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Chapter 1

Notices / News Releases

1.5 Notices from the Office of the Secretary

1.5.1 Maria Psihopedas

FOR IMMEDIATE RELEASE
August 24, 2018

MARIA PSIHOPEDAS,
File No. 2018-18

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

A copy of the Order dated August 24, 2018 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
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1.5.2 Muchoki Fungai Simba

FOR IMMEDIATE RELEASE
August 28, 2018

MUCHOKI FUNGAI SIMBA
(also previously known as
Henderson MacDonald Alexander Butcher),
File No. 2018-6

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

A copy of the Order dated August 27, 2018 is available at www.osc.gov.on.ca.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 State Farm Investor Services (Canada) Co. and Desjardins Financial Security Investments Inc.

Headnote

Multilateral Instrument 11-102 Passport System – National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 33-109 Registration Information (NI 33-109) – relief from certain filing requirements of NI 33-109 in connection with a bulk transfer of business locations and registered and non-registered individuals pursuant to an asset acquisition in accordance with section 3.4 of Companion Policy 33-109CP to NI 33-109.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System.
National Instrument 33-109 Registration Information and Companion Policy 33-109CP.
National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

August 7, 2018

**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
STATE FARM INVESTOR SERVICES (CANADA) CO.
(SFIS)**

AND

**DESJARDINS FINANCIAL SECURITY
INVESTMENTS INC. (DFSI)
(the Filers)**

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 relief from the requirements contained in sections 2.2, 2.3 2.5, 3.2 and 4.2 of National Instrument 33-109 – *Registration Information (NI 33-109)* pursuant to section 7.1 of NI 33-109 to allow the bulk transfer (the Bulk Transfer) of all the registered individuals and all the business locations of SFIS to DFSI, on the Completion Date (as defined below), in accordance with section 3.4 of the Companion Policy to NI 33-109 (the **Exemption Sought**).

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

- (a) the Ontario Securities Commission (the **OSC**) is the principal regulator for this application, and
- (b) the Filers have provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied by each of the Filers in Alberta and New Brunswick (collectively 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:

SFIS

1. SFIS is a corporation existing under the laws of Nova Scotia, and is wholly-owned by 9294-2150 Québec inc. (**Acquisition Co.**), a wholly-owned subsidiary of Desjardins Financial Security Life Assurance Company (**DFS**), which itself is indirectly held by the Fédération des Caisses Desjardins du Québec (**Desjardins Group**).
2. SFIS's National Registry Database (NRD) number is 10450
3. SFIS's head office is located in Aurora, Ontario.
4. SFIS is registered as a mutual fund dealer in the provinces of Alberta, New Brunswick and Ontario (each, a **Jurisdiction** and collectively, the **Jurisdictions**).
5. SFIS is a member of the Mutual Fund Dealers Association of Canada (**MFDA**).

Decisions, Orders and Rulings

6. SFIS provides mutual funds and related services to its clients.
 7. SFIS has 631 representatives registered with the Canadian Securities Administrators in the Jurisdictions (the **Registered Representatives**). SFIS has 1 business branch and 403 sub-branches (the **Business Locations**).
 8. SFIS is a level 3 member of the MFDA.
 9. SFIS is not in default of any requirements of securities legislation in any of the Jurisdictions.
- (b) SFIS's Chief Compliance Officer, Radek Loudin, which currently also acts as such for DFSI, will continue in this role with DFSI;
 - (c) SFIS's Ultimate Designated Person, Barbara Bellissimo, will no longer act in such capacity because DFSI already has its own Ultimate Designated Person, André Langlois, who will continue in this role with DFSI;
 - (d) none of the Registered Representatives will be relocated during the upcoming bulk transfer;

DFSI

9. DFSI is a corporation existing under the laws of the province of Québec, and is wholly-owned by DFS.
 10. DFSI's NRD number is 23430.
 11. DFSI's head office is located in Québec City, Québec.
 12. DFSI is registered in all Canadian provinces and territories as a mutual fund dealer and as an exempt market dealer and a restricted dealer in Québec only.
 13. DFSI is a level 4 member of the MFDA.
 14. DFSI is not in default of any requirements of securities legislation in any of the Jurisdictions.
- (e) any and all litigation procedures, complaints or other regulatory matters involving SFIS will continue with DFSI. Therefore, no claimants will be affected by the Transaction;
 - (f) as a result of the Transaction, SFIS's activities will continue using DFSI's NRD Number e.g. 23430. As such, SFIS will surrender its registration in the Jurisdictions as well as its membership with the MFDA;
 - (g) subject to the Exemption Sought, it is not anticipated that there will be any business process interruptions or disruption in the ability of SFIS and/or DFSI to trade on behalf of their respective clients as a result of the Transaction;

The Transaction

15. On, or about October 1, 2018 (the **Completion Date**) and in order to regroup the mutual fund dealer activities of SFIS with the mutual fund dealer activities of DFSI (collectively the **Transaction**),
 - (a) all the issued and outstanding securities of SFIS will be transferred to DFSI; and
 - (b) pursuant to the terms of a general conveyance agreement to be entered into by DFSI and SFIS, all the assets, obligations and liabilities of SFIS will be transferred to DFSI (including the mutual fund dealer activities of SFIS).
 16. Upon completion of the Transaction, SFIS will cease to act as mutual fund dealer in the Jurisdictions. Consequently,
 - (a) DFSI will assume all of the existing registrations, approvals, rights and obligations for all SFIS's Registered Representatives as well as of the Business Locations;
17. Upon completion of the Transaction, the Registered Representatives will be transferred to DFSI and the Business Locations will become sub-branches and branches of DFSI.
 18. By letter dated June 15, 2018, the MFDA approved the Transaction.
 19. At the time of the Bulk Transfer, all of the Registered Individuals will only be registered individuals of SFIS and the Business Locations will be the only branches and sub-branches of SFIS. Accordingly, the transfer of the Registered Individuals and Business Locations on the Completion Date by means of the Bulk Transfer can be implemented without any significant disruption to the activities of the Registered Individuals, the Business Locations, SFIS or DFSI.

20. Given the number of Registered Representatives and Business Locations to be transferred from SFIS to DFSI on the Completion Date, it would be unduly time consuming and difficult to transfer each of the Registered Representatives and Business Locations through NRD in accordance with the requirements of NI 33-109 if the Exemption Sought is not granted.
21. Allowing the bulk transfer of the Registered Representatives and Business Locations to occur on the Completion Date will benefit (and have no detrimental impact on) the clients of the Filers by facilitating seamless service on the part of the Registered Representatives and the Filers.
22. DFSI will ensure that all filings required to be made under NI 33-109 will be made on time.
23. Upon completion of the Transaction all activities currently conducted by SFIS will be under the responsibility of DFSI.
24. The Exemption Sought complies with the requirements of, and the reasons for, a bulk transfer as set out in Section 3.4 of the Companion Policy to NI 33-109 and Appendix C thereto.
25. It would not be prejudicial to the public interest to grant the Exemption Sought.
26. SFIS's clients have been made aware of the Transaction through a prior notice.
27. In accordance with its obligations under NI 31-103, DFSI will remit to the SFIS's clients all information about DFSI that is required.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that the Filers make acceptable arrangements with CGI Information Systems and Management Consultants Inc. in respect of the Bulk Transfer and that the Filers make such arrangements in advance of the Bulk Transfer.

“Pat Chaukos”
Deputy Director
Ontario Securities Commission

2.1.2 Fidelity Investments Canada ULC

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief to invest in silver, and commodity ETFs revoked and replaced – Additional relief granted from sections 2.3(1)(f), 2.3(1)(h), 2.5(2)(a) and 2.5(2)(c) of National Instrument 81-102 – Investment Funds to permit mutual funds to invest up to 10% of net asset value in silver and commodity ETFs traded on Canadian or U.S. stock exchanges subject to investment limits applied to the existing and additional relief collectively.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.3(1)(f), 2.3(1)(h), 2.5(2)(a), 2.5(2)(c) and 19.1.

May 18, 2018

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
FIDELITY INVESTMENTS CANADA ULC
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of the existing and future mutual funds managed by the Filer that are subject to National Instrument 81-102 *Investment Funds* (**NI 81-102**) and that are not money market funds as defined by NI 81-102 (the **Funds**), for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation):

- (a) revoking and replacing the 2010 Decision (as defined below);
- (b) revoking and replacing the Previous Commodity ETF Relief (as defined below) granted in the 2012 Decision (as defined below); and
- (c) exempting the Funds from the prohibitions contained in sections 2.3(1)(f), 2.3(1)(h), 2.5(2)(a) and 2.5(2)(c) of NI 81-102 to permit each Fund to invest in the following:
 - (i) silver, Permitted Silver Certificates (as defined below) and Silver Derivatives (as defined below) (collectively, **Silver**); and
 - (ii) exchange-traded funds (ETFs) traded on a stock exchange in Canada or the United States that do not qualify as IPU's that have exposure to one or more physical commodities, including, but not limited to, gold and silver on an unlevered basis (Commodity ETFs).

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

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

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

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

Interpretation

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

“**Gold Derivative**” means a specified derivative the underlying interest of which is gold on an unlevered basis.

“**IPU**” means an “index participation unit” as defined by NI 81-102.

“**Permitted Silver Certificates**” means certificates that represent silver that are:

- (a) available for delivery in Canada, free of charge, to or to the order of the holder of the certificate;
- (b) of a minimum fineness of 999 parts per 1,000;
- (c) held in Canada;
- (d) in the form of either bars or wafers; and
- (e) if not purchased from a bank listed in Schedule I, II or III of the *Bank Act* (Canada), fully insured against loss and bankruptcy by an insurance company licensed under the laws of Canada or a province or territory of Canada.

“**Silver Derivative**” means a specified derivative the underlying interest of which is silver on an unlevered basis.

Representations

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

The Filer

1. The Filer is a corporation amalgamated under the laws of the Province of Alberta, with its head office located in Toronto, Ontario.
2. The Filer is registered as an investment fund manager in Ontario, Québec and Newfoundland and Labrador. The Filer is also registered as a portfolio manager and mutual fund dealer in each of the Jurisdictions and is registered under the *Commodity Futures Act* (Ontario) in the category of commodity trading manager.
3. The Filer acts, or will act, as manager and portfolio manager of each of the Funds.
4. The Filer is not in default of securities legislation in any of the Jurisdictions.

The Funds

5. Each Fund is, or will be, a mutual fund governed by the laws of Canada or a Jurisdiction and a reporting issuer under the laws of one or more of the Jurisdictions.
6. Securities of each Fund are, or will be, qualified for distribution in some or all of the Jurisdictions under a simplified prospectus, annual information form and fund facts prepared and filed in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**). Each Fund is, or will be, governed by NI 81-102, subject to any relief therefrom granted by the securities regulatory authorities.
7. The existing Funds are not in default of securities legislation in any Jurisdiction.

The Previous Decisions

8. Except as described in the Previous Decisions, none of the Funds currently has relief from sections 2.3(1)(f) and 2.3(1)(h) of NI 81-102.

9. The Filer obtained a previous decision dated November 11, 2010 (the 2010 Decision) exempting all existing and future mutual funds managed by the Filer that are subject to NI 81-102 and that are not money market funds, as defined by NI 81-102, from the requirements of (then) sections 2.3(f), 2.3(h), 2.5(2)(a), 2.5(2)(b) and 2.5(2)(c) of NI 81-102 to permit the Funds to purchase and hold or enter into:
- (a) securities of ETFs that seek to replicate (i) the performance of gold on an unlevered basis; or (ii) the value of a Gold Derivative (**Gold ETFs**);
 - (b) securities of ETFs that seek to replicate (i) the performance of silver on an unlevered basis; or (ii) the value of a Silver Derivative (**Silver ETFs**);
 - (c) securities of ETFs that seek to replicate (i) the performance of gold and silver on an unlevered basis; or (ii) the value of specified derivatives the underlying interests of which are gold and silver on an unlevered basis (**Unlevered Gold/Silver ETFs**); and
 - (d) Silver.
10. Since the 2010 Decision does not permit the Funds to invest in securities of Commodity ETFs that are not Gold ETFs, Silver ETFs or Unlevered Gold/Silver ETFs, the Filer is requesting that the 2010 Decision be revoked and replaced by the decision in respect of the Exemption Sought in order to permit the Funds to also invest in Commodity ETFs with exposure to physical commodities other than gold and silver.
11. The Filer obtained a previous decision dated May 11, 2012 (the **2012 Decision**, together with the 2010 Decision, the **Previous Decisions**) exempting Fidelity Tactical Strategies Fund from the requirements of sections 2.3(1)(f), 2.3(1)(h), 2.5(2)(a) and 2.5(2)(c) of NI 81-102 to permit that Fund to invest in:
- (a) Commodity ETFs (the Previous Commodity ETF Relief);
 - (b) ETFs traded on a stock exchange in Canada or the United States the underlying interest of which is gold or silver based on a multiple of 200% (**Leveraged Gold/Silver ETFs**); and
 - (c) ETFs traded on a stock exchange in Canada or the United States that seek to provide daily results that replicate the daily performance of a specified widely-quoted market index by an inverse multiple of 100% or by a multiple of 200% or an inverse multiple of 200% (**Inverse or Leveraged ETFs**).
12. The 2012 Decision imposes a limit on the exposure of Fidelity Tactical Strategies Fund to any one commodity sector, other than gold and/or silver, of 2.5% of the Fund's net asset value at the time of a transaction. The Filer is requesting that the portion of the 2012 Decision that permits Fidelity Tactical Strategies Fund to invest in Commodity ETFs be revoked and replaced by the decision in respect of the Exemption Sought, since this portion of the 2012 Decision is more restrictive than the relief in respect of Commodity ETFs obtained in the more recent decisions issued to other issuers, such as in the Recent Decisions (as defined below).
13. The Filer has determined that it would be in the best interests of the Funds to receive the Exemption Sought and to replace the 2010 Decision and the Previous Commodity ETF Relief granted in the 2012 Decision with the decision in respect of the Exemption Sought for the reasons further set out below.
14. As of the date of this decision, the Filer will no longer rely on the 2010 Decision and the Previous Commodity ETF Relief granted in the 2012 Decision that seeks relief to invest in Commodity ETFs.

Silver

15. In addition to having the ability to invest in gold as permitted under NI 81-102, the Filer wishes for the Funds to have the ability to invest in silver and Permitted Silver Certificates directly, and in silver and gold indirectly by investing in Silver Derivatives and Commodity ETFs.
16. NI 81-102 allows mutual funds to invest in gold, permitted gold certificates or Gold Derivatives on the basis that gold is a fairly liquid commodity.
17. The Filer believes that the markets in both gold and silver are highly liquid, and that there are no liquidity concerns with permitting a Fund to invest in silver and Permitted Silver Certificates directly, and in silver and gold indirectly by investing in Silver Derivatives, Gold Derivatives and Commodity ETFs.

18. Permitting a Fund to invest in silver and Permitted Silver Certificates directly, and in silver and gold indirectly by investing in Silver Derivatives, Gold Derivatives and Commodity ETFs, will provide the portfolio manager of a Fund with additional flexibility to increase gains for the Fund in certain market conditions, which may have otherwise caused the Fund to have significant cash positions and therefore prohibit the Fund from achieving its investment objective.

The Commodity ETFs

19. Each Commodity ETF is, or will be, a “mutual fund” as such term is defined under the *Securities Act* (Ontario).
20. The securities of each Commodity ETF trade, or will trade, on a stock exchange in Canada or the United States.
21. The assets of each Commodity ETF consist or will consist primarily of one or more physical commodities, or derivatives that have an underlying interest in such physical commodity or commodities. These physical commodities may include, without limitation, precious metals commodities (such as gold, silver, platinum, platinum certificates, palladium and palladium certificates), energy commodities (such as crude oil, gasoline, heating oil and natural gas), industrials and/or metals commodities (such as aluminum, copper, nickel and zinc) and agricultural commodities (such as coffee, corn, cotton, lean hogs, live cattle, soybeans, soybean oil, sugar and wheat). The objective of a Commodity ETF is to reflect the price of the applicable commodity or commodities (less such Commodity ETF’s expenses and liabilities) on an unlevered basis, or track the performance of an index which is intended to reflect the changes in the market value of the applicable physical commodity or commodities sector.

Investments in the Commodity ETFs and Silver

22. The Funds propose to have the ability to invest in the Commodity ETFs, whose securities are not IPUs.
23. Each existing Fund is, and each future Fund will be, permitted, in accordance with its investment objectives and investment strategies, to invest in Silver and in securities of Commodity ETFs.
24. Any regulatory concerns, such as undue risk, liquidity concerns or lack of transparency, in connection with investing in the Commodity ETFs are mitigated by the following facts:
- (a) The Commodity ETFs trade on a Canadian or U.S. exchange and are generally relatively liquid. The Commodity ETFs will either be “registered” investment companies in the United States or reporting issuers in one or more Jurisdictions, which means that there will be clear disclosure about the Commodity ETFs readily available in the marketplace.
 - (b) The amount of loss that can result from an investment by a Fund in the Commodity ETFs will be limited to the amount invested by the Fund in securities of the Commodity ETF.
 - (c) Investments by the Funds in Commodity ETFs will be very limited. In accordance with the investment strategies of the Funds, other than Fidelity Tactical Strategies Fund, no more than 10% of the net asset value of the Fund will be invested in one or a combination of Commodity ETFs. In the case of Fidelity Tactical Strategies Fund, no more than 10% of its net asset value will be invested in Commodity ETFs, Leveraged Gold/Silver ETFs and Inverse or Leveraged ETFs taken at market value at the time of purchase.
 - (d) The simplified prospectus of each existing Fund discloses, or will disclose the next time it is renewed, and the simplified prospectus of each future Fund will disclose: (i) in the investment strategies section: (I) that the Fund has obtained relief to invest in Silver or in securities of Commodity ETFs; (II) an explanation of what each type of Commodity ETF is; (III) to the extent the Fund may invest in securities of a Commodity ETF, that the Fund may indirectly invest in gold and other physical commodities; and (ii) the risks associated with such investments and strategies.
25. In the absence of the Exemption Sought, the Funds would not be permitted to invest in Silver and/or Commodity ETFs because:
- (a) sections 2.3(1)(f) and (h) of NI 81-102 would prohibit the Funds from investing in Silver or in securities of Commodity ETFs;
 - (b) section 2.5(2)(a) of NI 81-102 would prohibit the Funds from investing in securities of Commodity ETFs because the Commodity ETFs are not subject to NI 81-101 and may not be subject to NI 81-102; and
 - (c) section 2.5(2)(c) of NI 81-102 would prohibit the Funds from investing in securities of some Commodity ETFs because some Commodity ETFs are not qualified for distribution in the local jurisdiction.

26. An investment by a Fund in Silver or in securities of a Commodity ETF will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Fund.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that:

- (a) the investment by a Fund in Silver and in securities of a Commodity ETF is in accordance with the fundamental investment objectives of the Fund;
- (b) the securities of the Commodity ETFs are traded on a stock exchange in Canada or the United States;
- (c) a Fund's market value exposure (whether direct or indirect, including through Commodity ETFs) to all physical commodities (including gold and silver) does not exceed 10% of the net asset value of the Fund, taken at market value at the time of the transaction;
- (d) each Fund, other than Fidelity Tactical Strategies Fund, does not purchase securities of a Commodity ETF if, immediately after the transaction, more than 10% of the net asset value of the Fund, taken at market value at the time of the transaction, would consist of securities of Commodity ETFs;
- (e) For the Fidelity Tactical Strategies Fund, the Fund does not purchase securities of a Commodity ETF, Leveraged Gold/Silver ETF or Inverse or Leveraged ETF if, immediately after the transaction, more than 10% of the net asset value of the Fund, taken at market value at the time of the transaction, would consist of securities of Commodity ETFs, Leveraged Gold/Silver ETFs and Inverse or Leveraged ETFs; and
- (f) the simplified prospectus of each existing Fund discloses, or will disclose the next time it is renewed, and the simplified prospectus of each future Fund will disclose:
 - i. in the investment strategies section:
 - I. that the Fund has obtained relief to invest in Silver and in securities of Commodity ETFs;
 - II. an explanation of what each type of Commodity ETF is;
 - III. to the extent the Fund may invest in securities of a Commodity ETF, that the Fund may indirectly invest in gold and other physical commodities; and
 - ii. the risks associated with such investments and strategies.

"Darren McCall"
Manager, Investment Funds & Structured Products Branch
Ontario Securities Commission

2.1.3 Yorkville Asset Management Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Existing relief from paragraphs 2.3(f) and (h), 2.5(a), (b) and (c) of National Instrument 81-102 Mutual Funds (as it then was) to invest in gold ETFs, silver ETFs, gold/silver ETFs and silver revoked and replaced – additional relief granted to invest in Leveraged ETFs, Inverse ETFs and Leveraged Gold ETFs subject to investment limits applied to the existing and additional relief collectively.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, paragraphs 2.3(1)(f), 2.3(1)(h), 2.5(2)(a), 2.5(2)(c) and section 19.1.

August 22, 2018

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
YORKVILLE ASSET MANAGEMENT INC.
(the Filer)

AND

IN THE MATTER OF
THE FUNDS
(as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of each existing and future mutual fund for which the Filer acts or may act as investment fund manager (each, a **Fund** and collectively, the **Funds**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**):

- (a) revoking and replacing the Previous Decision (as defined below); and
- (b) exempting the Funds from the prohibitions contained in sections 2.3(1)(f), 2.3(1)(h), 2.5(2)(a) and 2.5(2)(c) of National Instrument 81-102 *Investment Funds (NI 81-102)* to permit each Fund to invest in the following:
 - (i) silver, Permitted Silver Certificates (as defined below) and Silver Derivatives (as defined below) (collectively, **Silver**); and
 - (ii) the Underlying ETFs (as defined below)

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

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

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

- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon in Alberta, British Columbia, Manitoba, Québec and Saskatchewan.

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. The following additional terms have the following meanings:

ETF means an exchange-traded fund.

Gold Derivative means a specified derivative the underlying interest of which is gold on an unlevered basis.

IPU means an “index participation unit” as defined by NI 81-102.

Permitted Silver Certificate means a certificate that represents silver that is:

- (a) available for delivery in Canada, free of charge, to or to the order of the holder of the certificate;
- (b) of a minimum fineness of 999 parts per 1,000;
- (c) held in Canada;
- (d) in the form of either bars or wafers; and
- (e) if not purchased from a bank listed in Schedule I, II or III of the *Bank Act* (Canada), fully insured against loss and bankruptcy by an insurance company licensed under the laws of Canada or a province or territory of Canada.

Silver Derivative means a specified derivative the underlying interest of which is silver on an unlevered basis.

Underlying ETFs means ETFs traded on a stock exchange in Canada or the United States whose securities are not IPUs and that seek to:

- (a) replicate (i) the performance of gold on an unlevered basis; or (ii) the value of a Gold Derivative (**Gold ETFs**);
- (b) replicate (i) the performance of silver on an unlevered basis; or (ii) the value of a Silver Derivative (**Silver ETFs**);
- (c) replicate (i) the performance of gold and silver on an unlevered basis; or (ii) the value of a specified derivative the underlying interest of which are gold and silver on an unlevered basis (**Gold/Silver ETFs**);
- (d) provide daily results that replicate the daily performance of a specified widely-quoted market index (the **Underlying Index**) by a multiple of up to 200% (**Leveraged Bull ETFs**) or an inverse multiple of up to 200% (**Leveraged Bear ETFs**, which, together with **Leveraged Bull ETFs**, are collectively referred to as **Leveraged ETFs**);
- (e) provide daily results that replicate the daily performance of their Underlying Index by an inverse multiple of up to 100% (**Inverse ETFs**); and
- (f) seek to provide daily results that replicate the daily performance of gold or the value of a Gold Derivative (the ETF's **Underlying Gold Interest**), by a multiple of up to 200% (**Leveraged Gold ETFs**).

Representations

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

The Filer and the Funds

1. The Filer is a corporation incorporated under the laws of the Province of Ontario. The head office of the Filer is located in Toronto, Ontario.
2. The Filer is registered as an exempt market dealer and portfolio manager in Alberta, British Columbia and Ontario and as an investment fund manager in Ontario.

Decisions, Orders and Rulings

3. The Filer acts, or will act, as the investment fund manager of each of the Funds. The Filer acts as the portfolio manager of each of the existing Funds and will act as the portfolio manager of, or will appoint a portfolio manager for, each of the future Funds.
4. Each Fund is, or will be, a mutual fund governed by the laws of Canada or the laws of a province or territory of Canada and a reporting issuer under the laws of one or more of the provinces and territories of Canada.
5. Neither the Filer nor the Funds are in default of securities legislation in any of the provinces or territories of Canada.
6. Securities of each Fund are or will be qualified for distribution in some or all of the provinces and territories of Canada under a simplified prospectus, annual information form and fund facts prepared and filed in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure*. Each Fund is, or will be, governed by NI 81-102, subject to any relief therefrom granted by the securities regulatory authorities.

The Previous Decision

15. Except as described in the Previous Decision, none of the Funds currently has relief from sections 2.3(1)(f) and 2.3(1)(h) of NI 81-102.
16. The Filer obtained a decision dated June 21, 2011 (the **Previous Decision**) exempting the Funds from sections 2.3(1)(f), 2.3(1)(h), 2.5(2)(a), 2.5(2)(b) and 2.5(2)(c) of NI 81-102 to permit each Fund to invest up to 10% of its total net assets, taken at market value at the time of the transaction, in (i) Gold ETFs, (ii) Silver ETFs, (iii) Gold/Silver ETFs, and (iv) Silver.
17. Since the Previous Decision did not permit the Funds to invest in securities of Leveraged ETFs, Inverse ETFs and Leveraged Gold ETFs, the Filer has requested that the Previous Decision be revoked and replaced by this decision in order to permit the Funds to also invest in Leveraged ETFs, Inverse ETFs and Leveraged Gold ETFs.
18. The Filer has determined that it would be in the best interests of the Funds to receive the Exemption Sought and replace the Previous Decision with this decision for the reasons further set out below.
19. As of the date of this decision, the Filer will no longer rely on the Previous Decision.

The Underlying ETFs

20. Each Underlying ETF is, or will be, a “mutual fund” as such term is defined under the *Securities Act* (Ontario).
21. The securities of each Underlying ETF trade, or will trade, on a stock exchange in Canada or the United States.
22. Each Leveraged ETF will be generally rebalanced daily to ensure that its performance and exposure to its Underlying Index will not exceed +/-200% of the corresponding daily performance of its Underlying Index.
23. Each Inverse ETF will be generally rebalanced daily to ensure that its performance and exposure to its Underlying Index will not exceed -100% of the corresponding daily performance of its Underlying Index.
24. Each Leveraged Gold ETF will be generally rebalanced daily to ensure that its performance and exposure to its Underlying Gold Interest will not exceed +200% of the corresponding daily performance of its Underlying Gold Interest. Each Leveraged Gold ETF will provide a Fund with market value exposure to gold that is two times the net asset value of the ETF on a daily basis.

Investments in the Underlying ETFs

25. The Funds propose to have the ability to invest in the Underlying ETFs, the securities of which are not IPU's.
26. Each Fund is, or will be, permitted, in accordance with its investment objectives and investment strategies, to invest in securities of the Underlying ETFs.
27. Any regulatory concerns, such as undue risk, liquidity concerns or lack of transparency, in connection with investing in the Underlying ETFs are mitigated by the following facts:
 - (a) The Underlying ETFs trade on a Canadian or U.S. exchange and are generally relatively liquid. The Underlying ETFs will either be “registered” investment companies in the United States or reporting issuers in

one or more of the jurisdictions of Canada, which means that there will be clear disclosure about the Underlying ETFs readily available in the marketplace.

- (b) The amount of loss that can result from an investment by a Fund in an Underlying ETF will be limited to the amount invested by the Fund in securities of the Underlying ETF.
- (c) Investments by the Funds in Underlying ETFs will be very limited. In accordance with the investment strategies of the Funds, no more than 10% of the net asset value of a Fund will be invested in securities of Underlying ETFs taken at market value at the time of purchase.
- (d) The simplified prospectus of the Funds will disclose: (i) in the investment strategy section: (A) that the Fund has obtained relief to invest in securities of the Underlying ETFs; (B) an explanation of what each type of Underlying ETF is; and (C) to the extent the Fund may invest in securities of a Leveraged Gold ETF, that the Fund may indirectly invest in gold; and (ii) the risks associated with such investments and strategies.

Silver and Gold

- 28. In addition to having the ability to invest in gold as permitted under NI 81-102, the Filer wishes for the Funds to have the ability to invest in silver and Permitted Silver Certificates directly, and in silver and gold indirectly by investing in Silver Derivatives and Leveraged Gold ETFs.
- 29. Each Fund is, or will be, permitted, in accordance with its investment objectives and investment strategies, to invest in Silver and/or gold.
- 30. NI 81-102 allows mutual funds to invest in gold, permitted gold certificates or Gold Derivatives on the basis that gold is a fairly liquid commodity.
- 31. The Filer believes that the markets in both gold and silver are highly liquid, and that there are no liquidity concerns with permitting a Fund to invest in silver and Permitted Silver Certificates directly, and in silver and gold indirectly by investing in Silver Derivatives, Gold Derivatives and Leveraged Gold ETFs.
- 32. Permitting a Fund to invest in silver and Permitted Silver Certificates directly, and in silver and gold indirectly by investing in Silver Derivatives, Gold Derivatives and Leveraged Gold ETFs, will provide the portfolio manager of a Fund with additional flexibility to increase gains for the Fund in certain market conditions, which may have otherwise caused the Fund to have significant cash positions and therefore prohibit the Fund from achieving its investment objective.

General

- 33. In the absence of the Exemption Sought, the Funds would not be permitted to invest in Silver and/or Underlying ETFs because:
 - (a) sections 2.3(1)(f) and (h) of NI 81-102 would prohibit the Funds from investing in Silver or in securities of Underlying ETFs;
 - (b) section 2.5(2)(a) of NI 81-102 would prohibit the Funds from investing in securities of Underlying ETFs because the Underlying ETFs are not subject to NI 81-101 and may not be subject to NI 81-102; and
 - (c) section 2.5(2)(c) of NI 81-102 would prohibit the Funds from investing in securities of some Underlying ETFs because some Underlying ETFs are not qualified for distribution in the local jurisdiction.
- 34. An investment by a Fund in Silver or in securities of an Underlying ETF will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Fund.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted, provided that:

- (a) the investment by a Fund in Silver and in securities of an Underlying ETF is in accordance with the fundamental investment objectives of the Fund;

Decisions, Orders and Rulings

- (b) the securities of the Underlying ETFs are traded on a stock exchange in Canada or the United States;
- (c) a Fund does not purchase securities of an Underlying ETF if, immediately after the transaction, more than 10% of the net asset value of the Fund, taken at market value at the time of the transaction, would consist of securities of Underlying ETFs;
- (d) a Fund does not purchase securities of Inverse ETFs or securities of Leveraged Bear ETFs or sell any securities short if, immediately after the transaction, the Fund's aggregate market value exposure represented by all such securities purchased and securities sold short would exceed 20% of the net asset value of the Fund, taken at market value at the time of the transaction;
- (e) immediately after entering into a purchase, derivative or other transaction providing exposure to one or more physical commodities, the Fund's market value exposure (whether direct or indirect, including through Underlying ETFs) to all physical commodities (including (i) Gold ETFs; (ii) Silver ETFs; (iii) Gold/Silver ETFs; (iv) Leveraged Gold ETFs; (v) silver; (vi) gold; (vii) Permitted Silver Certificates; (viii) permitted gold certificates; and (ix) specified derivatives the underlying interest of which is silver or gold on a levered or unlevered basis) does not exceed 10% of the net asset value of the Fund, taken at market value at the time of the transaction; and
- (f) the simplified prospectus of each existing Fund discloses, or will disclose the next time it is renewed, and the simplified prospectus of each future Fund will disclose:
 - (i) in the investment strategy section:
 - A. that the Fund has obtained relief to invest in Silver and in securities of the Underlying ETFs;
 - B. an explanation of what each type of Underlying ETFs is; and
 - C. to the extent the Fund may invest in securities of a Gold ETF, Silver ETF, Gold/Silver ETF or Leveraged Gold ETF, that the Fund may indirectly invest in gold and/or silver; and
 - (ii) the risks associated with such investments and strategies.

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

2.1.4 Interactive Brokers Canada Inc.

Headnote

Application by Canadian dealer (the Applicant) for relief from the prospectus requirement in connection with the distribution of over-the-counter (OTC) foreign exchange contracts to investors resident in the Applicable Jurisdictions on the terms and conditions described in the decision which is subject to a four-year sunset clause – Applicant is registered as an investment dealer in all provinces and a member of the Investment Industry Regulatory Organization of Canada (IIROC) – Applicant seeking relief to permit Applicant to offer OTC foreign exchange contracts to investors in Applicable Jurisdictions on a similar basis as in Québec, including relief permitting the Applicant to distribute OTC foreign exchange contracts on the basis of providing to investors a clear and plain language risk disclosure document rather than a prospectus – risk disclosure document contains disclosure substantially similar to risk disclosure document required for recognized options in OSC Rule 91-502 Trades in Recognized Options and the regime for OTC derivatives contemplated by former proposed OSC Rule 91-504 OTC Derivatives (which was not adopted) – Relief granted subject to conditions

Legislation Cited

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

OSC Rule 91-502 Trades in Recognized Options.

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

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

August 7, 2018

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
INTERACTIVE BROKERS CANADA INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from Interactive Brokers Canada Inc. (the **Filer**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the Filer and its respective officers, directors and representatives be exempt from the prospectus requirement in respect of the distribution of over-the-counter (**OTC**) foreign exchange contracts to permit investors resident in Canada to enter into OTC foreign exchange transactions with the Filer (referred to herein as **IB Forex transactions**) (the **Requested Relief**) subject to the terms and conditions below.

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

- (a) the Ontario Securities Commission is the principal regulator for this Application (the **Principal Regulator**); and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in each of the other provinces of Canada, other than the provinces of Québec and Alberta, (the **Non-Principal Jurisdictions**, and, together with the Jurisdiction, the **Applicable 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 Filer:

The Filer

1. The Filer is a corporation incorporated under the laws of Canada with its principal office in Montréal, Quebec.
2. The Filer is a member of the Interactive Brokers Group (**Interactive Brokers**), a leading global electronic brokerage group. Interactive Brokers provides its customers with direct, high-speed access to trade in more than 120 equity and derivatives exchanges and a growing number of Electronic Communication Networks (**ECNs**). Interactive Brokers Group, Inc. is currently listed on NASDAQ under the symbol "IBKR".
3. The Filer is registered as a dealer in the category of investment dealer in all provinces, a futures commission merchant in Ontario and Manitoba, a derivative dealer in Quebec and is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**).
4. The Filer does not have any securities listed or quoted on an exchange or marketplace in any jurisdiction inside or outside of Canada.
5. The Filer is, to the best of its knowledge, not in default of any requirements of securities legislation in Canada or IIROC Rules or IIROC Acceptable Practices, as applicable (each as defined below).
6. The Filer has not been filing trade reports in respect of certain of its IB Forex transactions (the Filer does report the transactions under its Auto Swap Program) based on a good faith belief that IB Forex transactions come within the exclusion in section 2(1)(c) of OSC Rule 91-506 *Derivatives: Product Determination (OSC Rule 91-506)* and comparable rules in the other jurisdictions (the **CSA Product Determination Rules**) for currency contracts that are intended to be settled through physical delivery of the currency within two business days (the **Spot Currency Exclusion**). CSA staff have questioned whether the Spot Currency Exclusion is available for these types of IB Forex transactions. The Filer and CSA staff are presently engaged in discussions as to whether the Spot Currency Exclusion is available for these transactions and/or whether exemptive relief from the trade reporting requirement for these transactions is warranted.
6. The Filer currently offers IB Forex transactions (a) to retail investors resident in Ontario pursuant to *In the Matter of Interactive Brokers Canada Inc.* dated August 8, 2014 (the **August 8, 2014 Order**) and (b) pursuant to a notice filed under section 4.7 of MI 11-102 *Passport System* regarding the Filer's intent to rely on the August 8, 2014 Order for comparable relief in the Non-Principal Jurisdictions.
7. The Filer wishes to offer IB Forex transactions to investors in the Applicable Jurisdictions on the terms and conditions described in this Decision. For the Interim Period (as defined below), the Filer is seeking the Requested Relief in connection with the proposed offering of IB Forex transactions in Ontario and intends to rely on this Decision and the Passport System described in MI 11-102 to offer IB Forex transactions in the Non-Principal Jurisdictions.
8. In Québec, the Filer is qualified by the Autorité des marchés financiers (AMF) pursuant to section 82 of the *Derivatives Act (Québec)* (the QDA) to offer IB Forex transactions to both accredited and retail investors pursuant to the provisions of the QDA, subject to the terms and conditions of its qualification decision and related provisions of the QDA.

IIROC Rules and Acceptable Practices

9. As a member of IIROC, the Filer is only permitted to enter into IB Forex transactions pursuant to the rules and regulations of IIROC (the **IIROC Rules**).
10. In addition, IIROC has communicated to its members certain additional expectations as to acceptable business practices (**IIROC Acceptable Practices**) as articulated in IIROC's paper "*Regulatory Analysis of Contracts for Differences (CFDs)*" published by IIROC on June 6, 2007, as amended on September 12, 2007, for any IIROC member proposing to offer CFDs and similar OTC derivatives to investors. The Filer is in compliance with IIROC Acceptable Practices in reference to the IB Forex transactions, as applicable. The Filer will continue to offer the IB Forex transactions to clients in accordance with applicable IIROC Acceptable Practices as may be established from time to

time, and will not offer IB Forex transactions linked to bitcoin, cryptocurrencies or other novel or emerging asset classes to investors in the Applicable Jurisdictions without the prior written consent of IIROC.

11. The Filer is required by IIROC to maintain a certain level of capital to address the business risks associated with its activities. The capital reporting required by IIROC (as per the calculation in the Form 1 Joint Regulatory Financial Questionnaire and Report (**Form 1**) and in the Monthly Financial Reports to IIROC) is based predominantly on the generation of financial statements and calculations so as to ensure capital adequacy. The Filer as an IIROC member is required to have a specified minimum capital which includes having any additional capital required with regards to margin requirements and other risks. This risk calculation is summarized as a risk adjusted capital calculation which is submitted in the Filer's Form 1 and required to be kept positive at all times.
12. The Filer understands that staff of the Alberta Securities Commission have public interest concerns with IB Forex trading by retail clients and, accordingly, the Filer does not offer IB Forex transactions to retail investors resident in Alberta. The Filer undertakes not to give notice that subsection 4.7(1) of MI 11-102 is intended to be relied upon in Alberta.

IB Forex

13. Interactive Brokers provides a number of vehicles for the exchange of currencies: (i) *IDEALPRO* which allows a customer to trade in foreign exchange transactions (ii) *IDEAL* which allows a customer to convert their balances from one currency to another (forex conversions); and (iii) the Auto Swap program which allows certain customers to take advantage of efficient interest rates paid in the tomorrow-next day or "Tom/Next" market which is a mechanism under which forex traders/speculators avoid taking physical delivery of currencies, normally two days after a forex transaction, while still keeping forex position open overnight.
14. For the purposes of this Application, IB Forex transactions include those transactions entered into on *IDEALPRO*, the forex conversions that are conducted through *IDEAL* and auto swaps under the Auto Swap program.
15. IB Forex transactions are OTC and may be transferable dependent on the transaction.
16. The ability to lever an investment is one of the principal features of foreign exchange contracts and transactions. Leverage allows clients to magnify investment returns (or losses) by reducing the initial capital outlay required to achieve the same market exposure that would be obtained by investing directly in the underlying currency. Leverage is only permissible on the *IDEALPRO* network.
17. IIROC Rules and IIROC Acceptable Practices each set out detailed requirements and expectations relating to leverage and margin for offerings of foreign exchange contracts. The degree of leverage may be amended in accordance with IIROC Rules and IIROC Acceptable Practices as may be established from time to time.
18. Pursuant to Section 13.12 *Restriction on lending to clients* of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* which came into force as of September 28, 2009, only those firms that are registered as investment dealers (a condition of which is to be a member of IIROC) may lend money, extend credit or provide margin to a client.

Online Trading Platform

19. Interactive Brokers has developed a module of Interactive Brokers' TWS on-line trading platform to specifically allow IB Forex transactions called FXTrader® (**FXTrader**), that offers clients direct access to interbank prices and dealing for orders as small as 25,000 USD (or equivalent), and up to 10 million USD, or more. FXTrader provides best-execution functionality and a transparent pricing structure. The Filer offers trading in 16 currencies with market spreads as small as 1/2 PIP. The tight spreads and substantial liquidity are a result of combining quotation streams from 12 of the world's largest foreign exchange dealers which provide, directly or indirectly, more than half of the momentary capital available in the global interbank market.
20. FXTrader provides an optimized trading interface, with Interactive Broker-designed tools to trade the forex markets. The price display emphasizes the critical portion of the bid/ask, and conveys price movement at a glance by showing an increasing price in green and decreasing price in orange. Each currency pair occupies its own "cell," complete with market data and order information, where a client can create, transmit and cancel orders with a single click. Overall order, trade and portfolio information is displayed along the top of the currency pairs grid.
21. Key features of the FXTrader platform includes:

- Interbank-quality spreads allow clients to trade the best bid and ask from multiple liquidity providers with spreads as low as 1/2 pip;
 - The ability to review order details and margin implications before a client transmits;
 - Instantaneous transmission to transmit a client's orders with one click on the bid or ask;
 - FXTrader supports over 15 risk-mitigation order types including trailing stop limits, brackets, limit if touched, OCA (one cancels all) and IOC (immediate or cancel);
 - The functionality of the Order Book icon which appears when the small-order book has a better price available for the currency pair; and
 - The ability of a client to customize the trading cell display to show position, average cost and profit and loss date.
22. Clients conduct IB Forex transactions through the Filer's TWS on-line trading platform. The Filer's on-line platform is similar to those developed for on-line brokerages and day-trading in that the client trades without other communication with, or advice from, the dealer. The FXTrader® module is not a "marketplace" as defined in National Instrument 21-101 Marketplace Operation since a marketplace is any facility that brings together multiple buyers and sellers by matching orders in fungible contracts in a nondiscretionary manner. FXTrader® does not bring together multiple buyers and sellers; rather it offers clients direct access to interbank prices.

IB Forex Transactions in the Applicable Jurisdictions

23. Foreign exchange contracts and similar OTC derivative transactions, including IB Forex transactions, when offered to investors in Canada, may be considered to be "securities" under securities legislation of the Applicable Jurisdictions.
24. Investors wishing to enter into IB Forex transactions must open an account with the Filer.
25. Prior to a client's first IB Forex transaction and as part of the account opening process, the Filer will provide the client with a separate risk disclosure document that clearly explains, in plain language, the transaction and the risks associated with the transaction (the **risk disclosure document**). The risk disclosure document includes the required risk disclosure set forth in Schedule A to the Regulations to the QDA and leverage risk disclosure required under the IIROC Rules. The risk disclosure document contains disclosure that is substantially similar to the risk disclosure statement required for recognized options in OSC Rule 91-502 *Trades in Recognized Options (OSC Rule 91-502)* (which provides both registration and prospectus exemptions) and the regime for OTC derivatives contemplated by OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts to Investors in Ontario (OSC SN 91-702)* and proposed OSC Rule 91-504 *OTC Derivatives (which was not adopted) (Proposed Rule 91-504)*. The Filer will ensure that, prior to a client's first trade in an IB Forex transaction, a complete copy of the risk disclosure document provided to that client has been delivered, or has previously been delivered, to the Principal Regulator.
26. Prior to the client's first IB Forex transaction and as part of the account opening process, the Filer will obtain a written or electronic acknowledgement from the client confirming that the client has received, read and understood the risk disclosure document. Such acknowledgment will be separate and prominent from other acknowledgements provided by the client as part of the account opening process.
27. As customary in the industry, and due to the fact that this information is subject to factors beyond the control of the Filer (such as changes in IIROC Rules), information such as the margin or leverage rates would not be disclosed in the risk disclosure document but are part of a client's account opening package and are available on both the Filer's website and on FXTrader®.

Satisfaction of the Registration Requirement

28. The role of the Filer as it relates to the IB Forex transactions will be limited to acting as an execution-only dealer. In this role, the Filer will, among other things, be responsible to approve all marketing, for holding of clients funds, and for client approval (including the review of know-your-client (**KYC**) due diligence and account opening suitability assessments).
29. IIROC Rules exempt member firms that provide execution-only services such as discount brokerages from the obligation to determine whether each trade is suitable for the client. However, IIROC has exercised its discretion to

impose additional requirements on members proposing to trade in foreign exchange contracts and requires, among other things, that:

- (a) Applicable risk disclosure documents and client suitability waivers provided must be in a form acceptable to IIROC;
 - (b) The Filer's policies and procedures, amongst other things, require the Filer to assess the depth of investment knowledge and trading experience of the client to assess whether the product is appropriate for the client before an account is approved to be opened. This account opening suitability process includes an assessment of the client's investment knowledge and trading experience, client identification, screening applicants and customers against lists of prohibited/blocked persons, and detecting and reporting suspicious trading and potential terrorist financing and money laundering activities to applicable enforcement authorities;
 - (c) The Filer's registered dealing representatives, as well as their registered supervisors who oversee the KYC and initial product suitability analysis will meet, or be exempt from, the proficiency requirements for futures trading and will be registered with IIROC as Investment Representative for retail customers in the product category of Futures Contracts and Futures Contract Options (IR). In addition, the Filer must have a fully qualified Supervisor for such products; and
 - (d) Cumulative loss limits for each client's account must be established (this is a measure normally applied by IIROC in connection with futures trading accounts).
30. The IB Forex transactions are offered in compliance with applicable IIROC Rules and other IIROC Acceptable Practices, as applicable.
 31. The Requested Relief, if granted, would substantially harmonize the position of the regulators in the Applicable Jurisdictions on the offering of foreign exchange contracts to investors in the Applicable Jurisdictions with how those products are offered to investors in Quebec under the QDA. The QDA provides a legislative framework to govern derivatives activities within the province. Among other things, the QDA requires such products to be offered to investors through an IIROC member and the distribution of a standardized risk disclosure document rather than a prospectus in order to distribute foreign exchange contracts to investors resident in Quebec.
 32. The Requested Relief, if granted, would be consistent with the guidelines articulated by Staff of the Principal Regulator in OSC SN 91-702. OSC SN 91-702 provides guidance with regards to the distributions of CFDs, foreign exchange contracts (forex or FX contracts) and similar OTC derivative products to investors in the Jurisdiction.
 33. The Principal Regulator has previously recognized that the prospectus requirement may not be well suited for the distribution of certain derivative products to investors in the Jurisdiction, and that alternative requirements, including requirements based on clear and plain language risk disclosure, may be better suited for certain derivatives. In Ontario, both OSC Rule 91-502 and OSC Rule 91-503 *Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario (OSC Rule 91-503)* provide for a prospectus exemption for the trading of derivative products to clients. The Requested Relief is consistent with the principles and requirements of OSC Rule 91-502, OSC Rule 91-503 and Proposed Rule 91-504.
 34. The Filer also submits that the Requested Relief, if granted, would harmonize the Principal Regulator's position on the offering of foreign exchange contracts with certain other foreign jurisdictions that have concluded that a clear, plain language risk disclosure document is appropriate for retail clients seeking to trade in foreign exchange contracts.
 35. The Filer is of the view that requiring compliance with the prospectus requirement in order to enter into IB Forex transactions with clients in the Jurisdiction would not be appropriate since the disclosure of a great deal of the information required under the prospectus and under the reporting issuer regime is not material to a client seeking to enter into an IB Forex transaction. The information to be given to such a client should principally focus on enhancing the client's appreciation of product risk including counterparty risk. In addition, most IB Forex transactions are of short duration (positions are generally opened and closed on the same day and are in any event marked to market and cash settled daily).
 36. The Filer is regulated by IIROC which has a robust compliance regime including specific requirements to address market, capital and operational risks pursuant to the IIROC Rules and the IIROC Acceptable Practices.
 37. The Filer submits that the regulatory regimes developed by the AMF and IIROC for foreign exchange contracts, including IB Forex transactions, adequately addresses issues relating to the potential risk to the client of the Filer acting as counterparty. In view of these regulatory regimes, investors would receive little or no additional benefit from requiring the Filer to also comply with the prospectus requirement.

38. The Requested Relief in respect of each Applicable Jurisdiction is conditional on the Filer being registered as an investment dealer with the securities regulator in such Applicable Jurisdiction and maintaining its membership with IIROC and that all IB Forex transactions be conducted pursuant to IIROC Rules and in accordance with IIROC Acceptable Practices, as applicable.

Decision

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

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

- (a) The Filer shall not rely on the August 8, 2014 Order and the notice provided thereunder;
- (b) all IB Forex transactions with residents in the Applicable Jurisdictions shall be distributed through the Filer;
- (c) with respect to residents of an Applicable Jurisdiction, the Filer remains registered as a dealer in the category of investment dealer with the Principal Regulator and each securities regulatory authority in such Applicable Jurisdiction and a member of IIROC;
- (d) all IB Forex transactions with clients resident in the Applicable Jurisdictions shall be conducted pursuant to IIROC Rules imposed on members seeking to trade in foreign exchange contracts and in accordance with IIROC Acceptable Practices, as applicable and as amended from time to time;
- (e) if the Filer continues to offer IB Forex transactions to residents of Québec, all IB Forex transactions with clients resident in the Applicable Jurisdictions be conducted pursuant to the rules and regulations of the QDA and the AMF, as amended from time to time, unless and to the extent there is a conflict between i) the rules and regulations of the QDA and the AMF, and ii) the requirements of the securities laws of the Applicable Jurisdictions, the IIROC Rules and IIROC Acceptable Practices, in which case the latter shall prevail;
- (f) prior to a client first entering into an IB Forex transaction, the Filer has provided to the client the risk disclosure document described in paragraph 25 and has delivered, or has previously delivered, a copy of the risk disclosure document provided to that client to the Principal Regulator;
- (g) prior to a client's first IB Forex transaction and as part of the account opening process, the Filer has obtained a written or electronic acknowledgement from the client, as described in paragraph 26, confirming that the client has received, read and understood the risk disclosure document;
- (h) the Filer has furnished to the Principal Regulator the name and principal occupation of its officers or directors, together with either the personal information form and authorization of indirect collection, use and disclosure of personal information provided for in National Instrument 41-101 *General Prospectus Requirements* or the registration information form for an individual provided for in Form 33-109F4 of National Instrument 33-109 *Registration Information Requirements* completed by any officer or director;
- (i) the Filer shall promptly inform the Principal Regulator in writing of any material change affecting the Filer, being any change in the business, activities, operations or financial results or condition of the Filer that may reasonably be perceived by a counterparty to a derivative to be material;
- (j) the Filer shall promptly inform the Principal Regulator in writing if a self-regulatory organization or any other regulatory authority or organization initiates proceedings or renders a judgment related to disciplinary matters against the Filer concerning the conduct of activities with respect to IB Forex transactions;
- (k) within 90 days following the end of its financial year, the Filer shall submit to IIROC and the Principal Regulator the audited annual financial statements of the Filer; and
- (l) the Requested Relief shall immediately expire upon the earliest of
 - (i) four years from the date that this Decision is issued;
 - (ii) in respect of a subject Applicable Jurisdiction or Quebec, the issuance of an order or decision by a court, the securities regulatory authority in such Applicable Jurisdiction, the AMF (in respect of Quebec) or other similar regulatory body that suspends or terminates the ability of the Filer to offer foreign exchange contracts to clients in such Applicable Jurisdictions; and

- (iii) with respect to an Applicable Jurisdiction, the coming into force of legislation or a rule by its securities regulatory authority regarding the distribution of OTC derivatives to investors in such Applicable Jurisdiction (the Interim Period)".

"Cecilia Williams"
Commissioner
Ontario Securities Commission

"Peter Currie"
Commissioner
Ontario Securities Commission

2.1.5 Purpose Investments Inc. et al.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Approval of investment 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 fee structures of certain terminating funds and continuing funds are not substantially similar – certain mergers will not be “qualifying exchanges” or tax-deferred transactions under the Income Tax Act (Canada) – securityholders of certain terminating funds not permitted to redeem their securities prior to the date of the mergers – unitholders of the terminating funds are provided with timely and adequate disclosure regarding the mergers.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, paragraph 5.5(1)(b) and subsection 19.1.

April 20, 2018

**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
PURPOSE INVESTMENTS INC.
 (“Purpose”)**

AND

**REDWOOD GLOBAL RESOURCE FUND (FORMERLY LOGIQ GLOBAL RESOURCE FUND),
REDWOOD ENERGY INCOME FUND (FORMERLY LOGIQ ADVANTAGE OIL & GAS INCOME FUND),
REDWOOD TACTICAL EQUITY FUND (FORMERLY LOGIQ TACTICAL EQUITY CLASS),
REDWOOD TOTAL RETURN FUND (FORMERLY LOGIQ TOTAL RETURN FUND),
REDWOOD GROWTH FUND (FORMERLY LOGIQ GROWTH FUND),
REDWOOD GLOBAL BALANCED INCOME FUND (FORMERLY LOGIQ GLOBAL BALANCED INCOME CLASS),
REDWOOD BALANCED INCOME FUND (FORMERLY LOGIQ BALANCED MONTHLY INCOME CLASS),
REDWOOD MONTHLY INCOME FUND (FORMERLY LOGIQ VIP INCOME FUND),
REDWOOD ADVANTAGE MONTHLY INCOME FUND (FORMERLY LOGIQ ADVANTAGE VIP INCOME FUND),
REDWOOD GLOBAL FINANCIALS INCOME FUND (FORMERLY GLOBAL CAPITAL SECURITIES TRUST) AND
REDWOOD FLOATING RATE BOND FUND (FORMERLY VOYA DIVERSIFIED FLOATING RATE SENIOR LOAN FUND)
(each a “Terminating Fund” and, collectively, the “Terminating Funds”)**

AND

**PURPOSE GLOBAL RESOURCE FUND (FORMERLY REDWOOD
RESOURCE GROWTH & INCOME FUND AND FORMERLY LOGIQ RESOURCE GROWTH AND INCOME CLASS),
PURPOSE GLOBAL INNOVATORS FUND (FORMERLY REDWOOD GLOBAL
INNOVATORS FUND AND FORMERLY REDWOOD GLOBAL OPPORTUNITIES FUND AND
FORMERLY LOGIQ GLOBAL OPPORTUNITIES CLASS),
PURPOSE SPECIAL OPPORTUNITIES FUND (FORMERLY REDWOOD
SPECIAL OPPORTUNITIES FUND AND FORMERLY LOGIQ SPECIAL OPPORTUNITIES CLASS),
PURPOSE MULTI-ASSET INCOME FUND (FORMERLY REDWOOD
HIGH INCOME FUND AND FORMERLY LOGIQ HIGH INCOME FUND),
PURPOSE US PREFERRED SHARE FUND (FORMERLY REDWOOD U.S. PREFERRED SHARE FUND) AND
REDWOOD FLOATING RATE INCOME FUND (FORMERLY VOYA FLOATING RATE SENIOR LOAN FUND)**

(each a “Continuing Fund” and, collectively, the “Continuing Funds”)

DECISION

Background

The Ontario Securities Commission (the “**Decision Maker**”) has received an application from Purpose on behalf of the Terminating Funds and the Continuing Funds (each a “**Fund**” and, collectively, the “**Funds**”) for a decision of the Decision Maker granting approval, pursuant to section 5.5(1)(b) of National Instrument 81-102 - *Investment Funds* (“NI 81-102”), of the proposed mergers as outlined in Appendix A (each a “**Merger**” and, collectively, the “**Mergers**”) of the Terminating Funds into the corresponding Continuing Funds (the “**Approval Sought**”).

Under National Policy 11-203 - *Process for Exemptive Relief Applications in Multiple Jurisdictions* (“**NP 11-203**”):

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

Interpretation

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

Representations

The decision is based on the following facts represented by Purpose:

Redwood

1. Purpose is a corporation amalgamated under the Business Corporations Act (Ontario) with its head office located in Toronto, Ontario.
2. Purpose is registered as an investment fund manager, portfolio manager and exempt market dealer in Ontario, as an investment fund manager and exempt market dealer in Québec, as an investment fund manager in Newfoundland and Labrador, as an exempt market dealer in Alberta and as an exempt market dealer in British Columbia.
3. Purpose is the manager of the Funds and is also the trustee of the Trust Funds (as hereinafter defined).
4. Purpose is not in default of any of the requirements of the securities legislation of any of the provinces and territories of Canada.

Fund Information

5. Each of Redwood Global Resource Fund, Redwood Total Return Fund and Redwood Growth Fund (each a “**Terminating Trust Fund**”, and together, the “**Terminating Trust Funds**”) as well as Purpose Multi-Asset Income Fund and Purpose US Preferred Share Fund (each a “**Continuing Trust Fund**”, together, the “**Continuing Trust Funds**” and together with the Terminating Trust Funds, the “**Trust Funds**”) are open-ended mutual fund trusts established under the laws of Ontario by declarations of trust (the “**Mutual Fund Declarations of Trust**”) and are governed by the provisions of NI 81-102.
6. Each of Redwood Energy Income Fund, Redwood Monthly Income Fund, Redwood Advantage Monthly Income Fund, Redwood Global Financials Income Fund and Redwood Floating Rate Bond Fund (each a “**Terminating Closed End Fund**”, and together, the “**Terminating Closed End Funds**”) as well as Redwood Floating Rate Income Fund (the “**Continuing Closed End Fund**”, and together with the Terminating Closed End Funds, the “**Closed End Funds**”) are non-redeemable investment funds established under the laws of Ontario by declarations of trust or trust agreements (the “**Closed End Trust Documents**”, and together with the Mutual Fund Declarations of Trust, the “**Trust Documents**”) and are governed by the provisions of NI 81-102.
7. Each of Redwood Tactical Equity Fund, Redwood Global Balanced Income Fund and Redwood Balanced Income Fund (each a “**Terminating Corporate Class**”, and together, the “**Terminating Corporate Classes**”) as well as Purpose

Global Resource Fund, Purpose Global Innovators Fund and Purpose Special Opportunities Fund (each a “**Continuing Corporate Class**”, together, the “**Continuing Corporate Classes**” and together with the Terminating Corporate Classes, the “**Corporate Classes**”) are classes of mutual fund shares of Purpose Mutual Funds Limited (“**Purpose Limited**”). Purpose Limited is a mutual fund corporation formed under the laws of Canada by articles of amalgamation dated January 26, 2016, as amended. Each Corporate Class is an open-ended mutual fund governed by the provisions of NI 81-102.

8. By way of a circular dated October 3, 2017, unitholders of Redwood Floating Rate Income Fund approved a resolution authorizing the conversion of Redwood Floating Rate Income Fund into an open-end exchange traded mutual fund. It is anticipated that such conversion will be completed, subject to all necessary additional regulatory approvals, shortly after the Effective Date (as defined below).
9. Redwood Floating Rate Income Fund will file a preliminary prospectus within 30 days of the date of this decision in connection with the conversion of Redwood Floating Rate Income Fund into a continuously offered exchange traded fund and will file a final prospectus in connection with such conversion once the regulatory review of the preliminary prospectus has been completed.
10. Securities of the Terminating Funds, other than the Terminating Closed End Funds, are currently qualified for sale under a simplified prospectus, annual information form, fund facts and ETF facts documents.
11. Securities of the Terminating Closed End Funds were qualified for distribution by long form prospectuses and annual information forms and are currently listed and traded on the Toronto Stock Exchange (“**TSX**”).
12. Securities of the Continuing Funds are qualified for sale in each of the provinces and territories of Canada pursuant to simplified prospectuses, annual information forms and fund facts/ETF facts, as applicable (collectively, the “**Continuing Fund Offering Documents**”).
13. The Terminating Funds and the Continuing Funds are reporting issuers as defined under the applicable securities legislation of each province and territory of Canada and are not in default of any of the requirements of the securities legislation of any of the provinces and territories of Canada.
14. Other than under circumstances in which the securities regulatory authority or securities regulator of a province or territory of Canada has expressly exempted a Fund therefrom, each of the Funds follow the standard investment restrictions and practices established by NI 81-102.
15. The net asset value for each of the Funds is calculated on a daily basis at the end of each day the TSX is open for trading in accordance with the Funds’ valuation policy and as described in the Funds’ offering documents.

Reason for Merger Approval

16. Purpose has concluded that pre-approval of the Mergers pursuant to section 5.6 of NI 81-102 is not available because:
 - (a) other than with respect to the Merger of Redwood Floating Rate Bond Fund into Redwood Floating Rate Income Fund, the fundamental investment objective of each of the Continuing Funds may not be considered to be “substantially similar” by a reasonable person to the investment objective of each of the corresponding Terminating Funds;
 - (b) the fee structure of Redwood Global Financials Income Fund may not be considered to be “substantially similar” by a reasonable person to the fee structure of Purpose US Preferred Share Fund;
 - (c) other than with respect to the Mergers of Redwood Monthly Income Fund into Purpose Multi-Asset Income Fund, Redwood Advantage Monthly Income Fund into Purpose Multi-Asset Income Fund and Redwood Global Financials Income Fund into Purpose US Preferred Share Fund, each Merger is being conducted on a taxable basis contrary to subsection 5.6(1)(b) of NI 81-102; and
 - (d) the unitholders of the Terminating Closed End Funds will not be provided with a right to redeem their units prior to the Effective Date (as defined below). As unitholders of a Continuing Fund, other than in the case of the Merger of Redwood Floating Rate Bond Fund into Redwood Floating Rate Income Fund, unitholders of the Terminating Closed End Funds will subsequently be able to redeem their units in the applicable Continuing Fund or trade such units on a designated stock exchange on any business day following the Effective Date.

17. Other than the criteria described above, each Merger complies with all the other criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102.

The Mergers

18. A press release was issued and filed on SEDAR on February 23, 2018, and a material change report was subsequently filed on SEDAR on February 27, 2018 with respect to the proposed Mergers. The simplified prospectus, annual information form and fund facts/ETF facts, as applicable, for the Terminating Funds were amended to include disclosure with respect to the Mergers in accordance with applicable securities law. For Mergers that are material for a Continuing Fund, amendments to the applicable Continuing Fund Offering Documents were also completed in accordance with applicable securities laws.
19. Except in the case of Redwood Global Innovators Fund, Purpose Multi-Asset Income Fund, Purpose US Preferred Share Fund and Redwood Floating Rate Income Fund (collectively, the **"Voting Continuing Funds"**), the Manager has concluded that the Mergers are not material changes to the Continuing Funds, and accordingly, there is no intention to convene a meeting of securityholders of the Continuing Funds, other than as described in paragraph 19, to approve the Mergers pursuant to paragraph 5.1(1)(g) of NI 81-102.
20. Purpose is of the view that the Mergers will be a material change for each of the Voting Continuing Funds because it is anticipated that at the time of the Mergers, the net asset value of the Terminating Funds corresponding to the Voting Continuing Funds is greater than the net asset value of the Voting Continuing Funds. Accordingly, and as described below, Purpose convened meetings of the securityholders of each of the Voting Continuing Funds to approve the applicable Mergers pursuant to paragraph 5.1(1)(g) of NI 81-102 on April 17, 2018.
21. A notice of meeting, a management information circular (the **"Circular"**), a form of proxy and a voting instruction form in connection with the special meetings of securityholders was mailed to securityholders of the Terminating Funds and the Voting Continuing Funds and filed on SEDAR on March 29, 2018. The most recently filed fund facts/ETF facts, as applicable, as applicable, of a Continuing Fund was included in the meeting materials sent to securityholders of the applicable Terminating Fund.
22. The Circular prepared in connection with the special meeting to approve the Mergers provided a comparison of the fundamental investment objectives, fee structures, and other material differences between the Funds, and the tax consequences of the Merger to the Terminating Fund, the Continuing Fund and their securityholders. The Circular also described the various ways in which securityholders can obtain, at no cost, a copy of the simplified prospectus, annual information forms and fund facts/ETF facts, as applicable, for the Continuing Funds, their most recent interim and annual financial statements and management reports of fund performance. Accordingly, securityholders of the Terminating Funds have been provided with sufficient information to make an informed decision about the Mergers.
23. Other than the differences described in the Circular, there are no material differences between a security of a Terminating Fund and the corresponding security of a Continuing Fund that unitholders will receive once the Merger is completed.
24. Purpose convened special meetings of the securityholders of each Terminating Fund and the Voting Continuing Funds in order to seek the approval of such securityholders to complete the Mergers (each a **"Meeting"**). The Meetings took place on April 17, 2018.
25. With the exception of Redwood Energy Income Fund, all necessary securityholder approvals to complete the Mergers were obtained at each applicable Meeting.
26. The requisite quorum of securityholders of Redwood Energy Income Fund was not present at the Meeting of this Terminating Fund and, accordingly, such Meeting was adjourned to reconvene on April 24, 2018.
27. Purpose will pay for the costs of the Mergers. These costs consist mainly of legal, proxy solicitation, printing, mailing, brokerage costs and regulatory fees.
28. Subject to receipt of the necessary regulatory approval and the outcome of the vote of securityholders of Redwood Energy Income Fund with respect to its Merger, each Merger is anticipated to be effective on or about May 4, 2018 (each an **"Effective Date"**).
29. Securities of the Continuing Fund will be issued at the applicable series net asset value per security as of the close of business of the Effective Date. Securities of the Continuing Fund will be distributed to securityholders of the Terminating Fund in exchange for their securities in the Terminating Fund on a dollar for dollar and series-by-series basis, as applicable.

30. Prior to the Mergers, as required, each Terminating Fund will sell any securities in its portfolio that do not meet the investment objective and investment strategies of the applicable Continuing Fund. As a result, the Terminating Fund may temporarily hold cash or money market instruments and may not be fully invested in accordance with its investment objective for a brief period of time prior to the Merger being effected. Any accumulated loss carry-forwards of the Terminating Fund, as well as any losses arising from the disposition of the assets in its portfolio, will expire at the end taxation year during which the Merger occurs and will not be available to be deducted against taxable income, including taxable capital gains arising after the Merger. The Circular provides unitholders with information about such tax implications.
31. The Mergers will be structured substantially as follows:
- (i) The board of directors of Purpose and Purpose Limited, as applicable, have approved each Merger.
 - (ii) Pursuant to subsection 5.1(f) of NI 81-102, securityholders of the Terminating Funds, other than Redwood Energy Income Fund, approved their respective Mergers. Securityholders of Redwood Energy Income Fund will be asked to approve their Merger at a reconvened Meeting to be held on April 24, 2018.
 - (iii) Pursuant to subsection 5.1(g) of NI 81-102, securityholders of each Voting Continuing Fund approved their respective Mergers as they constitute a material change for such Voting Continuing Funds. Securityholders of the other Continuing Funds are not required to vote on and approve their respective Mergers as such Mergers do not constitute a material change for these Continuing Funds.
 - (iv) Prior to the Merger, as required, each Terminating Fund will sell any securities in its portfolio that do not meet the investment objective and investment strategies of the applicable Continuing Fund. As a result, the Terminating Fund may temporarily hold cash or money market instruments and may not be fully invested in accordance with its investment objective for a brief period of time prior to the Merger being effected.
 - (v) The value of the Terminating Fund's investment portfolio and other assets will be determined at the close of business on the Effective Date in accordance with the constating documents of the Terminating Fund.
 - (vi) Each Terminating Fund and the Continuing Fund will declare, pay and automatically reinvest a distribution to its securityholders of net realized capital gains and net income, if any, to ensure that it will not be subject to tax for its current tax year.
 - (vii) A Terminating Fund's assets and liabilities will be transferred to the respective Continuing Fund. In return, the Continuing Fund will issue to the Terminating Fund units of the Continuing Fund having an aggregate net asset value equal to the value of the assets transferred to the Continuing Fund.
 - (viii) Immediately thereafter, units of the Continuing Fund received by the Terminating Fund will be distributed to securityholders of the Terminating Fund in exchange for their securities in the Terminating Fund on a dollar-for-dollar and class-by-class basis.
 - (ix) The Terminating Fund will be wound-up as soon as practicable and, in any case, within 30 days following the Merger.
32. Should a Merger receive all required approvals, the right of securityholders of the Terminating Funds, other than Terminating Closed End Funds, to purchase or switch their securities of the Terminating Fund will cease as of the close of business two days prior to the Effective Date. Securityholders will have the right to redeem the securities of a Terminating Fund up to the close of business on the Effective Date.
33. No sales charges will be payable in connection with the acquisition by a Continuing Fund of the investment portfolio of its corresponding Terminating Fund.
34. Purpose will pay the costs associated with the sale of securities in a Terminating Fund's portfolio that do not meet the investment objective and investment strategies of the applicable Continuing Fund, including brokerage commissions.
35. To the extent that assets remain in a Terminating Fund following the sale of securities in its portfolio that do not meet the investment objective and investment strategies of the applicable Continuing Fund, such assets of a Terminating Fund to be acquired by the Continuing Fund as a result of a Merger will be acceptable to the portfolio advisor of the Continuing Fund prior to the Effective Date and consistent with the investment objective of the Continuing Fund.
36. The right of securityholders of the Terminating Funds, other than Terminating Closed End Funds, to purchase or switch their securities of the Terminating Fund will cease as of the close of business two days prior to the Effective Date.

Securityholders will have the right to redeem the securities of a Terminating Fund up to the close of business on the Effective Date.

37. Each Merger, other than the Mergers of Redwood Monthly Income Fund into Purpose Multi-Asset Income Fund, Redwood Advantage Monthly Income Fund into Purpose Multi-Asset Income Fund and Redwood Global Financials Income Fund into Purpose US Preferred Share Fund (each a “**Trust to Trust Tax Deferred Merger**” and together, the “**Trust to Trust Tax Deferred Mergers**”), will be completed on a taxable basis and will not be a “qualifying exchange” or other form of tax-deferred transaction under the *Income Tax Act* (Canada) (the “**Tax Act**”).
38. Each Trust to Trust Tax Deferred Merger will be a “qualifying exchange” under the Tax Act. Accordingly, the disposition of units of a Terminating Fund in connection with a Trust to Trust Tax Deferred Merger will be effected on a tax deferred “rollover” basis for unitholders of the Terminating Fund.
39. Pursuant to National Instrument 81-107 – *Independent Review Committee for Investment Funds*, the independent review committee of the Funds (the “**IRC**”) has the proposed Mergers as a potential “conflict of interest” matter and the process to be followed in connection with each such Merger and has determined that the Mergers, if implemented, would achieve a fair and reasonable result for each Fund. The conclusion of the IRC will be disclosed in the Circular.
40. Purpose believes that the Merger will be beneficial to unitholders of each of the Terminating Funds for the following reasons:
 - (a) Although the investment objectives of a Terminating Fund may not be substantially similar to its corresponding Continuing Fund, Purpose submits that each Terminating Fund has a similar investment mandate as its corresponding Continuing Fund. As a result, each Merger will contribute towards reducing duplication and redundancy across the Purpose fund line-up and may potentially reduce the administrative and regulatory operating costs and expenses associated with the Terminating Funds.
 - (b) Each Merger, other than those described below, has the potential to lower costs for securityholders as the operating costs and expenses of the Continuing Fund will be spread over a greater pool of assets when the Terminating Funds merge into the Continuing Fund, potentially resulting in a lower management expense ratio for the Continuing Fund than may occur otherwise.
 - (c) Other than with respect to the Merger of Redwood Global Financials Income Fund into Purpose US Preferred Share Fund, management fees of each series of each Continuing Fund will be the same or lower as those of the corresponding series of a Terminating Fund. No securityholder of the Terminating Funds, other than Redwood Global Financials Income Fund, will be subject to an increase in management fees as a result of the Terminating Funds merging into the Continuing Funds.
 - (d) Each Continuing Fund will have an asset base of greater size, potentially allowing for increased portfolio diversification opportunities and a smaller proportion of assets set aside to fund redemptions. The ability to improve diversification may lead to increased returns and a reduction of risk, while at the same time creating a higher profile that may attract more investors.
 - (e) Each Continuing Fund is expected to attract more assets as marketing efforts will be concentrated on a single fund, rather than multiple funds with similar investment mandates. The ability to attract assets to the Continuing Fund will benefit investors by ensuring that the Continuing Fund is a viable, long-term, attractive investment vehicle for existing and potential investors.

Decision

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

The decision of the Decision Maker under the Legislation is that the Approval Sought is granted.

“Darren McCall”
Manager, Investment Funds & Structured Products Branch
Ontario Securities Commission

APPENDIX A

Terminating Fund	Continuing Fund
Redwood Global Resource Fund	Purpose Global Resource Fund
Redwood Energy Income Fund	Purpose Global Resource Fund
Redwood Tactical Equity Fund	Purpose Global Innovators Fund
Redwood Total Return Fund	Purpose Global Innovators Fund
Redwood Growth Fund	Purpose Special Opportunities Fund
Redwood Global Balanced Income Fund	Purpose Multi-Asset Income Fund
Redwood Balanced Income Fund	Purpose Multi-Asset Income Fund
Redwood Monthly Income Fund	Purpose Multi-Asset Income Fund
Redwood Advantage Monthly Income Fund	Purpose Multi-Asset Income Fund
Redwood Global Financials Income Fund	Purpose US Preferred Share Fund
Redwood Floating Rate Bond Fund	Redwood Floating Rate Income Fund

2.1.6 IA Clarington Investments Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from certain specified derivatives and custodial requirements in sections 2.7(1), 2.7(4) and 6.1(1) of National Instrument 81-102 Investment Funds to permit mutual funds to enter into swap transactions that are cleared through a clearing corporation, subject to certain conditions – relief required because of U.S. and European requirements to clear over-the-counter derivatives including swaps – decision treats cleared swaps in a similar way as other cleared derivatives; relief from sections 2.8(1)(d) and 2.8(1)(f)(i) of NI 81-102 to permit the funds when they open or maintain a long position in a standardized future or forward contract or when they enter into or maintain an interest rate swap position and during the periods when the funds are entitled to receive payments under the swap, to use as cover, an option to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap, subject to certain conditions.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, subsections 2.7(1), 2.7(4), 2.8(1)(d), 2.8(1)(f)(i), 6.1(1), and 19.1.

[Translation]

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

AND

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

AND

IN THE MATTER OF
IA CLARINGTON INVESTMENTS INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Makers) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation), pursuant to section 19.1 of *Regulation 81-102 respecting Investment Funds* CQLR, c. V-1.1, r.39 (Regulation 81-102) exempting the Funds (as defined below), as specified below:

1. with respect to Cleared Swaps (as defined below):
 - (a) from the requirement in section 2.7(1) of Regulation 81-102 that a mutual fund must not purchase an option or a debt-like security or enter into a swap or a forward contract unless, at the time of the transaction, the option, debt-like security, swap or contract has a designated rating or the equivalent debt of the counterparty, or of a person or company that has fully and unconditionally guaranteed the obligations of the counterparty in respect of the option, debt-like security, swap or contract, has a designated rating,
 - (b) from the limitation in section 2.7(4) of Regulation 81-102 that the mark-to-market value of the exposure of a mutual fund under its specified derivatives positions with any one counterparty other than an acceptable clearing corporation or a clearing corporation that clears and settles transactions made on a futures exchange listed in Appendix A to Regulation 81-102 shall not exceed, for a period of 30 days or more, 10 percent of the net asset value of the mutual fund,
 - (c) from the requirement in section 6.1(1) of Regulation 81-102 to hold all portfolio assets of an investment fund under the custodianship of one custodian in order to permit each Fund to deposit

cash and portfolio assets directly with a Futures Commission Merchant (as defined below) and indirectly with a Clearing Corporation (as defined below) as margin; (collectively, the Cleared Derivatives Relief).

2. with respect to the derivatives cover requirement:
 - (a) from the requirement in sections 2.8(1)(d) and 2.8(1)(f)(i) of Regulation 81-102 in order to permit each of the Funds when it:
 - (i) opens or maintains a long position in a debt-like security that has a component that is a long position in a forward contract or in a standardized future or forward contract, or
 - (ii) enters into or maintains a swap position during the periods when the Fund is entitled to receive payments under the swap,

to use as cover, a right or obligation to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap (collectively referred to as the Derivatives Cover Relief, and together with the Cleared Derivatives Relief collectively referred to as the Requested Relief).

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

- (a) the Autorité des marchés financiers is the principal regulator for this application;
- (b) the Filer has provided notice that section 4.7(1) of Regulation 11-102 *respecting Passport System* CQLR, c. V-1.1, r.1 (Regulation 11-102) is intended to be relied upon in each of the other provinces and territories of Canada other than the Jurisdictions (the Other Jurisdictions); and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in Regulation 14-101 *respecting Definitions* (CQLR, c. V-1.1, r.3), Regulation 11-102, Regulation 81-101 *respecting Mutual Funds Prospectus Disclosure* (CQLR, c. V-1.1, r.38) (Regulation 81-101), Regulation 81-102 have the same meaning if used in this decision, unless otherwise defined.

CFTC means the U.S. Commodity Futures Trading Commission,

Cleared Swap means any OTC derivative transaction that can be entered into on a cleared basis, whether or not such derivative is subject to a clearing determination or a clearing obligation issued by the CFTC or ESMA,

Clearing Corporation means any clearing agency that acts as a counterparty to each party for each Swap for which it provides clearing services and is a clearing organization registered with the CFTC or central counterparty authorized by ESMA, as the case may be, that, in either case, is also permitted to operate in the jurisdiction of Canada where the Funds are located,

Dodd-Frank means the Dodd-Frank Wall Street Reform and Consumer Protection Act,

EMIR means the European Market Infrastructure Regulation,

ESMA means the European Securities and Markets Authority,

Existing Funds means each of the mutual funds managed by the Filer,

Fund or Funds mean the Existing Funds and all future mutual funds managed by the Filer that are subject to Regulation 81-102,

Futures Commission Merchant means any futures commission merchant that is registered with the CFTC and/or is a clearing member for purposes of EMIR, as applicable and is a member of a Clearing Corporation,

OTC means over-the-counter,

Portfolio Advisor means each of the Filer and each affiliate of the Filer and each third party portfolio manager retained from time to time by the Filer to sub-advise the investment portfolio of one or more of the Funds,

Swaps means the swaps that are, or will become, subject to a clearing determination or clearing obligation issued by the CFTC or ESMA, as the case may be,

Representations

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

1. The Filer's head office is in Québec City, Québec.
2. The Filer is registered as an investment fund manager in Québec, Ontario and Newfoundland and Labrador, as an exempt market dealer in the Jurisdictions, and as a portfolio manager in all of the provinces of Canada.
3. The Filer is the manager of the Existing Funds. The Portfolio Advisors are, or will be, the sub-advisor to certain of the Funds.
4. Each Fund is, or will be, a mutual fund created under the laws of the Province of Ontario and is, or will be, subject to the provisions of Regulation 81-102.
5. The securities of each Fund are, or will be, qualified for distribution pursuant to a prospectus that was, or will be, prepared and filed in accordance with the securities legislation of the Jurisdictions; accordingly, each Fund is, or will be, a reporting issuer or the equivalent in each of the Jurisdictions.
6. Neither the Filer nor the Existing Funds are in default of securities legislation in the Jurisdictions or any of the Other Jurisdictions.

Reasons supporting the Cleared Derivatives Relief

7. The investment objective and investment strategies of each Fund that enters into, or will enter into, Cleared Swaps permit, or will permit the Funds to enter into derivative transactions, including Cleared Swaps.
8. Dodd-Frank requires that certain OTC derivatives be cleared through a Futures Commission Merchant at a Clearing Corporation.
9. EMIR also requires that certain OTC derivatives be cleared through a central counterparty authorized to provide clearing services for purposes of EMIR.
10. In addition to clearing swaps that are mandated to be cleared under Dodd-Frank and/or EMIR, many of the Clearing Corporations offer clearing services in respect of other types of derivative transactions. Many global derivative end-users enter into Cleared Swaps on both a voluntary and a mandatory basis.
11. In absence of the Cleared Derivatives Relief, each Portfolio Advisor will need to structure the derivative transactions entered into by the applicable Funds so as to avoid clearing, including the clearing requirements of the CFTC and under EMIR, as applicable. The Filer respectfully submits that this would not be in the best interests of the Funds and their securityholders for a number of reasons, as set out below.
12. The Filer wishes that the Funds have the ability to enter into Cleared Swaps in order to benefit from the pricing benefits and reduced trading costs that each Portfolio Advisor is often able to achieve through its trade execution practices and from the reduced costs associated with Cleared Swaps as compared to OTC trades.
13. A Portfolio Advisor may use common trade execution practices for all of its accounts, including the Funds. If these practices involve the use of Cleared Swaps and if the Funds are unable to employ these trade execution practices, then the Portfolio Advisor would have to create separate trade execution practices only for the Funds and would have to execute trade for the Funds on a separate basis. This would increase the operational risk for the Funds and would prevent the Funds from benefitting from the pricing benefits and reduced trading costs that a Portfolio Advisor may be able to achieve through common practices for its advised accounts. In the Filer's opinion, best execution and maximum certainty can best be achieved through common trade execution practices, which, in the case of OTC derivatives, involve the execution of Cleared Swaps.
14. In accordance with the Filer's standard of care owed to the Funds pursuant to applicable legislation, the Filer has determined that central clearing represents the best choice for the securityholders of the Funds to mitigate the legal, operational and back office risks faced by investors in the global swap markets.

15. As a member of the G20 and a participant in the September 2009 commitment of G20 nations to improve transparency and mitigate risk in derivatives markets, Canada has expressly recognized the systemic benefits that clearing OTC derivatives offers to market participants, such as the Funds. The Filer respectfully submits that the Funds should be encouraged to comply with the robust clearing requirements established by the CFTC and under EMIR by granting them the Cleared Derivatives Relief.
16. The Cleared Derivatives Relief is analogous to the treatment currently afforded under Regulation 81-102 to other types of derivatives that are cleared, i.e., clearing corporation options, options on futures and standardized futures. This demonstrates that, from a policy perspective, such Cleared Derivatives Relief is consistent with the views of the Canadian securities authorities in respect of cleared derivative trades.

Reasons Supporting the Derivatives Cover Relief

17. Paragraph 2.8(1)(d) and subparagraph 2.8(1)(f)(i) of Regulation 81-102 do not permit covering a long position in a standardized future or forward contract or a position in a swap for a period when a mutual fund is entitled to receive payments under the swap, in whole or in part with a right or obligation to sell an equivalent quantity of the underlying interest of the future, forward or swap. Accordingly, these provisions of Regulation 81-102 do not permit the use of put options or short future, forward or swap positions to cover long future, forward or swap positions.
18. By not recognizing the hedging properties of options for long positions evidenced by standardized futures or forwards or in respect of swaps where a mutual fund is entitled to receive payments from the counterparty, Regulation 81-102 effectively imposes the requirement to over-collateralize, since the maximum liability to the mutual fund under this scenario is equal to the difference between the market value of the long position and the exercise price of the option. Overcollateralization imposes a cost on a mutual fund.
19. Paragraph 2.8(1)(c) of Regulation 81-102 permits a mutual fund to write a put option and cover it with buying a right or obligation to sell an equivalent quantity of the underlying interest of the written put option. This position has similar risks as a debt-like security that has a component that has a long position in a forward or a standardized future or forward contract as contemplated by paragraph 2.8(1)(d) or a swap as contemplated by subparagraph 2.8(1)(f)(i) and therefore, the Filer submits that the Funds should be permitted to cover a long position in a future, forward or swap with a put option or an offsetting short position.
20. The Filer submits that the Derivatives Cover Relief would enable the Funds to more effectively manage any exposure they may have under specified derivatives and to have the flexibility to enhance yield.
21. For the reasons provided above, the Filer submits that it would not be detrimental to the protection of investors to grant the Requested Relief to the Funds.

Decision

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

The decision of the Decision Makers under the Legislation is that the Requested Relief are granted provided that:

1. In the case of the Cleared Derivatives Relief, the Clearing Corporation is permitted to offer customer clearing of OTC derivatives in the jurisdiction of Canada where the applicable Fund is located and provided further that, in respect of the deposit of cash and other portfolio assets as margin:
 - (a) In Canada,
 - (i) The Futures Commission Merchant is a member of a SRO that is a participating member of CIPF; and
 - (ii) The amount of margin deposited and maintained with the Futures Commission Merchant does not, when aggregated with the amount of margin already held by the Futures Commission Merchant, exceed 10% of the net asset value of the Fund as at the time of deposit; and
 - (b) Outside of Canada,
 - (i) The Futures Commission Merchant is a member of a Clearing Corporation and, as a result, is subject to regulatory audit;

- (ii) The Futures Commission Merchant has a net worth, determined from its most recent audited financial statements that have been made public or from other publicly available financial information, in excess of the equivalent of \$50 million; and
- (iii) The amount of margin deposited and maintained with the Futures Commission Merchant does not, when aggregated with the amount of margin already held by the Futures Commission Merchant, exceed 10% of the net asset value of the Fund as at the time of deposit;

2. In the case of the Derivatives Cover Relief:

- (a) When a Fund enters into or maintains a swap position for periods when the Fund would be entitled to receive fixed payments under the swap, the Fund holds:
 - (i) Cash cover in an amount that, together with margin on account for the swap and the market value of the swap, is not less than, on a daily mark-to-market basis, the underlying market exposure of the swap;
 - (ii) A right or obligation to enter into an offsetting swap on an equivalent quantity and with an equivalent term and cash cover that together with margin on account for the position is not less than the aggregate amount, if any, of the obligations of the Fund under the swap less the obligations of the Fund under such offsetting swap; or
 - (iii) A combination of the positions referred to in clauses (i) and (ii) that is sufficient, without recourse to other assets of the Fund, to enable the Fund to satisfy its obligations under the swap;
- (b) When a Fund opens or maintains a long position in a debt-like security that has a component that is a long position in a forward contract, or in a standardized future or forward contract, the Fund holds:
 - (i) Cash cover in an amount that, together with margin on account for the specified derivative and the market value of the specified derivative, is not less than, on a daily mark-to-market basis, the underlying market exposure of the specified derivative;
 - (ii) A right or obligation to sell an equivalent quantity of the underlying interest of the future or forward contract, and cash cover that together with margin on account for the position, is not less than the aggregate amount, if any, by which the price of the future or forward contract exceeds the strike price of the right or obligation to sell the underlying interest; or
 - (iii) A combination of the positions referred to in clauses (i) and (ii) that is sufficient, without recourse to other assets of the Fund, to enable the Fund to satisfy its obligations under the future or forward contract; and
- (c) A Fund will not (i) purchase a debt-like security that has an option component or an option, or (ii) purchase or write an option to cover any positions under paragraphs 2.8(1)(b), (c), (d), (e) and (f) of Regulation 81-102, if immediately after the purchase or writing of such option, more than 10% of the net asset value of the Fund, taken at market value at the time of the transaction, would be in the form of (1) purchased debt-like securities that have an option component or purchased options, in each case, held by the Fund for purposes other than hedging, or (2) options used to cover any positions under paragraphs 2.8(1)(b), (c), (d), (e) and (f) of Regulation 81-102;

This decision to grant the Cleared Derivatives Relief will terminate on the coming into force of any revisions to the provisions of Regulation 81-102 that address the clearing of OTC derivatives.

Hugo Lacroix,
Senior Director, Investment Funds
Autorité des marchés financiers

2.1.7 Interactive Brokers Canada Inc.

Headnote

Application by Canadian dealer (the Applicant) for relief from the prospectus requirement in connection with the distribution of over-the-counter (OTC) foreign exchange contracts to investors resident in the Applicable Jurisdictions on the terms and conditions described in the decision which is subject to a four-year sunset clause – Applicant is registered as an investment dealer in all provinces and a member of the Investment Industry Regulatory Organization of Canada (IIROC) – Applicant seeking relief to permit Applicant to offer OTC foreign exchange contracts to investors in Applicable Jurisdictions on a similar basis as in Québec, including relief permitting the Applicant to distribute OTC foreign exchange contracts on the basis of providing to investors a clear and plain language risk disclosure document rather than a prospectus – risk disclosure document contains disclosure substantially similar to risk disclosure document required for recognized options in OSC Rule 91-502 Trades in Recognized Options and the regime for OTC derivatives contemplated by former proposed OSC Rule 91-504 OTC Derivatives (which was not adopted) – Relief granted subject to conditions

Legislation Cited

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

OSC Rule 91-502 Trades in Recognized Options.

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

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

August 7, 2018

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
INTERACTIVE BROKERS CANADA INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from Interactive Brokers Canada Inc. (the **Filer**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the Filer and its respective officers, directors and representatives be exempt from the prospectus requirement in respect of the distribution of over-the-counter (**OTC**) foreign exchange contracts to permit investors resident in Canada to enter into OTC foreign exchange transactions with the Filer (referred to herein as **IB Forex transactions**) (the **Requested Relief**) subject to the terms and conditions below.

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

- (a) the Ontario Securities Commission is the principal regulator for this Application (the **Principal Regulator**); and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in each of the other provinces of Canada, other than the provinces of Québec and Alberta, (the **Non-Principal Jurisdictions**, and, together with the Jurisdiction, the **Applicable 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 Filer:

The Filer

1. The Filer is a corporation incorporated under the laws of Canada with its principal office in Montréal, Quebec.
2. The Filer is a member of the Interactive Brokers Group (**Interactive Brokers**), a leading global electronic brokerage group. Interactive Brokers provides its customers with direct, high-speed access to trade in more than 120 equity and derivatives exchanges and a growing number of Electronic Communication Networks (**ECNs**). Interactive Brokers Group, Inc. is currently listed on NASDAQ under the symbol "IBKR".
3. The Filer is registered as a dealer in the category of investment dealer in all provinces, a futures commission merchant in Ontario and Manitoba, a derivative dealer in Quebec and is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**).
4. The Filer does not have any securities listed or quoted on an exchange or marketplace in any jurisdiction inside or outside of Canada.
5. The Filer is, to the best of its knowledge, not in default of any requirements of securities legislation in Canada or IIROC Rules or IIROC Acceptable Practices, as applicable (each as defined below).
6. The Filer has not been filing trade reports in respect of certain of its IB Forex transactions (the Filer does report the transactions under its Auto Swap Program) based on a good faith belief that IB Forex transactions come within the exclusion in section 2(1)(c) of OSC Rule 91-506 *Derivatives: Product Determination* (**OSC Rule 91-506**) and comparable rules in the other jurisdictions (the **CSA Product Determination Rules**) for currency contracts that are intended to be settled through physical delivery of the currency within two business days (the Spot Currency Exclusion). CSA staff have questioned whether the Spot Currency Exclusion is available for these types of IB Forex transactions. The Filer and CSA staff are presently engaged in discussions as to whether the Spot Currency Exclusion is available for these transactions and/or whether exemptive relief from the trade reporting requirement for these transactions is warranted.
6. The Filer currently offers IB Forex transactions (a) to retail investors resident in Ontario pursuant to *In the Matter of Interactive Brokers Canada Inc.* dated August 8, 2014 (the **August 8, 2014 Order**) and (b) pursuant to a notice filed under section 4.7 of MI 11-102 *Passport System* regarding the Filer's intent to rely on the August 8, 2014 Order for comparable relief in the Non-Principal Jurisdictions.
7. The Filer wishes to offer IB Forex transactions to investors in the Applicable Jurisdictions on the terms and conditions described in this Decision. For the Interim Period (as defined below), the Filer is seeking the Requested Relief in connection with the proposed offering of IB Forex transactions in Ontario and intends to rely on this Decision and the Passport System described in MI 11-102 to offer IB Forex transactions in the Non-Principal Jurisdictions.
8. In Québec, the Filer is qualified by the Autorité des marchés financiers (AMF) pursuant to section 82 of the *Derivatives Act* (Québec) (the QDA) to offer IB Forex transactions to both accredited and retail investors pursuant to the provisions of the QDA, subject to the terms and conditions of its qualification decision and related provisions of the QDA.

IIROC Rules and Acceptable Practices

9. As a member of IIROC, the Filer is only permitted to enter into IB Forex transactions pursuant to the rules and regulations of IIROC (the **IIROC Rules**).
10. In addition, IIROC has communicated to its members certain additional expectations as to acceptable business practices (**IIROC Acceptable Practices**) as articulated in IIROC's paper "*Regulatory Analysis of Contracts for Differences (CFDs)*" published by IIROC on June 6, 2007, as amended on September 12, 2007, for any IIROC member proposing to offer CFDs and similar OTC derivatives to investors. The Filer is in compliance with IIROC Acceptable Practices in reference to the IB Forex transactions, as applicable. The Filer will continue to offer the IB Forex transactions to clients in accordance with applicable IIROC Acceptable Practices as may be established from time to

time, and will not offer IB Forex transactions linked to bitcoin, cryptocurrencies or other novel or emerging asset classes to investors in the Applicable Jurisdictions without the prior written consent of IIROC.

11. The Filer is required by IIROC to maintain a certain level of capital to address the business risks associated with its activities. The capital reporting required by IIROC (as per the calculation in the Form 1 Joint Regulatory Financial Questionnaire and Report (**Form 1**) and in the Monthly Financial Reports to IIROC) is based predominantly on the generation of financial statements and calculations so as to ensure capital adequacy. The Filer as an IIROC member is required to have a specified minimum capital which includes having any additional capital required with regards to margin requirements and other risks. This risk calculation is summarized as a risk adjusted capital calculation which is submitted in the Filer's Form 1 and required to be kept positive at all times.
12. The Filer understands that staff of the Alberta Securities Commission have public interest concerns with IB Forex trading by retail clients and, accordingly, the Filer does not offer IB Forex transactions to retail investors resident in Alberta. The Filer undertakes not to give notice that subsection 4.7(1) of MI 11-102 is intended to be relied upon in Alberta.

IB Forex

13. Interactive Brokers provides a number of vehicles for the exchange of currencies: (i) *IDEALPRO* which allows a customer to trade in foreign exchange transactions (ii) *IDEAL* which allows a customer to convert their balances from one currency to another (forex conversions); and (iii) the Auto Swap program which allows certain customers to take advantage of efficient interest rates paid in the tomorrow-next day or "Tom/Next" market which is a mechanism under which forex traders/speculators avoid taking physical delivery of currencies, normally two days after a forex transaction, while still keeping forex position open overnight.
14. For the purposes of this Application, IB Forex transactions include those transactions entered into on *IDEALPRO*, the forex conversions that are conducted through *IDEAL* and auto swaps under the Auto Swap program.
15. IB Forex transactions are OTC and may be transferable dependent on the transaction.
16. The ability to lever an investment is one of the principal features of foreign exchange contracts and transactions. Leverage allows clients to magnify investment returns (or losses) by reducing the initial capital outlay required to achieve the same market exposure that would be obtained by investing directly in the underlying currency. Leverage is only permissible on the *IDEALPRO* network.
17. IIROC Rules and IIROC Acceptable Practices each set out detailed requirements and expectations relating to leverage and margin for offerings of foreign exchange contracts. The degree of leverage may be amended in accordance with IIROC Rules and IIROC Acceptable Practices as may be established from time to time.
18. Pursuant to Section 13.12 *Restriction on lending to clients* of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* which came into force as of September 28, 2009, only those firms that are registered as investment dealers (a condition of which is to be a member of IIROC) may lend money, extend credit or provide margin to a client.

Online Trading Platform

19. Interactive Brokers has developed a module of Interactive Brokers' TWS on-line trading platform to specifically allow IB Forex transactions called FXTrader® (**FXTrader**), that offers clients direct access to interbank prices and dealing for orders as small as 25,000 USD (or equivalent), and up to 10 million USD, or more. FXTrader provides best-execution functionality and a transparent pricing structure. The Filer offers trading in 16 currencies with market spreads as small as 1/2 PIP. The tight spreads and substantial liquidity are a result of combining quotation streams from 12 of the world's largest foreign exchange dealers which provide, directly or indirectly, more than half of the momentary capital available in the global interbank market.
20. FXTrader provides an optimized trading interface, with Interactive Broker-designed tools to trade the forex markets. The price display emphasizes the critical portion of the bid/ask, and conveys price movement at a glance by showing an increasing price in green and decreasing price in orange. Each currency pair occupies its own "cell," complete with market data and order information, where a client can create, transmit and cancel orders with a single click. Overall order, trade and portfolio information is displayed along the top of the currency pairs grid.
21. Key features of the FXTrader platform includes:

- Interbank-quality spreads allow clients to trade the best bid and ask from multiple liquidity providers with spreads as low as 1/2 pip;
 - The ability to review order details and margin implications before a client transmits;
 - Instantaneous transmission to transmit a client's orders with one click on the bid or ask;
 - FXTrader supports over 15 risk-mitigation order types including trailing stop limits, brackets, limit if touched, OCA (one cancels all) and IOC (immediate or cancel);
 - The functionality of the Order Book icon which appears when the small-order book has a better price available for the currency pair; and
 - The ability of a client to customize the trading cell display to show position, average cost and profit and loss date.
22. Clients conduct IB Forex transactions through the Filer's TWS on-line trading platform. The Filer's on-line platform is similar to those developed for on-line brokerages and day-trading in that the client trades without other communication with, or advice from, the dealer. The FXTrader® module is not a "marketplace" as defined in National Instrument 21-101 Marketplace Operation since a marketplace is any facility that brings together multiple buyers and sellers by matching orders in fungible contracts in a nondiscretionary manner. FXTrader® does not bring together multiple buyers and sellers; rather it offers clients direct access to interbank prices.

IB Forex Transactions in the Applicable Jurisdictions

23. Foreign exchange contracts and similar OTC derivative transactions, including IB Forex transactions, when offered to investors in Canada, may be considered to be "securities" under securities legislation of the Applicable Jurisdictions.
24. Investors wishing to enter into IB Forex transactions must open an account with the Filer.
25. Prior to a client's first IB Forex transaction and as part of the account opening process, the Filer will provide the client with a separate risk disclosure document that clearly explains, in plain language, the transaction and the risks associated with the transaction (the **risk disclosure document**). The risk disclosure document includes the required risk disclosure set forth in Schedule A to the Regulations to the QDA and leverage risk disclosure required under the IIROC Rules. The risk disclosure document contains disclosure that is substantially similar to the risk disclosure statement required for recognized options in OSC Rule 91-502 *Trades in Recognized Options (OSC Rule 91-502)* (which provides both registration and prospectus exemptions) and the regime for OTC derivatives contemplated by OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts to Investors in Ontario (OSC SN 91-702)* and proposed OSC Rule 91-504 *OTC Derivatives (which was not adopted) (Proposed Rule 91-504)*. The Filer will ensure that, prior to a client's first trade in an IB Forex transaction, a complete copy of the risk disclosure document provided to that client has been delivered, or has previously been delivered, to the Principal Regulator.
26. Prior to the client's first IB Forex transaction and as part of the account opening process, the Filer will obtain a written or electronic acknowledgement from the client confirming that the client has received, read and understood the risk disclosure document. Such acknowledgment will be separate and prominent from other acknowledgements provided by the client as part of the account opening process.
27. As customary in the industry, and due to the fact that this information is subject to factors beyond the control of the Filer (such as changes in IIROC Rules), information such as the margin or leverage rates would not be disclosed in the risk disclosure document but are part of a client's account opening package and are available on both the Filer's website and on FXTrader®.

Satisfaction of the Registration Requirement

28. The role of the Filer as it relates to the IB Forex transactions will be limited to acting as an execution-only dealer. In this role, the Filer will, among other things, be responsible to approve all marketing, for holding of clients funds, and for client approval (including the review of know-your-client (**KYC**) due diligence and account opening suitability assessments).
29. IIROC Rules exempt member firms that provide execution-only services such as discount brokerages from the obligation to determine whether each trade is suitable for the client. However, IIROC has exercised its discretion to

impose additional requirements on members proposing to trade in foreign exchange contracts and requires, among other things, that:

- (a) Applicable risk disclosure documents and client suitability waivers provided must be in a form acceptable to IIROC;
 - (b) The Filer's policies and procedures, amongst other things, require the Filer to assess the depth of investment knowledge and trading experience of the client to assess whether the product is appropriate for the client before an account is approved to be opened. This account opening suitability process includes an assessment of the client's investment knowledge and trading experience, client identification, screening applicants and customers against lists of prohibited/blocked persons, and detecting and reporting suspicious trading and potential terrorist financing and money laundering activities to applicable enforcement authorities;
 - (c) The Filer's registered dealing representatives, as well as their registered supervisors who oversee the KYC and initial product suitability analysis will meet, or be exempt from, the proficiency requirements for futures trading and will be registered with IIROC as Investment Representative for retail customers in the product category of Futures Contracts and Futures Contract Options (IR). In addition, the Filer must have a fully qualified Supervisor for such products; and
 - (d) Cumulative loss limits for each client's account must be established (this is a measure normally applied by IIROC in connection with futures trading accounts).
30. The IB Forex transactions are offered in compliance with applicable IIROC Rules and other IIROC Acceptable Practices, as applicable.
31. The Requested Relief, if granted, would substantially harmonize the position of the regulators in the Applicable Jurisdictions on the offering of foreign exchange contracts to investors in the Applicable Jurisdictions with how those products are offered to investors in Quebec under the QDA. The QDA provides a legislative framework to govern derivatives activities within the province. Among other things, the QDA requires such products to be offered to investors through an IIROC member and the distribution of a standardized risk disclosure document rather than a prospectus in order to distribute foreign exchange contracts to investors resident in Quebec.
32. The Requested Relief, if granted, would be consistent with the guidelines articulated by Staff of the Principal Regulator in OSC SN 91-702. OSC SN 91-702 provides guidance with regards to the distributions of CFDs, foreign exchange contracts (forex or FX contracts) and similar OTC derivative products to investors in the Jurisdiction.
33. The Principal Regulator has previously recognized that the prospectus requirement may not be well suited for the distribution of certain derivative products to investors in the Jurisdiction, and that alternative requirements, including requirements based on clear and plain language risk disclosure, may be better suited for certain derivatives. In Ontario, both OSC Rule 91-502 and OSC Rule 91-503 *Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario (OSC Rule 91-503)* provide for a prospectus exemption for the trading of derivative products to clients. The Requested Relief is consistent with the principles and requirements of OSC Rule 91-502, OSC Rule 91-503 and Proposed Rule 91-504.
34. The Filer also submits that the Requested Relief, if granted, would harmonize the Principal Regulator's position on the offering of foreign exchange contracts with certain other foreign jurisdictions that have concluded that a clear, plain language risk disclosure document is appropriate for retail clients seeking to trade in foreign exchange contracts.
35. The Filer is of the view that requiring compliance with the prospectus requirement in order to enter into IB Forex transactions with clients in the Jurisdiction would not be appropriate since the disclosure of a great deal of the information required under the prospectus and under the reporting issuer regime is not material to a client seeking to enter into an IB Forex transaction. The information to be given to such a client should principally focus on enhancing the client's appreciation of product risk including counterparty risk. In addition, most IB Forex transactions are of short duration (positions are generally opened and closed on the same day and are in any event marked to market and cash settled daily).
36. The Filer is regulated by IIROC which has a robust compliance regime including specific requirements to address market, capital and operational risks pursuant to the IIROC Rules and the IIROC Acceptable Practices.
37. The Filer submits that the regulatory regimes developed by the AMF and IIROC for foreign exchange contracts, including IB Forex transactions, adequately addresses issues relating to the potential risk to the client of the Filer acting as counterparty. In view of these regulatory regimes, investors would receive little or no additional benefit from requiring the Filer to also comply with the prospectus requirement.

38. The Requested Relief in respect of each Applicable Jurisdiction is conditional on the Filer being registered as an investment dealer with the securities regulator in such Applicable Jurisdiction and maintaining its membership with IIROC and that all IB Forex transactions be conducted pursuant to IIROC Rules and in accordance with IIROC Acceptable Practices, as applicable.

Decision

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

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

- (a) The Filer shall not rely on the August 8, 2014 Order and the notice provided thereunder;
- (b) all IB Forex transactions with residents in the Applicable Jurisdictions shall be distributed through the Filer;
- (c) with respect to residents of an Applicable Jurisdiction, the Filer remains registered as a dealer in the category of investment dealer with the Principal Regulator and each securities regulatory authority in such Applicable Jurisdiction and a member of IIROC;
- (d) all IB Forex transactions with clients resident in the Applicable Jurisdictions shall be conducted pursuant to IIROC Rules imposed on members seeking to trade in foreign exchange contracts and in accordance with IIROC Acceptable Practices, as applicable and as amended from time to time;
- (e) if the Filer continues to offer IB Forex transactions to residents of Québec, all IB Forex transactions with clients resident in the Applicable Jurisdictions be conducted pursuant to the rules and regulations of the QDA and the AMF, as amended from time to time, unless and to the extent there is a conflict between i) the rules and regulations of the QDA and the AMF, and ii) the requirements of the securities laws of the Applicable Jurisdictions, the IIROC Rules and IIROC Acceptable Practices, in which case the latter shall prevail;
- (f) prior to a client first entering into an IB Forex transaction, the Filer has provided to the client the risk disclosure document described in paragraph 25 and has delivered, or has previously delivered, a copy of the risk disclosure document provided to that client to the Principal Regulator;
- (g) prior to a client's first IB Forex transaction and as part of the account opening process, the Filer has obtained a written or electronic acknowledgement from the client, as described in paragraph 26, confirming that the client has received, read and understood the risk disclosure document;
- (h) the Filer has furnished to the Principal Regulator the name and principal occupation of its officers or directors, together with either the personal information form and authorization of indirect collection, use and disclosure of personal information provided for in National Instrument 41-101 *General Prospectus Requirements* or the registration information form for an individual provided for in Form 33-109F4 of National Instrument 33-109 *Registration Information Requirements* completed by any officer or director;
- (i) the Filer shall promptly inform the Principal Regulator in writing of any material change affecting the Filer, being any change in the business, activities, operations or financial results or condition of the Filer that may reasonably be perceived by a counterparty to a derivative to be material;
- (j) the Filer shall promptly inform the Principal Regulator in writing if a self-regulatory organization or any other regulatory authority or organization initiates proceedings or renders a judgment related to disciplinary matters against the Filer concerning the conduct of activities with respect to IB Forex transactions;
- (k) within 90 days following the end of its financial year, the Filer shall submit to IIROC and the Principal Regulator the audited annual financial statements of the Filer; and
- (l) the Requested Relief shall immediately expire upon the earliest of
 - (i) four years from the date that this Decision is issued;
 - (ii) in respect of a subject Applicable Jurisdiction or Quebec, the issuance of an order or decision by a court, the securities regulatory authority in such Applicable Jurisdiction, the AMF (in respect of Quebec) or other similar regulatory body that suspends or terminates the ability of the Filer to offer foreign exchange contracts to clients in such Applicable Jurisdictions; and

- (iii) with respect to an Applicable Jurisdiction, the coming into force of legislation or a rule by its securities regulatory authority regarding the distribution of OTC derivatives to investors in such Applicable Jurisdiction (the **Interim Period**)”.

“Cecilia Williams”
Commissioner
Ontario Securities Commission

“Peter Currie”
Commissioner
Ontario Securities Commission

2.1.8 Asanko Gold Inc. et al.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Application for exemptive relief to permit issuer and underwriters, acting as agents for the issuer, to enter into equity distribution agreements to make "at the market" (ATM) distributions of common shares over the facilities of the TSX, NYSE or other marketplace – ATM distributions to be made pursuant to shelf prospectus procedures in Part 9 of NI 44-102 Shelf Distributions – issuer will issue a press release and file agreements on SEDAR – application for relief from prospectus delivery requirement – delivery of prospectus not practicable in circumstances of an ATM distribution – relief from prospectus delivery requirement has effect of removing two-day right of withdrawal and remedies of rescission or damages for non-delivery of the prospectus – application for relief from certain prospectus form requirements – relief granted to permit modified forward-looking certificate language – relief granted on terms and conditions set out in decision document – decision will terminate 25 months after the issuance of a receipt for the shelf prospectus. Decision and application also held in confidence by decision makers until the earlier of the entering into of an equity distribution agreement, waiver of confidentiality or 90 days from the date of the decision

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 71 and 147.

Applicable Ontario Rules

National Instrument 44-101 Short Form Prospectus Distributions, s.8.1 and Item 20 of Form 44-101F1.

National Instrument 44-102 Shelf Distributions, s. 6.7, Part 9, s 11.1, s. 5.5 items 2 and 3, section 2.2 of Part 2 of Appendix A.

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

April 20, 2018

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA AND ONTARIO
(the Jurisdictions)**

AND

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

AND

**IN THE MATTER OF
ASANKO GOLD INC. (the Issuer),
BMO NESBITT BURNS INC. (the Canadian Agent),
BMO CAPITAL MARKETS CORP. (the US Agent)
(collectively, the Agents and together with the Issuer, the Filers)**

DECISION

Background

- 1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application (the Application) from the Filers for a decision under the securities legislation of the Jurisdictions (the Legislation) for the following relief (the Exemption Sought):
 - (a) that the requirement that a dealer, not acting as agent of the purchaser who receives an order or subscription for a security offered in a distribution to which the prospectus requirement applies, send or deliver to the purchaser or its agent the latest prospectus (including the applicable prospectus supplement) and any amendment to the prospectus (the Prospectus Delivery Requirement) does not apply to the Agents or any other registered investment dealer acting on behalf of the Agents as a selling agent (a Selling Agent) in connection with the at-the-market distribution (the ATM Distribution) as defined in National Instrument 44-102 *Shelf Distributions* (NI 44-102) made by the Issuer pursuant

to an equity distribution agreement to be entered into between the Issuer and the Agents (the Equity Distribution Agreement);

- (b) that the requirements (collectively, the Prospectus Form Requirements) to include in a prospectus supplement:
 - (i) a forward-looking issuer certificate in the form specified in section 2.1 of Appendix A to NI 44-102; and
 - (ii) a forward-looking underwriter certificate in the form specified in section 2.2 of Appendix A to NI 44-102,

do not apply to a prospectus supplement (the Prospectus Supplement), to be filed in respect of the sale of common shares of the Issuer (the Common Shares) pursuant to ATM Distributions.

The Decision Makers have also received a request from the Filers for a decision that the Application and this decision (the Confidential Material) be kept confidential and not made public until the earliest of (i) the date on which the Issuer and the Agents enter into the Equity Distribution Agreement, (ii) the date on which the Filers advise the Decision Maker that there is no longer any need for the Confidential Material to remain confidential; and (iii) the date that is 90 days after the date of this decision (the Confidentiality Relief).

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

- (a) the British Columbia Securities Commission is the principal regulator for this Application;
- (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 Alberta, Manitoba, Saskatchewan, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

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

Representations

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

Asanko Gold Inc.

- 1. the Issuer is a corporation existing under the *Business Corporations Act* (British Columbia); the head office of the Issuer is located in Vancouver, British Columbia;
- 2. the Issuer is a reporting issuer or the equivalent under the securities legislation of each province of Canada, other than Quebec, and is not in default of any requirements under applicable securities legislation in any of the jurisdictions of Canada;
- 3. the Common Shares are listed on the Toronto Stock Exchange (TSX) and the NYSE American LLC (NYSE American);
- 4. the Issuer filed a final short form base shelf prospectus dated January 16, 2018 for the distribution of Common Shares, warrants, subscription receipts, units and debt securities in each of the provinces of Canada, except Quebec (the Shelf Prospectus and, together with the Prospectus Supplement, the Prospectus);

The Agents

- 5. BMO Nesbitt Burns Inc., the Canadian Agent, is a corporation incorporated under the laws of Canada with its head office in Toronto, Canada;

6. the Canadian Agent is registered as an investment dealer under applicable securities legislation of each of the provinces and territories of Canada, is a member of the Investment Industry Regulatory Organization of Canada, and is a participating organization of the TSX;
7. BMO Capital Markets Corp., the US Agent, is a corporation incorporated under the laws of Delaware with its head office in New York, New York;
8. the U.S. Agent is a broker-dealer registered with the SEC under the *Securities Exchange Act of 1934*, as amended (the 1934 Act);
9. none of the Agents is in default of any requirements under applicable securities legislation in any jurisdiction of Canada;

Proposed ATM Distribution

10. the Filers will enter into the Equity Distribution Agreement relating to an ATM Distribution by the Issuer under the shelf prospectus procedures prescribed by Part 9 of NI 44-102;
11. prior to making an ATM Distribution, the Issuer will have filed in each of the provinces of Canada, other than Quebec, and the SEC in connection with the ATM Distribution the Prospectus Supplement, which will describe the terms of the ATM Distribution, including the terms of the Equity Distribution Agreement and otherwise supplementing the disclosure in the Shelf Prospectus;
12. upon entering into the Equity Distribution Agreement, the Issuer will immediately:
 - (a) issue and file a news release pursuant to section 3.2 of NI 44-102 which will (i) disclose that the Equity Distribution Agreement has been entered into, (ii) indicate that the Shelf Prospectus and the Prospectus Supplement have been filed on SEDAR, and (iii) specify where and how purchasers may obtain a copy of the Shelf Prospectus and the Prospectus Supplement; and
 - (b) file the Equity Distribution Agreement on SEDAR;
13. the Equity Distribution Agreement will limit the number of Common Shares that the Issuer may issue and sell pursuant to any ATM Distribution thereunder to an amount not to exceed 10% of the aggregate market value of the outstanding Common Shares calculated in accordance with section 9.2 of NI 44-102;
14. the Issuer will conduct ATM Distributions through the Agents, as underwriters, directly or through a Selling Agent, through the facilities of the TSX, the NYSE American, or any other "marketplace" (as defined in National Instrument 21-101 *Marketplace Operation*) in Canada or the United States (each a Marketplace);
15. the Canadian Agent will act as the sole underwriter on behalf of the Issuer in connection with an ATM Distribution on the TSX or any other Marketplace in Canada (a Canadian Marketplace) directly by the Agents or through one or more Selling Agents and will be paid an underwriting fee or commission by the Issuer in connection with such sales; If sales are effected through a Selling Agent, the Selling Agent will be paid a seller's commission for effecting the trade on behalf of the Canadian Agent;
16. the Agents will sign an underwriter's certificate in the Prospectus Supplement;
17. the Agents will effect the ATM Distribution on a Canadian Marketplace either themselves or through one or more Selling Agents; if the sales are effected through a Selling Agent, the Selling Agent will be paid a seller's commission for effecting the trades on behalf of the Agent; a purchaser's rights and remedies under Canadian securities legislation against the Agents, as underwriters of an ATM Distribution, through a Canadian Marketplace will not be affected by a decision to effect the sale directly or through a Selling Agent;
18. the aggregate number of Common Shares sold on one or more Canadian Marketplaces pursuant to an ATM Distribution on any trading day will not exceed 25% of the trading volume of the Common Shares on all Canadian Marketplaces on that day;
19. the Equity Distribution Agreement will provide that, at the time of each ATM Distribution, the Issuer will represent to the Agents that the Prospectus (which shall include any news release that has been designated and filed as Designated News Release as outlined below) contains full, true and plain disclosure of all material facts relating to the Issuer and Common Shares being distributed; the Issuer will, therefore, be unable to

- proceed with sales pursuant to an ATM Distribution when it is in possession of undisclosed information that would constitute a material fact or a material change in respect of the Issuer or the Common Shares;
20. after the date of the Prospectus Supplement and before the termination of any ATM Distribution, if the Issuer disseminates a news release disclosing information that, in the Issuer's determination, constitutes a "material fact" (as such term is defined in the Legislation), the Issuer will identify such news release as a "designated news release" for the purposes of the Prospectus; this designation will be made on the face page of the version of such news release filed on SEDAR (any such news release, a Designated News Release); the Prospectus Supplement will provide that any such Designated News Release will be deemed to be incorporated by reference into the Base Shelf Prospectus; a Designated News Release will not be used to update disclosure in the Prospectus by the Issuer in the event of a "material change" (as such term is defined in the Legislation);
 21. if, after the Issuer delivers a sell notice to the Agents directing the Agents to sell Common Shares on the Issuer's behalf pursuant to an Equity Distribution Agreement (a Sell Notice), the sale of Common Shares specified in the Sell Notice, taking into consideration prior sales under all previous ATM Distributions, would constitute a material fact or material change, the Issuer will suspend sales under the Equity Distribution Agreement until either:
 - (a) it has disseminated and filed a Designated News Release, in the case of a material fact, or has filed a material change report or amended the Prospectus, in the case of a material change, or
 - (b) circumstances have changed such that a sale would no longer constitute a material fact or material change;
 22. in determining whether the sale of Common Shares specified in a Sell Notice would constitute a material fact or a material change, the Issuer will take into account a number of factors, including, without limitation: (i) the parameters of the Sell Notice including the number of Common Shares to be sold and any price or timing restrictions that the Issuer may impose with respect to the particular ATM Distribution; (ii) the percentage of the outstanding Common Shares that number represents; (iii) sales under earlier Sell Notices; (iv) trading volume and volatility of the Common Shares; (v) recent developments in the business, operations or capital of the Issuer; and (vi) prevailing market conditions generally;
 23. in addition, the Agents will monitor closely the market's reaction to trades made under the ATM Distribution in order to evaluate the likely market impact of future trades; the Agents have experience and expertise in managing sell orders to limit downward pressure on the trading price of the Common Shares; if any of the Agents have concerns as to whether a particular sell order placed by the Issuer may have a significant effect on the market price of the Common Shares, that Agent will recommend against effecting the trade at that time; it is in the interest of both the Issuer and the Agents to minimize the market impact of sales under the ATM Distribution;

Disclosure of Sales in Monthly Report and Interim Report

24. within seven calendar days after the end of each calendar month during which the Issuer conducts an ATM Distribution, the Issuer will disclose in a report filed on SEDAR the number and average selling price of the Common Shares distributed through an ATM Distribution, and the commission and gross and net proceeds for such sales; furthermore, for each financial period in which the Issuer conducts an ATM Distribution, it will disclose in its financial statements and related management discussion and analysis filed on SEDAR the number and average selling price of the Common Shares distributed pursuant to the ATM Distribution, and the commission and gross and net proceeds for such sales;

Prospectus Delivery Requirement

25. under the Prospectus Delivery Requirement, a dealer effecting a trade of securities offered under a prospectus is required to deliver a copy of the prospectus (including the applicable prospectus supplement(s) in the case of a base shelf prospectus) to the purchaser within prescribed time limits;
26. delivery of a prospectus is not practicable in the circumstances of an ATM Distribution as the Agents or any Selling Agent, as applicable, effecting the trade may not know the identity of the purchasers;
27. the Prospectus (together with all its documents incorporated by reference) will be filed and readily available electronically via SEDAR to all purchasers under ATM Distributions; as stated in paragraph 12 above, the Issuer will issue a news release that specifies where and how copies of the Prospectus can be obtained;

28. the liability of an issuer or an underwriter (or others) for a misrepresentation in a prospectus pursuant to the civil liability provisions of the Legislation will not be affected by the grant of an exemption from the Prospectus Delivery Requirement because purchasers of securities offered by a prospectus during the period of distribution have a right of action for damages or rescission without regard to whether the purchaser relied on the misrepresentation or in fact received a copy of the prospectus;

Withdrawal Right and Rescission or Damages for Non-Delivery

29. pursuant to the Legislation, an agreement to purchase securities is not binding on the purchaser if a dealer receives, not later than midnight on the second day exclusive of Saturdays, Sundays and holidays, after receipt by the purchaser of the latest prospectus or any amendment to the prospectus, a notice in writing that the purchaser does not intend to be bound by the agreement of purchase (the Withdrawal Right);
30. pursuant to the Legislation, a purchaser of securities to whom a prospectus was required to be sent or delivered in compliance with the Prospectus Delivery Requirement, but was not so sent or delivered, has a right of action for rescission or damages against a dealer who did not comply with the Prospectus Delivery Requirement (the Right of Action for Non-Delivery);
31. neither the Withdrawal Right nor the Right of Action for Non-Delivery is workable in the context of an ATM Distribution because of the impracticability of delivering the Prospectus to a purchaser of Common Shares under the Prospectus;

Prospectus Form Requirements

32. to reflect the fact that an ATM Distribution is a continuous distribution, the Prospectus Supplement will include the following issuer certificate:

“This short form prospectus, as supplemented by the foregoing, together with the documents incorporated in the prospectus by reference as of the date of a particular distribution of securities offered by the prospectus, will, as of that date, constitute full, true and plain disclosure of all material facts relating to the securities offered by the prospectus and this supplement as required by the securities legislation of each of the provinces of Canada, other than Quebec.”

33. to reflect the fact that an ATM Distribution is a continuous distribution, the Prospectus Supplement will include the following underwriter certificate:

“To the best of our knowledge, information and belief, the short form prospectus, as supplemented by the foregoing, together with the documents incorporated in the prospectus by reference as of the date of a particular distribution of securities offered by the prospectus, will, as of that date, constitute full, true and plain disclosure of all material facts relating to the securities offered by the prospectus, as required by the securities legislation of each province of Canada, other than Quebec.”

34. a different statement of purchasers' rights than that required by the Legislation is necessary in order to allow the Prospectus to accurately reflect the relief granted from the Prospectus Delivery Requirement; accordingly, the Prospectus Supplement will state the following, with the date reference completed:

“Securities legislation in certain of the provinces of Canada provide purchasers with the right to withdraw from an agreement to purchase securities and with remedies for rescission or, in some jurisdictions, revision of the price, or damages if the prospectus, prospectus supplements relating to the securities purchased by a purchaser and any amendment are not delivered to the purchaser, provided that the remedies are exercised by the purchaser within the time limit prescribed by securities legislation. However, purchasers of the Common Shares under an at-the-market distribution will not have any right to withdraw from an agreement to purchase the Common Shares and will not have remedies of rescission or, in some jurisdictions, revision of the price or damages for non-delivery of the prospectus because the prospectus, prospectus supplements relating to the Common Shares purchased by the purchaser and any amendment related to Common Shares purchased by such purchaser will not be delivered as permitted under a decision document dated March •, 2018 and granted pursuant to National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

Securities legislation in certain of the provinces of Canada also provides purchasers with remedies for rescission or, in some jurisdictions, revision of the price, or damages if the prospectus, prospectus supplements relating to the securities purchased by a purchaser and any amendment contain a misrepresentation, provided that the remedies are exercised by the purchaser within the time limit prescribed by securities legislation. Any remedies under securities legislation in the jurisdictions that a purchaser of the

Common Shares under an at-the-market distribution may have against us or the Agents for rescission, or in some jurisdictions, revision of the price, or damages if the prospectus, prospectus supplements relating to the securities purchased by a purchaser or any amendment contain a misrepresentation remain unaffected by the non-delivery of the prospectus and the decision referred to above.

Purchasers should refer to the applicable provisions of the securities legislation and the decision document referred to above for the particulars of their rights or consult with a legal advisor.”

35. the Prospectus Supplement will disclose that, in respect of ATM Distributions under the Prospectus Supplement, the statement prescribed in paragraph 34 above supersedes the statement of purchaser's rights in the Shelf Prospectus; and
36. the Filers will not make a public announcement of their intention to conduct ATM Distributions prior to the execution of the Equity Distribution Agreement.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that:

- (a) the Issuer makes the disclosure described in sections 24, 32, 33, 34 and 35; and
- (b) the Issuer complies with the representations in sections 2, 10, 11, 12, 13, 14, 18, 19, 20, 21, 22 and 36 and the Agents comply with the representations in sections 6, 9, 10, 13, 14, 15, 16, 17, 18, 23 and 36.

This decision will terminate 25 months after the issuance of the receipt for the Shelf Prospectus.

The further decision of the Decision Makers is that the Confidentiality Relief is granted.

“John Hinze”
Director, Corporate Finance
British Columbia Securities Commission

2.1.9 Oncolytics Biotech Inc. and Canaccord Genuity Corp.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Application for exemptive relief to permit issuer and underwriter, acting as agent for the issuer, to enter into an equity distribution agreement to make “at the market” (ATM) distributions of common shares over the facilities of the TSX or other Canadian marketplace – ATM distributions to be made pursuant to shelf prospectus procedures in Part 9 of NI 44-102 Shelf Distributions – issuer will issue a press release and file agreements on SEDAR – application for relief from prospectus delivery requirement – delivery of prospectus not practicable in circumstances of an ATM distribution – relief from prospectus delivery requirement has effect of removing two-day right of withdrawal and remedies of rescission or damages for non-delivery of the prospectus – application for relief from certain prospectus form requirements – relief granted to permit modified forward-looking certificate language – relief granted on terms and conditions set out in decision document – decision will terminate 25 months from the date of the receipt for the base shelf prospectus. Decision and application also held in confidence by decision makers until the earlier of the entering into of an equity distribution agreement, waiver of confidentiality or 90 days from the date of the decision.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 71 and 147.

Applicable National Instruments

Item 20 of Form 44-101F1 Short Form Prospectus and section 8.1 of National Instrument 44-101 Short Form Prospectus Distributions.

Paragraphs 5.5.2. and 3., section 2.2 of Part 2 of Appendix A and section 11.1 of National Instrument 44-102 Shelf Distributions.

April 23, 2018

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

AND

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

AND

**IN THE MATTER OF
ONCOLYTICS BIOTECH INC.
(the Issuer)**

AND

**CANACCORD GENUITY CORP.
(the Agent and, together with the Issuer, the Filers)**

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application (the **Application**) from the Filers for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for the following relief (the **Exemption Sought**):

- (a) that the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement applies, send or deliver to the purchaser the latest prospectus (including the applicable prospectus supplement(s) in the case of a base shelf prospectus) and any amendment to the prospectus (the **Prospectus Delivery Requirement**) does not apply to the Agent or any other registered investment dealer acting on behalf of the Agent as a selling agent (each a

Selling Agent) in connection with any at-the-market distribution (**ATM Distribution**) of common shares (**Common Shares**) of the Issuer in Canada pursuant to the Prospectus (as defined below) and an equity distribution agreement (the **Equity Distribution Agreement**) to be entered into between the Filers;

- (b) that the requirement to include a forward-looking underwriter certificate in the form specified by section 2.2 of Appendix A to National Instrument 44-102 *Shelf Distributions* (**NI 44-102**) does not apply to the Prospectus Supplement (as defined below); and
- (c) that the requirement to include the statements specified by items 2 and 3 of section 5.5 of NI 44-102 does not apply to the Base Shelf Prospectus.

The Decision Makers have also received a request from the Filers for a decision that the Application and this decision (together, the **Confidential Material**) be held in confidence and not be made public until the earliest of (i) the date on which the Filers enter into the Equity Distribution Agreement, (ii) the date on which any of the Filers advise the Decision Makers that there is no longer any need for the Confidential Material to remain confidential, and (iii) the date that is 90 days after the date of this decision (the **Confidentiality Relief**).

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

- (a) the Alberta Securities Commission is the principal regulator for the Application;
- (b) the Filers have provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Nunavut and the Yukon Territory; and
- (c) this decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, National Instrument 13-101 *System for Electronic Document Analysis and Retrieval* (SEDAR), MI 11-102 or NI 44-102 have the same meaning if used in this decision, unless otherwise defined herein.

Representations

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

The Issuer

1. The Issuer is a corporation incorporated under the Business Corporations Act (Alberta). The head office of the Issuer is in Calgary, Alberta.
2. The Issuer is a reporting issuer in each province and territory of Canada and is not in default of securities legislation in any jurisdiction of Canada, except that the statements required by items 2 and 3 of section 5.5 of NI 44-102 to be included in a prospectus were modified in the final short form base shelf prospectus of the Issuer filed on May 4, 2018 (the **Base Shelf Prospectus**) in the manner described in paragraph 34 below without exemptive relief having first been obtained.
3. The Common Shares are listed on the Toronto Stock Exchange (**TSX**) and additionally trade on the OTCQX Best Market.
4. The Base Shelf Prospectus provides for the distribution from time to time of Common Shares. The Issuer included in the Base Shelf Prospectus a forward-looking certificate of the Issuer in the form prescribed by Appendix A to NI 44-102.

The Agent

5. The Agent is a corporation continued under the laws of Ontario with its head office in Vancouver, British Columbia.

6. The Agent is registered as an investment dealer under the securities legislation in each province and territory of Canada, is a member of the Investment Industry Regulatory Organization of Canada, and is a participating organization of the TSX.

7. The Agent is not in default of securities legislation in any jurisdiction of Canada.

Proposed ATM Distribution

8. Subject to mutual agreement on terms and conditions, the Filers propose to enter into the Equity Distribution Agreement for the purpose of one or more ATM Distributions involving the periodic sale of Common Shares by the Issuer through the Agent, as agent, under the shelf prospectus procedures prescribed by Part 9 of NI 44-102.

9. Prior to making an ATM Distribution, the Issuer will have filed in each province and territory of Canada a prospectus supplement describing the terms of the ATM Distribution, including the terms of the Equity Distribution Agreement and otherwise supplementing the disclosure in the Base Shelf Prospectus (the **Prospectus Supplement**, and together with the Base Shelf Prospectus as supplemented or amended and including any documents incorporated by reference therein (which shall include any Designated News Release as defined below), the **Prospectus**).

10. If the Equity Distribution Agreement is entered into, the Issuer will immediately do both of the following:

(a) issue and file a news release announcing the Equity Distribution Agreement and indicating that the Base Shelf Prospectus and the Prospectus Supplement have been filed on SEDAR and specifying where and how purchasers of Common Shares under an ATM Distribution may obtain copies of each; and

(b) file the Equity Distribution Agreement on SEDAR.

11. Under the proposed Equity Distribution Agreement the Issuer may conduct one or more ATM Distributions, subject to the 10% limitation set out in subsection 9.1(1) of NI 44-102.

12. The Issuer will conduct ATM Distributions only through the Agent (as agent) directly or via a Selling Agent, and only through the TSX or another marketplace in Canada as defined in National Instrument 21-101 *Marketplace Operation* upon which the Common Shares are listed, quoted or otherwise traded (each a **Marketplace**).

13. The Agent will act as the sole agent of the Issuer in connection with an ATM Distribution directly or through one or more Selling Agents on the TSX or any other Marketplace, and will be paid an agency fee or commission by the Issuer in connection with such sales. If sales are effected through a Selling Agent, the Selling Agent will be paid a seller's commission for effecting the trades on behalf of the Agent. The Agent will sign an underwriter's certificate, in the form set out in paragraph 31 below, in the Prospectus Supplement.

14. A purchaser's rights and remedies under applicable securities legislation against the Agent, as agents of an ATM Distribution through a Marketplace, will not be affected by a decision to effect the sale directly or through a Selling Agent.

15. The aggregate number of Common Shares sold on one or more Marketplaces pursuant to an ATM Distribution on any trading day will not exceed 25% of the trading volume of the Common Shares on all Marketplaces on that day.

16. The Equity Distribution Agreement will provide that, at the time of each Sell Notice (as defined below), the Issuer will represent to the Agent that the Prospectus contains full, true and plain disclosure of all material facts relating to the Issuer and Common Shares being distributed. The Issuer will, therefore, be unable to proceed with sales pursuant to an ATM Distribution when it is in possession of undisclosed information that would constitute a material fact or a material change in respect of the Issuer or the Common Shares.

17. After the date of the Prospectus Supplement and before the termination of any ATM Distribution, if the Issuer disseminates a news release disclosing information that, in the Issuer's determination, constitutes a "material fact" (as such term is defined in the Legislation), the Issuer will identify such news release as a "designated news release" for the purposes of the Prospectus. This designation will be made on the face page of the version of such news release filed on SEDAR (any such news release, a **Designated News Release**). The Prospectus Supplement will provide that any such Designated News Release will be deemed to be incorporated by reference into the Base Shelf Prospectus. A Designated News Release will not be used to update disclosure in the Prospectus by the Issuer in the event of a "material change" (as such term is defined in the Legislation).

18. If, after the Issuer delivers a sell notice to the Agent directing the Agent to sell Common Shares on the Issuer's behalf pursuant to the Equity Distribution Agreement (a **Sell Notice**), the sale of Common Shares specified in the Sell Notice,

taking into consideration prior sales under all previous ATM Distributions, would constitute a material fact or material change, the Issuer will suspend sales under the Equity Distribution Agreement until either (i) it has filed a Designated News Release or material change report, as applicable, or amended the Prospectus, or (ii) circumstances have changed such that a sale would no longer constitute a material fact or material change.

19. In determining whether the sale of the number of Common Shares specified in a Sell Notice would constitute a material fact or material change, the Issuer will take into account a number of factors, including, without limitation:
- (a) the parameters of the Sell Notice, including the number of Common Shares proposed to be sold and any price or timing restrictions that the Issuer may impose with respect to the particular ATM Distribution;
 - (b) the percentage of the outstanding Common Shares that the number of Common Shares proposed to be sold pursuant to the Sell Notice represents;
 - (c) sales under earlier Sell Notices;
 - (d) trading volume and volatility of the Common Shares;
 - (e) recent developments in the business, operations or capital of the Issuer; and
 - (f) prevailing market conditions generally.
20. It is in the interest of the Issuer and the Agent to minimize the market impact of sales under an ATM Distribution. Therefore, the Agent will closely monitor the market's reaction to trades made on any Marketplace pursuant to an ATM Distribution in order to evaluate the likely market impact of future trades. The Agent has experience and expertise in managing sell orders to limit downward pressure on trading prices. If the Agent has concerns as to whether a particular sell order placed by the Issuer may have a significant effect on the market price of the Common Shares, the Agent will recommend against effecting the sell order at that time.

Disclosure of Common Shares Sold in ATM Distribution

21. Within seven calendar days after the end of any calendar month during which the Issuer conducts an ATM Distribution, the Issuer will file on SEDAR and make publicly available as a notice of proceeds, a report disclosing in respect of such ATM Distribution, the number and average price of Common Shares distributed, gross proceeds, commissions and net proceeds.
22. The Issuer will disclose the number and average price of Common Shares sold pursuant to ATM Distributions, as well as gross proceeds, commissions and net proceeds, in its annual and interim financial statements and management discussion and analysis filed on SEDAR.

Prospectus Delivery Requirement

23. Pursuant to the Prospectus Delivery Requirement, a dealer effecting a trade of securities offered under a prospectus is required to deliver a copy of the prospectus (including the applicable prospectus supplement(s) in the case of a base shelf prospectus) to the purchaser within prescribed time limits.
24. Delivery of a prospectus is not practicable in the circumstances of an ATM Distribution, because neither the Agent nor a Selling Agent effecting the trade will know the identity of the purchasers.
25. The Prospectus will be filed and readily available electronically via SEDAR to all purchasers under ATM Distributions. As stated in paragraph 10 above, the Issuer will issue a news release that specifies where and how copies of the Base Shelf Prospectus and the Prospectus Supplement may be obtained.
26. The liability of an issuer or an underwriter (or others) for a misrepresentation in a prospectus pursuant to the civil liability provisions of the Legislation will not be affected by the grant of an exemption from the Prospectus Delivery Requirement, because purchasers of securities offered by a prospectus during the period of distribution have a right of action for damages or rescission without regard to whether or not the purchaser relied on the misrepresentation or in fact received a copy of the prospectus.

Withdrawal Right and Right of Action for Non-Delivery

27. Pursuant to the Legislation, an agreement to purchase a security in respect of a distribution to which the prospectus requirement applies is not binding on the purchaser if the dealer receives, not later than midnight on the second day

(exclusive of Saturdays, Sundays and holidays) after receipt by the purchaser of the latest prospectus or any amendment to the prospectus, a notice in writing that the purchaser does not intend to be bound by the agreement of purchase (the **Withdrawal Right**).

28. Pursuant to the Legislation, a purchaser of a security to whom a prospectus was required to be, but was not in fact, sent or delivered in compliance with the Prospectus Delivery Requirement has a right of action for rescission or damages against the dealer who did not comply with the Prospectus Delivery Requirement (the **Right of Action for Non-Delivery**).
29. Neither the Withdrawal Right nor the Right of Action for Non-Delivery is workable in the context of an ATM Distribution because of the impracticability of delivering the Prospectus to a purchaser of Common Shares thereunder.

Modified Certificates and Statements

30. To reflect the fact that an ATM Distribution is a continuous distribution, the Prospectus Supplement will include the following issuer certificate:

The short form prospectus, together with the documents incorporated in the prospectus by reference, as supplemented by the foregoing, as of the date of a particular distribution of securities under the prospectus, will, as of that date, constitute full, true and plain disclosure of all material facts relating to the securities offered by the prospectus and this supplement as required by the securities legislation of each of the provinces and territories of Canada.

31. The Prospectus Supplement will include the following underwriter certificate:

To the best of our knowledge, information and belief, the short form prospectus, together with the documents incorporated in the prospectus by reference, as supplemented by the foregoing, as of the date of a particular distribution of securities under the prospectus, will, as of that date, constitute full, true and plain disclosure of all material facts relating to the securities offered by the prospectus and this supplement as required by the securities legislation of each of the provinces and territories of Canada.

32. A different statement of purchasers' rights than that required by the Legislation is necessary so that the Prospectus will accurately reflect the relief granted from the Prospectus Delivery Requirement. Accordingly, the Prospectus Supplement will state the following, with the date reference completed:

Securities legislation in certain of the provinces and territories of Canada provides purchasers with the right to withdraw from an agreement to purchase securities and with remedies for rescission or, in some jurisdictions, revisions of the price, or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment are not delivered to the purchaser, provided that the remedies are exercised by the purchaser within the time limit prescribed by securities legislation. However, purchasers of Common Shares under an at-the-market distribution by the Issuer will not have the right to withdraw from an agreement to purchase the Common Shares and will not have remedies of rescission or, in some jurisdictions, revisions of the price or damages for non-delivery of the prospectus, because the prospectus, prospectus supplements relating to the Common Shares purchased by the purchaser and any amendment relating to Common Shares purchased by such purchaser will not be delivered as permitted under a decision dated ?, 2018 and granted pursuant to National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

Securities legislation in certain of the provinces and territories of Canada further provides purchasers with remedies for rescission or, in some jurisdictions, revisions of the price or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment contains a misrepresentation, provided that the remedies are exercised by the purchaser within the time limit prescribed by securities legislation. Any remedies under securities legislation that a purchaser of Common Shares under an at-the-market distribution by the Issuer may have against the Issuer or the Agent for rescission or, in some jurisdictions, revisions of the price, or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment contain a misrepresentation remain unaffected by the non-delivery and the decision referred to above.

A purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province or territory and the decision referred to above for the particulars of these rights or consult with a legal adviser.

Decisions, Orders and Rulings

33. The Prospectus Supplement will disclose that, in respect of ATM Distributions under the Prospectus Supplement, the statement prescribed in paragraph 32 above supersedes the statement of purchaser's rights in the Base Shelf Prospectus.
34. The statements required by items 2 and 3 of section 5.5 of NI 44-102 included in the Base Shelf Prospectus have been qualified by the additional words, "except in cases where an exemption from such delivery requirement has been obtained".

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that:

- (a) the Issuer complies with the disclosure requirements set out in paragraphs 21, 22, 30, 31, 32, 33 and 34 above; and
- (b) the Issuer and Agent respectively comply with the representations made in paragraphs 10, 12, 13, 15, 16, 17, 18, 19 and 20 above.

This decision will terminate 25 months from the date of the receipt for the Base Shelf Prospectus.

The further decision of the Decision Makers is that the Confidentiality Relief is granted.

For the Commission:

"Tom Cotter"
Vice-Chair

"Kari Horn"
Vice-Chair

2.1.10 Knowledge First Financial Inc. and Heritage Education Funds Inc.

Headnote

Multilateral Instrument 11-102 Passport System – National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 33-109 Registration Information (NI 33-109) – National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103) – Relief from certain filing requirements of NI 33-109 in connection with a bulk transfer of registered individuals and business locations pursuant to an amalgamation in accordance with section 3.4 of the Companion Policy to NI 33-109 – Relief from providing clients written notice of the amalgamation and the right to close their account under section 14.11 of NI 31-103 – Investors exiting the scholarship plan would not be in their best interest given the plans features and would give rise to investor detriment.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System.
National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations.
National Instrument 33-109 Registration Information.
Companion Policy to National Instrument 33-109 Registration Information.

August 28, 2018

**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
KNOWLEDGE FIRST FINANCIAL INC. AND
HERITAGE EDUCATION FUNDS INC.
(collectively, the “Filers”)**

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 relief from:

- sections 2.3, 2.5, 3.2 and 4.2 of National Instrument 33-109 *Registration Information* (“NI 33-109”), pursuant to section 7.1 of NI 33-109, to allow the bulk transfer of all of the registered individuals and all of the business locations of each of Knowledge First Financial Inc. (“Knowledge First”) and Heritage Education Funds Inc. (“Heritage”) to a new amalgamated entity Knowledge First Financial Inc. (the “Bulk Transfer”), on or about August 28, 2018, in accordance with section 3.4 of the Companion Policy to NI 33-109; and
- the requirement under section 14.11 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (“NI 31-103”), pursuant to section 15.1 of NI 31-103, to provide a written explanation of the proposed amalgamation of Knowledge First and Heritage under the *Canada Business Corporations Act* (the “Amalgamation”) to clients and to inform clients of their right to close their accounts (the “Section 14.11 Notice”)

(collectively, the “Exemptions Sought”).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions,

- (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 by the Filers in each of the provinces and territories of Canada outside of Ontario (the “Passport Jurisdictions”, and together with the Jurisdiction, the “Jurisdictions”).

INTERPRETATION

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

REPRESENTATIONS

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

Background

1. Knowledge First is a corporation incorporated under the *Canada Business Corporations Act*. The head office of Knowledge First is in Ontario. Knowledge First is a subsidiary of the Knowledge First Foundation.

2. Knowledge First is registered as a scholarship plan dealer under applicable securities legislation in each province and territory of Canada. Knowledge First is also registered as an investment fund manager under applicable securities legislation in Ontario, Quebec and in Newfoundland and Labrador.
 3. As of the date hereof, Knowledge First has approximately 380 registered representatives in one or more of the Jurisdictions and 49 business locations in one or more of the Jurisdictions.
 4. Knowledge First is not in default of the securities legislation in any of the Jurisdictions.
 5. Heritage is a corporation incorporated under the *Canada Business Corporations Act*. Heritage is a wholly-owned subsidiary of Knowledge First. The head office of Heritage is in Ontario.
 6. Heritage is registered as a scholarship plan dealer and investment fund manager under applicable securities legislation in each province and territory of Canada.
 7. As of the date hereof, Heritage has approximately 1,386 registered representatives in one or more of the Jurisdictions and 75 business locations in one or more of the Jurisdictions.
 8. Heritage is not in default of the securities legislation in any of the Jurisdictions.
 9. Knowledge First acquired Heritage and Heritage Educational Foundation on January 2, 2018 (the "**Heritage Acquisition**") and intends to amalgamate Knowledge First's and Heritage's business operations, including the role of the investment fund manager, by way of a corporate amalgamation under the *Canada Business Corporations Act* on or about August 28, 2018, into an amalgamated entity named Knowledge First Financial Inc. ("**KFFI**").
12. KFFI will carry on the same business operations, including the role of the investment fund manager, of Heritage and Knowledge First in substantially the same manner with essentially the same personnel.
 13. The head office of KFFI will be Knowledge First's current head office location, which is located at Suite 1000, 50 Burnhamthorpe Road West, Mississauga, Ontario, L5B 4A5.
 14. The registered representatives transferred to KFFI will carry on the same registerable activities at KFFI as they conducted at Knowledge First or Heritage, as applicable.
 15. Heritage and Knowledge First do not anticipate that there will be any disruption in the ability of Heritage and/or Knowledge First to trade on behalf of their respective clients, and KFFI should be able to trade immediately after the amalgamation.
 16. Given the significant number of registered individuals and locations of Heritage and Knowledge First, it would be extremely difficult to transfer each individual and location to KFFI in accordance with the requirements of NI 33-109 if the Exemption Sought is not granted.
 17. The bulk transfer will ensure that the transfer of the affected registered individuals and business locations occur on or about August 28, 2018, in order to ensure that there is no interruption in registration and service to clients.
 18. The Exemption Sought in respect of the Bulk Transfer complies with the requirements of and the reasons for, a bulk transfer as set out in section 3.4 of the Companion Policy to NI 33-109 and Appendix C thereto.

Exemption Under NI 33-109

10. Effective on or about August 28, 2018, all of the current registrable activities of Heritage and Knowledge First will be transferred to KFFI. KFFI will assume responsibility for all of the existing registrations and approvals for all of the registered individuals and all of the business locations of Heritage and Knowledge First.
11. KFFI will continue to be registered in the same categories of registration as Heritage and Knowledge First, and will continue to be registered as a scholarship plan dealer under applicable securities legislation in each province and territory of Canada as well as will continue to be registered as an investment fund manager under applicable

Exemption Under NI 31-103

19. A press release will be issued immediately after the Amalgamation to confirm such change. In the Spring 2019, a notice will be included in the statement of account mailing to clients of Knowledge First and Heritage, confirming that the Amalgamation occurred and how the operations of Heritage and Knowledge First will be integrated over the following months.
20. The above press release and notice will be in addition to the public disclosure, prospectus amendments and communication to the plan holders of the Heritage Plans and Impression Plan (the "**Heritage Plan Holders**"), the two scholarship plans currently distributed by Heritage,

- already made in connection with the Heritage Acquisition.
21. The Amalgamation will not affect the ability of the Heritage Plan Holders to terminate their plans in accordance with the terms of those plans.
22. In particular, those clients who entered into plan agreements within the 60-day period prior to the effective date of the Amalgamation (the “**60-Day Heritage Subscribers**”) will be able to withdraw from those plans and receive back all monies paid following the effective date of the Amalgamation in accordance with those plans.
23. Knowledge First will provide the Section 14.11 Notice to these 60-Day Heritage Subscribers who will receive the notice within the period in which they can withdraw from the plans and receive back all monies paid. This will not include 60-Day Heritage Subscribers who are in the final 10 to 14 days of their 60-day withdrawal period (the “**Excluded 60-Day Heritage Subscribers**”) because Knowledge First will require 10 to 14 days from the effective date of Amalgamation to pull data from its information systems to identify those 60-day Heritage Subscribers, to finalize communication to and make arrangements for email and mail deployment, and for the 60-Day Heritage Subscribers to receive the Section 14.11 Notice. Those Excluded 60-Day Heritage Subscribers who fall within the 10 to 14 days required for Knowledge First to carry out this activity will not receive the notice in sufficient time to withdraw and therefore, Knowledge First will not send a Section 14.11 Notice to them.
24. Receipt of the notice required by section 14.11 of NI 31-103 by Heritage Plan Holders could result in Heritage Plan Holders seeking to terminate their plans.
25. The premature termination of those plans would not be in the financial interests of the Heritage Plan Holders, both in the short term or the long term, due to plan features such as a) loss of all fees and costs paid, b) loss of government grants, c) loss of accumulated earnings on contributions and government grants, d) prejudice to financial capacity to fund future post-secondary education needs, and e) disruption of the intended long-term savings and investment behaviour promoted by those plans.
26. The notice would not be in the financial best interest of Heritage Plan Holders due to the potential detriment if Heritage Plan Holders seek to exit the plans prior to maturity.
27. In view of previous disclosure with respect to the Heritage Acquisition and the potential for detriment if Heritage Plan Holders seek to exit their plans prior to maturity, to require Knowledge

First and Heritage to issue a notice to Heritage Plan Holders informing them of a right to close their accounts would not be in the best interests of clients.

General

28. The Exemptions Sought will not be prejudicial to the public interest and will have no negative consequences on the ability of KFFI to comply with all applicable regulatory requirements or the ability to satisfy any obligations in respect of the clients of Heritage and Knowledge First.

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 Exemptions Sought are granted provided that the Filers:

- (i) make acceptable arrangements with CDS Inc. for the payment of the costs associated with the Bulk Transfer;
- (ii) make such payment in advance of the Bulk Transfer; and
- (iii) provide the Section 14.11 Notice to the 60-Day Heritage Subscribers, excluding the Excluded 60-Day Heritage Subscribers.

“Elizabeth King”
Deputy Director, Compliance & Registrant Regulation Branch
Ontario Securities Commission

2.2 Orders

Territory, Northwest Territories and Nunavut (collectively with Ontario, the Jurisdictions).

2.2.1 Trillium Credit Card Trust II

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications— issuer of credit card receivables backed notes deemed to no longer be a reporting issuer under securities legislation – issuer has debt securities outstanding – issuer has more than 50 securityholders worldwide, but less than 51 securityholders in Canada – notes issued in Canada to accredited investors pursuant to prospectus exemption – issuer to continue to make investor monthly portfolio report summaries and credit card portfolio data available to investors.

Applicable Legislative Provisions

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

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

AND

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

AND

**IN THE MATTER OF
TRILLIUM CREDIT CARD TRUST II
(the Filer)**

ORDER

Background

The principal regulator in the Jurisdiction has received an application from the Filer for an order under the securities legislation of the Jurisdiction (the Legislation) that the Filer has ceased to be a reporting issuer in all the 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 passport application):

- (a) the Ontario Securities Commission (OSC) is the principal regulator for this application; and
- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in each of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador, the Yukon

Interpretation

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

Representations

1. The Filer was originally established under a declaration of trust on February 26, 2016 (the Declaration of Trust). The Declaration of Trust is governed by the laws of the Province of Ontario. BNY Trust Company of Canada is the trustee (in such capacity, the Issuer Trustee) of the Filer and is a trust company established under the laws of Canada and is licensed to carry on business as a trustee in all provinces and territories of Canada. The head office of the Issuer Trustee is c/o BNY Trust Company of Canada at 1 York Street, 9th Floor, Toronto, Ontario M5J 0B6.
2. The Filer is a special purpose entity that purchases from The Bank of Nova Scotia (BNS), from time to time, undivided co-ownership interests in a revolving pool of credit card receivables and issues credit card receivables backed notes to fund such purchases.
3. The Filer is a reporting issuer in each of the Jurisdictions and is a “venture issuer” as defined in National Instrument 51-102 *Continuous Disclosure Obligations*.
4. The Filer filed a short form base shelf prospectus dated April 21, 2016 (the Base Shelf Prospectus) pursuant to National Instrument 44-102 *Shelf Distributions*. No securities of the Filer have been distributed by way of a public offering pursuant to the Base Shelf Prospectus. The Base Shelf Prospectus has now lapsed.
5. The Filer is not in default of any of the requirements of the securities legislation in any of the Jurisdictions. The Filer filed its annual financial statements and MD&A for the fiscal year ended December 31, 2017 with the Canadian securities administrators in each of the Jurisdictions on April 30, 2018, and its quarterly financial statements and MD&A for the first quarter ended March 31, 2018 on May 30, 2018.
6. The Filer has no issued and outstanding common shares.
7. Pursuant to an offering memorandum dated March 7, 2018 (the Offering Memorandum), the Filer issued in the United States U.S.\$600,000,000 credit card receivables backed Class A floating rate notes, series 2018-1 (the Class A Notes), and by way of private placement

in Canada, the Filer concurrently issued CDN\$67,300,000 3.875% credit card receivables backed Class B notes, series 2018-1 (the Class B Notes and, collectively with the Class A Notes, the Notes) solely to BNS, each with an expected principal payment date of February 26, 2020. The Class A Notes were not offered for sale to purchasers located in Canada. The entire amount of the Class A Notes were initially sold to "qualified institutional buyers" in the United States in reliance on the exemption under Rule 144A of the U.S. Securities Act of 1933 (the Securities Act), and therefore none of the Class A Notes were initially sold to non-U.S. persons in reliance on the exemption under Regulation S under the Securities Act.

8. As of June 8, 2018, no other securities of the Filer other than the Notes are outstanding.
9. The Notes were issued pursuant to a trust indenture made as of April 8, 2016 (the Indenture) between the Filer and Computershare Trust Company of Canada as indenture trustee (the Indenture Trustee).
10. The Notes are not convertible or exchangeable into common shares. The Class A Notes were initially issued on a private placement basis in the United States pursuant to exemptions from the registration requirements of the United States Securities Act of 1933, while the Class B Notes were purchased by BNS pursuant to a private placement in Canada. The Notes have not been listed for trading on any stock exchange or marketplace.
11. On May 31, 2018, the Filer and the Indenture Trustee amended the Indenture with respect to the delivery of financial statements (the Amendment). As required pursuant to the Indenture, the rating agencies rating the Notes (the Rating Agencies) provided confirmation that the Amendment would not result in a reduction or withdrawal of the ratings of the Notes in effect immediately before the implementation of the Amendment, and the Filer confirmed to the Indenture Trustee that it was of the opinion that the Amendment would not be prejudicial to the rights and interests of the Specified Creditors (as defined in the Indenture and which includes the holders of the Notes).
12. Prior to the implementation of the Amendment, Section 6.1(j) of the Indenture required that, unless such financial statements have been publicly filed on www.sedar.com, the Filer deliver or cause to be delivered to the Indenture Trustee and each of the Rating Agencies within 140 days after the end of each fiscal year audited financial statements of the Trust for the fiscal year, including the balance sheet and statements of income, retained earnings and changes in financial position of the Trust and within 60 days after the end of each fiscal quarter, other than the fiscal quarter of the Trust ending on the fiscal year end of the Trust, unaudited financial statements of the Trust for such fiscal quarter of the Trust, including the balance sheet and statements of income, retained earnings and changes in financial position of the Trust.
13. The implementation of the Amendment had the effect of eliminating the contractual obligation of the Filer to provide periodic financial or other reports to the Indenture Trustee and the Rating Agencies at any time during which it was not a reporting issuer in any jurisdiction in Canada. As a result, the Indenture does not require ongoing reporting to the Indenture Trustee or to holders of Notes once the Filer is no longer subject to reporting requirements under applicable Canadian securities legislation.
14. The Notes are issued in book-entry form and are represented by global certificates registered in a nominee name of The Depository Trust Company (DTC), in the case of Class A Notes (the DTC Notes), and CDS Clearing and Depository Services Inc. (CDS), in the case of the Class B Notes issued in Canada and purchased by BNS (the BNS CDS Notes), with beneficial interests therein recorded in records maintained by DTC or CDS, as the case may be, and their respective participants as financial intermediaries that hold securities on behalf of their clients.
15. BNS continues to hold all of the Class B Notes and has no present intention of disposing of the Class B Notes.
16. In accordance with industry practice and custom, the Filer has obtained from Broadridge Financial Solutions Inc. (Broadridge) a geographic survey of beneficial holders of Notes as of May 3, 2018 (the Geographic Report), which provides information as to the number of noteholders and Notes held in each jurisdiction of Canada and in the United States and other foreign jurisdictions. Broadridge advises that its reported information is based on securityholder addresses of record identified in the files provided to it by the financial intermediaries holding Notes. The Geographic Report does not cover the BNS CDS Notes and does not cover any DTC Notes that are held by broker/dealers in inventory.
17. The Geographic Report covers approximately 62% of the outstanding principal amount of DTC Notes for a total of US\$372,510,000 and reports a total of 64 beneficial holders residing in the United States holding US\$372,510,000 principal amount of DTC Notes.
18. Broadridge has confirmed that its searches are unable to report on 100% of the geographic

ownership of the DTC Notes. A security position was obtained through Broadridge which indicated the position of each financial intermediary holding DTC Notes as of May 3, 2018 (the DTC Report), being the same currency date as the Geographic Report. Three financial intermediaries located in the United States were identified in the DTC Report. These financial intermediaries do not report to Broadridge with respect to the underlying beneficial holders of the related DTC Notes and, accordingly, the Filer was unable to conclusively determine the location of the underlying beneficial owners of such DTC Notes. The Filer reasonably inquired with the Indenture Trustee as to the holders of the Notes not covered by the Geographic Report, and was informed by the Indenture Trustee that the unreported noteholders are likely objecting beneficial holders who do not want their name, mailing address or amount of DTC Notes held by them disclosed. The Filer believes it is reasonable to conclude that these entities hold such DTC Notes directly and, accordingly, all of the DTC Notes are held by residents of the United States.

19. The Indenture Trustee has subsequently confirmed to the Filer that all of the DTC Notes continue to be held under the Rule 144A CUSIP in DTC and that no transfers have been made from such CUSIP to the Reg S CUSIP in DTC, and accordingly no transfers of DTC Notes have been made to any non-U.S. Person or person located outside of the United States (such persons being those who would need to hold such DTC Notes under a Reg S CUSIP). The Filer believes this provides further evidence that all of the DTC Notes remain held by "qualified institutional buyers" located in the United States.
20. The Filer is not eligible to surrender its status as a reporting issuer in British Columbia pursuant to British Columbia Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* because the Filer may have more than 50 securityholders, being the holders of the Notes. Similarly, and because the Notes may be beneficially owned, directly or indirectly, by more than 50 securityholders worldwide, the Filer is not eligible to file under the simplified procedure under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications*.
21. The only securities issued by the Filer are the Notes. The Notes entitle the holders only to the payment of principal and interest, and do not entitle the holders to receive or to convert into other common shares (or any other equity securities), or to otherwise participate in the distribution of the assets of the Filer upon a liquidation or winding up.
22. The Notes are rated by the Rating Agencies based primarily on the credit underlying the credit

card receivables in which the Filer purchases co-ownership interests, the level of enhancement provided by the reserve account established for each series of co-ownership interest and, in the case of the Class A Notes, the subordination of the payments on the Class B Notes to the prior payment of amounts payable on the Class A Notes, rather than by any independent assessment of the condition and performance, financial or otherwise, of the Filer. The Filer has confirmed that the Notes will continue to be rated by at least one recognized rating agency upon the cessation by the Filer of its reporting under Canadian securities laws for the foreseeable future.

23. There is no obligation or covenant in the Indenture, the Notes or the Offering Memorandum for the Filer to maintain its status as a reporting issuer or the equivalent in any jurisdiction of Canada or to file financial statements or any other continuous disclosure documentation on SEDAR. No financial statements or any other continuous disclosure documentation was included or incorporated by reference in the Offering Memorandum. The investors to whom the Notes were placed were sophisticated investors who had the opportunity to negotiate for such disclosure or filing obligations under the Indenture, the Notes or the Offering Memorandum as they saw fit. Such investors have determined that they did not require the Filer to maintain reporting issuer status in Canada for the term of the Notes. No continuous disclosure of financial statements, management discussion and analysis or annual information forms is required under the United States securities laws under which the Class A Notes were issued in the United States and no continuous disclosure of such materials would have been required in Canada in connection with securities issued under the prospectus exemptions under which the Class B Notes were issued to BNS.
24. The Filer issued a news release on July 27, 2018 announcing that it has applied to the OSC, as principal regulator, for a decision that it has ceased to be a reporting issuer in all jurisdictions of Canada and, if that decision is granted, the Filer will no longer be a reporting issuer in any jurisdiction of Canada.
25. No securities of the Filer, including debt securities, are listed, traded or quoted in Canada or another country on a marketplace (as defined in National Instrument 21-101 *Marketplace Operation*) or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported. The Filer has no current intention to distribute any securities by way of a public offering of securities in Canada and does not intend to renew the Base Shelf Prospectus.

26. The Filer will continue to make investor monthly portfolio report summaries and credit card portfolio data available to investors.
27. Upon granting of the Order Sought, the Filer will not be a reporting issuer or the equivalent in any jurisdiction of Canada.

Order

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

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

DATED at Toronto, Ontario on this 17th day of August, 2018.

“Deborah Leckman”
Commissioner
Ontario Securities Commission

“Philip Anisman”
Commissioner
Ontario Securities Commission

2.2.2 Muchoki Fungai Simba

FILE NO.: 2018-6

**IN THE MATTER OF
MUCHOKI FUNGAI SIMBA
(also previously known as Henderson MacDonald
Alexander Butcher)**

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

August 27, 2018

ORDER

WHEREAS the Ontario Securities Commission (**Commission**) held a hearing in writing;

ON READING the submissions of Staff of the Commission (**Staff**); no one appearing for Muchoki Fungai Simba (**Simba**), although properly served;

IT IS ORDERED THAT:

1. The hearing on sanctions and costs shall be conducted in writing;
2. Staff shall serve and file written submissions and materials no later than October 9, 2018;
3. Simba shall serve and file written submissions and materials, if any, no later than October 23, 2018;
4. Staff shall serve and file reply written submissions and materials, if any, no later than October 30, 2018.

“D. Grant Vingoe”

2.4 Rulings

2.4.1 PFL Futures Limited – s. 38 of the CFA

Headnote

Application for a ruling pursuant to section 38 of the Commodity Futures Act granting relief from the dealer registration requirement set out in section 22 of the CFA and the trading restrictions in section 33 of the CFA in connection with certain trades in Exchange-Traded Futures on Non-Canadian Exchanges where the Filer is acting as principal or agent in such trades to, from or on behalf of Permitted Clients – relief subject to sunset clause.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20. as am., ss. 22 and 38.

August 17, 2018

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

AND

**IN THE MATTER OF
PFL FUTURES LIMITED**

**RULING
(Section 38 of the CFA)**

UPON the application (the **Application**) of PFL Futures Limited (the **Filer**) to the Ontario Securities Commission (the **Commission**) for:

- (a) a ruling of the Commission, pursuant to section 38 of the CFA, that the Filer is not subject to the dealer registration requirement in the CFA (as defined below) or the trading restrictions in the CFA (as defined below) in connection with trades in Exchange-Traded Futures (as defined below) on exchanges located outside of Canada (**Non-Canadian Exchanges**) where the Filer is acting as principal or agent in such trades to, from or on behalf of Permitted Clients (as defined below); and
- (b) a ruling of the Commission, pursuant to section 38 of the CFA, that a Permitted Client is not subject to the dealer registration requirement in the CFA or the trading restrictions in the CFA in connection with trades in Exchange-Traded Futures on Non-Canadian Exchanges, where the Filer acts in respect of trades in Exchange-Traded Futures on behalf of the Permitted Client pursuant to the above ruling;

AND WHEREAS for the purposes of this ruling (collectively, the Decision):

- (a) the following terms shall have the following meanings:

“**CFTC**” means the United States Commodity Futures Trading Commission;

“**dealer registration requirement in the CFA**” means the provisions of section 22 of the CFA that prohibit a person or company from trading in Exchange-Traded Futures unless the person or company satisfies the applicable registration provisions of section 22 of the CFA;

“**Exchange-Traded Futures**” means commodity futures contracts or commodity futures options that trade on one or more organized exchanges located outside of Canada and that are cleared through one or more clearing corporations located outside of Canada;

“**IB**” means an Introducing Broker registered with the CFTC;

“**NFA**” means the National Futures Association in the United States;

“**NI 31-103**” means National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

“**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;

“**SEC**” means the United States Securities and Exchange Commission;

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

“**trading restrictions in the CFA**” means the provisions of section 33 of the CFA that prohibit a person or company from trading in Exchange-Traded Futures unless the person or company satisfies the applicable provisions of section 33 of the CFA; and

- (b) terms used in the Decision that are defined in the *Securities Act (Ontario) (OSA)*, and not otherwise defined in the Decision or in the CFA, shall have the same meaning as in the OSA, unless the context otherwise requires;

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

AND UPON the Filer having represented to the Commission as follows:

1. The Filer is a company formed under the laws of the state of Florida of the United States of America. The head office of the Filer is located in Naples, Florida, United States of America.
2. The Filer is a privately held entity owned directly and indirectly by its two principals, Curtis Chandler and Jacob Macleod.
3. The Filer is not a reporting issuer in any jurisdiction in Canada.
4. The Filer is not registered in any capacity under the CFA or the OSA and does not rely on any exemption from registration in Canada.
5. The Filer is registered as an IB with the CFTC and is a member of the NFA.
6. The Filer is not a broker-dealer registered with the SEC and does not conduct a securities business in the U.S.
7. The Filer is an IB for CME Group (CME, CBOT, NYMEX, COMEX), ICE (ICE Futures US and ICE Futures Europe), Nodal Exchange, Nasdaq Futures Exchange, and NGX.
8. The Filer is not in default of securities or commodity futures legislation in any jurisdiction in Canada. The Filer is in compliance in all material respects with U.S. commodity futures laws.

Activities

9. The Filer solicits and accepts orders for trades in Exchange-Traded Futures and either: (a) introduces them to another broker for execution and clearing or (b) executes (under a sponsored access arrangement) and submits for clearing trades in Exchange-Traded Futures for customers on exchanges globally through affiliated or unaffiliated member firms on other exchanges.
10. Pursuant to its registrations and memberships, the Filer is authorized to solicit, accept, and execute customer orders, and otherwise act as a futures execution-only broker, in the United States. The Filer is also authorized to solicit and accept customer orders and introduce them to an executing broker registered as a futures commission merchant in the United States. Rules of the CFTC and NFA require the Filer to maintain adequate capital levels, make and keep specified types of records relating to customer accounts and transactions including confirmations and statements, and comply with other forms of customer protection rules including rules respecting: know-your-customer obligations, account opening requirements, suitability requirements, anti-money laundering checks and best execution. These rules do not permit the Filer to treat Permitted Clients materially differently from the Filer's United States customers. In respect of Exchange-Traded Futures, the Filer does not provide clearing services nor is authorised to receive or hold client money in any jurisdiction.

11. The Filer proposes to offer certain of its Permitted Clients in Ontario the ability to trade in Exchange-Traded Futures through the Filer, in its role as introducing broker.
12. The Filer will solicit and accept orders for trades in Exchange-Traded Futures on behalf of Permitted Clients in Ontario in the same manner that it solicits and accepts orders for Exchange-Traded Futures on behalf of its United States clients, all of which are "Eligible Contract Participants" as defined in the United States *Commodity Exchange Act*. The Filer will follow the same know-your-customer procedures and order handling that it follows in respect of its United States clients. Permitted Clients will be afforded the benefits of compliance by the Filer with the statutory and other requirements of applicable securities regulators, self-regulatory organizations and exchanges located in the United States. Permitted Clients in Ontario will have the same contractual rights against the Filer as United States clients of the Filer.
13. The Filer will not maintain an office, sales force or physical place of business in Ontario.
14. The Filer will solicit and accept orders for trades in Exchange-Traded Futures in Ontario only from persons who qualify as Permitted Clients.
15. The Filer will only offer Permitted Clients in Ontario the ability to effect trades in Exchange-Traded Futures on Non-Canadian Exchanges.
16. The Exchange-Traded Futures to be traded by Permitted Clients will include, but will not be limited to, Exchange-Traded Futures for equity index, interest rate, energy, currency, bond, agricultural and other commodity products.
17. Permitted Clients of the Filer in Ontario will be able to trade Exchange-Traded Futures through the Filer by communicating with the Filer's authorized Representatives or via the Filer's proprietary electronic order routing system. Permitted Clients may also be able self-execute trades in Exchange-Traded Futures electronically via an independent service vendor and/or other electronic trading order routing systems.
18. The Filer may execute a customer's order on the relevant Non-Canadian Exchange in accordance with the rules and customary practices of the exchange, or engage an executing broker registered as a futures commission merchant to assist in the execution of orders. The Filer will remain responsible for all executions. As the Filer will only perform the execution of a Permitted Client's contract order and "give-up" the transaction for clearance to the Permitted Client's carrying broker or clearing broker (each, a Clearing Broker), such broker will also be required to comply with any relevant regulatory requirements, including requirements under the CFA as applicable. Each Clearing Broker will represent to the Filer in an industry standard give-up agreement that it will perform its obligations in accordance with applicable laws, governmental, regulatory, self-regulatory, exchange and clearing house rules and the customs and usages of the exchange or clearing house on which the relevant Permitted Client's orders will be executed and/or cleared. The Filer will not enter into a give-up agreement with any carrying broker or clearing broker located in the United States unless such broker is registered with the CFTC and SEC.
19. As is customary for all trades in Exchange-Traded Futures, a clearing corporation appointed by the exchange or clearing division of the exchange is substituted as a universal counterparty on all trades in Exchange-Traded Futures and Permitted Client orders submitted to the exchange in the name of the Clearing Broker or the Filer or, on exchanges where the Filer is not a member, in the name of another carrying broker. The Permitted Client of the Filer is responsible to the Clearing Broker for payment of daily mark-to-market variation margin and/or proper margin to carry open positions and the Clearing Broker is in turn responsible to the clearing corporation/division for payment.
20. Permitted Clients will pay commissions for trades to the Filer for its role as introducing broker and Permitted Clients shall be responsible to pay any commissions to their Clearing Broker directly, if applicable.
21. Absent this Decision, the trading restrictions in the CFA apply unless, among other things, an Exchange-Traded Future is traded on a recognized or registered commodity futures exchange and the form of the contract is approved by the Director. To date, no Non-Canadian Exchanges have been recognized or registered under the CFA.
22. If the Filer were registered under the CFA as a "futures commission merchant", it could rely upon certain exemptions from the trading restrictions in the CFA to effect trades in Exchange-Traded Futures to be entered into on certain Non-Canadian Exchanges.

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

IT IS RULED, pursuant to section 38 of the CFA, that the Filer is not subject to the dealer registration requirement in the CFA or the trading restrictions in the CFA in connection with trades in Exchange-Traded Futures on Non-Canadian Exchanges where the Filer is acting as principal or agent in such trades to, from or on behalf of Permitted Clients provided that:

- (a) each customer effecting trades of Exchange-Traded Futures is a Permitted Client;
- (b) the executing broker and the clearing broker have each represented and covenanted to the Filer, and the Filer has taken reasonable steps to verify, that the broker is or will be appropriately registered under the CFA, or has been granted exemptive relief from registration under the CFA, in connection with the Permitted Client effecting trades in Exchange-Traded Futures;
- (c) the Filer only introduces and/or executes trades in Exchange-Traded Futures for Permitted Clients on Non-Canadian Exchanges;
- (d) at the time trading activity is engaged, the Filer:
 - (i) has its head office or principal place of business in the United States;
 - (ii) is registered as an IB with the CFTC;
 - (iii) is a member of the NFA; and
 - (iv) engages in the business of an IB in Exchange-Traded Futures in the United States;
- (e) the Filer has provided to the Permitted Client the following disclosure in writing:
 - (i) a statement that the Filer is not registered in Ontario to trade in Exchange-Traded Futures as principal or agent;
 - (ii) a statement specifying the location of the Filer's head office or principal place of business;
 - (iii) a statement that all or substantially all of the Filer's assets may be situated outside of Canada;
 - (iv) a statement that there may be difficulty enforcing legal rights against the Filer because of the above; and
 - (v) the name and address of the Filer's agent for service of process in Ontario;
- (f) the Filer has submitted to the Commission a completed *Submission to Jurisdiction and Appointment of Agent for Service* in the form attached as Appendix A;
- (g) the Filer notifies the Commission of any regulatory action initiated after the date of this ruling in respect of the Filer, or any predecessors or specified affiliates of the Filer, by completing and filing with the Commission Appendix B hereto within ten days of the commencement of any such action; provided that, the Filer may satisfy this condition by filing with the Commission (A) a copy of any notice filed by the Filer pursuant to CFTC Regulation 1.12(k), (l) or (m) at the same time such notice is filed with the CFTC and the NFA, and (B) on a quarterly basis, (1) a copy of the regulatory actions appearing on the Filer's NFA Background Affiliation Status Information Center (BASIC) page and (2) a copy of any disclosures that would be required to be reported by the Filer in the Regulatory Disclosures section of the Filer's Annual Registration Update to the NFA;
- (h) if the Filer does not rely on the international dealer exemption in section 8.18 of NI 31-103 (the **IDE**), by December 31st of each year, the Filer 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 OSC Rule 13-502 *Fees*, as if the Filer relied on the IDE;
- (i) by December 1st of each year, the Filer notifies the Commission of its continued reliance on the exemption from the dealer registration requirement granted pursuant to this Decision; and
- (j) this Decision shall terminate on the earliest of:
 - (i) the expiry of any such transition period as may be provided by law, after the effective date of the repeal of the CFA;

- (ii) 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 dealer registration requirements in the CFA or the trading restrictions in the CFA; and
- (iii) five years after the date of this Decision.

AND IT IS FURTHER RULED, pursuant to section 38 of the CFA, that a Permitted Client is not subject to the dealer registration requirement in the CFA or the trading restrictions in the CFA in connection with trades in Exchange-Traded Futures on Non-Canadian Exchanges where the Filer acts in connection with trades in Exchange-Traded Futures on behalf of the Permitted Clients pursuant to the above ruling.

“Deborah Leckman”
Commissioner

“Philip Anisman”
Commissioner

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.

Decisions, Orders and Rulings

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. Has the firm, or any predecessors or specified affiliates¹ 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. 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	
Date of action (yyyy/mm/dd)	Reason for action
Jurisdiction	

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*.

Decisions, Orders and Rulings

3. 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

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>

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
Border Petroleum Limited	03 August 2018	21 August 2018

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 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:

1832 AM Investment Grade U.S. Corporate Bond Pool
Scotia Aria Equity Build Portfolio
Scotia Aria Equity Defend Portfolio
Scotia Aria Equity Pay Portfolio
Scotia Private Diversified International Equity Pool
Scotia Private International Growth Equity Pool
Principal Regulator - Ontario

Type and Date:

Preliminary Simplified Prospectus dated August 24, 2018
Received on August 27, 2018

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

Scotia Securities Inc.

Promoter(s):

1832 Asset Management G.P. Inc.

Project #2812894

Issuer Name:

Balanced 60/40 Fund
Growth 100 Fund
Income 40/60 Fund
Growth 80/20 Fund
Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
August 24, 2018
Received on August 24, 2018

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

SEI Investments Canada Company

Project #2775213

Issuer Name:

Aristotle - IG U.S. Small Cap Equity Pool
BlackRock - IG International Equity Pool
Mackenzie - IG Canadian Bond Pool
Mackenzie - IG Canadian Equity Pool
Mackenzie - IG International Equity Pool
Mackenzie - IG International Equity Pool
Mackenzie - IG Low Volatility U.S. Equity Pool
Mackenzie - IG U.S. Equity Pool
PIMCO - IG Global Bond Pool
Putnam - IG High Yield Income Pool
T. Rowe Price - IG U.S. Equity Pool
Principal Regulator - Manitoba

Type and Date:

Preliminary Simplified Prospectus dated August 21, 2018
NP 11-202 Preliminary Receipt dated August 21, 2018

Offering Price and Description:

Series P Mutual Fund Units

Underwriter(s) or Distributor(s):

Investors Group Financial Inc. and Investors Group
Securities Inc.

Promoter(s):

I.G. Investment Management Ltd.

Project #2809230

Issuer Name:

Cambridge Balanced Yield Pool
Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
August 24, 2018
Received on August 24, 2018

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

CI Investments Inc.

Project #2777804

Issuer Name:

Brompton Flaherty & Crumrine Investment Grade Preferred ETF
 Brompton Global Dividend Growth ETF
 Brompton North American Financials Dividend ETF
 Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated August 22, 2018
 NP 11-202 Preliminary Receipt dated August 23, 2018

Offering Price and Description:

Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Brompton Funds Limited

Project #2809968

IA Clarington Global Multi-Asset Fund (formerly IA Clarington Global Growth & Income Fund)
 IA Clarington Global Allocation Fund (formerly IA Clarington Global Tactical Income Fund)
 IA Clarington Global Allocation Class
 IA Clarington Strategic U.S. Growth & Income Fund
 IA Clarington Global Equity Fund
 IA Clarington Global Opportunities Fund
 IA Clarington Global Opportunities Class
 IA Clarington Global Value Fund
 IA Clarington Inhance Global Equity SRI Class
 IA Clarington Focused U.S. Equity Class
 IA Clarington Sarbit Activist Opportunities Class
 IA Clarington Sarbit U.S. Equity Fund
 IA Clarington Sarbit U.S. Equity Class (Unhedged)*
 IA Clarington U.S. Dividend Growth Fund
 IA Clarington U.S. Dividend Growth Registered Fund

Issuer Name:

IA Clarington Money Market Fund
 IA Clarington Bond Fund
 IA Clarington Core Plus Bond Fund
 IA Clarington Emerging Markets Bond Fund
 IA Clarington Global Bond Fund
 IA Clarington Inhance Bond SRI Fund
 IA Clarington Real Return Bond Fund
 IA Clarington Short-Term Bond Fund
 IA Clarington Short-Term Income Class
 IA Clarington Strategic Corporate Bond Fund
 IA Clarington Strategic Corporate Bond Class
 IA Clarington Tactical Bond Fund
 IA Clarington Tactical Bond Class
 IA Clarington Floating Rate Income Fund
 IA Clarington U.S. Dollar Floating Rate Income Fund
 IA Clarington Global Yield Opportunities Fund
 IA Clarington Inhance Monthly Income SRI Fund
 IA Clarington Monthly Income Balanced Fund
 IA Clarington Strategic Income Fund
 IA Clarington Strategic Income Class
 IA Clarington Tactical Income Fund
 IA Clarington Tactical Income Class
 IA Clarington Yield Opportunities Fund
 IA Clarington Canadian Balanced Fund
 IA Clarington Canadian Balanced Class
 IA Clarington Focused Balanced Fund
 IA Clarington Focused Balanced Class
 IA Clarington Growth & Income Fund
 IA Clarington Inhance Balanced SRI Portfolio
 IA Clarington Inhance Conservative SRI Portfolio
 IA Clarington Inhance Growth SRI Portfolio
 IA Clarington Canadian Conservative Equity Fund
 IA Clarington Canadian Conservative Equity Class
 IA Clarington Canadian Dividend Fund
 IA Clarington Canadian Growth Class
 IA Clarington Canadian Leaders Class
 IA Clarington Canadian Small Cap Fund
 IA Clarington Canadian Small Cap Class
 IA Clarington Dividend Growth Class
 IA Clarington Focused Canadian Equity Class
 IA Clarington Inhance Canadian Equity SRI Class
 IA Clarington North American Opportunities Class
 IA Clarington Strategic Equity Income Fund
 IA Clarington Strategic Equity Income Class

Distinction Balanced Class
 Distinction Bold Class
 Distinction Conservative Class
 Distinction Growth Class
 Distinction Prudent Class
 IA Clarington Balanced Portfolio
 IA Clarington Conservative Portfolio
 IA Clarington Growth Portfolio
 IA Clarington Maximum Growth Portfolio
 IA Clarington Moderate Portfolio
 Forstrong Global Strategist Balanced Fund
 Forstrong Global Strategist Growth Fund
 Forstrong Global Strategist Income Fund
 Principal Regulator - Quebec

Type and Date:

Amended and Restated to Final Simplified Prospectus dated June 27, 2018
 Received on August 27, 2018

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

IA Clarington Investments Inc

Project #2766675

Issuer Name:

Global Real Estate & E-Commerce Dividend Fund
Principal Regulator - Alberta (ASC)

Type and Date:

Preliminary Long Form Prospectus dated August 24, 2018
NP 11-202 Preliminary Receipt dated August 24, 2018

Offering Price and Description:

Maximum Offering: \$* Units
Minimum Offering: \$20,000,000 - 2,000,000 Units
Price: \$10.00 per Unit
Minimum Purchase: 100 Units

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Genuity Corp.
GMP Securities L.P.
National Bank Financial Inc.
Raymond James Ltd.
Industrial Alliance Securities Inc.
Manulife Securities Incorporated
Desjardins Securities Inc.
Mackie Research Capital Corporation
Middlefield Capital Corporation

Promoter(s):

Middlefield Limited
Project #2811036

Issuer Name:

IG JPMorgan Emerging Markets Fund
Investors International Small Cap Fund
Maestro Income Focus Portfolio
Principal Regulator - Manitoba

Type and Date:

Preliminary Simplified Prospectus dated August 21, 2018
NP 11-202 Preliminary Receipt dated August 21, 2018

Offering Price and Description:

Series A, B, C, JDSC, JNL, TDSC, TNL, TC, TJDSC, TJNL,
U and TU Units

Underwriter(s) or Distributor(s):

Investors Group Financial Inc. and Investors Group
Securities Inc.

Promoter(s):

N/A
Project #2809133

Issuer Name:

Manulife Global Thematic Opportunities Class
Manulife Global Thematic Opportunities Fund
Principal Regulator - Ontario

Type and Date:

Preliminary Simplified Prospectus dated August 23, 2018
NP 11-202 Preliminary Receipt dated August 23, 2018

Offering Price and Description:

Advisor Series, Series F, Series FT6 and SeriesT6
Securities

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Manulife Asset Management Limited
Project #2810200

Issuer Name:

Ninepoint 2018-II Flow-Through Limited Partnership
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated August 24, 2018
NP 11-202 Preliminary Receipt dated August 24, 2018

Offering Price and Description:

Maximum Offering: \$20,000,000 - 800,000 Limited
Partnership Units

Minimum Offering: \$5,000,000 - 200,000 Units

Price per Unit: \$25

Minimum Subscription: \$2,500 (100 Units)

Underwriter(s) or Distributor(s):

RBC Dominion Securities Inc.
CIBC World Markets Inc.
TD Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
National Financial Inc.
GMP Securities L.P.
Manulife Securities Incorporated
Raymond James Ltd.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Echelon Wealth Partners Inc.
Industrial Alliance Securities Inc.

Promoter(s):

Ninepoint 2018-II Corporation
Project #2811177

Issuer Name:

Horizons Cdn High Dividend Index ETF
Horizons Cdn Select Universe Bond ETF
Horizons EURO STOXX 50® Index ETF
Horizons Intl Developed Markets Equity Index ETF
Horizons NASDAQ-100® Index ETF
Horizons S&P 500 CAD Hedged Index ETF
Horizons S&P 500® Index ETF
Horizons S&P/TSX 60 Index ETF
Horizons S&P/TSX Capped Energy Index ETF
Horizons S&P/TSX Capped Financials Index ETF
Horizons US 7-10 Year Treasury Bond CAD Hedged ETF
Horizons US 7-10 Year Treasury Bond ETF
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated August 21, 2018
NP 11-202 Receipt dated August 23, 2018

Offering Price and Description:

Class A Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Horizons ETFs Management (Canada) Inc.

Project #2799066

Issuer Name:

Horizons Seasonal Rotation ETF
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated August 21, 2018
NP 11-202 Receipt dated August 23, 2018

Offering Price and Description:

Class E units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2797351

Issuer Name:

imaxx Global Fixed Pay Fund (formerly, imaxx Global Equity Growth Fund)
Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated August 20, 2018

NP 11-202 Receipt dated August 21, 2018

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Foresters Asset Management Inc.

Project #2757647

Issuer Name:

Manulife Multifactor Canadian SMID Cap Index ETF
Manulife Multifactor Emerging Markets Index ETF
Manulife Multifactor U.S. Small Cap Index ETF
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated August 20, 2018
NP 11-202 Receipt dated August 21, 2018

Offering Price and Description:

Unhedged Units an Unhedged Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Manulife Asset Management Limited

Project #2791851

Issuer Name:

ONE Global Equity ETF (formerly, Questrade Global Total Equity ETF)
ONE North American Core Plus Bond ETF
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated August 13, 2018
NP 11-202 Receipt dated August 24, 2018

Offering Price and Description:

Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #2793825

Issuer Name:

Picton Mahoney Fortified Equity Fund
Picton Mahoney Fortified Income Fund
Picton Mahoney Fortified Multi-Asset Fund
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectus dated August 20, 2018
NP 11-202 Receipt dated August 21, 2018

Offering Price and Description:

Class A, Class F, Class FT, Class T and Class I Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

Picton Mahoney Asset Management

Project #2796021

NON-INVESTMENT FUNDS

Issuer Name:

Alexco Resource Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated August 24, 2018
NP 11-202 Preliminary Receipt dated August 24, 2018

Offering Price and Description:

CDN\$50,000,000.00 - Common Shares, Warrants,
Subscription Receipts, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2811238

Issuer Name:

AmWolf Capital Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary CPC Prospectus (TSX-V) dated August 24,
2018

Received on August 24, 2018

Offering Price and Description:

\$350,000.00 - 3,500,000 common shares
Price: \$0.10 per common share

Underwriter(s) or Distributor(s):

Mackie Research Capital Corp.

Promoter(s):

Tsend Tseren

Project #2811677

Issuer Name:

BRP Inc.
Principal Regulator - Quebec

Type and Date:

Preliminary Shelf Prospectus dated August 24, 2018
NP 11-202 Preliminary Receipt dated August 24, 2018

Offering Price and Description:

\$2,500,000,000.00
Subordinate Voting Shares
Preferred Shares

Debt Securities

Warrants

Subscription Receipts

Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2811105

Issuer Name:

Charlotte's Web Holdings, Inc. (formerly Stanley Brothers
Holdings Inc.)

Principal Regulator - Ontario

Type and Date:

Amendment #2 dated August 22, 2018 to Preliminary Long
Form Prospectus dated June 25, 2018

NP 11-202 Preliminary Receipt dated August 23, 2018

Offering Price and Description:

C\$100,100,000.00
14,300,000 Common Shares

Price: C\$7.00 per Offered Share

Underwriter(s) or Distributor(s):

Canaccord Genuity Corp.

GMP Securities L.P.

PI Financial Corporation

Cormark Securities Inc.

Promoter(s):

Joel Stanley

Jared Stanley

Jesse Stanley

Josh Stanley

Jon Stanley

Jordan Stanley

J. Austin Stanley

Project #2788631

Issuer Name:

Cinaport Acquisition Corp. III

Principal Regulator - Ontario

Type and Date:

Preliminary CPC Prospectus (TSX-V) dated August 24,
2018

NP 11-202 Preliminary Receipt dated August 24, 2018

Offering Price and Description:

Offering: \$550,000.00 (5,500,000 Common Shares)

Price: \$0.10 per Common Share

Underwriter(s) or Distributor(s):

Echelon Wealth Partners Inc.

Promoter(s):

Donald Wright

John O'Sullivan

Avininder Grewal

Project #2811063

Issuer Name:

Intiva BioPharma Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated August 22, 2018
NP 11-202 Preliminary Receipt dated August 22, 2018

Offering Price and Description:

No securities are being offered pursuant to this Prospectus

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2809626

Issuer Name:

Khiron Life Sciences Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary Short Form Prospectus dated August 20, 2018
NP 11-202 Preliminary Receipt dated August 21, 2018

Offering Price and Description:

\$*

* Common Shares

\$* per Offered Share

Underwriter(s) or Distributor(s):

Canaccord Genuity Corp.
GMP Securities L.P.
Sprott Private Wealth LP
Cormark Securities Inc.

Promoter(s):

-

Project #2808805

Issuer Name:

Khiron Life Sciences Corp.
Principal Regulator - British Columbia

Type and Date:

Amendment dated August 22, 2018 to Preliminary Short
Form Prospectus dated August 20, 2018
NP 11-202 Preliminary Receipt dated August 22, 2018

Offering Price and Description:

\$11,250,000.00 - 12,500,000 Common Shares

\$0.90 per Offered Share

Underwriter(s) or Distributor(s):

Canaccord Genuity Corp.
GMP Securities L.P.
Sprott Private Wealth LP
Cormark Securities Inc.

Promoter(s):

-

Project #2808805

Issuer Name:

Maricann Group Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated August 21, 2018
NP 11-202 Preliminary Receipt dated August 22, 2018

Offering Price and Description:

23,376,100 Common Shares and 23,376,100 Warrants
issuable upon deemed exercise of 23,376,100 Special
Warrants

Price Per Special Warrant:: \$1.60

Underwriter(s) or Distributor(s):

Canaccord Genuity Corp.
GMP Securities L.P.

Promoter(s):

-

Project #2809296

Issuer Name:

Sagittarius Capital Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated August 22, 2018
NP 11-202 Preliminary Receipt dated August 23, 2018

Offering Price and Description:

Minimum Offering: 8,000,000 Units (\$2,000,000.00)

Maximum Offering: Up to 16,000,000 Units (Up to
\$4,000,000.00)

Over-Allotment Option: Up to 15% of Maximum, 2,400,000
Units (\$600,000)

Offering Price: \$0.25 per Unit

Underwriter(s) or Distributor(s):

Leede Jones Gable Inc.

Promoter(s):

Ohad Haber

Project #2810334

Issuer Name:

Artis Real Estate Investment Trust
Principal Regulator - Manitoba

Type and Date:

Final Shelf Prospectus dated August 23, 2018
NP 11-202 Receipt dated August 23, 2018

Offering Price and Description:

\$1,000,000,000.00 - Units , Preferred Units , Debt
Securities , Warrants , Subscription Receipts

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #2804788

Issuer Name:

Seashore Resource Partners Corp.
Principal Regulator - British Columbia

Type and Date:

Amendment dated August 22, 2018 to Final CPC
Prospectus (TSX-V) dated May 9, 2018
NP 11-202 Receipt dated August 24, 2018

Offering Price and Description:

Minimum of 2,100,000 Common Shares up to a Maximum
of 4,000,000 Common Shares (the "Common Shares")
Price: \$0.10 per Common Share
Minimum of \$210,000.00 up to a Maximum of \$400,000.00

Underwriter(s) or Distributor(s):

Haywood Securities Inc.

Promoter(s):

Hugh Rogers
Chris Beltgens
Toby Pierce
Alex Langer

Project #2727765

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change in Registration Category	MD Financial Management Inc.	From: Exempt Market Dealer, Investment Fund Manager, Portfolio Manager and Commodity Trading Manager To: Investment Fund Manager, Portfolio Manager and Commodity Trading Manager	August 23, 2018
Consent to Suspension (Pending Surrender)	Sherpa Asset Management Inc.	Investment Fund Manager, Portfolio Manager, Exempt Market Dealer	August 24, 2018
Voluntary Surrender	KingTrade Markets Inc.	Exempt Market Dealer	August 24, 2018

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 Alpha Exchange Inc. – Introduction of Alpha Liquidity Provision Program – Notice of Proposed Fee Changes and Request for Comments

ALPHA EXCHANGE INC.

NOTICE OF PROPOSED FEE CHANGES AND REQUEST FOR COMMENTS

INTRODUCTION OF ALPHA LIQUIDITY PROVISION PROGRAM

Alpha Exchange Inc. ("TSX Alpha") is publishing this Notice of Proposed Amendments in accordance with the "Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto".

Market participants are invited to provide comments on the proposed changes. Comments should be in writing and delivered by October 1, 2018 to:

Catherine De Giusti
Director, Corporate, Securities & Transactions
TMX Group
100 Adelaide Street West
Toronto, Ontario M5H 1S3
Email: tsxrequestforcomments@tsx.com

A copy should also be provided to:

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

Comments will be made publicly available unless confidentiality is requested. Upon completion of the review by Commission staff, and in the absence of any regulatory concerns, notice will be published to confirm completion of Commission staff's review and the Commission's approval.

Background

TSX Alpha is planning to introduce the Alpha Liquidity Provision (ALP) program which will provide TSX Alpha Exchange Members with an opportunity to earn reductions in their per share passive fee rate for trading on TSX Alpha when meeting the specified volume thresholds.

It is intended to promote better fill rates, larger fill sizes and lower trading costs for dealers that route their active order flow to TSX Alpha, by incenting quoted liquidity more continuously on TSX Alpha throughout the day and across more symbols.

The ALP program was initially announced on July 24, 2018 via TMX Equities Trading Notice 2018-021. Changes have been made to the proposed ALP program since initially announced. This notice requests comment on the revised details of the ALP program outlined in this document.

Details of proposed ALP program

The ALP program will allow a TSX Alpha Exchange Member (Exchange Member) to receive reductions in trading fees for liquidity provided under its or its clients' Trader IDs in non-ETFs where the combined passive traded volume in non-ETFs on

TSX Alpha Exchange for the IDs for the month exceeds the specified % of total Canadian continuous traded volume (TCCV), according to the following schedule:

The specific details of the ALP program are as follows:

- Measurement against TCCV targets and the application of rate reductions will be done at the 'ALP ID Group' level.
- Each ALP ID Group must be pre-approved by TSX Alpha, and may be comprised of one or more Trader IDs.
- Approval of an ALP ID Group is subject to conformance of the ALP ID Group with the following general conditions:
 - (a) An Exchange Member may request the grouping of its Trader IDs, with the exception of Trader IDs associated with a routing arrangement (RA) or a direct electronic access (DEA) arrangement with a non-registrant client.
 - (b) Trader IDs associated with RAs or DEA arrangements referred to in (a) may be grouped together to comprise a single ALP ID Group for an RA or DEA client where that RA or DEA client determines the posting destination for non-marketable orders sent through the respective Trader IDs, or otherwise where the Trader IDs are associated with the same underlying client.
- The applicable reduction rate will be applied against all of the passive board lot volume in non-ETFs by the ALP ID Group for the month (and regardless of whether the traded passive volume was Post Only or non-Post Only).
- Only the ALP ID Group's passive traded board lot volume in non-ETFs on TSX Alpha Exchange will be used for calculating its % TCCV.
- TCCV is calculated by TSX Alpha and is determined based on combined Canadian continuous passive board lot trading volume in TSX-listed and TSXV-listed securities (other than ETFs, notes and debentures), excluding intentional crosses and opening and closing auctions, during standard continuous trading hours of 9:30 a.m. - 4:00 p.m.

Rationale and analysis

As noted above, the ALP program will provide Exchange Members with an opportunity to earn reductions in their per share passive fee rate for trading on TSX Alpha when meeting the specified volume thresholds.

It is intended to promote better fill rates, larger fill sizes and lower trading costs for dealers that route their active order flow to TSX Alpha, by incenting quoted liquidity more continuously on TSX Alpha throughout the day and across more symbols.

Below we are highlighting some additional considerations, some of which arose in connection with the originally announced proposal.

Accessibility to the program

The originally announced ALP program restricted participation to Trader IDs that were certified as representing the proprietary trading interests of an individual trader or proprietary trading desk of either the Exchange Member or a client. Under the current proposal for which comments are being sought, this restriction has been removed.

The current proposal expands eligibility for participation to all of an Exchange Member's Trader IDs regardless of the nature of the order flow, subject to certain parameters governing the grouping of IDs for the purposes of measurement and the application of fee reductions. The general objective of the conditions for the grouping of IDs is to allow for participation to be measured at the level at which control over the passive volume is reasonably exercised. The purpose of this is to reasonably align the incentive to provide passive liquidity on TSX Alpha with the level at which control over the posting destination is being exercised.

At the Exchange Member level, we propose to use IDs that are under routing arrangements (RA) or DEA arrangements as a proxy for the IDs over which an Exchange Member would not have control. This means that an Exchange Member may therefore group all of its non-DEA and non-RA IDs together as one Alpha ID Group, but may not include its DEA and RA IDs within that Alpha ID Group.

For the grouping of DEA IDs or IDs under an RA, the same general principle is applied. Trader IDs associated with RAs or DEA arrangements may be grouped together to comprise an ALP ID Group for a RA or DEA client where that RA or DEA client reasonably exercises control over the posting destination, or otherwise where the Trader IDs are associated with the same underlying client.

Exchange Members that wish to have their Trader IDs participate in the program will have to submit a form identifying what IDs it wishes be grouped together, and identifying whether the IDs are under: (1) an RA; (2) a DEA arrangement; or (3) neither. Where the Exchange Member is requesting the grouping together of IDs under an RA or under a DEA arrangement, it must also certify that the RA client or DEA client controls the posting destination for the passive order flow sent through the grouped IDs or that the IDs are associated with the same underlying client.

Impact in the context of industry concerns around segmentation

Any industry concerns regarding the perceived impact to market quality of any segmentation of order flow that might arise from the TSX Alpha trading model are separate and apart from this fee proposal. The extent to which volumes on TSX Alpha might increase under this proposal and exacerbate any such perceptions is not relevant as increased activity on TSX Alpha can arise for any number of reasons – including as a result of a standard fee change, or because of increased interest in the TSX Alpha model (the driver of TSX Alpha's recent record market share highs).

As it relates specifically to this fee proposal, we do not believe that the model itself is a form of segmentation that raises public interest concerns. Participation in the ALP program is available to all, and participation across Alpha ID Groups is on reasonably similar terms.

Other changes since originally announced proposal

The originally announced ALP program also included a requirement for an agreement to be signed between TSX Alpha and the TSX Alpha Exchange Member. This has been removed. There is no need for any agreement to be signed, as all details related to the program as described in this notice will be included in the publicly available TSX Alpha fee schedule.

Expected Date of Implementation

The proposed ALP program is expected to take effect on November 1, 2018, at the earliest.

Expected Impact

We expect that the ALP program will help to incent quoted liquidity more continuously on TSX Alpha throughout the day and across more symbols. This should translate into better fill rates, larger fill sizes and lower trading costs for dealers that route their active order flow to TSX Alpha.

Expected Impact of Proposed Changes on the Exchange's Compliance with Ontario Securities Law

The proposed changes will not impact TSX Alpha's compliance with Ontario securities law and in particular the requirements for fair access and maintenance of fair and orderly markets.

Specifically in the context of fair access requirements, we note that the program is available to all TSX Alpha Exchange Members and the program applies the same principles for the grouping of Trader IDs across and within Exchange Members.

Participation in the program is also optional. Because the program is intended to incent passive liquidity, the discount applies only with respect to passive traded volume. As an inverted venue, passive traded volume on TSX Alpha is charged a fee. Participation in the program therefore first necessitates that an Exchange Member or its client has chosen to post on TSX Alpha and forgo a passive rebate that might otherwise be earned on another market.

Estimated Time Required by Members and Service Vendors to Modify Their Own Systems after Implementation of the Proposed Amendments

Members and service vendors do not need to make any changes to accommodate the proposed fee changes. TSX Alpha will incorporate the program into its billing system so that the fees charged and reported upon in existing billing summaries and detailed reports will reflect the discounted rates.

Do the Changes Currently Exist in Other Markets or Jurisdictions

While examples of liquidity provision incentive programs also exist in the US, we do not believe that commenters would consider these relevant in the context of this proposal.

The closest current example among Canadian equities marketplaces is reflected in the fee schedule applicable to TSX Market Makers. Currently, TSX Market Makers receive a higher passive rebate than applicable to non-Market Makers to help compensate TSX Market Makers for the cost of meeting their quoting obligations. Unrelated to their quoting obligations, TSX Market Makers also have the opportunity to receive a higher rebate (referred to as the Bonus Rate) where their passive traded volume for a symbol exceeds a specified threshold percent of TCCV for that symbol (currently set at 3% for Tier A stock and 8% for Tier B stock). The Bonus Rates provide TSX Market Makers with the opportunity to earn an additional rebate in the range of 3 to 5 mils per share. Although different in how the threshold and discounts are applied, it is worth noting that the ALP program is more broadly accessible than the TSX Market Maker Bonus Rates, which are only available to TSX Market Makers.

TSX also previously offered an Electronic Liquidity Provider program that provided discounted fees / additional rebates to pre-qualified liquidity providers. The TSX Electronic Liquidity Provider program restricted access to proprietary trading activity by traders / trading firms with experience in high frequency trading. It also imposed requirements for volume thresholds across a minimum number of symbols, and for a minimum passive:active ratio to be met in order to receive the preferential rates for the month. By comparison, the ALP program does not impose similar eligibility criteria or the same degree of performance conditions.

Finally, TSX previously offered volume tiering that provided fee discounts / additional rebates that were measured and applied at the Participating Organization (PO) level. In substance, the ALP program is also a volume tiering program available to all Exchange Members, with the primary difference being that the measurement and application of discounts applies at a more granular level – being at the Alpha ID Group level as opposed to the Exchange Member level.

13.2.2 CSE – Form 9 Notice of Proposed Issuance of Listed Securities and Policy 6 Distributions – Notice and Request for Comments to Form 9 and Policy 6

CANADIAN SECURITIES EXCHANGE

NOTICE AND REQUEST FOR COMMENTS

FORM 9 NOTICE OF PROPOSED ISSUANCE OF LISTED SECURITIES AND POLICY 6 DISTRIBUTIONS

CNSX Markets Inc. (“CSE” or the “Exchange”) is publishing proposed amendments (the Amendments) to *Form 9 - Notice of Proposed Issuance of Securities and Policy 6 – Distributions* in accordance with s. 6(a) of Appendix C (“Process for the Review and Approval of Rules and Information Contained in Form 21-101F1 and the Exhibits Thereto”) of the CSE Recognition Order, as amended (the “Protocol”). The proposed amendments include “Public Interest Rules” being published for comment, and “housekeeping rules” as defined under the Protocol.

The Public Interest Rule amendments will repeal the requirement for CNSX Issuers to post to the CNSX website certain information related to purchasers in an exempt distribution. The Amendments will require that only investors that are Related Persons, as defined in CSE Policy 1, be identified in the Form 9. There are related changes proposed to *Policy 6 – Distributions* to clarify filing procedures.

A copy of the CSE Notice is published on our website at www.osc.gov.on.ca

13.3 Clearing Agencies

13.3.1 CDS – Material Amendments to CDS Participant Rules Related to Lines of Credit Requirements for Non-Contributing Receivers of Credit Making Canadian Dollar Settlements – OSC Staff Notice of Request for Comment

OSC STAFF NOTICE OF REQUEST FOR COMMENT

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS)

**MATERIAL AMENDMENTS TO CDS PARTICIPANT RULES RELATED TO
LINES OF CREDIT REQUIREMENTS FOR NON-CONTRIBUTING RECEIVERS OF
CREDIT MAKING CANADIAN DOLLAR SETTLEMENTS**

The Ontario Securities Commission is publishing for 30 day public comment material amendments to the CDS Rules relating to lines of credit requirements for Non-Contributing Receivers of Credit making Canadian dollar settlements. The purpose of the proposed participant rule amendments is to require each member of the Non-Contributing Receivers (making Canadian dollar Settlement) Category Credit Ring to have at least two committed lines of credit from liquidity providers who are different members of the Extenders Category Credit Ring.

The comment period ends on September 24, 2018.

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

13.3.2 CDS – Material Amendments to CDS Rules Related to the Removal of the Central Counterparty (CCP) Cap for CDS Participants Who Use the Continuous Net Settlement Service (CNS) – OSC Staff Notice of Request for Comment

OSC STAFF NOTICE OF REQUEST FOR COMMENT

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

**MATERIAL AMENDMENTS TO CDS RULES RELATED TO THE
REMOVAL OF THE CENTRAL COUNTERPARTY (CCP) CAP FOR CDS PARTICIPANTS WHO USE THE CONTINUOUS
NET SETTLEMENT SERVICE (CNS)**

The Ontario Securities Commission is publishing for 30 day public comment material amendments to the CDS Rules relating to the removal of the CCP Cap for CDS participants who use CNS.

The purpose of the proposed rule amendments is align CDS' cash-securities CCP function with the risk management practices of other cash-securities CCPs.

The comment period ends on September 28, 2018.

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

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