altering the scope or operation of this MoU should that be judged necessary.

8) To facilitate cooperation under this MoU, the Authorities hereby designate contact persons as set forth in Appendix B.

Article 3. Scope of cooperation

1) The Authorities recognize the importance of close communication concerning Covered Entities, and intend to consult at the staff level where appropriate regarding: (i) general supervisory issues, including with respect to regulatory, oversight or other program developments; (ii) issues relevant to the operations, activities, and regulation of Covered Entities; and (iii) any other areas of mutual supervisory interest.

2) Cooperation will be most useful in, but is not limited to, the following circumstances where issues of regulatory concern may arise:

   a) The initial application with an Authority for authorization, designation, recognition, qualification, registration or exemption therefrom by a Covered Entity that is authorized, designated, recognized, qualified or registered by an Authority in another jurisdiction;

   b) The on-going oversight of a Covered Entity; or

   c) Regulatory approvals or supervisory actions taken in relation to a Covered Entity by one Authority that may impact the operations of the entity in the other jurisdiction.

3) *Notification.* Each Authority will, where such information is known and accessible to the Authority, inform the other Authority as soon as practicable of

   a) Any known material event that could have a significant adverse impact on a Covered Entity; and

   b) Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a Covered Entity which may have, in its reasonable opinion, material effect on the Covered Entity.

4) *Exchange of Information.* To supplement informal consultations, each Authority intends to provide the other Authority, upon written request, with assistance in obtaining information accessible to the Requested Authority and not otherwise available to the Requesting Authority, and, where needed, interpreting such information so as to assist the Requesting Authority to assess compliance with its laws and regulations. The information covered by this paragraph includes, without limitation, information such as:

   a) Information that would assist the Requesting Authority to verify that the Covered Entities covered by this MoU comply with the relevant obligations and requirements of the laws and regulations of the Requesting Authority;

   b) Information relevant for monitoring and responding to the potential implications of the activities of an individual Manager, or Managers collectively, for the stability of systemically relevant financial institutions and the orderly functioning of markets in which Managers are active;

   c) Information relevant to the financial and operational condition of a Covered Entity, including, for example, reports of capital reserves, liquidity or other prudential measures, and internal controls procedures;

   d) Relevant regulatory information and filings that a Covered Entity is required to submit to an Authority including, for example: interim and annual financial statements and early warning notices; and

   e) Regulatory reports prepared by an Authority, including for example: examination reports, findings, or information drawn from such reports regarding Covered Entities.

Article 4. Cross-border on-site visits

1) Authorities should discuss and reach understanding on the terms regarding cross-border on-site visits, taking into full account each other's sovereignty, legal framework and statutory obligations, in particular, in determining the respective roles and responsibilities of the Authorities. The Authorities will act in accordance with the following procedure before conducting a cross-border on-site visit.

   a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for and scope of any cross-border on-site visit. The Local Authority shall decide whether the visiting officials shall be accompanied by its officials during the visit.

b) When establishing the scope of any proposed visit, the Authority seeking to conduct the visit will give due and full consideration to the supervisory activities of the other Authority and any information that was made available or is capable of being made available by that Authority.

c) The Authorities intend to assist each other in obtaining, reviewing, and interpreting the contents of public and non-public documents and obtaining information from directors and senior management of Covered Entities.

Article 5. Execution of requests for assistance

1) To the extent possible, a request for written information pursuant to Article 3.4 should be made in writing, and addressed to the relevant contact person identified in Appendix B. A request generally should specify the following:

a) The information sought by the Requesting Authority, including specific questions to be asked and an indication of any sensitivity about the request;

b) A concise description of the facts underlying the request and the supervisory purpose for which the information is sought, including the applicable regulations and relevant provisions behind the supervisory activity; and

c) The desired time period for reply and, where appropriate, the urgency thereof.

2) In Emergency Situations, the Authorities will endeavour to notify each other of the Emergency Situation and communicate information to the other as would be appropriate in the particular circumstances, taking into account all relevant factors, including the status of efforts to address the Emergency Situation. During Emergency Situations, requests for information may be made in any form, including orally, provided such communication is confirmed in writing as promptly as possible following such notification.

[Article 6 is intentionally omitted]

Article 7. Permissible uses of information

1) The Requesting Authority may use non-public information obtained under this MoU solely for the purpose of supervising Covered Entities and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including assessing and identifying systemic risk in the financial markets or the risk of disorderly markets.

2) This MoU is intended to complement, but does not alter the terms and conditions of the existing arrangements between Authorities concerning cooperation in securities matters, including the IOSCO MMoU. The Authorities recognize that while information is not to be gathered under this MoU for enforcement purposes, subsequently the Authorities may want to use the information for law enforcement purposes. In such cases, further use of the information should be governed by the terms and conditions of the IOSCO MMoU.

Article 8. Confidentiality and onward sharing of information

1) Except for disclosures in accordance with this MoU, including permissible uses of information under Article 7, each Authority will keep confidential to the extent permitted by law information shared under this MoU, requests made under this MoU, the contents of such requests, and any other matters arising under this MoU. The terms of this MoU are not confidential.

2) To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been furnished under this MoU. Prior to compliance with the demand, the Requesting Authority intends to assert all appropriate legal exemptions or privileges with respect to such information as may be available.

3) In certain circumstances, and as required by law, it may become necessary for the Requesting Authority to share information obtained under this MoU with other Governmental Entities in its jurisdiction. In these circumstances and to the extent permitted by law:

a) The Requesting Authority will notify the Requested Authority.

b) Prior to passing on the information, the Requested Authority will receive adequate assurances concerning the Governmental Entity's use and confidential treatment of the information, including, as necessary, assurances that the information will not be shared with other parties without getting the prior consent of the Requested Authority.

4) Except as provided in paragraphs 2 and 6, the Requesting Authority must obtain the prior consent of the Requested Authority before disclosing non-public information received under this MoU to any other party. If consent is not obtained from the Requested Authority, the Authorities will discuss the reasons for withholding approval of such use and the circumstances, if any, under which the intended use by the Requesting Authority might be allowed.

5) The Authorities intend that the sharing or disclosure of non-public information, including but not limited to deliberative and consultative materials, pursuant to the terms of this MoU, will not constitute a waiver of privilege or confidentiality of such information.

6) Onward sharing of information between signatories of this MoU, ESMA and the ESRB shall be permitted in the following circumstances:

   a) In accordance with Article 25(2) of the AIFMD, an EU Authority may need to share information received from a non-EU authority with other EU Authorities where a Manager under its responsibility or a Covered Fund managed by that Manager could potentially constitute an important source of counterparty risk to a credit institution or other systemically relevant institutions in other EU Member States.

   b) In accordance with Article 50(4) of the AIFMD, the EU Authority of the Member State of reference of a non-EU Manager shall forward the information received from non-EU authorities in relation to that non-EU Manager to the EU Authority of the host Member States, as defined in Article 4(1)(r) of the AIFMD.

   c) In accordance with Article 53 of the AIFMD, an EU Authority shall communicate information to other EU Authorities, the ESMA and the ESRB where this is relevant for monitoring and responding to the potential implications of the activities of individual Manager or Managers collectively for the stability of systemically relevant financial institutions and the orderly functioning of markets on which the Managers are active.

7) For purposes of Article 8(6), the EU Authority, ESMA or the ESRB, as applicable will provide written notification to the relevant Canadian Authority at the time of sharing non-public information with another EU Authority, ESMA or the ESRB, as applicable. The written notification will specify the EU Authority, or ESMA or the ESRB, as applicable, with which the non-public information is shared, and the reason for sharing such information.

8) Restrictions in this MoU with respect to the use and confidential treatment of non-public information continue to apply to any non-public information shared, pursuant to this Article, by an EU Authority with another EU Authority, ESMA or the ESRB.

Article 9. Amendments

1) The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between the EU Authorities and the Canadian Authorities with a view, *inter alia*, to expanding the scope or operation of this MoU should that be judged necessary.

2) The EU Authority shall notify the Canadian Authorities of any change or modification to its laws, regulations and requirements with respect to the protection of non-public information, and shall explain the consequences of the change or modification on the protection of non-public information in the context of the MoU. If a Canadian Authority is of the view that the change or modification results in lesser protection for non-public information than provided for under the laws, regulations and requirements of that Canadian Authority, the MoU shall be terminated between the authorities concerned and the provisions in Article 8(4) shall apply.

3) Any Canadian authority may become a party to the MoU by executing a counterpart hereof together with the EU Authorities and providing notice of such execution to the other Canadian Authorities that are signatories to this MoU.

4) Any EU authority or EU competent authority may become a party to the MoU by executing a counterpart hereof together with the Canadian Authorities and providing notice of such execution to the other EU Authorities that are signatories to this MoU.

Article 10. Termination of the MoU; Successor authorities

1) If a signatory wishes to terminate the MoU, it shall give written notice to the counterparty. ESMA would coordinate the action of EU authorities in this regard. Cooperation in accordance with this MoU will continue until the expiration of 30 days after an Authority gives written notice to the others. If either Authority gives such notice, cooperation will continue with respect to all requests for assistance that were made under the MoU before the effective date of notification until the Requesting Authority terminates the matter for which assistance was requested. In the event of termination of this MoU, information obtained under this MoU will continue to be treated in a manner prescribed under Article 7 to 9.

2) Where the relevant functions of a signatory to this MoU are transferred or assigned to another authority or authorities, the terms of this MoU shall apply to the successor authority or authorities performing those relevant functions without the need for any further amendment to this MoU or for the successor to become a signatory to the MoU. This shall not affect the right of the successor authority and its counterparty to terminate the MoU as provided hereunder if it wishes to do so.

Article 11. Entry into force

This MoU enters into force on December 1, 2017, and, in the case of the OSC, on the date determined in accordance with the applicable legislation.

Signatures

Ontario Securities Commission	Autorité des marché financiers (Québec)	Alberta Securities Commission	British Columbia Securities Commission	Gibraltar Financial Services Commission
Maureen Jensen	*Louis Morisset*	*Stan Magidson*	*Brenda Leong*	*Samantha Barrass*

Appendix A

None

Appendix B

Gibraltar Financial Services Commission

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Alberta Securities Commission

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Montréal, QC
H4Z 1G3
Canada

Attention: Corporate Secretary

Telephone: (514) 395-0337 ext. 2517
Email: secretariat@lautorite.qc.ca

British Columbia Securities Commission

P.O. Box 10142 Pacific Centre
701 West Georgia Street
Vancouver, BC, Canada V7Y 1L2

Attention: General Counsel

Telephone: 604-899-6500
Fax: 604-899-6506
Email: commsec@bcsc.bc.ca

Ontario Securities Commission

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

Attention: Director, Office of Domestic and International Affairs

Telephone: (416) 593-8084
Email: jbureaud@osc.gov.on.ca
mourequest@osc.gov.on.ca

1.1.3 Land and Buildings Investment Management, LLC

NOTICE OF WITHDRAWAL

IN THE MATTER OF
LAND AND BUILDINGS INVESTMENT MANAGEMENT, LLC

File No. 2017-65

NOTICE OF WITHDRAWAL

Land and Buildings Management, LLC withdraws the Application for Hearing and Review.

DATED this 30th day of November, 2017.

Usman Sheikh
Gowling WLG (Canada) LLP
Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5
(416) 862 – 3627
usman.sheikh@gowlingwlg.com

1.1.4 Joint CSA/IIROC Staff Notice 23-319 Internalization in the Canadian Market

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

Joint Canadian Securities Administrators/ Investment Industry Regulatory Organization of Canada Staff Notice 23-319 *Internalization in the Canadian Market*

December 5, 2017

Staff of the Canadian Securities Administrators and the Investment Industry Regulatory Organization of Canada (collectively we, or Staff) are aware of concerns among certain stakeholders that raise issues about internalization of order flow.

In light of these concerns and our own concerns, we are gathering information in order to understand current practices and how these activities fit into our current rule framework, and in order to determine what, if any, action is required to ensure that the Canadian market is not negatively impacted.

The TMX Group intends to bring together a group of stakeholders to discuss the issues in an industry roundtable. We support the efforts by industry to engage in dialogue about important issues in the Canadian market, and the opinions presented and ideas generated will be a valuable input to our review.

The issues are complex and there are a variety of factors that must be considered. We will continue to explore these issues and seek public consultation in the coming months.

Questions may be referred to:

Kent Bailey Ontario Securities Commission kbailey@osc.gov.on.ca	Serge Boisvert Autorité des marchés financiers serge.boisvert@lautorite.qc.ca
Sasha Cekerevac Alberta Securities Commission sasha.cekerevac@asc.ca	Bruce Sinclair British Columbia Securities Commission bsinclair@bcsc.bc.ca
Kevin McCoy IIROC kmccoy@iiroc.ca	

1.1.5 Notice of Ministerial Approval of Multilateral Instrument 91-102 Prohibition of Binary Options

NOTICE OF MINISTERIAL APPROVAL OF
MULTILATERAL INSTRUMENT 91-102
PROHIBITION OF BINARY OPTIONS

December 7, 2017

Multilateral Instrument 91-102 *Prohibition of Binary Options* (the Multilateral Instrument) has received Ministerial approval pursuant to section 143.3(3)(a) of the *Securities Act* (Ontario). The Multilateral Instrument was made by the Commission on September 19, 2017. Also on September 19, 2017, the Commission adopted Companion Policy 91-102 to the Multilateral Instrument.

The Multilateral Instrument was published in the Bulletin on September 28, 2017 (see (2017) 40 OSCB 7947). The Multilateral Instrument is effective December 12, 2017. The text of the Multilateral Instrument and Companion Policy 91-102 are reproduced in Chapter 5 of this Bulletin.

1.1.6 Joint CSA Staff Notice 31-351, IIROC Notice 17-0229, MFDA Bulletin #0736-M – Complying with requirements regarding the Ombudsman for Banking Services and Investments

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

Joint CSA Staff Notice 31-351, IIROC Notice 17-0229, MFDA Bulletin #0736-M
Complying with requirements regarding the Ombudsman for Banking Services and Investments

December 7, 2017

Introduction and Purpose

This is a joint notice published by staff of the Canadian Securities Administrators (**CSA**) jurisdictions and staff of the Investment Industry Regulatory Organization of Canada (**IIROC**) and the Mutual Fund Dealers Association of Canada (**MFDA**) (together, **staff** or **we**).

A fair and effective independent dispute resolution service is important for investor protection in Canada and is vital to the integrity and confidence of the capital markets. We strongly support the Ombudsman for Banking Services and Investments (**OBSI**) in its role as the independent dispute resolution service made available to clients under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**).[1]

On May 1, 2014, the CSA published Staff Notice 31-338 *Guidance on Dispute Resolution Services – Client Disclosure for Registered Dealers and Advisers that are not Members of a Self-Regulatory Organization* to provide guidance to registered firms on how to meet their obligations relating to the requirement to make available an independent dispute resolution service or mediation service to clients with complaints.

We are publishing this Staff Notice (this **Notice**) to highlight concerns arising from some registered firms' complaint handling systems and some firms' participation in OBSI's services. OBSI's compensation recommendations are not decisions that are binding on firms or clients.[2] However, we are of the view that:

- refusals to compensate clients consistent with OBSI recommendations, or
- repeatedly settling for lower amounts than recommended by OBSI

can sometimes be a risk-based indication of problems with a firm's complaint handling practices.

As part of our risk-based reviews, we will particularly take note of patterns involving these activities.

Such activities could suggest the possibility that the firm may not have:

- participated in the OBSI process in good faith,
- complied with the applicable standard of care, or
- implemented and maintained effective complaint handling procedures.

In such cases, we may make enquiries of the firm, which could lead to further actions as discussed in this Notice.

[1] NI 31-103 requires all registered dealers and advisers outside Québec to offer OBSI's services to their clients. In Québec, the Autorité des marchés financiers (AMF) provides a dispute resolution service to clients residing in Québec of all registered dealers and registered advisers. Firms registered in Québec must inform clients residing in Québec of the availability of these services.

[2] As required by the Memorandum of Understanding (MOU) between OBSI and the CSA, OBSI underwent an independent evaluation of its investment operations and processes in accordance with its terms of reference in February 2016. One of the key concerns raised in the independent evaluator's report is that OBSI's inability to bind firms to its compensation recommendations "prevents it from fulfilling the fundamental role of an ombudsman, securing redress for all consumers who have been wronged." The CSA continues to consider, in conjunction with OBSI, options for strengthening OBSI's ability to secure redress for investors.

Even though the AMF has its own dispute resolution services, staff of the AMF may take the same view as staff of the other CSA jurisdictions concerning firms' complaint handling practices and firms' participation in OBSI's services.

This Notice also addresses concerns that we have identified regarding the manner in which some firms are using an internal "ombudsman" as part of their complaint handling system. In some cases, it appears that clients are not being given the clear option of using OBSI's services in the timeframes contemplated by NI 31-103 and applicable SRO rules with the effect that they are being diverted to an internal ombudsman while the time limits for submitting the complaint to OBSI or commencing a civil action continue to run.

Background

Rule requirements

Subsection 13.16(4) of NI 31-103 requires a registered firm to ensure that an independent dispute resolution or mediation service is made available at the firm's expense to resolve complaints made by clients about the trading or advising activity of the firm or its representatives. Pursuant to subsection 13.16(6) of NI 31-103, firms outside Québec must take reasonable steps to ensure that OBSI will be the service that is made available.

We expect a firm to maintain ongoing membership in OBSI (except for firms registered only in Québec), to participate in the dispute resolution process in a manner consistent with the firm's obligation to deal fairly, honestly and in good faith with its clients, and to respond to each customer complaint in a manner that a reasonable investor would consider fair and effective.

Registered firms that are members of either IIROC or the MFDA, including those registered in Québec, must comply with their Self-Regulatory Organizations' (**SROs**) requirements for member firms to be members of OBSI.

IIROC and the MFDA (together, the SROs) also expect that their respective dealer Members will participate in OBSI's services in a manner consistent with their obligations to not engage in any business conduct that is unbecoming or detrimental to the public interest. The SROs also have specific rules regarding complaint-handling. These rules include a requirement that dealer Members have written policies and procedures to ensure that complaints are dealt with effectively, fairly and expeditiously. A firm's participation in OBSI's services is required to be conducted in accordance with these rules.

We will review firms' complaint handling systems and may make enquiries as a result.

OBSI's process

If OBSI reviews a complaint and determines that it would be fair for the registered firm to compensate a client for financial loss due to the acts or omissions of the registered firm, OBSI will issue a written recommendation to that effect to the firm, summarizing the facts of the case and the reasons for its recommendation, including a compensation amount.

OBSI can make a non-binding recommendation that a firm compensate a client, up to $350,000, if it determines that the client has been treated unfairly, taking into account:

- the particular facts and circumstances of the case,
- the criteria of good financial services and business practice,
- relevant codes of practice or conduct,
- industry regulation and the law, and
- steps the investor took, if any, to mitigate the financial harm.

If OBSI recommends compensation to the client but the firm refuses to pay it (a **refusal case**), OBSI is required to publish a statement on its website that informs the public of its recommendation, the firm's refusal to compensate the client and the details of the complaint. Since 2012, there have been 19 refusal publications.[3]

CSA staff and SRO staff receive information from OBSI about complaint cases, including refusal cases, through the Joint Regulators Committee (**JRC**), which is composed of designated representatives of the CSA, IIROC and the MFDA. The JRC meets regularly with OBSI to discuss governance and operational matters, including the effectiveness of OBSI's services.

[3] Some of the 19 refusal publications involved more than one case relating to the same conduct. These refusals involved 25 investors and refused compensation totalling $2,670,000 since 2012.

Review of complaint handling practices

The CSA and SROs are committed to ensuring that a fair and effective independent dispute resolution mechanism is available to investors. In our efforts to protect investors and ensure registrant compliance with conduct requirements, we routinely take note of public information about registered firms, including refusal cases. We also receive information that comes to us from other sources such as the JRC, which monitors data regarding closed OBSI cases and considers patterns and issues raised by them.

Staff will take note when a registered firm is involved in a refusal case or a pattern of repeatedly settling for amounts lower than OBSI recommendations. We believe that this data can provide risk-based indications of potential problems with a firm's complaint handling practices, or raise questions about whether it is participating in OBSI's services in good faith or consistently with the applicable standard of care.

Depending on the facts and circumstances in each instance, we may conclude that enquiries regarding the firm's actions or compliance system are appropriate.

We may also make enquiries if a firm is involved in a disproportionate number of settlements, whether for the amount recommended by OBSI or otherwise.

Examples of potential failures

Some examples of potential failures in a firm's complaint handling practices as they relate to OBSI include the following:

- not providing a client with appropriate notification of OBSI's services within the required timeframes pursuant to subsections 13.16(2), 13.16(3), 13.16(4) and paragraph 14.2(2)(j) of NI 31-103 or the SRO rules;
- misrepresenting OBSI's services in communications with a client (for example, by implying that OBSI's services do not become immediately available to the client pursuant to the requirements through the placement and prominence given to OBSI as a complaint dispute resolution service, the language used to describe timelines to access the services of OBSI or the sequence of escalation options following receipt of the firm's decision);
- exerting pressure on a client to not use OBSI's services;[4]
- failing to establish and implement complaint handling policies and procedures regarding notification to clients of when and how the complaint can be submitted to OBSI for investigation;
- not fully cooperating or assisting OBSI with its investigation of a complaint consistent with OBSI's Terms of Reference or the SRO rules; and/or
- pressuring a client to accept any offer.

Potential regulatory responses

Staff will not assume that there is a compliance failure at every registered firm that does not comply with an OBSI recommendation by refusing to compensate a client or by settling below OBSI's recommended compensation. Staff will also not automatically commence a review in every case. But, where it appears to be warranted, staff may initiate a discussion of concerns with a firm or a more formal compliance review. The likelihood that staff would conclude that enquiries or a review is warranted will be significantly higher if a firm has shown a pattern of either refusing to compensate clients after recommendations by OBSI or settling matters at discounts from OBSI's recommendations.

Staff have a variety of regulatory responses available if, after concluding an appropriate review, we come to the view that securities laws and rules have been breached. These may include, but are not limited to:

- recommending terms and conditions on the registration of the firm or registered individuals to mitigate risks in the area of concern; and
- initiating an enforcement investigation of the registered firm and/or registered individual relating to the issue.

[4] Section 13.16 of the Companion Policy to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations.*

Any regulatory response taken by staff will occur within the existing regulatory framework, including the right to an opportunity to be heard, where applicable.

Internal ombudsman

Section 13.15 of NI 31-103 requires firms to respond to each complaint in a manner that a reasonable investor would consider fair and effective. There are comparable requirements in IIROC and MFDA rules for their members. IIROC Rule 2500B *Client Complaint Handling* requires that the substantive response to a client complaint must be presented in a manner that is fair, clear and not misleading to the client. MFDA Rule 2.11 *Complaints* and Policy No. 3 *Complaint Handling, Supervisory Investigations and Internal Discipline* require every Member to establish written policies and procedures for dealing with complaints which ensure that such complaints are dealt with promptly and fairly.

Section 13.16 of NI 31-103 specifies that a firm must make available the services of OBSI at the earlier of when the firm informs the client of its decision with regard to the complaint or 90 days after receiving the complaint. We remind registered firms of the guidance in Companion Policy 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* concerning compliance with the requirements under section 13.16, including the following:

> A registered firm should not make an alternative independent dispute resolution or mediation service available to a client at the same time as it makes OBSI available. Such a parallel offering would not be consistent with the requirement to take reasonable steps to ensure that OBSI will be the independent service that is made available to the client. Except in Québec, we expect that alternative service providers will only be used for purposes of section 13.16 in exceptional circumstances.

Section 13.16 of NI 31-103 does not prohibit the use of an internal ombudsman, but an internal ombudsman is not an "alternative" to OBSI in the sense that the client must pick one or the other – OBSI must be made available even if a client has pursued the complaint with the internal ombudsman. The SROs each have specific requirements that must be met where an internal ombudsman process is offered by the firm to its clients.

In staff's view, responding to a complaint fairly and effectively includes avoiding potential client confusion. If a registered firm's complaint handling system includes an internal ombudsman, there is the potential for clients to confuse or conflate the firm's internal ombudsman with OBSI. A practice that misleads clients into thinking that they must exercise the option of using the internal "ombudsman" before they can access OBSI's services would be inconsistent with the requirements of NI 31-103 and SRO rules to make OBSI's services available to clients not later than 90 days after having received a complaint.

Ultimately, investors may not be fully aware of their options or may get worn down by this extended process and abandon their claims, or settle for less than they may have obtained had they gone directly to OBSI after receiving the firm's decision concerning their complaints. The prejudice to clients is compounded by the fact that the 180-day time limit to access OBSI's services after receiving a firm's decision continues to run during the internal ombudsman process unless the independent service, the firm and the client involved in a complaint have agreed to longer notice periods than the 90 and 180 day periods as a matter of fairness.

We also note that the statutory limitation periods for clients to seek redress in the courts continue to run during the internal ombudsman process.

Where firms offer the option of using an internal ombudsman, we remind firms of their obligation to treat clients fairly and make available the services of OBSI.

In communications with clients, we emphasize the importance for firms that use an internal ombudsman to clearly indicate that:

- the internal ombudsman is employed by the firm or is an affiliate of the firm and, unlike OBSI, is not an independent dispute resolution service;
- the client may submit a complaint to OBSI without going to the internal ombudsman if the firm has not provided the client with a written notice of its decision within 90 days of the client complaining to the firm;
- if a client is not satisfied with the firm's decision, the client may immediately submit a complaint to OBSI without going to the internal ombudsman and that the client has 180 days after receipt of the firm's decision to submit their complaint to OBSI;
- the services of OBSI are free;

- the use of the firm's internal ombudsman process is voluntary, specifying the estimated length of time the internal ombudsman process is expected to take, based on historical data;

- statutory limitation periods continue to run while an internal ombudsman reviews a complaint, which may impact a client's ability to commence a civil action.

The disclosure of the services of OBSI should be given at least equal prominence to those of the internal ombudsman and should provide clear, transparent and easy to understand information, including full OBSI contact information, necessary for clients to make an informed decision on their complaint escalation options.

It is never an acceptable practice for a firm to operate its complaint handling system in a manner in which investors are being misled or worn down in the ways discussed above.

Questions

Questions may be referred to:

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pward@mfda.ca

1.5.1 Sino-Forest Corporation et al.

FOR IMMEDIATE RELEASE
November 29, 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 27, 2017 is 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 Land and Buildings Investment Management, LLC

FOR IMMEDIATE RELEASE
November 29, 2017

LAND AND BUILDINGS
INVESTMENT MANAGEMENT, LLC,
File No. 2017-65

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

A copy of the Order dated November 28, 2017 is 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)

1.5.3 Omega Securities Inc.

FOR IMMEDIATE RELEASE
November 30, 2017

OMEGA SECURITIES INC.,
File No. 2017-66

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

A copy of the Order dated November 29, 2017 is 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)

1.5.4 Land and Buildings Investment Management, LLC

FOR IMMEDIATE RELEASE
December 1, 2017

LAND AND BUILDINGS
INVESTMENT MANAGEMENT, LLC.,
File No. 2017-65

TORONTO – The Application dated November 13, 2017 made by the party named above to review a decision of the Toronto Stock Exchange made on November 7, 2017 has been withdrawn.

A copy of the Notice of Withdrawal dated December 1, 2017 is 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)

1.5.5 Earl Marek

FOR IMMEDIATE RELEASE
December 5, 2017

EARL MAREK

TORONTO – Following the hearing held in the above noted matter, the Commission issued its Reasons and Decision on a Review of a Decision of the Investment Industry Regulatory Organization of Canada

A copy of the Reasons and Decision on a Review of a Decision of the Investment Industry Regulatory Organization of Canada dated December 4, 2017 is 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 Omega Securities Inc.

FOR IMMEDIATE RELEASE
December 5, 2017

OMEGA SECURITIES INC.,
File No. 2017-64

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

A copy of the Order dated December 5, 2017 is 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)

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Rosalind Advisors, Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the self-dealing prohibitions in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations to permit a one-time reorganization into a fund-on-fund structure and on-going *in-specie* subscriptions and redemptions between pooled funds under common management subject to conditions.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.5(2)(a), 13.5(2)(b).

November 30, 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
ROSALIND ADVISORS, INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on its behalf and on behalf of Rosalind Capital Partners L.P., an Ontario limited partnership (the "**Ontario Fund**") and Rosalind Master Fund L.P., a Cayman Islands exempted partnership (the "**Master Fund**" and, together with the Ontario Fund, the "**Funds**"), for a decision under the securities legislation of the principal regulator (the **Legislation**) pursuant to section 15.1 of National Instrument 31-103 *Registration Requirements and Exemptions* (**NI 31-103**), exempting the Filer from:

(a) the prohibition contained in section 13.5(2)(a) of NI 31-103 that prohibits a registered adviser from knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase a security of an issuer in which a responsible person or an associate of a responsible person is a partner, officer or director unless this fact is disclosed to the client, and the written consent of the client to the purchase is obtained before the purchase, to permit the Ontario Fund to invest in the Master Fund (the **Related Issuer Relief**); and

(b) the prohibition contained in section 13.5(2)(b) of NI 31-103 that prohibits a registered adviser from knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase or sell a security from or to the investment portfolio of (a) a responsible person, (b) an associate of a responsible person or (c) an investment fund for which a responsible person acts as an adviser, to permit the

purchase and sale of portfolio securities between the Ontario Fund and the Master Fund (each an ***In-specie* Transaction**, and the above section (b) is collectively, the **In-Species 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; and

(b) in respect of the Related Issuer Relief and the *In-species* Relief, the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each province and territory of Canada where security holders of the Ontario Fund are resident.

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

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

2. The Filer is registered in Ontario as an investment fund manager, a portfolio manager and an exempt market dealer and in each of Alberta, British Columbia, Manitoba and Quebec as an exempt market dealer

3. The Filer is the manager and portfolio adviser of the Funds.

4. The Ontario Fund was formed in May 2006 and has issued and will issue limited partnership units exclusively to Canadian investors pursuant to the "accredited investor exemption" or another exemption from the prospectus requirement under applicable Canadian securities laws. It is a non-redeemable investment fund.

5. The Master Fund was formed as a "feeder-master" structure and commenced issuing securities in May 2010.

6. The Master Fund has issued and will issue interests in the Master Fund to United States persons, Rosalind Offshore Fund, a Cayman Islands exempted company (the "**Cayman Feeder Fund**"), and other feeder funds formed from time to time, including the Ontario Fund.

7. Each of the Funds and the Cayman Feeder Fund has the same investment objectives and strategies and as such, the investments held by the Master Fund are compatible with the investment objectives and strategies of the Ontario Fund and the investments held by the Ontario Fund are compatible with the investment objectives and strategies of the Master Fund.

8. While not obligated to do so, the Ontario Fund and the Master Fund have been investing substantially in parallel as investment opportunities have arisen since the commencement of operations of the Master Fund.

9. None of the Funds is, or will become, a reporting issuer in Canada. Each Fund is not in default of securities legislation in any province or territory of Canada.

10. The Filer is not a reporting issuer in any jurisdiction of Canada and is not in default of securities legislation in any province or territory of Canada.

11. The Filer will provide timely notice of the transition contemplated hereunder to each of the investors in the Ontario Fund so that each investor will be able to redeem from the Ontario Fund prior to giving effect to such transition.

Fund-on-Fund Structure

12. The Filer wishes to cause the Ontario Fund to invest in the Master Fund.

13. The investment objectives and strategies of the Ontario Fund and the Master Fund are and will be substantially the same.

14. The fund-on-fund structure will permit the Filer to manage a single portfolio of assets for both the Ontario Fund and the Master Fund in a single investment vehicle structure.

15. Managing a single pool of assets provides economies of scale, allows the Ontario Fund to achieve its investment objectives in a cost efficient manner and will not be detrimental to the interests of other securityholders of the Master Fund.

16. The fund-on-fund structure is expected to increase the asset base of the Master Fund, which is expected to result in additional benefits to unitholders of the Master Fund, including more favourable pricing and transaction costs on portfolio trades, increased access to investments when there is a minimum subscription or purchase amount, and better economies of scale through greater administrative efficiency.

17. An investment in the Master Fund by the Ontario 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 net asset value (**NAV**) per security of the applicable class or series of the Master Fund.

18. The Master Fund will primarily hold publicly traded securities and will not hold greater than 10% of its assets in "illiquid assets", as defined in National Instrument 81-102 *Investment Funds* (**NI 81-102**).

19. The Master Fund will not itself be a top fund in a fund-on-fund structure.

20. Securities of the Ontario Fund and the Master Fund have, or will have, matching redemption and valuation dates.

21. The Filer manages, or will manage, the liquidity of the Ontario Fund having regard to the redemption features of the Master Fund to ensure that it can meet redemption requests from investors of the Ontario Fund.

22. Effective as of January 1, 2018, the investment assets of the Ontario Fund and the Master Fund will be held by a qualified custodian, as defined under, and in accordance with, NI 31-103 and the proposed sections 14.5.2 to and including 14.6.2 of NI 31-103.

23. In the absence of the Consent Relief, the Ontario Fund is precluded from investing in the Master Fund unless the specific fact is disclosed to securityholders of the Ontario Fund and the written consent of the securityholders of the Ontario Fund to the investment is obtained prior to the purchase, since an officer and/or director of the Filer, who may be considered a responsible person (as per section 13.5 of NI 31-103) or an associate of a responsible person, may also be a partner, officer and/or director of the Master Fund.

24. The Ontario Fund will not vote the securities of the Master Fund held by it at any meeting of holders of such securities except that the Ontario Fund may, if the Filer so chooses, arrange for all of the securities it holds of the Master Fund to be voted by the beneficial holders of securities of the Ontario Fund to the extent the matter being voted on would have required approval of such beneficial holders had it occurred at the Ontario Fund level.

25. On and after January 1, 2018 the offering memorandum or other disclosure document of the Ontario Fund will be provided to investors in the Ontario Fund prior to the time of investment, and will make the disclosures required in accordance with applicable securities laws regarding the fund on fund structure of the Ontario Fund and the Master Fund. This will include revising its offering documents upon receipt of the exemptive relief being sought under this Application to disclose that commencing on January 1, 2018 (or such other appropriate date), the Ontario Fund will invest all or a substantial portion of its capital in the Master Fund and to obtain the consent of security holders of the Ontario Fund whose subscription is effective on and following January 1, 2018 (or such other appropriate date).

26. The investment by the Ontario Fund in the Master Fund represents the Filer's business judgment, uninfluenced by considerations other than the best interests of the Ontario Fund and the Master Fund.

27. There will not be any duplication of management or performance fees paid to the Filer or any of its affiliates.

28. There will not be any duplication of incentive allocations, performance allocations or other similar participations in the profits of the Ontario Fund and the Master Fund by the Filer or any of its affiliates.

In-specie Transactions and Submissions

29. The Filer wishes to engage in *In-specie* Transactions pursuant to which the Ontario Fund will purchase securities of the Master Fund and as payment for the securities make good delivery of portfolio securities that meet the investment criteria of these Funds.

30. The Filer considers an investment by the Ontario Fund in the Master Fund by way of *In-specie* Transaction, to be a more cost effective and efficient way for the Ontario Fund to achieve exposure to the portfolio securities than a direct investment in those securities.

31. In the circumstances, instead of the Ontario Fund disposing of portfolio securities and the Master Fund respectively purchasing the same securities and incurring unnecessary brokerage costs, the portfolio securities would, pursuant to each *In-specie* Transaction, be acquired by the Master Fund.

32. As the Filer is a portfolio adviser of each Fund, the Filer would be considered to be a "responsible person" within the meaning of the applicable provisions of NI 31-103. Accordingly, without the *In-species* Relief, the Filer would be prohibited from engaging the Funds in each *In-specie* Transaction.

33. Each *In-specie* Transaction will represent the business judgment of the Filer uninfluenced by considerations other than the best interests of the Funds concerned.

34. In connection with each *In-specie* Transaction between the Ontario Fund and the Master Fund:

    (a) where a Fund (**Fund A**) purchases securities of another Fund (**Fund B**) and Fund B receives portfolio securities from Fund A as payment:

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

        (ii) the portfolio securities are acceptable to the Filer, as portfolio adviser to Fund B, and are consistent with the investment objective of Fund B; and

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

    (b) Each Fund will keep written records of each *In-specie* Transaction in a financial year of such Fund, reflecting the details of portfolio securities delivered to, or delivered by, such Fund and the value assigned to such portfolio securities, for a period of five years after the end of the fiscal year, the most recent two years in a reasonably accessible place;

    (c) The Filer does not receive any compensation in respect of the *In-species* Transaction and, in respect of the delivery of portfolio securities under the In- Species Transaction, the only charge paid by the Fund may be a commission charged by the dealer executing the trade and/or any administrative charges levied by the custodian;

    (d) Should any portfolio securities which are transferred in an *In-specie* Transaction meet the definition of "illiquid asset" (as defined in NI 81-102) ("**Illiquid Portfolio Securities**"), the responsible portfolio manager or sub-adviser will obtain independent pricing for such Illiquid Portfolio Securities determined on the basis of reasonable inquiry immediately before effecting the *In-specie* Transaction;

    (e) If any Illiquid Portfolio Securities are the subject of an *In-specie* redemption, the Illiquid Portfolio Securities will be transferred on a basis that fairly represents the portfolio of the Fund. The Filer will not cause any Fund to accept an *in-specie* subscription or pay out redemption proceeds *in-specie* if, at the time of the proposed *In-specie* Transaction, Illiquid Portfolio Securities would represent more than an immaterial portion of the portfolio of the Fund. The valuation of any Illiquid Portfolio Securities which would be the subject of an *In-specie* Transaction will be carried out according to the Filer's policies and procedures for the fair value of portfolio securities, including illiquid portfolio securities; and

    (f) The Filer has determined that it is in the best interests of the Funds to receive the exemption sought and engage in *In-specie* Transactions.

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 Related Issuer Relief is granted provided that:

1. securities of the Ontario Fund are distributed in Canada solely pursuant to exemptions from the prospectus requirement under Canadian securities legislation;

2. the investment by the Ontario Fund in the Master Fund is compatible with the fundamental investment objectives of the Ontario Fund;

3. an investment in the Master Fund by the Ontario Fund will be effected at an objective price, calculated in accordance with section 14.2 of NI 81-106 and the Master Fund will primarily hold publicly traded securities and will not hold greater than 10% of its assets in "illiquid assets", as defined NI 81-102;

4. the Ontario Fund will not purchase or hold a security of the Master Fund unless at the time of purchasing securities of the Master Fund, the Master Fund holds no more than 10% of its NAV in securities of other investment funds;

5. no management fees or incentive fees are payable by the Ontario Fund that, to a reasonable person, would duplicate a fee payable by the Master Fund for the same service;

6. no sales fee or redemption fees are payable by the Ontario Fund in relation to its purchases or redemptions of securities of the Master Fund that, to a reasonable person, would duplicate a fee payable by an investor in the Ontario Fund;

7. the Filer does not cause the securities of the Master Fund held by Ontario Fund to be voted at any meeting of the holders of such securities, except that the Filer may arrange for the securities the Ontario Fund holds of the Master Fund to be voted by the beneficial owners of the securities of the Ontario Fund who are not the Filer or an officer, director or substantial securityholder of the Filer; and

8. when purchasing and/or redeeming securities of Master Fund, the Filer shall, as investment fund manager of the Ontario Fund and the Master Fund, act honestly, in good faith and in the best interests of the Ontario Fund and the Master Fund, respectively, and shall exercise the care and diligence that a reasonably prudent person would exercise in comparable circumstances.

The *In-species* Relief is granted provided that:

1. in the case of an *In-specie* Transaction that involves the purchase by the Ontario Fund (in such case, the **Transferor**) of securities of the Master Fund (in such case, the **Transferee**):

   (a) the Transferee would at the time of payment be permitted to purchase the portfolio securities delivered *in-specie* by the Transferor;

   (b) the portfolio securities are acceptable to the portfolio adviser of the Transferee, and consistent with the investment objective of the Transferee;

   (c) the portfolio securities transferred by the Transferor as purchase consideration will be valued: (i) on the same valuation day on which the purchase price of the Transferee's securities is determined; and (ii) at a value equal to the amount at which those portfolio securities were valued in calculating the net asset value used to establish the purchase price of the Transferee's securities, as if the portfolio securities were assets of the Transferee and as if the Transferee was subject by subsection 9.4(2)(b)(iii) of NI 81-102;

   (d) should the *In-specie* Transaction involve the transfer of Illiquid Portfolio Securities, the portfolio adviser will obtain independent pricing determined on the basis of reasonable inquiry immediately before effecting the *In-specie* Transaction; and

   (e) each of the Transferor and the Transferee will keep written records of an *In-specie* Transaction in a financial year of the Transferor and the Transferee, as applicable, reflecting details of the portfolio securities delivered to the Transferee, and the value assigned to such portfolio securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place;

2. in the case of an *In-specie* Transaction that involves the redemption of securities of the Master Fund (the **Transferor**) by the Ontario Fund (the **Transferee**):

   (a) the portfolio securities are acceptable to the portfolio adviser of the Transferee, and consistent with the investment objective of the Transferee;

   (b) the portfolio securities transferred to the Transferee as proceeds of redemption for the Transferor's securities will be valued: (i) on the same valuation day on which the redemption price of the Transferor's securities is determined; and (ii) at a value equal to the amount at which those portfolio securities were valued in

calculating the net asset value per security used to establish the redemption price of the Transferor's securities, as contemplated by and as if the Transferor was subject to subsection 10.4(3)(b) of NI 81-102;

(c) should the *In-specie* Transaction involve the transfer of Illiquid Portfolio Securities, the portfolio adviser will obtain independent pricing determined on the basis of reasonable inquiry immediately before effecting the *In-specie* Transaction;

(d) if any Illiquid Portfolio Securities are the subject of an *in-specie* redemption, the Illiquid Portfolio Securities will be transferred on a basis that fairly represents the portfolio of the Transferor;

(e) each of the Transferor and the Transferee will keep written records of an *In-specie* Transaction in a financial year of the Transferor and the Transferee, as applicable, reflecting details of the portfolio securities delivered by the Transferor and the value assigned to such portfolio securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place; and

3. The Filers do not receive any compensation in respect of any sale or redemption of securities of the Transferor and, in respect of any delivery of portfolio securities further to an *In-specie* Transactions, the only charge paid by the Transferor or the Transferee is the transfer charge.

"Raymond Chan"
Manager
Investment Funds & Structured Products
Ontario Securities Commission

2.1.2 Ninepoint Partners LP et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of mutual fund mergers – approval required because the mergers do not meet the criteria for pre-approved reorganizations and transfers in National Instrument 81-102 – the fundamental investment objectives and fees structures of the terminating funds and continuing funds are not substantially similar and mergers to be effected on a taxable basis – unitholders of the terminating funds are provided with timely and adequate disclosure regarding the mergers.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 5.5(1)(b), 19.1.

December 4, 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
NINEPOINT PARTNERS LP
(the Manager)

AND

SPROTT FOCUSED GLOBAL BALANCED CLASS,
SPROTT FOCUSED U.S. BALANCED CLASS
(each, a Terminating Fund and collectively, the Terminating Funds,
and with the Manager, the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Manager on behalf of the Terminating Funds for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) approving the mergers (the **Mergers**) of the Terminating Funds into Sprott Focused Global Dividend Class and Sprott Focused U.S. Dividend Class (the **Continuing Funds** and collectively with the Terminating Funds, the **Funds**) pursuant to paragraph 5.5(1)(b) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) (the **Approval 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 Manager has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the provinces and territories of Canada, other than the province of Ontario (**Other 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.

Representations

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

The Manager

1. The Manager is a corporation governed by the laws of Canada with its head office in Toronto, Ontario.

2. The Manager is the investment fund manager of the Funds and is registered under the securities legislation: (i) in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, and Newfoundland and Labrador as an adviser in the category of portfolio manager; (ii) in Ontario, Newfoundland and Labrador and Quebec as an investment fund manager; and (iii) in British Columbia, Alberta, Quebec, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, and Newfoundland and Labrador as a dealer in the category of exempt market dealer. The Manager is also registered in Ontario as a commodity trading manager.

The Funds

3. The Funds are a separate class of securities of Sprott Corporate Class Inc. (**Corporation**), a mutual fund corporation governed under the laws of Ontario.

4. Securities of the Funds are currently qualified for sale under a simplified prospectus, annual information form and fund facts dated April 25, 2017, as amended on August 9, 2017 (collectively, the **Offering Documents**).

5. Each of the Funds is a reporting issuer under the applicable securities legislation of the Province of Ontario and the Other Jurisdictions (the **Legislation**).

6. Neither the Manager nor the Funds is in default under the Legislation.

7. Other than circumstances in which the securities regulatory authority of a province or territory of Canada has expressly exempted a Fund therefrom, each of the Funds follows the standard investment restrictions and practices established under NI 81-102.

8. The net asset value for each series of the Funds is calculated on a daily basis in accordance with the Funds' valuation policy and as described in the Offering Documents.

Reason for Approval Sought

9. Regulatory approval of the Mergers is required because each Merger does not satisfy all of the criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102. The pre-approval criteria are not satisfied in the following ways:

   (a) The investment objectives of the Continuing Funds are not, or may be considered not to be, "substantially similar" to the investment objectives of their corresponding Terminating Funds;

   (b) The fee structures of the Continuing Funds are not, or may be considered not to be, "substantially similar" to the fee structures of their corresponding Terminating Funds; and

   (c) The Mergers will not be completed as a "qualifying exchange" under the *Income Tax Act* (Canada) (**Tax Act**).

10. The investment objectives of the Terminating Funds and the Continuing Funds are as follows:

Terminating Fund	**Investment Objective**	**Continuing Fund**	**Investment Objective**
Sprott Focused Global Balanced Class	The investment objective of Sprott Focused Global Balanced Class is to provide consistent income and capital appreciation by investing primarily in a diversified portfolio of global equities and fixed-income securities.	Sprott Focused Global Dividend Class	The investment objective of Sprott Focused Global Dividend Class is to provide consistent income and capital appreciation by investing primarily in a diversified portfolio of dividend yielding global equities.

Terminating Fund	Investment Objective	Continuing Fund	Investment Objective
Sprott Focused U.S. Balanced Class	The investment objective of Sprott Focused U.S. Balanced Class is to provide consistent income and capital appreciation by investing primarily in a diversified portfolio of U.S. equities and fixed-income securities.	Sprott Focused U.S. Dividend Class	The investment objective of Sprott Focused U.S. Dividend Class is to provide consistent income and capital appreciation by investing primarily in a diversified portfolio of dividend yielding U.S. equities.

11. The annual management fee rate is higher in each of the Continuing Funds than it is in the applicable Terminating Fund; however, the management expense ratio before waivers or absorptions is lower in each of the Continuing Funds than it is in the applicable Terminating Fund.

12. The Mergers will not be completed as a "qualifying exchange" under the Tax Act, since a tax-deferred merger is not possible under the Tax Act given the corporate structure of the Funds.

13. Except as described in this decision, the proposed Mergers comply with all of the other criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102.

The Proposed Mergers

14. The Manager intends to reorganize the Funds as follows:

    (a) Sprott Focused Global Balanced Class will merge into Sprott Focused Global Dividend Class; and

    (b) Sprott Focused U.S. Balanced Class will merge into Sprott Focused U.S. Dividend Class.

15. In accordance with National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**), a press release announcing the proposed Mergers was issued and filed via SEDAR on October 16, 2017 and a material change report with respect to the proposed Mergers was filed via SEDAR on October 17, 2017.

16. As required by National Instrument 81-107 *Independent Review Committee for Investment Funds*, an Independent Review Committee (the **IRC**) has been appointed for the Funds. The Manager presented the potential conflict of interest matters related to the proposed Mergers, including the difference in fee structures to the IRC for a decision. The IRC reviewed the potential conflict of interest matters related to the proposed Mergers and on October 11, 2017 provided its positive decision for each of the Mergers, after determining that each proposed Merger, if implemented, would achieve a fair and reasonable result for each applicable Fund.

17. Securityholders of the Terminating Funds approved the Mergers at special meetings held on December 1, 2017.

18. In accordance with corporate law requirements, securityholders of the Continuing Funds approved an amendment to the articles of the Corporation in connection with the exchange of securities relating to the Mergers at special meetings held on December 1, 2017.

19. The Mergers have also been approved by the sole common voting shareholder of the Corporation, as required under applicable corporate law.

20. If all required approvals for the Mergers are obtained, it is intended that the Mergers will occur after the close of business on or about December 4, 2017 (the **Effective Date**). The Manager therefore anticipates that each securityholder of each Terminating Fund will become a securityholder of the applicable Continuing Fund after the close of business on the Effective Date. Each Terminating Fund will be wound-up as soon as reasonably possible following its Merger.

21. By way of order dated October 27, 2016, the Manager was granted relief (the **Notice and-Access Relief**) from the requirement set out in paragraph 12.2(2)(a) of NI 81-106 to send a printed management information circular to securityholders while proxies are being solicited, and, subject to certain conditions, instead allows a notice-and-access document (as described in the Notice-and-Access Relief) to be sent to such securityholders.

22. Pursuant to the requirements of the Notice-and-Access Relief, a notice-and-access document and applicable proxies in connection with the special meetings, along with the fund facts of the Continuing Funds, as applicable, were mailed to

securityholders commencing on October 26, 2017 and were concurrently filed via SEDAR. The management information circular, which the notice-and-access document provides a link to, was also filed via SEDAR at the same time.

23. The tax implications of the Mergers, differences between the investment objectives as well as the differences between the fee structures of the Terminating Funds and the Continuing Funds and the IRC's recommendation of the Mergers were described in the meeting materials so that the securityholders of the Terminating Funds could consider this information before voting on the Mergers. The meeting materials also described the various ways in which investors could obtain a copy of the simplified prospectus, annual information form and fund facts for the Continuing Fund and its most recent interim and annual financial statements and management reports of fund performance.

24. Securityholders of each Terminating Fund will continue to have the right to redeem securities of the Terminating Fund at any time up to the close of business on the business day immediately before the Effective Date.

25. Prior to effecting the Mergers, the Corporation will liquidate securities in the portfolio underlying each Terminating Fund, including any securities that do not meet the investment objective and investment strategies of the applicable Continuing Fund. As a result, the Corporation will realize capital gains and capital losses. It is expected that the Corporation will have sufficient losses and loss carryforwards to shelter any net capital gains realized on such liquidation of securities in the Terminating Funds. The transfer of the assets in the portfolio of each Terminating Fund to the portfolio of the applicable Continuing Fund will not result in a disposition of those assets or in a capital gain or loss to the Corporation.

26. The Corporation may pay ordinary dividends or capital gains dividends to securityholders of the Terminating Funds and/or the Continuing Funds, as determined by the Manager at the time of the Mergers. The tax consequences of receiving such dividends are described in the simplified prospectus and annual information form for the Funds.

Benefits of Mergers

27. The Manager believes that the Mergers are beneficial to securityholders of each Terminating Fund and Continuing Fund for the following reasons:

    (a) the Mergers will eliminate the administrative and regulatory costs of operating each Terminating Fund and Continuing Fund as separate funds;

    (b) the Mergers provide securityholders of the Terminating Funds with options to (a) switch to another investment, (b) redeem their investment, and (c) maintain an investment with the Manager in the Continuing Fund without having to initiate a switch with the advisor, which provides the securityholders of the Terminating Funds with flexibility, convenience and potential cost savings;

    (c) securityholders of the Terminating Funds will receive securities of the applicable Continuing Fund that have a management expense ratio before waivers or absorptions that is lower than the management expense ratio before waivers or absorptions charged in respect of the securities of the Terminating Fund that they currently hold;

    (d) following the Mergers, each Continuing Fund will have a portfolio of greater value, which may allow for increased portfolio diversification opportunities if desired; and

    (e) each Continuing Fund, as a result of its greater size, may benefit from its larger profile in the marketplace.

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 Approval Sought is granted.

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

2.1.3 Excel Funds Management Inc. and Sun Life Global Investments (Canada) Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval granted for change of manager of mutual funds – change of manager is not detrimental to securityholders or the public interest – change of manager approved by the funds' securityholders at a special meeting of securityholders.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds,
ss. 5.5(1)(a), 5.5(3), 5.7.

December 4, 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
EXCEL FUNDS MANAGEMENT INC.
(Excel)

AND

SUN LIFE GLOBAL INVESTMENTS (CANADA) INC.
(Sun Life Global Investments, and
together with Excel, the Filers)

AND

THE FUNDS
(as defined herein)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for approval of the proposed change of manager of the funds listed in Appendix "A" (the **Funds**) from Excel to Sun Life Global Investments (the **Change of Manager**) under section 5.5(1)(a) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) (the **Approval 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 Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (together with Ontario, 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.

Representations

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

Excel Funds Management Inc.

1. Excel is a corporation incorporated under the laws of the Province of Ontario with its head office located in Mississauga, Ontario.

2. Asdhir Enterprises Inc. (**AsdhirCo**) holds approximately 94.24% of the issued and outstanding common shares of Excel. AsdhirCo is a corporation incorporated under the laws of the Province of Ontario that is wholly-owned by Bhim D. Asdhir. The shareholders of Excel other than AsdhirCo (collectively, the **Excel Minority Shareholders**) hold, in the aggregate, approximately 5.76% of the issued and outstanding common shares of Excel and 25,000 preferred shares in the capital of Excel.

3. Excel is the manager of each Fund. Excel is registered as an investment fund manager in Ontario, Quebec and Newfoundland and Labrador.

4. Excel is not in default of any requirements under applicable securities legislation.

Excel Investment Counsel Inc.

5. Excel Investment Counsel Inc. (**EIC**) is a corporation incorporated under the laws of Ontario with its head office located in Mississauga, Ontario.

6. AsdhirCo holds 100% of the issued and outstanding common shares of EIC.

7. EIC is the portfolio adviser to each of the Funds. EIC is registered as a portfolio manager in Ontario and as an exempt market dealer in Ontario and Quebec.

8. EIC is not in default of any requirements under applicable securities legislation.

The Funds

9. The mutual funds as listed in Appendix "A" (the **Mutual Funds**) are open-ended mutual fund trusts. Excel India Fund was established pursuant to a declaration of trust dated November 28, 1997, as amended, Excel China Fund was established pursuant to a declaration of trust dated January 17, 2000, as amended, and Excel Chindia Fund was established pursuant to a declaration of trust dated December 8, 1998, as amended. These individual declarations of trust, as amended, were consolidated under a master amended and restated declaration of trust dated December 23, 2004, as amended and restated on October 22, 2010 and as further amended (the **Mutual Funds Declaration of Trust**). Each of the other Mutual Funds was also established pursuant to the Mutual Funds Declaration of Trust. The management services are provided by Excel to the Mutual Funds pursuant to a second amended and restated master management agreement dated October 22, 2010 (the **Mutual Funds Management Agreement**).

10. The Mutual Funds are currently offered for sale in each Jurisdiction under a simplified prospectus, annual information form and fund facts dated September 18, 2017 prepared in accordance with the requirements of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*.

11. The exchange-traded funds listed in Appendix "A" (the **ETFs**) are exchange-traded mutual fund trusts established pursuant to a declaration of trust dated May 3, 2017, pursuant to which Excel, as trustee, has delegated the management of the business and affairs of the ETFs to Excel.

12. The ETFs are currently offered for sale in each Jurisdiction under a long form prospectus dated May 3, 2017, as amended, prepared in accordance with the requirements of National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**).

13. Each of the Funds is a reporting issuer under the applicable securities legislation of each Jurisdiction and is not in default of any requirements under applicable securities legislation.

The Purchaser

14. Sun Life Global Investments is a corporation incorporated under the federal laws of Canada with its head office in Toronto, Ontario. Sun Life Global Investments is a wholly-owned indirect subsidiary of Sun Life Financial Inc., a public company incorporated under the *Insurance Companies Act* (Canada) and listed on the Toronto Stock Exchange, the New York Stock Exchange and the Philippines Stock Exchange.

15. Sun Life Global Investments is registered as an investment fund manager in Ontario, Quebec and Newfoundland and Labrador, a mutual fund dealer in each of the Jurisdictions and a commodity trading manager and portfolio manager in Ontario. Sun Life Global Investments operates a family of mutual funds (the **Sun Life Funds**) that are currently offered for sale in each of the Jurisdictions under simplified prospectuses, annual information forms and fund facts dated February 10, 2017 and July 28, 2017, as amended.

16. Sun Life Global Investments is not in default of any requirements under applicable securities legislation.

The Proposed Transaction

17. AsdhirCo, Bhim D. Asdhir and Sun Life Global Investments have entered into an agreement (the Purchase Agreement) pursuant to which Sun Life Global Investments will acquire 100% of the outstanding shares of Excel and EIC (the **Proposed Transaction**).

18. Prior to the Proposed Transaction, Excel will complete a reorganization, as follows: (i) AsdhirCo will transfer all of the issued and outstanding common shares of Excel and EIC that it holds to a newly formed corporation existing under the laws of Ontario (**NewCo**), which will be an affiliate of AsdhirCo; (ii) each of the Excel Minority Shareholders will transfer all of the issued and outstanding common shares and preferred shares of Excel currently held by them to NewCo in exchange for a cash payment by NewCo; and (iii) each option to purchase common shares in the capital of Excel (**Excel Option**) that is outstanding and has not been exercised will be cancelled and the holder will receive from Excel an amount in satisfaction of the Excel Option. Following the reorganization, the Proposed Transaction will be completed by AsdhirCo causing NewCo to sell all of the issued and outstanding shares of Excel and EIC to Sun Life Global Investments.

19. The Proposed Transaction is scheduled to close on the last business day of the calendar month in which all of the conditions relating to the Proposed Transaction set out in the Purchase Agreement have been fulfilled or waived, provided that if these conditions have been fulfilled or waived on a day that is less than five business days before the end of such calendar month, the Proposed Transaction will close on the last business day of the next calendar month following such date (the **Closing**). The Filers expect that the Closing will occur on or about December 29, 2017. The

Proposed Transaction will result in the Change of Manager.

20. The Proposed Transaction is subject to the receipt of all necessary regulatory and securityholder approvals, securities registrations and the satisfaction or waiver of all other conditions to the Proposed Transaction.

21. The Filers have considered the views of staff of the Ontario Securities Commission published in OSC Staff Notice 81-710 *Approvals for Change in Control of a Mutual Fund Manager and Change of a Mutual Fund Manager under National Instrument 81-102 Mutual Funds*. The Filers are seeking the approval of the securities regulatory authorities of the Proposed Transaction in a single application characterized as a change of manager under section 5.5(1)(a) of NI 81-102.

22. In accordance with National Instrument 81-106 Investment Fund Continuous Disclosure, a press release announcing the Proposed Transaction was issued on September 7, 2017 and subsequently filed on SEDAR. In addition, a material change report was filed on September 15, 2017 and details of the Proposed Transaction were included in the renewal simplified prospectus, annual information form and fund facts for the Mutual Funds dated September 18, 2017 and in Amendment No. 1 dated September 29, 2017 to the prospectus and summary documents for the ETFs dated May 3, 2017.

23. Excel considers the proposed Change of Manager to be a conflict of interest matter as set out in section 1.2 of National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**). Accordingly, Excel presented the Change of Manager to the IRC for a recommendation on September 13, 2017. The IRC reviewed the potential conflict of interest matters related to the proposed Change of Manager and has determined that the proposed Change of Manager, if implemented, would achieve a fair and reasonable result for the Funds.

24. A notice of meeting and management information circular in connection with the Change of Manager (the **Circular**) was sent to securityholders of the Funds on October 27, 2017 and was subsequently filed on SEDAR in accordance with applicable securities legislation. The Circular contained sufficient information regarding the proposed business, management and operations of Excel following the Proposed Transaction, including details of its officers and directors, and all information necessary to allow securityholders to make an informed decision about the Proposed Transaction and the Change of Manager.

25. The approval of securityholders of the Funds is required under section 5.1(1)(b) of NI 81-102. Securityholders of the Funds approved the Change of Manager at special meetings held on November 17, 2017.

Impact of the Change of Manager on the Funds

26. Upon Closing, Sun Life Global Investments will acquire control of Excel and EIC and, within a foreseeable period of time following Closing, it is anticipated that Sun Life Global Investments will take steps as yet to be determined, to integrate the business, operations and management of the Excel Funds with that of the Sun Life Funds. Until such integration occurs, Excel will continue to operate as the investment fund manager of the Excel Funds.

27. Amundi Asset Management will remain the commodity futures portfolio manager of Excel High Income Fund. China Asset Management Company Limited will remain the sub-adviser of Excel China Fund, Amundi Canada Inc. will remain the sub-adviser of Excel High Income Fund and Itaú USA Asset Management Inc. will remain the sub-adviser of Excel Emerging Markets Fund.

28. EIC will remain the portfolio adviser to the Funds until EIC is amalgamated with either Excel or Sun Life Global Investments.

29. The current members of the IRC of the Funds will cease to act as members pursuant to Section 3.10(1)(b) of NI 81-107 and it is anticipated that Sun Life Global Investments will replace the IRC of the Funds with the IRC of the Sun Life Funds. Currently, the IRC of the Sun Life Funds is Nancy Church (Chair), Andrew Smith and Pierre-Yves Chaitillon.

30. Sun Life Global Investments intends to manage and administer the Funds in a similar manner as Excel. There is no current intention to change the investment objectives, investment strategies or increase the fees and expenses of the Funds. Any consolidation of the fund families or fund lineups, or changes to investment objectives and/or strategies, will be considered post-Closing.

31. The Proposed Transaction is not expected to have any material impact on the business, operations or affairs of the Funds or the securityholders of the Funds. The Funds will not bear any of the costs and expenses associated with the Proposed Transaction or Change of Manager.

32. The individuals that will be principally responsible for the investment fund management of the Funds upon Closing have the requisite integrity and experience, as required under Section 5.7(1)(a)(v) of NI 81-102.

33. All material agreements regarding the administration of the Funds will remain the same, other than with respect to any amendments that may be required to reflect the Proposed Transaction and/or transfer such agreements to Sun Life Global Investments.

34. Other than as required to reflect the Proposed Transaction and/or the transfer of such agreements to Sun Life Global Investments, Sun Life Global Investments does not currently contemplate any changes to the material contracts of the Funds.

Decision

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

The decision of the principal regulator under the Legislation is that the Approval Sought is granted.

"Vera Nunes"
Manager
Investment Funds & Structured Products Branch
Ontario Securities Commission

APPENDIX "A"

ETFs

Excel Global Growth Asset Allocation ETF
Excel Global Balanced Asset Allocation ETF

Mutual Funds

Excel China Fund
Excel Chindia Fund
Excel Emerging Markets Balanced Fund (formerly, Excel EM Blue Chip Equity Fund)
Excel Emerging Markets Fund
Excel High Income Fund
Excel India Balanced Fund
Excel India Fund
Excel New India Leaders Fund
Excel Money Market Fund

2.2 Orders

2.2.1 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 27, 2017

ORDER

WHEREAS on November 27, 2017, the Ontario Securities Commission (the **Commission**) held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, for the purpose, among other things, of addressing matters in relation to the Expert Report, as defined in the Commission Order dated November 7, 2017;

ON HEARING the submissions of the representatives for Staff of the Commission and Allen Chan, Albert Ip, Alfred C.T. Hung, George Ho, and Simon Yeung;

IT IS ORDERED THAT:

1. The sanctions and costs hearing dates of January 17, 18 and 19, 2018, and all deadlines in effect prior to this Order for submissions and other documents arising after the date hereof, are vacated; and

2. An appearance for the purpose of scheduling the sanctions and costs hearing and any other preliminary matters will be held on December 19, 2017 at the Offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, beginning at 10:00 a.m.

"D. Grant Vingoe"

"Deborah Leckman"

"Garnet W. Fenn"

2.2.2 Land and Buildings Investment Management, LLC

File No. 2017-65

IN THE MATTER OF
LAND AND BUILDINGS
INVESTMENT MANAGEMENT, LLC

D. Grant Vingoe, Vice-Chair and Chair of the Panel

November 28, 2017

ORDER

WHEREAS on November 23, 2017, the Ontario Securities Commission issued an order scheduling, among other things, hearing dates for a motion of Land and Buildings Investment Management, LLC (the "**Applicant**") for a stay of a decision of the Toronto Stock Exchange (the "**TSX**") made on November 7, 2017 (the "**TSX Decision**") and for any other preliminary matters;

ON READING correspondence from the representatives for Hudson's Bay Company ("**HBC**") dated November 24, 2017, indicating that HBC and Rhône Capital LLC and/or its affiliates have agreed that they will not close the issuance of the Preferred Shares, as defined in the Applicant's Amended Notice of Application in this proceeding, dated November 24, 2017, before the earlier of: (a) December 12, 2017, and (b) the conclusion or withdrawal of the Hearing and Review relating to the TSX Decision (the "**Hearing and Review**");

IT IS ORDERED THAT:

1. By no later than November 30, 2017, the Applicant shall serve and file the Applicant's full record, including a memorandum of fact and law, any sworn affidavits being relied upon, and notice of any intention to call a witness or to rely on documents or things not included in the TSX record of original proceeding;

2. By no later than December 4, 2017, responding materials for the Application shall be served and filed by any parties other than the Applicant, including a memorandum of fact and law, any sworn affidavits being relied upon, and notice of any intention to call a witness or rely on documents or things not included in the TSX record of original proceeding;

3. By no later than December 5, 2017, the Applicant shall serve and file any reply materials;

4. By no later than December 6, 2017, Staff's submissions shall be served and filed;

5. The Hearing and Review, including the request for relief pursuant to subsection 127(1) of the Act, shall commence on December 8 at 10:00 a.m. and shall continue on December 11 and 12, 2017

at 10:00 a.m., or such other dates as may be agreed to by the parties and set by the Office of the Secretary; and

6. The hearing dates of November 30 and December 1, 2017 are vacated.

"D. Grant Vingoe"

2.2.3 Parametric Portfolio Associates LLC – ss. 78(1) and 80 of the CFA

Headnote

Subsection 78(1) of the Commodity Futures Act (Ontario) – Order to revoke previous relief from paragraph 22(1)(b) of the CFA granted to foreign adviser in respect of commodity futures contracts or commodity futures options for certain Ontario "permitted clients" as defined in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, subject to certain terms and conditions.

Section 80 of the Commodity Futures Act (Ontario) – Foreign adviser exempted from the adviser registration requirement in paragraph 22(1)(b) of the CFA where such adviser acts as an adviser in respect of commodity futures contracts or commodity futures options (Contracts) for certain investors in Ontario who meet the definition of "permitted client" in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Contracts are primarily traded on commodity futures exchanges outside of Canada and primarily cleared outside of Canada.

Terms and conditions of exemption correspond to the relevant terms and conditions of the comparable exemption from the adviser registration requirement available to international advisers in respect of securities set out in section 8.26 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Exemption also subject to a "sunset clause" condition.

Applicable Legislative Provisions

Commodity Futures Act, R.S.O. 1990, c. C.20. as am., ss. 1(1), 22(1)(b), 78(1), 80.
Securities Act, R.S.O. 1990, c. S.5, as am., s. 25(3).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 1.1, 8.26.
Ontario Securities Commission Rule 13-502 Fees.

Applicable Orders

In the Matter of Parametric Portfolio Associates LLC, dated December 7, 2012, (2012) 35 OSCB 11203.

IN THE MATTER OF
THE COMMODITY FUTURES ACT,
R.S.O. 1990, CHAPTER C.20, AS AMENDED
(the CFA)

AND

IN THE MATTER OF
PARAMETRIC PORTFOLIO ASSOCIATES LLC

ORDER
(Subsection 78(1) and section 80 of the CFA)

UPON the application (the **Application**) of Parametric Portfolio Associates LLC (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for:

(a) an order, pursuant to subsection 78(1) of the CFA, revoking the exemption order granted by the Commission to the Applicant on December 7, 2012 (the **Previous Order**); and

(b) an order, pursuant to section 80 of the CFA, that the Applicant and any individuals engaging in, or holding themselves out as engaging in, the business of advising others as to trading in Contracts (as defined below) on the Applicant's behalf (the **Representatives**) be exempt, for a specified period of time, from the adviser registration requirement in paragraph 22(1)(b) of the CFA, subject to certain terms and conditions;

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

AND WHEREAS for the purposes of this Order:

"CFA Adviser Registration Requirement" means the provisions of section 22 of the CFA that prohibit a person or company from acting as an adviser with respect to trading in Contracts unless the person or company is registered in the appropriate category of registration under the CFA;

"CFTC" means the Commodity Futures Trading Commission of the United States;

"Contract" has the meaning ascribed to that term in subsection 1(1) of the CFA;

"Foreign Contract" means a Contract that is primarily traded on one or more organized exchanges that are located outside of Canada and primarily cleared through one or more clearing corporations that are located outside of Canada;

"International Adviser Exemption" means the exemption set out in section 8.26 of NI 31-103 from the OSA Adviser Registration Requirement;

"NFA" means the National Futures Association of the United States;

"NI 31-103" means National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, as amended from time to time;

"OSA" means the *Securities Act*, R.S.O. 1990, c. S.5, as amended from time to time;

"OSA Adviser Registration Requirement" means the provisions of section 25 of the OSA that prohibit a person or company from acting as an adviser with respect to investing in, buying or selling securities unless the person or company is registered in the appropriate category of registration under the OSA;

"Permitted Client" means a client in Ontario that is a "permitted client", as that term is defined in section 1.1 of NI 31-103, except that for purposes of this Order such definition shall exclude a person or company registered under the securities or commodities legislation of a jurisdiction of Canada as an adviser or dealer;

"SEC" means the Securities and Exchange Commission of the United States;

"specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*;

"United States" means the United States of America; and

"United States Advisers Act" means the *Investment Advisers Act of 1940* of the United States, as amended from time to time.

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a corporation formed under the laws of the State of Delaware in the United States. Its principal place of business is located in Seattle, Washington, United States.

2. The Applicant engages in the business of an adviser with respect to securities and with respect to Contracts in the United States. The Applicant provides investment management services to its clients on a fully discretionary basis, through funds and separately managed accounts across multiple strategies and financial instruments, including Foreign Contracts.

3. The Applicant is currently (a) registered with the SEC as an investment adviser under the United States Advisers Act; (b) registered with the CFTC as a commodity trading advisor, commodity pool operator and swap firm; and (c) a member of the NFA.

4. The Applicant is not registered in any capacity under the CFA or the OSA. The Applicant has availed itself of the International Adviser Exemption in Ontario and the equivalent in Manitoba and Québec, and section 4 of Multilateral Instrument 32-102 *Registration Exemptions for Non-Resident Investment Fund Managers* in Ontario and Québec.

5. The Applicant currently relies on the Previous Order that is set to expire on December 7, 2017. The Applicant has complied with, and is currently in compliance with, all the terms and conditions of the Previous Order.

6. The Applicant is not in default of securities legislation, commodity futures legislation or derivatives legislation of any jurisdiction in Canada. The Applicant is in compliance in all material respects with securities laws, commodity futures laws and derivatives laws of the United States.

7. In Ontario, certain institutional investors that are Permitted Clients have engaged the Applicant as a discretionary investment manager for purposes of implementing certain specialized investment strategies.

8. The Applicant acts as a discretionary commodity futures advisory manager for Canadian institutional investors that are Permitted Clients. The Applicant's advisory services to Permitted Clients primarily include the use of specialized investment strategies employing Foreign Contracts.

9. Were the proposed advisory services limited to securities (as defined in subsection 1(1) of the OSA), the Applicant would be able to rely on the International Adviser Exemption and carry out such activities for Permitted Clients on a basis that would be exempt from the OSA Adviser Registration Requirement.

10. There is currently no exemption from the CFA Adviser Registration Requirement that is equivalent to the International Adviser Exemption. Consequently, in order to advise Permitted Clients as to trading in Foreign Contracts, in the absence of this Order, the Applicant would be required to satisfy the CFA Adviser Registration Requirement by applying for and obtaining registration in Ontario as an adviser under the CFA in the category of commodity trading manager.

11. To the best of the Applicant's knowledge, the Applicant confirms that there are currently no regulatory actions of the type contemplated by the *Notice of Regulatory Action* attached as Appendix "B".

12. The anticipated expiry of the five-year period set out in the sunset clause of the Previous Order has triggered the requested relief.

AND UPON being satisfied that it would not be prejudicial to the public interest for the Commission to make this Order;

IT IS ORDERED, pursuant to subsection 78(1) of the CFA, that the Previous Order is revoked;

IT IS ORDERED, pursuant to section 80 of the CFA, that the Applicant and the Representatives are exempt from the adviser registration requirement in paragraph 22(1)(b) of the CFA in respect of providing advice to Permitted Clients as to the trading of Foreign Contracts provided that:

(a) the Applicant provides advice to Permitted Clients only as to trading in Foreign Contracts and does not advise any Permitted Client as to trading in Contracts that are not Foreign Contracts, unless providing such advice is incidental to its providing advice on Foreign Contracts;

(b) the Applicant's head office or principal place of business remains in the United States;

(c) the Applicant is registered in a category of registration, or operates under an exemption from registration, under the applicable securities or commodity futures legislation of the United States that permits it to carry on the activities in the United States that registration under the CFA as an adviser in the category of commodity trading manager would permit it to carry on in Ontario;

(d) the Applicant continues to engage in the business of an adviser (as defined in the CFA) in the United States;

(e) as at the end of the Applicant's most recently completed financial year, not more than 10% of the aggregate consolidated gross revenue of the Applicant, its affiliates and its affiliated partnerships (excluding the gross revenue of an affiliate or affiliated partnership of the Applicant if the affiliate or affiliated partnership is registered under securities legislation, commodity futures legislation or derivatives legislation of a jurisdiction of Canada) was derived from the portfolio management activities of the Applicant, its affiliates and its affiliated partnerships in Canada (which, for greater certainty, includes both securities-related and commodity-futures-related activities);

(f) before advising a Permitted Client with respect to Foreign Contracts, the Applicant notifies the Permitted Client of all of the following:

(i) the Applicant is not registered in Ontario to provide the advice described in paragraph (a) of this Order;

(ii) the foreign jurisdiction in which the Applicant's head office or principal place of business is located;

(iii) all or substantially all of the Applicant's assets may be situated outside of Canada;

(iv) there may be difficulty enforcing legal rights against the Applicant because of the above; and

(v) the name and address of the Applicant's agent for service of process in Ontario;

(g) the Applicant has submitted to the Commission a completed *Submission to Jurisdiction and Appointment of Agent for Service* in the form attached as Appendix "A";

(h) the Applicant notifies the Commission of any regulatory action initiated after the date of this Order with respect to the Applicant or any predecessors or the specified affiliates of the Applicant by completing and filing Appendix "B" within 10 days of the commencement of each such action, provided that the Applicant may also satisfy this condition by filing with the Commission,

(i) within 10 days of the date of this Order, a notice making reference to and incorporating by reference the disclosure made by the Applicant pursuant to federal securities laws of the United States that is identified on the Investment Adviser Public Disclosure website, and

(ii) promptly, a notification of any Form ADV amendment and/or filing with the SEC that relates to legal and/or regulatory actions; and

(i) if the Applicant is not subject to the requirement to pay a participation fee in Ontario because it is not registered under the OSA and does not rely on the International Adviser Exemption, by December 31st of each year, the Applicant pays a participation fee based on its specified Ontario revenues for its previous financial year in compliance with the requirements of Part 3 and section 6.4 of Ontario Securities Commission Rule 13-502 *Fees* as if the Applicant relied on the International Adviser Exemption; and

IT IS FURTHER ORDERED that this Order will terminate on the earliest of:

(a) the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA;

(b) six months, or such other transition period as may be provided by law, after the coming into force of any amendment to Ontario commodity futures law (as defined in the CFA) or Ontario securities law (as defined in the OSA) that affects the ability of the Applicant to act as an adviser to a Permitted Client; and

(c) five years after the date of this Order.

DATED at Toronto, Ontario, this 28th day of November, 2017.

"Garnet W. Fenn"
Commissioner
Ontario Securities Commission

"Philip Anisman"
Commissioner
Ontario Securities Commission

APPENDIX "A"

SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE

INTERNATIONAL DEALER OR INTERNATIONAL ADVISER EXEMPTED FROM REGISTRATION UNDER THE COMMODITY FUTURES ACT, ONTARIO

1. Name of person or company ("International Firm"):

2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm:

3. Jurisdiction of incorporation of the International Firm:

4. Head office address of the International Firm:

5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.

   Name:
   E-mail address:
   Phone:
   Fax:

6. The International Firm is relying on an exemption order under section 38 or section 80 of the *Commodity Futures Act* (Ontario) that is similar to the following exemption in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the "Relief Order"):

   ☐ Section 8.18 [*international dealer*]

   ☐ Section 8.26 [*international adviser*]

   ☐ Other [specify]:

7. Name of agent for service of process (the "Agent for Service"):

8. Address for service of process on the Agent for Service:

9. The International Firm designates and appoints the Agent for Service at the address stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (a "Proceeding") arising out of or relating to or concerning the International Firm's activities in the local jurisdiction and irrevocably waives any right to raise as a defence in any such proceeding any alleged lack of jurisdiction to bring such Proceeding.

10. The International Firm irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of the local jurisdiction in any Proceeding arising out of or related to or concerning the International Firm's activities in the local jurisdiction.

11. Until 6 years after the International Firm ceases to rely on the Relief Order, the International Firm must submit to the regulator

    a. a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated;

    b. an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent for Service;

    c. a notice detailing a change to any information submitted in this form, other than the name or above address of the Agent for Service, no later than the 30th day after the change.

12. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

Dated: _____

_____
(Signature of the International Firm or authorized signatory)

_____
(Name of signatory)

_____
(Title of signatory)

Acceptance

The undersigned accepts the appointment as Agent for Service of _____ [*Insert name of International Firm*] under the terms and conditions of the foregoing Submission to Jurisdiction and Appointment of Agent for Service.

Dated: _____

_____
(Signature of the Agent for Service or authorized signatory)

_____
(Name of signatory)

_____
(Title of signatory)

This form, and notice of a change to any information submitted in this form, is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:

https://www.osc.gov.on.ca/filings

APPENDIX "B"

NOTICE OF REGULATORY ACTION

1. Settlement Agreement

Has the firm, or any predecessors or specified affiliates[1] of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

Yes _____ No _____

If yes, provide the following information for each settlement agreement:

Name of entity
Regulator/organization
Date of settlement (yyyy/mm/dd)
Details of settlement
Jurisdiction

2. Disciplinary History

Has any financial services regulator, securities or derivatives exchange, SRO or similar organization:

		Yes	No
a)	Determined that the firm, or any predecessors or specified affiliates of the firm violated any securities regulations or any rules of a securities or derivatives exchange, SRO or similar organization?	___	___
(b)	Determined that the firm, or any predecessors or specified affiliates of the firm made a false statement or omission?	___	___
(c)	Issued a warning or requested an undertaking by the firm, or any predecessors or specified affiliates of the firm?	___	___
(d)	Suspended or terminated any registration, licensing or membership of the firm, or any predecessors or specified affiliates of the firm?	___	___
(e)	Imposed terms or conditions on any registration or membership of the firm, or predecessors or specified affiliates of the firm?	___	___
(f)	Conducted a proceeding or investigation involving the firm, or any predecessors or specified affiliates of the firm?	___	___
(g)	Issued an order (other than an exemption order) or a sanction to the firm, or any predecessors or specified affiliates of the firm for securities or derivatives-related activity (e.g. cease trade order)?	___	___

If yes, provide the following information for each action:

Name of entity
Type of action
Regulator/organization

[1] In this Appendix, the term "specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*.

Date of action (yyyy/mm/dd)	Reason for action
Jurisdiction	

3. Ongoing investigations

Is the firm aware of any ongoing investigation of which the firm or any of its specified affiliates is the subject?

Yes _____ No _____

If yes, provide the following information for each investigation:

Name of entity
Reason or purpose of investigation
Regulator/organization
Date investigation commenced (yyyy/mm/dd)
Jurisdiction

Authorized signing officer or partner

Name of firm:
Name of firm's authorized signing officer or partner
Title of firm's authorized signing officer or partner
Signature
Date (yyyy/mm/dd)

Witness

The witness must be a lawyer, notary public or commissioner of oaths.

Name of witness
Title of witness
Signature
Date (yyyy/mm/dd)

This form is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:

https://www.osc.gov.on.ca/filings

2.2.4 Omega Securities Inc.

File No.: 2017-66

IN THE MATTER OF
OMEGA SECURITIES INC.

Mark J. Sandler, Commissioner and Chair of the Panel

November 29, 2017

ORDER

WHEREAS on November 29, 2017, the Ontario Securities Commission held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider the first appearance in respect of the Notice of Hearing issued on November 16, 2017;

ON HEARING the submissions of the representatives for Staff of the Commission and Omega Securities Inc.;

IT IS ORDERED THAT:

1. the Second Appearance in this matter will be heard on March 21, 2018, at 9:30 a.m., or such other date as may be agreed to by the parties and set by the Office of the Secretary

2. by no later than December 29, 2017, Staff shall disclose to the respondent all non-privileged documents and things in the possession or control of Staff that are relevant to the hearing;

3. by no later than March 9, 2018, the respondent shall serve and file any motions regarding Staff's disclosure or seeking disclosure of additional documents; and

4. by no later than March 16, 2018, Staff shall provide preliminary witness lists and statements to the respondent and shall indicate any intent to call an expert witness, including the name of the expert and the issue on which the expert will be giving evidence.

"Mark J. Sandler"

2.2.5 Tembec Inc.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – The issuer ceased to be a reporting issuer under securities legislation.

Applicable Legislative Provisions

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

Decision No: 2017-IC-0022
Filer No: 29212

November 30, 2017

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

AND

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

AND

IN THE MATTER OF
TEMBEC INC.
(the Filer)

ORDER

Background

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

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

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

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

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

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions*, Regulation 11-102 and, in Québec, in *Regulation 14-501Q on definitions* have the same meaning if used in this order, unless otherwise defined.

Representations

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

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

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

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

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

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

Order

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

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

"Martin Latulippe"
Director, Continuous Disclosure
Autorité des marchés financiers

2.2.6 Omega Securities Inc. – s. 127(7)

File No.: 2017-64

IN THE MATTER OF
OMEGA SECURITIES INC

Mark J. Sandler, Commissioner and Chair of the Panel

December 5, 2017

ORDER
Subsection 127(7) of the
Securities Act, RSO 1990, c S.5

WHEREAS on December 5, 2017, the Ontario Securities Commission conducted a hearing in writing, to consider whether to extend the temporary order of the Commission issued on November 23, 2017 in this matter (the **Temporary Order**);

ON READING the material filed by Staff of the Commission and considering Omega Securities Inc.'s consent to the making of this Order;

IT IS ORDERED THAT:

1. Pursuant to section 5.1 of the *Statutory Powers Procedure Act*, RSO 1990, c S.22 (the **SPPA**) and Rule 23(2) of the Ontario Securities Commission *Rules of Procedure and Forms* (2017), 45 OSCB 8988 (the **Rules**), the hearing be conducted in writing; and

2. Pursuant to subsection 127(7) of the *Securities Act*, RSO 1990, c S.5, the Temporary Order is extended until January 29, 2018.

"Mark J. Sandler"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Earl Marek

IN THE MATTER OF
EARL MAREK

REASONS AND DECISION ON A REVIEW OF A DECISION OF
THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
(SECTIONS 8 AND 21.7 OF THE SECURITIES ACT, RSO 1990, C S.5)

Citation: *Marek (Re)*, 2017 ONSEC 41
Date: 2017-12-04

Hearing:	November 8, 2017	
Decision:	December 4, 2017	
Panel:	Timothy Moseley	Commissioner and Chair of the Panel
	AnneMarie Ryan	Commissioner
	Peter Currie	Commissioner
Appearances:	V. Ross Morrison	For Earl Marek
	Kathryn Andrews Andrew Werbowski	For Staff of the Investment Industry Regulatory Organization of Canada
	Alvin Qian Carlo Rossi	For Staff of the Ontario Securities Commission

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REASONS AND DECISION

I. OVERVIEW

[1] In October 2016, a hearing panel of the Investment Industry Regulatory Organization of Canada (**IIROC**) issued a merits decision (the **Merits Decision**),[1] in which it found that Earl Marek, an IIROC registrant, had contravened an IIROC rule by facilitating off-book share purchases for two clients without the knowledge and approval of his Member firm. In a penalty decision issued in February 2017,[2] the IIROC panel ordered, among other things, that Mr. Marek be suspended from registration for one year and that he pay a fine of $50,000.

[2] Mr. Marek applies to the Ontario Securities Commission (the **Commission**) for a review of the IIROC decisions. He contends that the two brothers who purchased the shares (PL and DL; together, the **L Brothers**) were not clients of his at the time of those off-book transactions, and that the IIROC panel should not have found that the allegation against him was established.

[3] The term "client" is not defined in the *Securities Act* (the **Act**),[3] or in any relevant regulation or rule. We must therefore look to the surrounding circumstances. Do the facts of this case support the IIROC panel's finding that the L Brothers were Mr. Marek's clients? This is the central question in this proceeding.

[4] As we explain in more detail below, we conclude that the IIROC panel's decision was correct. This is so for a number of reasons, including that:

a. Mr. Marek recommended to the L Brothers that they buy shares of Facebook Inc. prior to an initial public offering (**IPO**) of those shares;

b. Mr. Marek told them that the transaction would go through his firm Macquarie Private Wealth Inc. (**Macquarie**) and that Macquarie would be paid an administration fee for the transaction;

c. Mr. Marek told the L Brothers that he hoped this was the beginning of a longer-term relationship, and the L Brothers expected that it would be; and

d. the L Brothers reasonably believed that they were clients of Mr. Marek and of Macquarie, and there is no evidence that Mr. Marek did anything at the time of the transaction to disabuse them of that understanding.

II. BACKGROUND FACTS

[5] Because the term "client" is not defined, determination of whether a client relationship exists in a particular case must be made with regard to all the relevant circumstances. We therefore begin with a review of the factual background as found by the IIROC panel. In this proceeding, while Mr. Marek challenged the IIROC panel's conclusions, he did not dispute the background facts. Those facts include the following.

[6] In late 2011 and early 2012, Mr. Marek's son was employed by a company of which PL was the president. Mr. Marek's son told PL about an opportunity to buy pre-IPO Facebook shares from Mr. Marek, who would have a block of these shares, and who wanted to sell some to mitigate his risk. PL said he was interested.

[7] In January 2012, Mr. Marek met with PL and his brother DL at PL's company's offices. DL owned and operated a separate business that shared office space at that location.

[8] At the meeting, Mr. Marek discussed the price at which the pre-IPO shares would be available, the estimated IPO price, the future prospects for Facebook shares, and the merits of investing in Facebook. Mr. Marek also advised that there was some urgency, because the transaction had to be completed before the IPO. Mr. Marek told the L Brothers that if they did not buy the shares, the shares would be sold to other investors.

[9] Mr. Marek said that he was with Macquarie, that the process of acquiring the shares would be smoother if the transaction went through Macquarie, and that Macquarie would receive an administration fee of approximately $1.00 per share. Mr. Marek told the L Brothers that when the shares came in, he would set up the necessary accounts at Macquarie. All expected that this was the beginning of a longer-term relationship.

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1 *Re Marek*, 2016 IIROC 36.

2 *Re Marek*, 2017 IIROC 13.

3 RSO 1990, c S.5.

[10] The L Brothers said they were very interested in buying Facebook shares. The three met a second time at PL's company's offices, and were joined by Mr. Marek's son. At that meeting, the L Brothers understood, as they had throughout, that they would be buying the shares directly from Mr. Marek. They said they wished to buy 1,000 shares each at a price of approximately US$28 per share.

[11] In early February 2012, shortly after that second meeting, Mr. Marek sent an email containing wire transfer instructions for the funds. Those instructions proved to be incomplete. At the L Brothers' request, Mr. Marek provided additional information.

[12] By this time, the L Brothers had learned, from the information that Mr. Marek had given them, that the funds were being sent to New Economy Holdings Limited via Cayman Institutional Bank. The L Brothers did not know of that corporation, but were told that it was a company set up to broker the transaction with a representative of Facebook.

[13] The L Brothers were also surprised to learn that the funds were to be sent to Cayman Institutional Bank instead of to Mr. Marek directly. However, they followed Mr. Marek's instructions. Each brother sent US$28,900, as instructed. Several days later, Mr. Marek advised that the money had been received.

[14] PL saw Mr. Marek every few weeks over the ensuing months. They discussed the performance of Facebook shares, and talked about other investment opportunities. PL saw nothing amiss.

[15] In October 2012, PL opened an account at Macquarie in the name of his company. Later that month, pursuant to a request from PL's company's accountant, PL wrote to Mr. Marek and asked for proof of purchase of the Facebook shares. PL did not receive a satisfactory response. PL made numerous subsequent attempts, all of which were equally unsuccessful.

[16] Also in late 2012, DL received a New Client Application Form from Macquarie. He completed it, and Mr. Marek picked it up. Mr. Marek advised DL that the Facebook shares were eligible to be deposited into an RRSP account.

[17] By June 2013, neither of the L Brothers had received any confirmation of receipt of the Facebook shares. PL advised Mr. Marek by email that if the matter was not immediately resolved, PL's financial controller would file a formal complaint against Mr. Marek and Macquarie. Mr. Marek replied, in part:[4]

> I want to make it clear that this was a 'off-book opportunity' – nothing to do with Macquarie or any other investment firm, as the funds went directly from you to an account in the Caymans … I was not a middle man, as the funds did not go through me. I merely brought the 'opportunity' to your attention … These shares were being sold by a Facebook consultant … No one realizes this is taking an insane amount of time more than me as I bought 3300 shares …

[18] In November 2013, Mr. Marek sent an email addressed to "Facebook investors", including PL, regarding the Facebook shares. The email said, in part and in bold: "Please delete my Macquarie e-mail address effective immediately and only use [Mr. Marek's personal email address] for all correspondence."[5]

[19] At least as of the date of the IIROC merits hearing, neither of the L Brothers had received his Facebook shares or a return of his US$28,900.

III. ISSUES

[20] In the IIROC proceeding, IIROC Staff alleged that "[o]n or about February 2012, [Mr.] Marek facilitated off book transactions for two clients without the knowledge or approval of his Member firm, contrary to IIROC Dealer Member Rule 29.1."[6]

[21] It is undisputed that the L Brothers' purchases of Facebook shares were "off book" with respect to Macquarie, in that the firm was unaware of the transactions. It is also beyond doubt (and uncontested in Mr. Marek's notice of application and written submissions) that Mr. Marek facilitated the subject transactions. As noted above, Mr. Marek disputes that the L Brothers were clients. Mr. Marek does not challenge the penalties imposed by the IIROC panel, except to say that if the Merits Decision is set aside, the penalties should be set aside as well.

[22] The central question in this case, therefore, is whether the IIROC panel erred in concluding that the L Brothers were Mr. Marek's clients. That question presents the following issues for us to consider:

4 Merits Decision at para 40.

5 Merits Decision at para 41.

6 Merits Decision at para 1.

a. What is the standard of review of an IIROC decision by the Commission?

b. Do the circumstances of this case lead to the conclusion that the L Brothers were in a client relationship with Mr. Marek at the time that he facilitated the transactions?

c. If the L Brothers were not clients at the relevant time, should the Commission substitute a different decision for that of the IIROC panel?

IV. ANALYSIS

A. What is the standard of review of an IIROC decision by the Commission?

[23] Mr. Marek brings this application under section 21.7 of the Act, which provides that a person directly affected by a decision of a recognized self-regulatory organization (**SRO**) such as IIROC may apply to the Commission for a review of the decision. By virtue of subsection 21.7(2) of the Act, section 8 of the Act applies to this proceeding and authorizes the Commission to "confirm the decision under review or make such other decision as the Commission considers proper."

[24] Despite this broad authority, the Commission acts with restraint in interfering with a decision of an SRO. It was common ground at the hearing before us that the applicable test is that set out in the oft-cited Commission decision in *Re Canada Malting Co.*[7] In that case, the Commission held that it ought to interfere only where the applicant meets the "heavy burden" of demonstrating that at least one of the following applies:

a. the SRO proceeded on an incorrect principle;

b. the SRO erred in law;

c. the SRO overlooked material evidence;

d. new and compelling evidence is presented to the Commission that was not presented to the SRO; or

e. the SRO's perception of the public interest conflicts with that of the Commission.

[25] As is noted above in paragraph [4] and for the reasons explained below, our ultimate conclusion is that the IIROC panel was correct in finding that the L Brothers were clients. As a result, we need not apply the criteria set out in *Re Canada Malting Co.*, and we need not consider what the result would have been had we not found that the L Brothers were clients.

[26] We turn now to the reasons for our conclusion that the L Brothers were indeed clients of Mr. Marek's at the relevant time.

B. Do the circumstances of this case lead to the conclusion that the L Brothers were in a client relationship with Mr. Marek at the time that he facilitated the transactions?

1. Introduction

[27] No provisions of the Act, or of regulations or rules made under the Act, or of IIROC rules, define the term "client"; nor do they, in any other way, expressly resolve the question of when a client relationship begins. That question is significant for investors and registrants alike, given the numerous protections and obligations that attach to that relationship.

[28] Neither IIROC Staff nor Commission Staff provided us with any authorities in which the parties contested the question of whether a client relationship existed. Of the decisions that Mr. Marek provided, we address below the two that are relevant, at paragraphs [44] and [50]. Neither decision disposes of the central question in this case.

[29] In the absence of conclusive authorities or regulatory provisions, we consider factors that, in our view, ought to be taken into account. At the hearing before us, Mr. Marek and IIROC Staff implicitly adopted this approach, by citing various factors and by making differing submissions as to the weight that ought to be attached to each factor.

[30] In considering potential factors and in assessing the weight to be attached to each, we are guided by the purposes of the Act set out in section 1.1:

[7] (1986), 9 OSCB 3565 at 3587.

a. to provide protection to investors from unfair, improper or fraudulent practices; and

b. to foster fair and efficient capital markets and confidence in capital markets.

[31] We caution that while the non-exhaustive list of factors below may assist in other cases, the determination of a relationship between adviser and client is highly contextual. We now consider those factors that are relevant in this case.

2. Factors

(a) Activity requiring registration

[32] In the context of this proceeding, the first of the two purposes of the Act cited in paragraph [30] above is especially relevant. When dealing with a registrant, an investor is typically at a disadvantage with respect to matters that are within the expertise of the registrant, including the processes involved in completing a trade in securities. Investors are therefore vulnerable to unfair, improper and fraudulent practices. The comprehensive regulatory code that governs registrants is designed to minimize that risk for the investor.

[33] Subsection 25(3) of the Act provides that no person shall engage in the business of advising anyone with respect to investing in, buying or selling securities, unless the person is appropriately registered. A registrant like Mr. Marek, who is engaged in the business of advising clients with respect to investing in securities, engages in that business each time they give such advice.

[34] At their first meeting in January 2012, Mr. Marek and the L Brothers discussed "the merits of Facebook, including whether buying Facebook at a pre-IPO price was a good investment, the price at which the shares would be available, the estimated IPO price and the future prospects for Facebook shares."[8] Mr. Marek testified that he "probably" told the L Brothers he thought it was a good opportunity, "because [he] did believe it was."[9]

[35] A statement like that from Mr. Marek is the very essence of professional advice relating to investing in securities. Mr. Marek is in the business of giving that advice to clients. It therefore follows that the communication of such advice gives rise to a strong presumption of a relationship of adviser and client.

[36] That presumption is rebuttable, not absolute. One can imagine circumstances in which such advice is given without any intention by the adviser to create a client relationship, without any expectation by the investor that such a relationship exists, and without any subsequent contact between the two. That is not this case, however.

[37] We find that Mr. Marek's conduct at the January 2012 meeting gives rise to a strong presumption of a client relationship between him and the L Brothers.

(b) Funds used to purchase the Facebook shares

[38] Mr. Marek submits that it ought to have been clear to the L Brothers that he was not acting as their adviser on the transaction, because the funds were going to a third party. We do not accept this submission, for several reasons.

[39] The IIROC panel found that days before Mr. Marek gave the L Brothers the wire instructions for the purchase funds, he recommended that the purchase go through Macquarie, and advised that Macquarie would be paid the administration fee. The panel also found that Mr. Marek did nothing to correct that understanding on the part of the L Brothers, at least until Mr. Marek's June 2013 email referred to in paragraph [17] above.

[40] The L Brothers' only information about how to complete the transaction and where their funds were going came from Mr. Marek. Until Mr. Marek gave them the wire instructions, the L Brothers had no way of knowing this information. Even once they received the wire instructions, the L Brothers still did not have the full picture of the route that the funds were to take. They were not obliged to understand the route, and they were entitled to rely on the clear instructions from Mr. Marek. It would have been reasonable for them to infer that the third-party recipient of the funds was merely an agent.

[41] Further, we note that neither of the L Brothers was cross-examined at the merits hearing. It is inappropriate now to question their belief at the time of the transaction, when they were not confronted with that question and given an opportunity to explain.

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8 Merits Decision at para 22.

9 Transcript of IIROC merits hearing, April 28, 2016, at p 13.

[42] Accordingly, we do not find that the fact that the funds were sent to a third party supports Mr. Marek's position that there was no client relationship.

(c) Benefit

[43] In written submissions, Mr. Marek argues that "the hallmark of an IIROC client relationship is compensation: if the registered representative does not receive compensation for the investment then there is no client relationship."[10]

[44] In support of that proposition, Mr. Marek cites *Re Castonguay*,[11] an IIROC case in which it was alleged that the respondent registrant had facilitated a client transaction without the knowledge and consent of his employer, and that the respondent had failed to inform his clients of an essential fact relating to two securities offerings. The IIROC panel found in favour of the respondent, on the basis that while the respondent had a pre-existing client relationship with the investors, the investment was not in securities and did not go through the respondent or the respondent's firm, and the investors did not believe that the investment was to go through the firm.

[45] In our view, those distinguishing facts were determinative. While the panel in *Re Castonguay* observed that the respondent derived "no direct benefit" from the investment, nothing in the panel's decision stands for the proposition that direct compensation is an essential element of a client relationship. In contrast to *Re Castonguay*, the L Brothers' investment was in securities, and they believed (because Mr. Marek told them) that the transaction would go through Macquarie. We do not find *Re Castonguay* to be persuasive of Mr. Marek's position with respect to compensation, and we do not accept his categorical submission that if an investor pays no compensation to the adviser, no client relationship can exist.

[46] Even if that were correct, however, it is inaccurate to say that Mr. Marek received no benefit or compensation. In the Merits Decision, the IIROC panel expressly found that: "[n]o fee was to be paid to [Mr. Marek] but he would get the benefit of being about to manage the shares through the Macquarie account."[12] In other circumstances, there might well be no cash compensation at the beginning of a client relationship, *e.g.*, if the firm waived transaction fees for an initial transaction, or if an account were transferred in from another firm and there were no transactions right away that would generate compensation. It would be incongruous, and contrary to the mandate of investor protection, to find that no client relationship existed in those circumstances.

[47] In this case, as the IIROC panel found, Mr. Marek did benefit. We consider that fact to be persuasive, although not conclusive, as to the existence of a client relationship with the L Brothers.

[48] In addition, we note the undisputed evidence of Mr. Marek's statement to the L Brothers that Macquarie would receive an administration fee for the transaction. Even if, as far as the L Brothers knew, no portion of that fee would go to Mr. Marek, the existence of the fee would support an inference that they were clients of the firm. If that inference were correct, their representative at the firm would have been Mr. Marek.

(d) Account opening documentation

[49] Mr. Marek notes that neither of the L Brothers completed a new account application with Macquarie until late 2012, many months after they wired the funds for the Facebook shares. Mr. Marek submits that this fact supports a conclusion that while the L Brothers became Mr. Marek's clients later that year, they were not clients in February 2012, the time period relevant to IIROC's allegation against him.

[50] Mr. Marek cites the IIROC decision in *Re Turenne*,[13] in which the panel rejected the respondent's contention that the source of funds borrowed by the respondent was not a client. The panel noted that the lender had signed account opening documents at the respondent's firm at the relevant time. Mr. Marek submits that the panel's conclusion that the lender was a client was based in part on the fact that the account was open. We agree. However, the inverse is not necessarily true. In other words, it does not follow that the absence of an open account precludes the existence of a client relationship.

[51] Such a general rule would be illogical, and would undermine investor protection. The opening of an account ought to be done promptly when a client relationship begins, but the firm's or the individual adviser's failure to take the necessary steps in a timely way must not deprive the investor of the protections that attach to the relationship. Similarly, an adviser ought not to be able to avoid their obligations by delaying, whether deliberately or not, the formal documentation of the relationship.

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10 Applicant's Memorandum of Fact and Law at para 17.

11 2012 IIROC 73.

12 Merits Decision at para 54

13 2015 IIROC 23.

[52] We conclude that the absence of formally opened accounts does not help to answer the question of whether, in this case, a client relationship existed in February 2012.

(e) The investors' belief

[53] The IIROC panel concluded that from February 2012, the L Brothers believed that they were Mr. Marek's clients and that they acted as if they were.

[54] An investor's belief, even if reasonable, will not necessarily be determinative as to whether a client relationship exists. However, some weight ought to be given to such a belief, if reasonably held, since the investor may act in reliance on that belief. The L Brothers' belief was eminently reasonable, given Mr. Marek's advice that the transaction would go through his firm and that the firm would be paid the administration fee. From the L Brothers' perspective, Mr. Marek orchestrated every step of the transaction up to and including the transfer of funds to purchase the Facebook shares.

[55] In our view, the L Brothers' reasonable belief that they were clients in February 2012 is persuasive evidence that such a relationship existed at that time.

(f) IIROC panel's finding of a client relationship

[56] We have identified above some factors that are relevant to determining the central question in this case. Before reaching our conclusion on that question, we wish to address Mr. Marek's submissions that the IIROC panel did not expressly find that the L Brothers were Mr. Marek's clients, and that the panel failed to consider the criteria for determining the question. Rather, says Mr. Marek, the panel simply assumed, without analysis, that there was a client relationship.

[57] We disagree. In the Merits Decision, the IIROC panel did not use the word "client" in a way that suggested that it reached that conclusion, until after the panel had conducted a thorough review of the evidence of the L Brothers, Mr. Marek and his son, and others. It is clear from the various references to "client" in the concluding "Decision" section of the reasons that the panel rejected Mr. Marek's position, expressly referred to earlier in the Merits Decision, that the L Brothers were not clients at the time of the Facebook transaction.

[58] Further, the IIROC panel's consideration of the question and of the reasons for its conclusion are reflected in the Merits Decision, in which the panel states that in "February of 2012, PL and DL believed they were clients of Macquarie, and they acted in a manner and were treated by [Mr. Marek] as if they were clients. The documentary formalization of their relationship came later."[14]

(g) Conclusion as to the client relationship

[59] We do not accept Mr. Marek's submission that the contextual approach described above involves too much uncertainty as to when a client relationship begins and is therefore untenable for registrants and their insurers. We recognize that the framework set out in this decision does not provide a single bright-line test that will make it simple to make that determination in every case. The various steps involved in formalizing a client relationship can arise in different ways and different sequences. Those permutations do not lend themselves to a single rule of universal application.

[60] The principle of investor protection dictates that the benefit of any reasonable uncertainty in a particular case should inure to the benefit of the investor. Individual registrants and firms have an obligation to make clear, to investors who might reasonably believe they are clients, whether that belief is correct. Doing so will enable the investors to govern their actions accordingly.

[61] We find no factors in this case that lead us to doubt the existence of a client relationship. Rather, all of the relevant factors contribute to our conclusion that the L Brothers were Mr. Marek's clients in February 2012, at the time of the Facebook transaction. Specifically:

a. at his first meeting with the L Brothers, Mr. Marek engaged in registrable activity by giving advice as to the merits of a specific securities transaction;

b. Mr. Marek told the L Brothers that the transaction would go through Macquarie and that Macquarie would be paid an administration fee;

c. Mr. Marek orchestrated all steps of the transaction, including giving directions as to payment of the funds;

[14] Merits Decision at para 143.

d. Mr. Marek told the L Brothers that he hoped this was the beginning of a longer-term client relationship with them; and

e. the L Brothers reasonably believed throughout that they were clients of Mr. Marek, and there is no evidence that Mr. Marek did anything until June 2013 to disabuse them of that belief.

[62] The IIROC panel's finding that the client relationship existed in February 2012 was amply supported by the evidence, and we find no error in the panel's decision.

C. If the L Brothers were not clients at the relevant time, should the Commission substitute a different decision for that of the IIROC panel?

[63] Given our conclusion that the L Brothers were Mr. Marek's clients at the relevant time, and that the IIROC decision is correct, we need not consider the third issue; that is, whether the Commission should substitute a different decision for that of the IIROC panel.

V. CONCLUSION

[64] For the above reasons, the application for a review of the IIROC decisions is dismissed and the IIROC decisions are confirmed.

Dated at Toronto this 4th day of December, 2017.

"Timothy Moseley"

"AnneMarie Ryan"

"Peter Currie"

3.2 Director's Decisions

3.2.1 Donald Mason

IN THE MATTER OF
STAFF'S RECOMMENDATION TO IMPOSE TERMS AND CONDITIONS ON
THE REGISTRATION OF
DONALD MASON

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 to accept the recommendation of staff (**Staff**) of the Ontario Securities Commission (**OSC**) to impose restricted client terms and conditions on Donald Mason (**Mason** or the **Applicant**), a dealing representative in the category of mutual fund dealer, sponsored by Quadrus Investment Services Ltd. (**Quadrus**) with one addition. The terms and conditions are as follows:

> The Registrant may not act as a dealing representative in respect of any person who is a member of the congregation of the Apostolic Pentecostal Church of Pickering (**Restricted Clients**), or of a spouse, parent, brother, sister, grandparent or child of Restricted Clients

Overview

2. On August 15, 2017, Quadrus submitted an initial registration application for Mason that included a disclosure in Item 10 – *Current employment, other business activities, officer positions held and directorships* of Form 33-109F4 - *Registration of Individuals and Review of Permitted Individuals* (**Form 33-109F4**). The disclosure detailed his activity as a non-paid minister of the Apostolic Pentecostal Church. As a non-paid minister, Mason says he performs prayers, messages to the congregation, and visits the sick and persons in need.

3. On August 17, 2017, Staff issued a letter to Mason informing him that his outside business activity may place him in a position of potential influence over clients and that they were recommending to the Director that terms and conditions restricting the class of clients that he would be able to provide services to be imposed on his registration. This is commonly referred to as restricted client terms and conditions.

4. Restricted client terms and conditions are imposed on registrants for several reasons, including when the registrant has an outside business activity that puts him/her in a position of power or potential influence over clients or potential clients.

5. The OSC oversees the registration process, including the applicability of terms and conditions, if any, of individual dealing representatives of a mutual fund dealer.

6. Pursuant to section 31 of the Act, the Applicant is entitled to an opportunity to be heard (**OTBH**) before the Director makes a decision on Staff's recommendation. An in-person OTBH occurred on October 30, 2017.

7. My decision is based on the written and oral submissions of Michael Denyszyn (Senior Legal Counsel, OSC) and Donald Mason.

Law and Reasons

8. Section 28 of the *Securities Act*, RSO 1990, c.S.5, as amended (the **Act**) provides the director, in his or her discretion, with the power to impose terms and conditions on the registration of any person or company when it appears that the person or company has failed to comply with Ontario securities law or the registration is otherwise objectionable.

9. Subsection 2.2(1) of National Instrument 33-109 – *Registration Information* (**NI 33-109**) requires an individual applying for registration to submit a completed Form 33-109F4, which includes information relating to business activities outside the sponsoring firm.

10. Part 13.4 of Companion Policy, 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* states that the

"Required disclosure includes the following, whether the registrant receives compensation or not:

- any employment and business activities outside the registrant's sponsoring firm
- all officer or director positions, and
- any other equivalent positions held, as well as positions of influence.

The following are examples of outside business activities that we would expect to be disclosed:

- paid or unpaid roles with charitable, social or religious organizations where the individual is in a position of power or influence and where the activity places the registered individual in contact with clients or potential clients, including positions where the registrant handles investments or monies of the organization …"[1]

11. Staff's basis for recommending the restricted client terms and conditions is that, in a situation where a registrant is in a position of power or potential influence, what should be an arm's length transaction with a client can be influenced by the client's perception of the dealing representative's role in a charitable or faith-based or care-giving outside activity. Without the restricted client terms and conditions, the registration of that applicant may be considered otherwise objectionable.

12. Staff submits that restricted client terms and conditions are the most straightforward and effective way to address the undue influence that may arise out of such a relationship. This imposes a bright-line test to facilitate the required supervision of sponsoring firms.[2]

13. Staff noted that nearly 700[3] restricted client terms and conditions have been imposed and submitted 21 separate examples to substantiate that restricted client terms and conditions are applied in a principled and non-discriminatory manner across various religious denominations and across various secular caregiving and charitable activities where the applicant is in a position of power or potential influence over clients or potential clients.

14. Staff submits that restricted client terms and conditions do not prevent individuals who provide valuable services to charitable organizations or to faith-based organizations from also making a living or supplementing their income through trading or advising in securities. Instead, in Staff's view, restricted client terms and conditions are necessary to achieve the proper separation between a caregiving and counselling role on one hand and one's registerable activities on the other. Proper separation is especially important where clients or potential clients know the individual primarily in their charitable, faith-based or caregiving role.[4]

15. Mason makes several arguments. First, he submits that he is not in a position of power or potential influence as a non-paid minister.

16. On his Form 33-109 F4, Mason states "My duties as a local, non-paid minister in the Apostolic Pentecostal Church include: performing prayers, messages to the congregations, visiting the sick and persons in need. I am not a pastor or a Religious Leader, and I do not hold a position of authority in the church, and, as such, I do not have any authority or the platform to sway the congregation to act in any special way towards my financial advice." [5]

17. Also, in a letter submitted on Mason's behalf by the Apostolic Pentecostal Church of Pickering, it states that the position is a "non competitive position in that the main duty is to assist in prayer, preaching the word from the bible, visiting the sick and those incarcerated." Also, it states that Mason is one of 40 Lay Leaders of the church but he does not have financial influence over the congregation.[6]

18. Considering the totality of the information provided, the fact that the Applicant is identified as both a minister and Lay Leader, he assists the congregation in prayer, and visits persons who are sick or incarcerated, I am satisfied that the activities conducted by Mason place him in a position of power or potential influence over clients or potential clients

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1 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, OSC CP 31-103, Unofficial Consolidation (27 July, 2017), 13.4 – *Identifying and responding to conflicts of interest*, retrieved from http://www.osc.gov.on.ca/en/SecuritiesLaw_31-103.htm.

2 Transcript of oral submissions of Michael Denyszyn (30 October 2017) at 8, lines 23-28.

3 *Ibid.* at 11, line 8.

4 *Ibid.* at 8, lines 13-22.

5 Disclosure filed on behalf of Donald Mason on August 15, 2017, Schedule G to Item 10/11Current /Previous Employment Change, Description of Duties.

6 Letter from Reverend Audley Castro re "Donald Mason", dated October 24, 2017.

who are members of his congregation, as well as their specified relatives, and, therefore, his specific circumstances warrant the imposition of restricted client terms and conditions.

19. Mason's next two arguments are human rights based and concern the human rights impact of the imposition of restricted client terms and conditions on his registration. First, he claims that imposing restricted client terms and conditions will result in indirect or constructive discrimination under the *Human Rights Code* (the Code) by infringing on his creed rights. In his view, even if restricted client terms and conditions appear neutral in their application, they adversely affect his ability to fulfill his religious obligations. Second, he argues that requiring his clients or potential clients to confirm that they are not members of the Restricted Client class creates a "poisoned environment."

20. With respect to the constructive discrimination argument, I am of the view that restricted client terms and conditions in these circumstances are intended to protect potentially vulnerable individuals and, therefore, they advance an important policy goal. For this reason, I think they constitute a reasonable and *bona fide* requirement within the meaning of section 11(1)(a) of the Code.

21. In addition, Mason is not required to withdraw from his activities as a non-paid minister and Lay Leader. The intent of the restricted client terms and conditions is not to prohibit him from conducting registerable activity, but rather to limit the scope of clients or potential clients that he can deal with.

22. The purpose of restricted client terms and conditions is not to prohibit registrants from volunteering with charitable or religious organizations, but to protect clients or potential clients from potential undue influence from a registrant who is in a position of power or potential influence, whether spiritual or otherwise.

23. For these reasons, I don't believe that the imposition of restricted client terms and conditions in Mason's circumstances results in constructive discrimination based on creed under the Code.

24. Nor do I accept the poisoned environment argument. The concept of a poisoned environment has been developed through human rights jurisprudence: it is not contained in the Code itself. The concept has usually been applied to some organizational setting, especially the workplace, where offensive comments and/or conduct create an unwelcome environment and where there has been a failure by the responsible body or individual, such as the employer, to respond to and correct the situation.

25. As noted by the Ontario Court of Appeal (cited in the Ontario Human Rights Commission policy supplied by Mason), there must be an evidentiary basis to conclude that a poisoned environment has been created[7] and any such claim must be proven on an objective basis.

26. The manner in which Mason has employed the concept of poisoned environment is not consistent with the manner in which it has been applied in the context of human rights jurisprudence. His argument is that no one likes to discuss their religious beliefs and if he asks the client if he/she is a member of the church then they would not want to do business with him.[8] This potential impact is entirely speculative and I don't think it's reasonable to conclude that the imposition of restricted client terms and conditions would have the impact Mason claims. For these reasons, I do not accept the poisoned environment claim.

27. In response to Mason's comments at the OTBH, Staff agreed to further limit the class of Restricted Clients to only the Apostolic Pentecostal Church of Pickering, instead of any Apostolic Pentecostal Church in Ontario. By limiting the class of Restricted Clients in this way, the terms and conditions are carefully tailored to address Mason's situation.

28. Finally, I want to make it clear that the imposition of the restricted client terms and conditions in these circumstances in no way reflects on Mason's integrity.

29. Therefore, based on the foregoing, my decision is to impose the restricted client terms and conditions as recommended by Staff with one change. The class of Restricted Clients is limited to the congregants of the Apostolic Pentecostal Church of Pickering and the specified class of relatives.

"Debra Foubert" J.D.
Director
Compliance and Registrant Regulation Branch
Ontario Securities Commission

November 30, 2017

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7 *General Motors of Canada Ltd. v. Johnson*, 2013 ONCA 502, referred to in *Ontario Human Rights Policy on preventing discrimination based on creed*, p. 32, at fn. 138.)

8 Transcript of oral submissions of Donald Mason (30 October 2017) at 27, lines 5-11

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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
THERE IS NOTHING TO REPORT THIS WEEK.				

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Halio Energy Inc.	04 December 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	

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Chapter 5

Rules and Policies

5.1.1 Multilateral Instrument 91-102 Prohibition of Binary Options

MULTILATERAL INSTRUMENT 91-102
PROHIBITION OF BINARY OPTIONS

Definition

1. In this Instrument, "binary option" means a contract or instrument that provides for only

(a) a predetermined fixed amount if the underlying interest referenced in the contract or instrument meets one or more predetermined conditions, and

(b) zero or another predetermined fixed amount if the underlying interest referenced in the contract or instrument does not meet one or more predetermined conditions.

Trading binary options with an individual prohibited

2. No person or company may advertise, offer, sell or otherwise trade a binary option with or to an individual.

Trading binary options with a person or company other than an individual prohibited

3. No person or company may advertise, offer, sell or otherwise trade a binary option with or to a person or company that was created, or is used, solely to trade a binary option.

Binary options having a term to maturity of 30 days or longer

4. Sections 2 and 3 do not apply in respect of a binary option having a term to maturity of 30 days or longer.

Exemption – general

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

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

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

Effective date

6. (1) This Instrument comes into force on December 12, 2017.

(2) In Saskatchewan, despite subsection (1), if these regulations are filed with the Registrar of Regulations after December 12, 2017, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

5.1.2 Companion Policy 91-102 Prohibition of Binary Options

COMPANION POLICY 91-102
PROHIBITION OF BINARY OPTIONS

Introduction

The purpose of Multilateral Instrument 91-102 *Prohibition of Binary Options* (the **Instrument**) is to help protect would-be investors from binary options fraud.

The purpose of this Companion Policy is to state the view of the participating members (**we**) of the Canadian Securities Administrators (the **CSA**) on various matters related to the Instrument.

We are concerned by complaints we have received regarding the marketing of products commonly called "binary options" to individuals. Many of these products and the platforms offering them have been identified as vehicles to commit fraud. Some persons have used misleading information to promote these products as legal and legally offered, despite not being authorized to offer these products to individuals in Canada. The Instrument explicitly prohibits advertising, offering, selling or otherwise trading a binary option, as defined in the Instrument, with or to an individual.

We consider a person or company to be trading in securities or derivatives in a local jurisdiction if that person or company offers or solicits transactions in securities or derivatives to persons or companies in that local jurisdiction, including through a website or other electronic means.

Definitions and interpretation

Unless defined in the Instrument or this Companion Policy, terms used in the Instrument and in this Companion Policy have the meaning given to them in securities legislation, including in National Instrument 14-101 *Definitions*. "Securities legislation" is defined in National Instrument 14-101 *Definitions*, and includes statutes and other instruments related to both securities and derivatives.

Interpretation of terms used or defined in the Instrument

Section 1 – Definition of "binary option"

The defined term "binary option" is intended to capture a range of products that are commonly called binary options, or are materially similar to products that are commonly called binary options, regardless of how they are named. Binary options are sometimes called a variety of other names, including but not limited to "all-or-nothing options", "asset-or-nothing options", "bet options", "cash-or-nothing options", "digital options", "fixed-return options" and "one-touch options".

Binary options are based on the outcome of a yes/no proposition, expressed as whether an underlying asset, event or value meets one or more predetermined conditions specified in the contract or instrument, at the time or during the time period specified in the contract or instrument. The specified time or time period for determining whether the predetermined condition or conditions are met can be very short, sometimes hours or even minutes.

Automatic exercise

Binary options typically exercise automatically; once the contract or instrument is entered into, there is no decision for either the buyer or the seller to make. The buyer either

- is entitled to receive a fixed amount if the predetermined condition or conditions are met, i.e., the buyer is "in-the-money", or
- loses all or nearly all of the amount that was paid to enter into the contract if the predetermined condition or conditions are not met, i.e., the buyer is "out-of-the-money".

Example yes/no propositions

The yes/no proposition is structured on the performance of an underlying interest or the occurrence of a specified event in connection with the underlying interest.

For the purposes of the Instrument, we interpret "underlying interest" as the event or thing that the value or payment obligations of the binary option is based on, derived from or referenced to. The underlying interest of a binary option could be, for example

- an election or a benchmark interest rate, or
- a security, index, currency, precious metal or any other commodity, price, rate, benchmark, variable or any other thing.

Examples of yes/no propositions that a binary option could be based on include whether:

- the value of the Canadian dollar will be above US $0.75 on a particular day;
- the price of a share in ABC Company will be above $14.37 at any time between two particular dates;
- the price of gold will be below $1082 at 3:42 pm on a particular day;
- the price of oil will be in the range of $48.00 – $49.99 at any time on a particular day;
- a given candidate will be elected;
- a benchmark interest rate will rise by 25 basis points; or
- there will be more than one inch of rain reported at a specified location on a specific day.

No right to buy or sell the underlying interest

A binary option typically does not grant the buyer or seller any right or obligation to buy, sell, receive or deliver an underlying interest referenced in the contract or instrument. For example, if the yes/no proposition of a binary option is based on the value of a listed security, the binary option would provide for settlement in cash and would not provide for delivery of the underlying security. Similarly, if the yes/no proposition of a binary option is based on the movement in the price of gold, the binary option would provide for settlement in cash and would not provide for delivery of physical gold.

Payout structure

Typically, the only rights under a binary option for the buyer or seller are an entitlement to receive or an obligation to pay (a) a predetermined fixed amount if the predetermined condition or conditions are met, and (b) zero or another predetermined fixed amount if the predetermined condition or conditions are not met. We interpret "fixed amount" to refer to a fixed monetary amount and not to a fixed interest rate or other type of amount.

The definition of "binary option" is intended to capture contracts that provide for defined, discrete payout amounts (e.g., $1.00, $10.00, $50.00). We are of the view that a contract with a continuous payout structure that is dependent on the performance of an underlying interest would not meet the definition of "binary option" in the Instrument.

General comments

There are certain contracts we do not consider to be "binary options" for the purposes of the Instrument. These contracts include, but are not limited to:

- a contract that is exercised without payout of a predetermined fixed monetary amount, such as a mortgage rate guarantee;
- an insurance contract or income or annuity contract or instrument that is entered into with a licenced insurer and is regulated as insurance under insurance legislation in Canada or a foreign jurisdiction; and
- a lottery ticket from a governmental lottery or gaming commission, regulated sports betting and bingo at a licensed bingo hall.

Section 2 – Trading binary options with an individual prohibited

Section 2 prohibits advertising, offering or selling a binary option to an individual. Advertising, offering and selling are elements of "trade" or "trading". The phrase "or otherwise trade" includes soliciting and all other elements of "trade" or "trading", including an act in furtherance of a trade.

Section 3 – Trading binary options with a person or company other than an individual prohibited

Section 3 prohibits advertising, offering or selling a binary option to a person or company that was created, or is used, solely to trade a binary option. Section 3 is designed to support the prohibition in section 2, by preventing a party that offers a binary option from avoiding the prohibition by having their proposed client create a corporation or other type of entity to trade binary options.

Section 4 – Binary options having a term to maturity of 30 days or longer

Section 4 carves out from the prohibition in sections 2 and 3 a binary option having a term to maturity of 30 days or longer. We consider "term to maturity" to mean, inclusively, the time the binary option is entered into until the time specified, or the expiry of the time period specified, in the contract or instrument for determining whether the predetermined condition or conditions are met. For example, if the original term to maturity of a binary option is 30 days or longer from the time it was first made available for trading, the binary option would not be caught by the Instrument.

A binary option that has a maturity date of 30 days or more from the date the binary option is entered into would not be excluded from the prohibition if the time or time period specified for determining whether the predetermined condition or conditions are met is less than 30 days from the date the binary option is entered into.

General

We remind market participants that binary options that are not subject to the Instrument are nevertheless derivatives and/or securities in each jurisdiction of Canada. Any person or company advertising, offering, selling or otherwise trading such products to persons or companies in Canada is subject to securities legislation in Canada including, for example, anti-fraud provisions and requirements respecting registration, market conduct and disclosure. Furthermore, in jurisdictions of Canada where binary options are regulated as securities, trading a binary option may be a distribution subject to the prospectus requirement.

Offering investment services or products to persons or companies in Canada, whether by telephone, online or in-person, is a regulated activity. Investing through unregistered offshore platforms or dealers can be risky and is a common red flag for investment fraud. We encourage all investors to visit aretheyregistered.ca to check the registration of any person or company offering investment products, including binary options, to Canadians. Anyone who has invested with, or has concerns about, a binary options trading platform should contact their local securities regulator. We also encourage all investors to visit binaryoptionsfraud.ca.

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:
AlphaDelta Canadian Focused Equity Class
AlphaDelta Growth of Dividend Income Class
Principal Regulator – British Columbia
Type and Date:
Amendment #1 to Final Simplified Prospectus dated November 29, 2017
Received on November 29, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Qwest Investment Fund Management Ltd.
Project #2647512

Issuer Name:
Canadian Dollar Cash Management Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Annual Information Form dated November 29, 2017
Received on December 1, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Invesco Canada Ltd.
Project #2636751

Issuer Name:
Canadian Dollar Cash Management Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Annual Information Form dated November 29, 2017
Received on December 1, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Invesco Canada Ltd.
Project #2636765

Issuer Name:
Canadian Dollar Cash Management Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Annual Information Form dated November 29, 2017
Received on December 4, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Invesco Canada Ltd.
Project #2636768

Issuer Name:
Canadian Dollar Cash Management Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Annual Information Form dated November 29, 2017
Received on December 4, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Invesco Canada Ltd.
Project #2636391

Issuer Name:
Fidelity Canadian Disciplined Equity® Fund
Fidelity Canadian Growth Company Fund
Fidelity Canadian Large Cap Fund
Fidelity Canadian Opportunities Fund
Fidelity Special Situations Fund
Fidelity True North® Fund
Fidelity American Equity Fund
Fidelity Small Cap America Fund
Fidelity U.S. Dividend Fund
Fidelity U.S. Dividend Currency Neutral Fund
Fidelity Event Driven Opportunities Fund
AsiaStar® Fund
Fidelity Global Fund
Fidelity Global Disciplined Equity® Fund
Fidelity Global Dividend Fund
Fidelity International Concentrated Equity Fund
Fidelity NorthStar® Fund
Fidelity International Growth Fund
Fidelity Global Consumer Industries Fund
Fidelity Global Natural Resources Fund
Fidelity Canadian Asset Allocation Fund
Fidelity Global Asset Allocation Fund
Fidelity U.S. Monthly Income Fund
Fidelity U.S. Monthly Income Currency Neutral Fund
Fidelity Tactical High Income Fund
Fidelity NorthStar® Balanced Fund
Fidelity American Balanced Fund
Fidelity Growth Portfolio
Fidelity Global Growth Portfolio
Fidelity Conservative Managed Risk Portfolio
Fidelity ClearPath® 2055 Portfolio
Fidelity Canadian Short Term Bond Fund
Fidelity Tactical Fixed Income Fund
Fidelity American High Yield Fund
Fidelity American High Yield Currency Neutral Fund
Fidelity Strategic Income Currency Neutral Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated December 1, 2017
Received on December 1, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Fidelity Investments Canada ULC
Fidelity Investments Canada Limited
Promoter(s):
N/A
Project #2675619

Issuer Name:
Fidelity Canadian Disciplined Equity® Class
Fidelity Canadian Growth Company Class
Fidelity Canadian Large Cap Class
Fidelity Canadian Opportunities Class
Fidelity Dividend Class
Fidelity Special Situations Class
Fidelity True North® Class
Fidelity American Disciplined Equity® Class
Fidelity Small Cap America Class
Fidelity Small Cap America Currency Neutral Class
Fidelity U.S. All Cap Class
Fidelity U.S. All Cap Currency Neutral Class
Fidelity American Equity Class
Fidelity American Equity Currency Neutral Class
Fidelity Event Driven Opportunities Class
Fidelity China Class
Fidelity Emerging Markets Class
Fidelity Europe Class
Fidelity Far East Class
Fidelity Global Dividend Class
Fidelity Global Large Cap Class
Fidelity Global Large Cap Currency Neutral Class
Fidelity NorthStar® Class
Fidelity NorthStar® Currency Neutral Class
Fidelity Global Concentrated Equity Class
Fidelity Global Intrinsic Value Class
Fidelity Global Intrinsic Value Currency Neutral Class
Fidelity Insights Class
Fidelity Insights Currency Neutral Class
Fidelity Global Financial Services Class
Fidelity Global Natural Resources Class
Fidelity Technology Innovators Class
Fidelity Canadian Asset Allocation Class
Fidelity Canadian Balanced Class
Fidelity Global Balanced Class Portfolio
Fidelity Growth Class Portfolio
Principal Regulator – Ontario
Type and Date:
Amendment #5 to Final Simplified Prospectus dated December 1, 2017
Received on December 1, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Fidelity Investments Canada ULC
Project #2586927

Issuer Name:
Fidelity International Equity Private Pool
Fidelity International Equity Currency Neutral Private Pool
Fidelity Global Equity Private Pool
Global Equity Currency Neutral Private Pool
Fidelity Asset Allocation Private Pool
Fidelity Asset Allocation Currency Neutral Private Pool
Fidelity U.S. Growth and Income Private Pool
Fidelity International Equity Investment Trust
Fidelity Global Equity Investment Trust
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated December 1, 2017
Received on December 1, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
Fidelity Investments Canada ULC
Promoter(s):
Fidelity Investments Canada ULC
Project #2661253

Issuer Name:
Invesco Short-Term Income Class
Invesco Canada Money Market Fund
Trimark Interest Fund
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Annual Information Form dated November 29, 2017
Received on December 1, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Invesco Canada Ltd.
Project #2636650

Issuer Name:
MD Strategic Yield Fund
MD Strategic Opportunities Fund
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated November 28, 2017
Received on November 28, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
MD Management Limited
Promoter(s):
MD Financial Management Inc.
Project #2615402

Issuer Name:
MDPIM Strategic Yield Pool
MDPIM Strategic Opportunities Pool
MDPIM S&P/TSX Capped Composite Index Pool
MDPIM S&P 500 Index Pool
MDPIM International Equity Index Pool
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated November 28, 2017
Received on November 28, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
MD Management Limited
Promoter(s):
MD Financial Management Inc.
Project #2615412

Issuer Name:
PowerShares 1-10 Year Laddered Investment Grade Corporate Bond Index ETF
PowerShares 1-3 Year Laddered Floating Rate Note Index ETF
PowerShares 1-5 Year Laddered All Government Bond Index ETF
PowerShares 1-5 Year Laddered Investment Grade Corporate Bond Index ETF
PowerShares Canadian Dividend Index ETF
PowerShares Canadian Preferred Share Index ETF
PowerShares DWA Global Momentum Index ETF
PowerShares FTSE RAFI Canadian Fundamental Index ETF
PowerShares FTSE RAFI Canadian Small-Mid Fundamental Index ETF
PowerShares FTSE RAFI Global+ Fundamental Index ETF
PowerShares FTSE RAFI U.S. Fundamental Index ETF
PowerShares FTSE RAFI U.S. Fundamental Index ETF II
PowerShares Fundamental High Yield Corporate Bond Index ETF
PowerShares LadderRite U.S. 0-5 Year Corporate Bond Index ETF
PowerShares QQQ Index ETF
PowerShares S&P 500 High Dividend Low Volatility Index ETF
PowerShares S&P 500 Low Volatility Index ETF
PowerShares S&P Emerging Markets Low Volatility Index ETF
PowerShares S&P Global ex. Canada High Dividend Low Volatility Index ETF
PowerShares S&P International Developed Low Volatility Index ETF
PowerShares S&P/TSX Composite Low Volatility Index ETF
PowerShares S&P/TSX REIT Income Index ETF
PowerShares Senior Loan Index ETF
PowerShares Ultra Liquid Long Term Government Bond Index ETF
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Long Form Prospectus dated November 28, 2017

NP 11-202 Preliminary Receipt dated November 29, 2017
Offering Price and Description:
CAD Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
INVESCO CANADA LTD.
Project #2703193

Issuer Name:
Questrade Fixed Income Core Plus ETF
Principal Regulator – Ontario
Type and Date:
Amendment #2 to Final Long Form Prospectus dated November 30, 2017
Received on November 30, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Questrade Wealth Management Inc.
Project #2648280

Issuer Name:
RBC $U.S. Short-Term Corporate Bond Fund
RBC $U.S. Strategic Income Bond Fund
RBC Global Bond & Currency Fund
RBC Global Equity Focus Currency Neutral Fund
RBC O'Shaughnessy U.S. Value Fund (Unhedged)
RBC QUBE Low Volatility Global Equity Currency Neutral Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated November 30, 2017
NP 11-202 Preliminary Receipt dated December 1, 2017
Offering Price and Description:
Series A, Advisor Series, Series D, Series F and Series O units
Underwriter(s) or Distributor(s):
RBC Global Asset Management Inc.
Royal Mutual Funds Inc.
Promoter(s):
RBC Global Asset Management Inc.
Project #2706107

Issuer Name:
Exemplar Growth and Income Fund
Exemplar Investment Grade Fund
Exemplar Leaders Fund
Exemplar Performance Fund
Exemplar Tactical Corporate Bond Fund
Principal Regulator – Ontario
Type and Date:
Amended and Restated to Final Simplified Prospectus dated November 17, 2017
NP 11-202 Receipt dated November 29, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Arrow Capital Managment Inc.
Project #2634081

Issuer Name:
First Asset Resource Fund Inc.
Principal Regulator – Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated November 23, 2017
NP 11-202 Receipt dated November 29, 2017
Offering Price and Description:
Class A Shares, Series 1 @ Net Asset Value
Underwriter(s) or Distributor(s):
TDK Management Fund Inc.
Promoter(s):
N/A
Project #2629260

NON-INVESTMENT FUNDS

Issuer Name:
Antioquia Gold Inc.
Principal Regulator – Ontario
Type and Date:
Amendment dated November 30, 2017 to Preliminary Short Form Prospectus dated August 30, 2017
NP 11-202 Preliminary Receipt dated December 1, 2017
Offering Price and Description:
$62,500,000.00 – OFFERING OF RIGHTS TO SUBSCRIBE FOR UP TO [♦] COMMON SHARES AT A PRICE OF [♦] PER COMMON SHARE
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2672409

Issuer Name:
Aurora Cannabis Inc.
Principal Regulator – British Columbia
Type and Date:
Preliminary Short Form Prospectus dated December 1, 2017
NP 11-202 Preliminary Receipt dated December 4, 2017
Offering Price and Description:
$115,000,000.00 principal amount of Convertible Debentures
issuable upon exercise of 115,000 Special Warrants
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
–
Project #2706451

Issuer Name:
Cannabis Growth Opportunity Corporation
Principal Regulator – Ontario
Type and Date:
Amendment dated November 30, 2017 to Preliminary Long Form Prospectus dated November 24, 2017
NP 11-202 Preliminary Receipt dated December 1, 2017
Offering Price and Description:
Minimum: $5,000,000.00 of Units
Maximum: $75,000,000.00 of Units
Price: $2.50 per Unit
Underwriter(s) or Distributor(s):
Eight Capital
Canaccord Genuity Corp.
Haywood Securities Inc.
Mackie Research Capital Corporation
Beacon Securities Limited
PI Financial Corp.
Velocity Trade Capital Ltd.
Promoter(s):
CGOC Management Corp.
Project #2700140

Issuer Name:
Epazz, Inc.
Type and Date:
Preliminary Long Form Prospectus dated November 24, 2017
(Preliminary) Receipted on November 28, 2017
Offering Price and Description:
–
Underwriter(s) or Distributor(s):
–
Promoter(s):
Shaun Passley
Project #2700113

Issuer Name:
EPCOR Utilities Inc.
Principal Regulator – Alberta (ASC)
Type and Date:
Preliminary Shelf Prospectus dated November 30, 2017
NP 11-202 Preliminary Receipt dated November 30, 2017
Offering Price and Description:
$2,000,000,000.00 – Medium Term Note Debentures (unsecured)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
HSBC Securities (Canada) Inc.
Merrill Lynch Canada Inc.
MUFG Securities (Canada), Ltd.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
Wells Fargo Securities Canada, Ltd.
Promoter(s):
–
Project #2705825

Issuer Name:
FortisAlberta Inc.
Principal Regulator – Alberta (ASC)
Type and Date:
Preliminary Shelf Prospectus dated November 29, 2017
NP 11-202 Preliminary Receipt dated November 30, 2017
Offering Price and Description:
$500,000,000.00 – Medium Term Note Debentures (unsecured)
Underwriter(s) or Distributor(s):
TD Securities Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Casgrain & Company Limited
Promoter(s):
–
Project #2705387

Issuer Name:
Point Loma Resources Ltd. (formerly First Mountain Exploration Inc.)
Principal Regulator – Alberta (ASC)
Type and Date:
Preliminary Short Form Prospectus dated November 27, 2017
NP 11-202 Preliminary Receipt dated November 28, 2017
Offering Price and Description:
Consisting of Up to $3,000,000.00 Flow-Through Shares
Price: $0.33 per Flow-Through Share
Underwriter(s) or Distributor(s):
Mackie Research Capital Corporation
Promoter(s):
–
Project #2700993

Issuer Name:
Timbercreek Financial Corp.
Principal Regulator – Ontario
Type and Date:
Preliminary Shelf Prospectus dated November 28, 2017
NP 11-202 Preliminary Receipt dated November 29, 2017
Offering Price and Description:
$500,000,000.00
Common Shares
Debt Securities
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
–
Promoter(s):
–
Project #2702235

Issuer Name:
Neo Performance Materials Inc.
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated November 30, 2017
NP 11-202 Receipt dated December 1, 2017
Offering Price and Description:
C$200,070,000.00 – 11,115,000 Common Shares
Offering Price: C$18.00 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:
Titan Medical Inc.
Principal Regulator – Ontario
Type and Date:
Final Short Form Prospectus dated November 30, 2017
NP 11-202 Receipt dated December 1, 2017
Offering Price and Description:
Minimum: CDN $18,000,000.00 (36,000,000 Units)
Maximum: CDN $23,000,000.00 (46,000,000 Units)
Price: CDN $0.50 per Unit
Underwriter(s) or Distributor(s):
Bloom Burton Securities Inc.
Promoter(s):
–
Project #2694805

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change in Registration Category	Avenue Investment Management Inc.	From: Portfolio Manager To: Investment Fund Manager, Portfolio Manager	November 28, 2017
New Registration	Chronicle Investments Ltd.	Portfolio Manager	November 29, 2017
New Registration	SP Wealth LP	Investment Dealer	November 30, 2017

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 Canadian Securities Exchange – Amendments to Trading System Functionality & Features – New Order Types – Notice of Approval

Notice 2017-019

CANADIAN SECURITIES EXCHANGE

NOTICE OF APPROVAL

AMENDMENTS TO TRADING SYSTEM FUNCTIONALITY & FEATURES – NEW ORDER TYPES

INTRODUCTION

In accordance with the Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 (the "Protocol"), CNSX Markets Inc. ("CSE") has adopted, and the Ontario Securities Commission (OSC) has approved, significant changes to the Trading System.

On September 22nd, 2017, CNSX Markets Inc. ("CSE") published Notice 2017-016 – Amendments to Trading System Functionality & Features – Request for Comment, describing several new order types proposed by the CSE. The period for public comment expired on October 16, 2017. **No comment letters were received**.

DESCRIPTION OF THE AMENDMENTS

The changes included new order types and enhancements to existing order types.

The full text of the amendments is available in Notice 2017-016:

http://thecse.com/en/about/publications/notices/notice-2017-016-amendments-to-trading-system-functionality-features

CHANGES TO PROPOSED AMENDMENTS

The proposed Minimum Quantity Order type will be simplified, such that it will be cancelled rather than placed in the terms book, if the minimum quantity specified is not filled upon entry. It will be renamed "Minimum Volume Order" for clarity. Changes to the published proposal are indicated below.

Minimum ~~Quantity~~ Volume Order

Minimum ~~Quantity~~ Volume order is a visible order that will trade only against contra orders with a combined volume equal to or greater than the specified minimum.

- The Minimum ~~Quantity~~ Volume order will trade actively against lit orders in the book and dark orders, but only if there is a sufficient combined volume to completely fill the Minimum ~~Quantity~~ Volume specified on the order.
- If the Minimum ~~Quantity~~ Volume order does not fill, it will be ~~posted in the terms book~~ cancelled.
- ~~An active contra order with remaining volume equal to or greater than the specified minimum volume will trade with Minimum Quantity orders after any similarly priced orders in the lit book have traded.~~

IMPLEMENTATION

To be included in the planned Q1 and Q3 2018 system releases.

Questions about this notice may be directed to:

Mark Faulkner, Vice President Listings & Regulation,

Mark.Faulkner@thecse.com, or 416-367-7341

13.3 Clearing Agencies

13.3.1 CDS – Technical Amendments to CDS Procedures – Housekeeping Changes – Notice of Effective Date

NOTICE OF EFFECTIVE DATE

TECHNICAL AMENDMENTS TO CDS PROCEDURES

HOUSEKEEPING CHANGES

NOVEMBER 2017

The Ontario Securities Commission is publishing *Notice of Effective Date – Technical Amendments to CDS Procedures – Housekeeping Changes – November 2017*. The CDS procedure amendments were reviewed and approved by CDS's strategic development review committee (SDRC) on November 23, 2017.

A copy of the CDS Notice is on our website http://www.osc.gov.on.ca.

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