The Ontario Securities Commission

OSC Bulletin

January 30, 2020

Volume 43, Issue 5

(2020), 43 OSCB

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

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42711421

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

Printed in the United States by Thomson Reuters.

ISSN 0226-9325

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2075 Kennedy Road
Toronto, Ontario
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Chapter 1

Notices

1.1 Notices

1.1.1 OSC Staff Notice 11-739 (Revised) – Policy Reformulation Table of Concordance and List of New Instruments

OSC STAFF NOTICE 11-739 (REVISED)

POLICY REFORMULATION TABLE OF CONCORDANCE AND LIST OF NEW INSTRUMENTS

The following revisions have been made to the Table of Concordance and List of New Instruments. A full version of the Table of Concordance and List of New Instruments as of December 31, 2019 has been posted to the OSC Website at www.osc.gov.on.ca.

Table of Concordance

Item Key
The third digit of each instrument represents the following: 1-National/Multilateral Instrument; 2-National/Multilateral Policy; 3-CSA Notice; 4-CSA Concept Release; 5-Local Rule; 6-Local Policy; 7-Local Notice; 8-Implementing Instrument; 9-Miscellaneous

Reformulation

Instrument	Title	Status
31-103	Registration Requirements, Exemptions and Ongoing Registrant Obligations – Amendments (Client-Registrant Relationship)	**Commission approval published October 3, 2019**
52-108	Auditor Oversight – Amendments	**Published for comment October 3, 2019**
58-311	Report on Fifth Staff Review of Disclosure regarding Women on Boards and in Executive Officer Positions	**Published October 3, 2019**
11-739	Policy Reformulation Table of Concordance and List of New Instruments	**Published October 10, 2019**
13-502	Fees – Amendments	**Ministerial approval published October 24, 2019**
13-503	Fees (*Commodity Futures Act)* – Amendments	**Ministerial approval published October 24, 2019**
11-737	Securities Advisory Committee – Vacancies	**Published November 14, 2019**
51-359	Corporate Governance Related Disclosure Expectations for Reporting Issuers in the Cannabis Industry	**Published November 14, 2019**
	Reducing Regulatory Burden in Ontario's Capital Markets – 2019	**Published December 5, 2019**
13-315	Securities Regulatory Authority Closed Dates 2020	**Published December 12, 2019**
31-103	Registration Requirements, Exemptions and Ongoing Registrant Obligations – Amendments (Client-Registrant Relationship)	**Ministerial approval published December 12, 2019**
45-326	Update on Amendments to NI 45-106 Prospectus Exemptions and NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Syndicated Mortgages	**Published December 19, 2019**

51-730	Corporate Finance Branch 2019 Annual Report	**Published December 19, 2019**
81-332	Next Steps on Proposals to Prohibit Certain Investment Fund Embedded Commissions	**Published December 19, 2019**
81-730	Consideration of Alternative Approaches to Address Concerns Related to Deferred Sales Charges	**Published December 19, 2019**

For further information, contact:

Darlene Watson
Project Specialist
Ontario Securities Commission
416-593-8148

January 30, 2020

1.4 Notices from the Office of the Secretary

1.4.1 Issam El-Bouji

FOR IMMEDIATE RELEASE
January 23, 2020

ISSAM EL-BOUJI,
File No. 2018-28

TORONTO – Take notice that the hearing on the merits in the above-named matter have changed.

The hearing on the merits shall continue at 10:00 a.m. on February 19 and 21 and April 20, 21, 22, and 24, 2020.

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1.4.2 BDO Canada LLP

FOR IMMEDIATE RELEASE
January 24, 2020

BDO CANADA LLP,
File No. 2018-59

TORONTO – Following a hearing held today, the Commission issued an Order in the above named matter approving the Settlement Agreement reached between Staff of the Commission and BDO Canada LLP.

Take notice the hearing dates in the above named matter scheduled for February 5, March 4, March 5, 11, 12, 18-20, 24, 25; April 6-9, 13, 15-17, 20-24, 27, 29, 30; May 1, 4, 6-8, 11, 13-15, 19-22, 25 and 27, 2020 are vacated.

A copy of the Order dated January 24, 2020 and Settlement Agreement dated January 20, 2020 are available at www.osc.gov.on.ca.

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1.4.3 Majd Kitmitto et al.

FOR IMMEDIATE RELEASE
January 24, 2020

MAJD KITMITTO,
STEVEN VANNATTA,
CHRISTOPHER CANDUSSO,
CLAUDIO CANDUSSO,
DONALD ALEXANDER (SANDY) GOSS,
JOHN FIELDING, and
FRANK FAKHRY,
File No. 2018-70

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

A copy of the Order dated January 24, 2020 is available at www.osc.gov.on.ca.

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1.4.4 Money Gate Mortgage Investment Corporation et al.

FOR IMMEDIATE RELEASE
January 27, 2020

MONEY GATE MORTGAGE INVESTMENT CORPORATION,
MONEY GATE CORP.,
MORTEZA KATEBIAN and
PAYAM KATEBIAN,
File No. 2017-79

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

A copy of the Order dated January 27, 2020 is available at www.osc.gov.on.ca.

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1.4.5 Canada Cannabis Corporation et al.

FOR IMMEDIATE RELEASE
January 27, 2020

CANADA CANNABIS CORPORATION,
CANADIAN CANNABIS CORPORATION,
BENJAMIN WARD,
SILVIO SERRANO, and
PETER STRANG,
File No. 2019-34

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

A copy of the Order dated January 27, 2020 is available at www.osc.gov.on.ca.

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1.4.6 Joseph Debus

FOR IMMEDIATE RELEASE
January 28, 2020

JOSEPH DEBUS,
File No. 2019-16

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

A copy of the Order dated January 28, 2020 is available at www.osc.gov.on.ca.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Sun Life Global Investments (Canada) Inc.

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Existing and future mutual funds managed by the Filer granted relief from paragraphs 15.3(4)(c) and (f) of NI 81-102 Investment Funds to permit references to FundGrade A+ Awards, FundGrade Ratings, Lipper Awards and Lipper Leader Ratings in sales communications – Relief subject to conditions requiring specified disclosure and the requirement that the FundGrade A+ Awards and Lipper Awards being referenced not have been awarded more than 365 days before the date of the sales communication.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 15.3(4)(c) and (f), and 19.1.

January 21, 2020

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
SUN LIFE GLOBAL INVESTMENTS (CANADA) INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer on behalf of existing and future mutual funds of which the Filer or an affiliate of the Filer is, or in the future will be, the investment fund manager and to which National Instrument 81-102 *Investment Funds* (**NI 81-102**) applies (each a **Fund** and collectively, the **Funds**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption under section 19.1 of NI 81-102 from the requirements set out in paragraphs 15.3(4)(c) and 15.3(4)(f) of NI 81-102, which provide that a sales communication must not refer to a performance rating or ranking of a mutual fund or asset allocation service unless:

1. the rating or ranking is provided for each period for which standard performance data is required to be given, except the period since the inception of the mutual fund; and

2. the rating or ranking is to the same calendar month end that is:

   (a) not more than 45 days before the date of the appearance or use of the advertisement in which it is included, and

   (b) not more than three months before the date of first publication of any other sales communication in which it is included;

(together, the **Exemption Sought**), to permit the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards and Lipper Leaders ratings to be referenced in sales communications relating to the Funds.

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 each of the other provinces and territories of Canada (together with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

The Filer and the Funds

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

2. The Filer is registered as: (i) an investment fund manager in Ontario, Quebec and Newfoundland

and Labrador; (ii) a commodity trading manager in Ontario; (iii) a portfolio manager in Ontario; and (iv) a mutual fund dealer in each of the Jurisdictions.

3. The Filer is, or will be, the manager of each of the Funds.

4. Each of the Funds is, or will be, an open-ended mutual fund trust established under the laws of Ontario or a class of shares of a mutual fund corporation established under the laws of Ontario. The securities of each of the Funds are, or will be, qualified for distribution pursuant to one or more prospectuses or simplified prospectuses, as the same may be amended or renewed from time to time. Each of the Funds is, or will be, a reporting issuer in each of the Jurisdictions.

5. Each of the Funds is, or will be, subject to NI 81-102, including Part 15 of NI 81-102, which governs sales communications.

6. Neither the Filer nor any of the existing Funds is in default of the securities legislation in any of the Jurisdictions.

FundGrade Ratings and FundGrade A+ Awards

7. The Filer wishes to include in sales communications of the Funds references to the FundGrade Ratings and references to the FundGrade A+ Awards, where such Funds have been awarded a FundGradeA+ Award.

8. Fundata Canada Inc. (**Fundata**) is a "mutual fund rating entity" as that term is defined in NI 81-102. Fundata is a supplier of mutual fund information, analytical tools, and commentary. Fundata's fund data and analysis, fund awards designations and ratings information provide valuable insight to advisors, media and individual investors.

9. One of Fundata's programs is the FundGrade A+ Awards program. This program highlights funds that have excelled in delivering consistently strong risk-adjusted performance relative to their peers. The FundGrade A+ Awards designate award-winning funds in most individual fund classifications for the previous calendar year, and the awards are announced in January of each year. The categories for fund classification used by Fundata are those maintained by the Canadian Investment Funds Standards Committee (**CIFSC**) (or a successor to CIFSC), a Canadian organization that is independent of Fundata.

10. The FundGrade A+ Awards are based on a proprietary rating methodology developed by Fundata, the FundGrade Rating system. The FundGrade Rating system evaluates funds based on their risk adjusted performance, measured by three well-known and widely-used metrics: the Sharpe Ratio, the Information Ratio, and the Sortino Ratio. The ratios are calculated for the two through ten year time periods for each fund. When there is more than one eligible series of a fund, an average ratio is taken for each period. The ratios are ranked across all time periods and an overall score is calculated by equally weighting the yearly rankings.

11. The FundGrade Ratings are letter grades for each fund and are determined for each month. The FundGrade Ratings for each month are released on the seventh business day of the following month. The top 10% of funds earn an A Grade; the next 20% of funds earn a B Grade; the next 40% of funds earn a C Grade; the next 20% of funds receive a D Grade; and the lowest 10% of funds receive an E Grade. Because the overall score of a fund is calculated by equally weighting the periodic rankings, to receive an A Grade, a fund must show consistently high scores for all ratios across all time periods.

12. Fundata calculates a grade using only the retail series of each fund. Institutional series or fee-based series of any fund are not included in the calculation. A fund must have at least two years of history to be included in the calculation. Once a letter grade is calculated for a fund, it is then applied to all related series of that fund.

13. At the end of each calendar year, Fundata calculates a fund grade point average or "GPA" for each fund based on the full year's performance. The fund GPA is calculated by converting each month's FundGrade Rating letter grade into a numerical score. Each A is assigned a grade of 4.0; each B is assigned a grade of 3.0; each C is assigned a grade of 2.0; each D is assigned a grade of 1.0; and each E is assigned a grade of 0. The total of the grades for each fund is divided by 12 to arrive at the fund's GPA for the year. Any fund earning a GPA of 3.5 or greater earns a FundGrade A+ Award.

14. When a fund is awarded a FundGrade A+ Award, Fundata will permit such funds to make reference to the award in its sales communications.

Lipper Leaders Ratings and Lipper Awards

15. The Filer also wishes to include in sales communications of the Funds references to the Lipper Leaders Ratings (which are performance ratings or rankings for funds issued by Lipper and include the Lipper Ratings for Consistent Return, Lipper Ratings for Total Return, Lipper Ratings for Preservation and the Lipper Ratings for Expense, which are described below) and references to the Lipper Awards (as described below), where such Funds have been awarded a Lipper Award.

16. Lipper, Inc. (**Lipper**) is a "mutual fund rating entity" as that term is defined in NI 81-102, and is not a member of the organization of the Funds. Lipper is part of the Refinitiv group of companies, and is a

global leader in supplying mutual fund information, analytical tools, and commentary. Lipper's fund data and analysis, fund awards designations and ratings information provide valuable insight to advisors, media and individual investors.

17. One of Lipper's programs is the Lipper Fund Awards from Refinitiv program (the **Lipper Awards**). This program recognizes funds that have excelled in delivering consistently strong risk-adjusted performance relative to peers and also recognizes fund families with high average scores for all funds within a particular asset class or overall. Currently, the Lipper Awards take place in 23 award universes.

18. In Canada, the Lipper Awards include the Lipper Fund Awards and Lipper ETF Awards (which were awarded for the first time in Canada in 2014). For the Lipper Fund Awards, Lipper designates award-winning funds in most individual fund classifications for three, five and ten year periods. For the Lipper ETF Awards, Lipper designates award-winning funds in a number of individual fund classifications for the three and five year periods, and it is expected that awards for the ten year period will be given in the future.

19. The categories for fund classification used by Lipper for the Lipper Awards in respect of Canadian funds are those maintained by CIFSC (or a successor to CIFSC), a Canadian organization that is independent of Lipper. Only those CIFSC groups of ten or more unique funds will claim a Lipper Fund Award, and only those CIFSC groups of five or more unique ETFs (each of whom have a minimum of three years or five years of performance history) will claim a Lipper ETF Award.

20. The Lipper Awards are based on a proprietary rating methodology prepared by Lipper, the Lipper Leaders Rating System. The Lipper Leaders Rating System is a toolkit that uses investor-centred criteria to deliver a simple, clear description of a fund's success in meeting certain goals, such as preserving capital, lowering expenses or building wealth. Lipper Ratings provide an instant measure of a fund's success against a specific set of key metrics, and can be useful to investors in identifying funds that meet particular characteristics.

21. In Canada, the Lipper Leaders Rating System includes Lipper Ratings for Consistent Return (reflecting funds' historical risk-adjusted returns relative to funds in the same classification), Lipper Ratings for Total Return (reflecting funds' historical total return performance relative to funds in the same classification), Lipper Ratings for Preservation (reflecting funds' historical loss avoidance relative to other funds in the same classification), Lipper Ratings for Tax Efficiency (reflecting funds' historical success in postponing taxable distributions relative to funds in the same classification), and Lipper Ratings for Expense (reflecting funds' expense minimization relative to funds with similar load structures). In each case, the categories for fund classification used by Lipper for the Lipper Leaders Ratings are those maintained by CIFSC (or a successor to CIFSC). Lipper Leaders Ratings are measured monthly over 36, 60 and 120 month periods, and an overall rating is also measured, which is an unweighted average of the previous three periods. The highest 20% of funds in each category are named Lipper Leaders for that particular rating and receive a score of 5, the next 20% receive a score of 4, the middle 20% receive a score of 3, the next 20% receive a score of 2 and the lowest 20% receive a score of 1.

22. The Lipper Awards, awarded annually in Canada, are based on the Lipper Ratings for Consistent Return measure, which, as generally described above, is a risk-adjusted mutual fund return performance measure used by Lipper that takes into account both short- and long-term risk-adjusted performance relative to fund classification, together with a measure of a fund's consistency. In respect of the Lipper Awards for Canada, the Lipper Ratings for Consistent Return are measured over the 36, 60 and 120 month periods ending at the end of July of each year. As noted above, the highest 20% of funds in each classification are named Lipper Leaders for Consistent Return, and the highest Lipper Leader for Consistent Return in each applicable fund classification over these periods (currently, in the case of the Lipper ETF Awards, over the 36 and 60 month periods only) wins a Lipper Award.

Sales Communication Disclosure

23. The FundGrade Ratings fall within the definition of "performance data" under NI 81-102 as they constitute "a rating, ranking, quotation, discussion or analysis regarding an aspect of the investment performance of an investment fund", given that the FundGrade Ratings are based on performance measures calculated by Fundata. The FundGrade A+ Awards may be considered to be "overall ratings or rankings" given that the awards are based on the FundGrade Ratings as described above. Therefore, references to FundGrade Ratings and FundGrade A+ Awards in sales communications relating to the Funds need to meet the applicable requirements in Part 15 of NI 81-102.

24. Paragraph 15.3(4)(c) of NI 81-102 imposes a "matching" requirement for performance ratings or rankings that are included in sales communications for mutual funds. If a performance rating or ranking is referred to in a sales communication, it must be provided for, or "match", each period for which standard performance data is required to be given for a fund, except for the period since the inception of the fund (i.e. for one, three, five and ten year periods,

as applicable).

25. While FundGrade Ratings are based on calculations for a minimum of two years through to a maximum of ten years and the FundGrade A+ Awards are based on a yearly average of monthly FundGrade Ratings, specific ratings for the three, five and ten year periods within the two to ten year measurement period are not given. This means that a sales communication referencing FundGrade Ratings cannot comply with the "matching" requirement contained in paragraph 15.3(4)(c) of NI 81-102. Relief from paragraph 15.3(4)(c) of NI 81-102 is, therefore, required in order for a Fund to use FundGrade Ratings in sales communications.

26. The exemption in subsection 15.3(4.1) of NI 81-102 for references to overall ratings or rankings of funds cannot be relied upon to reference the FundGrade A+ Awards in sales communications for the Funds because it is available only if a sales communication "otherwise complies" with the requirements of subsection 15.3(4) of NI 81-102. As noted above, sales communications referencing the FundGrade A+ Awards cannot comply with the "matching" requirement in subsection 15.3(4) of NI 81-102 because the underlying FundGrade Ratings are not available for the three, five and ten year periods within the two to ten year measurement period for the FundGrade Ratings, rendering the exemption in subsection 15.3(4.1) of NI 81-102 unavailable. Relief from subsection 15.3(4)(c) of NI 81-102 is, therefore, required in order for Funds to reference the FundGrade A+ Awards in sales communications.

27. Paragraph 15.3(4)(f) of NI 81-102 imposes certain restrictions on disclosure in sales communications. This paragraph provides that in order for a rating or ranking such as a FundGrade A+ Award to be used in an advertisement, the advertisement must be published within 45 days of the calendar month end to which the rating or ranking applies. Further, in order for the rating or ranking to be used in any other sales communication, the rating or ranking must be published within three months of the calendar month end to which the rating or ranking applies.

28. Because the evaluation of funds for the FundGrade A+ Awards will be based on data aggregated until the end of December in any given year and the results will be published in January of the following year, by the time a fund receives FundGrade A+ Award in January, paragraph 15.3(4)(f) of NI 81-102 will only allow the FundGrade A+ Award to be used in an advertisement until the middle of February and in other sales communications until the end of March.

29. The Lipper Leaders Ratings are performance ratings or rankings under NI 81-102 and Lipper Awards may be considered to be performance ratings or rankings under NI 81-102 given that the awards are based on the Lipper Leaders Ratings as described above. Therefore, references to Lipper Leaders Ratings and Lipper Awards in sales communications relating to the Funds need to meet the applicable requirements in Part 15 of 81-102.

30. In Canada and elsewhere, Lipper Leaders Ratings are calculated only for 36, 60 and 120 month periods and are not calculated for a one year period. This means that a sales communication referencing a Lipper Leaders Rating cannot comply with the "matching" requirement contained in paragraph 15.3(4)(c) of NI 81-102 because a rating is not available for the one year period. Relief from paragraph 15.3(4)(c) of NI 81-102 is therefore required in order for Funds to reference Lipper Leaders Ratings in sales communications.

31. In addition, a sales communication referencing the overall Lipper Leaders Ratings and the Lipper Awards, which are based on the Lipper Leaders Ratings, must disclose the corresponding Lipper Leaders Rating for each period for which standard performance data is required to be given. As noted above, because a rating for the one year period is not available for the Lipper Leaders Ratings, sales communications referencing the overall Lipper Leaders Ratings or Lipper Awards also cannot comply with the matching requirement contained in paragraph 15.3(4)(c) of NI 81-102.

32. The exemption in subsection 15.3(4.1) of NI 81-102 for references to overall ratings or rankings of funds cannot be relied upon to reference the overall Lipper Leaders Ratings or Lipper Awards in sales communications for the Funds because subsection 15.3(4.1) of NI 81-102 is available only if a sales communication "otherwise complies" with the requirements of subsection 15.3(4) of NI 81-102. As noted above, sales communications referencing the overall Lipper Leaders Ratings or Lipper Awards cannot comply with the "matching" requirement in subsection 15.3(4) of NI 81-102 because the underlying Lipper Leaders Ratings are not available for the one year period, rendering the exemption in subsection 15.3(4.1) of NI 81-102 unavailable. Relief from paragraph 15.3(4)(c) of NI 81-102 is therefore required in order for the Funds to reference overall Lipper Leaders Ratings and the Lipper Awards in sales communications.

33. Paragraph 15.3(4)(f) of NI 81-102 imposes certain restrictions on disclosure in sales communications. The paragraph provides that in order for a rating or ranking such as a Lipper Award to be used in an advertisement, the advertisement must be published within 45 days of the calendar month end to which the rating or ranking applies. Further, in order for the rating or ranking to be used in any other sales communication, the rating or ranking must be published within three months of the calendar month end to which the rating or ranking applies.

34. Because the evaluation of funds for the Lipper Awards will be based on data aggregated until the

end of July in any given year and the results will be published in November of that year, by the time a fund receives an award in November, paragraph 15.3(4)(f) of NI 81-102 will prohibit it from publishing news of the award altogether.

35. The Exemption Sought is required in order for the FundGrade Ratings, FundGrade A+ Awards, Lipper Leaders Ratings, and Lipper Awards to be referenced in sales communications relating to the Funds.

36. The Filer submits that the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards and Lipper Leaders Ratings provide important tools for investors, as they provide investors with context when evaluating investment choices. These awards and ratings provide an objective, transparent and quantitative measure of performance that is based on the expertise of FundGrade or Lipper, as applicable, in fund analysis that alleviates any concern that references to them may be misleading and, therefore, contrary to paragraph 15.2(1)(a) of NI 81-102.

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 to permit the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards, and Lipper Leaders Ratings to be referenced in sales communications relating to a Fund provided that:

1. the sales communication that refers to the FunGrade A+ Awards, FundGrade Ratings, Lipper Awards or Lipper Leaders Ratings complies with Part 15 of NI 81-102, other than as set out herein, and contains the following disclosure in at least 10 point type:

   (a) the name of the category for which the Fund has received the award or rating;

   (b) the number of mutual funds in the category for the applicable period;

   (c) the name of the ranking entity, i.e., Fundata or Lipper;

   (d) the length of period and the ending date, or, the first day of the period and the ending date on which the FundGrade A+ Award, FundGrade Rating, Lipper Award or Lipper Leaders Rating is based;

   (e) a statement that FundGrade Ratings or Lipper Leaders Ratings are subject to change every month;

   (f) in the case of a FundGrade A+ Award or Lipper Award, a brief overview of the FundGrade A+ Award or Lipper Award, as applicable;

   (g) in the case of a FundGrade Rating (other than FundGrade Ratings referenced in connection with a FundGrade A+ Award) or a Lipper Leaders Rating (other than Lipper Leaders Ratings referenced in connection with a Lipper Award), a brief overview of the FundGrade Rating or Lipper Leaders Rating, as applicable;

   (h) where Lipper Awards are referenced, the corresponding Lipper Leaders Rating that the Lipper Award is derived from is presented for each period for which standard performance data is required other than the one year and since inception periods;

   (i) where a Lipper Leaders Rating is referenced, the Lipper Leaders Ratings are presented for each period for which standard performance data is required other than the one year and since inception periods;

   (j) disclosure of the meaning of the FundGrade Ratings from A to E (e.g., rating of A indicates a fund is in the top 10% of its category) or Lipper Leaders Ratings from 1 to 5 (e.g., ranking of 5 indicates a fund is in the top 20% of its category), as applicable; and

   (k) reference to Fundata's website for greater detail on the FundGrade A+ Awards and the FundGrade Ratings or reference to Lipper's website for greater detail on the Lipper Awards and Lipper Leaders Ratings, which includes the rating methodology prepared by Fundata or Lipper, as applicable;

2. the FundGrade A+ Awards and Lipper Awards being referenced must not have been awarded more than 365 days before the date of the sales communication; and

3. the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards, and Lipper Leaders Ratings being referenced are calculated based on comparisons of performance of investment funds within a specified category established by CIFSC (or a successor to CIFSC).

"Neeti Varma"
Manager, Investment Funds and Structured Products Branch
Ontario Securities Commission

2.1.2 Accelerate Financial Technologies Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from NI 81-102 to permit alternative mutual funds to short sell up to 100% of net assets in connection with "market neutral" or other short selling strategies – NI 81-102 would allow funds to achieve similar short exposure through derivatives – Physical short selling is less expensive and more efficient and will not increase risk to the funds compared to short exposure through derivatives.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds – ss. 2.6.1(1)(c)(v), 2.6.2(1) and 19.1(2).

Citation: *Re Accelerate Financial Technologies Inc.*, 2020 ABASC 8

January 21, 2020

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
ACCELERATE FINANCIAL TECHNOLOGIES INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer on behalf of Accelerate Market Neutral Yield Fund and Accelerate Arbitrage Fund (collectively, the **Proposed Funds**), which are mutual funds that will be established and structured as "alternative mutual funds" within the meaning of National Instrument 81-102 *Investment Funds* (**NI 81-102**), and such alternative mutual funds as may be established in the future and for which the Filer or an affiliate of the Filer acts as investment fund manager (the **Future Funds** and, together with the Proposed Funds, the **Funds**), for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that exempts the Funds from the following provisions of NI 81-102 (the **Short Selling Restrictions**), in order to permit the Funds to short sell securities having an aggregate market value of up to 100% of a Fund's net asset value (**NAV**):

(a) subparagraph 2.6.1(1)(c)(v), which restricts an alternative mutual fund from selling a security short if, at the time, the aggregate market value of all securities sold short by the fund exceeds 50% of the fund's net asset value (**NAV**); and

(b) section 2.6.2, which prohibits an alternative mutual fund from borrowing cash or selling securities short if, immediately after entering into a cash borrowing or short selling transaction, the aggregate value of cash borrowed combined with the aggregate market value of all securities sold short by the fund would exceed 50% of the fund's NAV

(the **Exemption Sought**).

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

(a) the Alberta Securities Commission is the principal regulator for this application,

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in every jurisdiction of Canada other than Alberta and Ontario, 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 NI 81-102, National Instrument 14-101 *Definitions,* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

Background Facts

The Filer

1. The Filer is registered as an adviser in the category of portfolio manager, as a dealer in the category of exempt market dealer and as an investment fund manager under the securities legislation of each of Alberta and Ontario. The Filer's head office is in Calgary, Alberta.

2. The Filer will be the investment fund manager and portfolio manager of the Proposed Funds and Future Funds.

3. The Filer is not in default of applicable securities legislation in any jurisdiction of Canada.

The Funds

4. The Funds will be public mutual funds created under the laws of the Province of Ontario or Alberta and will be governed by the provisions of NI 81-102, subject to any relief therefrom granted by the securities regulatory authorities. Each Fund will be an alternative mutual fund for purposes of NI 81-102.

5. Units of the Funds will be offered in every jurisdiction of Canada by simplified prospectus, annual information form and fund facts prepared in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**), or by a long form prospectus and ETF Facts prepared in accordance with National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**), as applicable (a **Prospectus**), and each Fund will be a reporting issuer in every jurisdiction of Canada.

6. The investment objectives of the Proposed Funds are as follows:

   (a) Accelerate Arbitrage Fund (**ARB**) seeks to achieve long-term capital appreciation and a superior risk-adjusted return relative to the S&P Merger Arbitrage Index. ARB seeks to outperform the S&P Merger Arbitrage Index through an arbitrage investment strategy by investing primarily in listed equity, debt or derivative securities of target companies involved in mergers or corporate actions, while selling short certain listed equity, debt or derivative securities of acquirer companies involved in mergers or corporate actions, where applicable.

   (b) Accelerate Market Neutral Yield Fund (**MRKT**) seeks to achieve long-term appreciation and a superior risk-adjusted return relative to the FTSE Canada All Government Bond Index. MRKT seeks to outperform the FTSE Canada All Government Bond Index over the long term by investing primarily in listed equity securities that are expected to outperform, while selling short certain listed equity securities that are expected to underperform.

   Therefore, each of ARB and MRKT utilize a market-neutral strategy (the **Market-Neutral Strategy**).

7. The investment objectives for each Future Fund will differ, but in each case, a core investment strategy as stated in the Prospectus will make the extensive use of short selling an investment strategy that is available to the portfolio manager in order to achieve the investment objectives of the applicable Fund and the portfolio manager's desired combination of long and short positions.

Reasons for the Exemption Sought

8. Because the Proposed Funds each employ a Market-Neutral Strategy that requires a constant level of 100% shorts, the Short Selling Restrictions would prevent the Proposed Funds from achieving their investment objectives through physical short selling alone. The Proposed Funds would instead have to use some combination of physical and synthetic short selling through derivatives in order to achieve the desired short exposure. The Future Funds that have investment strategies that contemplate short selling in excess of 50% of their NAV will be similarly restricted by the Short Selling Restrictions.

9. The Filer seeks the flexibility to enter into physical short positions when doing so is in the best interests of the Funds and not be obliged to enter into short positions synthetically through the use of derivatives in order to achieve a Fund's investment objectives or strategies.

10. The underlying investment exposure between a physical short position and a synthetic short position is the same. The Funds would not be subject to any additional risks by entering a physical short position over a synthetic short position.

11. In addition, while there may be certain situations in which using a synthetic short position is preferable, physical shorts are typically less costly, because of the ability to execute trades with a larger number of counterparties, compared to a single counterparty for synthetic shorts. This can result in wider options for borrowing securities resulting in lower borrowing costs. Funds are also exposed to less counterparty risk than with a synthetic short position (e.g., counterparty default, counterparty insolvency, and premature termination of derivatives).

12. The Exemption Sought would provide the Filer with the necessary flexibility to make timely trading decisions between physical short and synthetic short positions based on what is in the best interest of the Funds. The Filer, as a registrant and a fiduciary, is in the best position to determine whether the Funds should enter into a physical short position or a synthetic short position, depending on the surrounding circumstances. Accordingly, the Exemption Sought would permit the Filer to engage in the most effective portfolio management available for the benefit of the Funds and their unitholders.

General

13. The Prospectus for each Fund will comply with the requirements of the Legislation applicable **to**

alternative mutual funds, including cover page text box disclosure to highlight how the Funds differ from other mutual funds, and emphasize that the short selling strategies the Funds are permitted to use are outside the scope of NI 81-102 applicable to both alternative mutual funds and conventional mutual funds.

14. The Filer will determine each Fund's risk rating using the Investment Risk Classification Methodology as set out in Appendix F of NI 81-102.

15. The investment strategies of each Fund will clearly disclose the short selling strategies of the Funds that are outside of the scope of NI 81-102, including that the aggregate market value of all securities sold short by the Fund may exceed 50% of the Fund's NAV. The Prospectus will also contain appropriate risk disclosure, alerting investors of any material risks associated with such investment strategies.

16. The investment strategies of each Fund will permit it to sell securities short, provided that at the time the Fund sells a security short (a) the aggregate market value of securities of any one issuer (other than "government securities" as defined in NI 81-102) sold short by the Fund does not exceed 10% of the Fund's NAV, and (b) the aggregate market value of all securities sold short by the Fund does not exceed 100% of its NAV.

17. The investment strategies of each Fund will permit the Fund to enter into a cash borrowing or short selling transaction, provided that at the time a Fund sells a security short, the aggregate value of cash borrowed combined with the aggregate market value of the securities sold short by the Fund does not exceed 100% of the Fund's net asset value, or such other percentage required to achieve the investment objectives of the Fund.

18. The investment strategies of each Fund will permit the Fund to borrow cash, enter into specified derivative transactions or sell securities short, provided that immediately after entering into a cash borrowing, specified derivative or short selling transaction, the aggregate value of cash borrowed combined with the aggregate market value of all securities sold short by the Fund and the aggregate notional amount of the Fund's specified derivatives positions (other than positions held for hedging purposes, as defined in NI 81-102) would not exceed 300% of the Fund's NAV (the Leverage Limit). If the Leverage Limit is exceeded, the Fund shall, as quickly as commercially reasonable, take all necessary steps to reduce the aggregate value of cash borrowed combined with the aggregate market value of securities sold short and aggregate notional amount of the Fund's specified derivatives position to be within the Leverage Limit, in compliance with section 2.9.1 of NI 81-102.

19. Any physical short position entered into by a Fund will be consistent with the investment objectives and strategies of the applicable Fund.

20. Each Fund will implement the following controls when conducting a short sale:

    (a) The Fund will assume the obligation to return to the borrowing agent the securities borrowed to effect the short sale;

    (b) The Fund will receive cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;

    (c) The Filer will monitor the short positions of the Fund at least once daily;

    (d) The security interest provided by the Fund over any of its assets that is required to enable the Fund to effect a short sale transaction will be made in accordance with section 6.8.1 of NI 81-102 and will otherwise be made in accordance with industry practice for that type of transaction and relate only to obligations arising under such short sale transaction;

    (e) The Fund will maintain appropriate internal controls regarding short sales, including written policies and procedures for the conduct of short sales, risk management controls and proper books and records;

    (f) The Filer and each Fund will keep proper books and records of short sales and all of its assets deposited with borrowing agents as security.

21. The Filer believes that it is in the best interests of the Funds to be permitted to engage in physical short selling in excess of the current limits set out in NI 81-102 applicable to alternative mutual 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 Exemption Sought is granted in respect of a cash borrowing or short selling transaction made by a Fund, provided that

(a) immediately after the cash borrowing or short selling transaction,

    (i) the aggregate market value of all securities sold short by the Fund does not exceed 100% of the Fund's NAV,

(ii) the aggregate value of cash borrowing by the Fund does not exceed 50% of the Fund's NAV, and

(iii) the aggregate market value of securities sold short by the Fund combined with the aggregate value of cash borrowing by the Fund does not exceed 100% of the Fund's NAV;

(b) in the case of a short sale, the short sale otherwise complies with all of the short sale requirements applicable to alternative mutual funds under section 2.6.1 and 2.6.2 of NI 81-102, and is consistent with the Fund's investment objectives and strategies;

(c) immediately after the cash borrowing or short selling transaction, the Fund's aggregate exposure to short selling, cash borrowing and specified derivatives will not exceed the Leverage Limit;

(d) the Prospectus under which units of a Fund are offered discloses that the Fund can short sell securities having an aggregate market value of up to 100% of the Fund's NAV, and describes the material terms of this decision.

"Tom Graham", CA
Director, Corporate Finance
Alberta Securities Commission

2.1.3 Connor, Clark & Lunn Funds Inc. et al.

Headnote

NP 11-203 – Relief granted from requirement in NI 81-102 to permit alternative mutual funds to short sell up to 100% of net assets in connection with "market neutral" or other short selling strategies – NI 81-102 would allow funds to achieve similar short exposure through derivatives – Physical short selling is cheaper and more efficient and will not increase risk to the funds compared to short exposure through derivatives – Relief also granted from the requirement in section 6.1 of NI 81-102 that all portfolio assets of an investment fund must be held under the custodianship of one custodian – Relief needed because plain reading of exemption in section 6.8.1 of NI 81-102 from the requirement in section 6.1 of NI 81-102 results in unintended consequences – Relief subject to condition that the aggregate market value of the securities held by the Prime Broker after such deposit excluding the aggregate of the market value of the proceeds from all then outstanding short sales of securities, must not, (a) in the case of a Fund, other than an Alternative Fund, exceed 10% of the net asset value of the Fund at the time of deposit, and (b) in the case of an Alternative Fund, exceed 25% of the net asset value of the Alternative Fund at the time of deposit – Relief also granted from the single custodian requirement to permit the use of more than one custodian for securities lending purposes only – Relief is required to appoint a securities lending agent that is not a custodian or sub-custodian of the funds – Funds will have a single administrator that will reconcile all the portfolio assets of the funds and provide valuation services – Other custodians will meet all the Part 6 requirements of National Instrument 81-102 Investment Funds – Other custodians will only act as custodian and securities lending agent for securities of the funds transferred to them.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds – ss. 2.6.1(1)(c)(v), 6.1(1), 6.1, 6.8.1, and 19.1.

January 24, 2020

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
CONNOR, CLARK & LUNN FUNDS INC.
(the Filer)

AND

IN THE MATTER OF
CC&L ALTERNATIVE GLOBAL EQUITY FUND
CC&L ALTERNATIVE CANADIAN EQUITY FUND
CC&L ALTERNATIVE INCOME FUND
CC&L EQUITY INCOME AND GROWTH FUND
CC&L HIGH YIELD BOND FUND
CC&L CORE INCOME AND GROWTH FUND
CC&L GLOBAL ALPHA FUND
(the Existing Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer on behalf of the Existing Funds and similarly structured investment funds managed by the Filer (the **Future Funds** and, collectively with the Existing Funds, the **Funds**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that exempts:

(i) a Fund that is an Alternative Fund (as defined below), in order to permit the Alternative Fund to short sell securities having an aggregate market value of up to 100% of the Alternative Fund's NAV (as defined below), from the following provisions (the **Short Selling Restrictions**):

(a) Subparagraph 2.6.1(1)(c)(v) of National Instrument 81-102 *Investment Funds* (**NI 81-102**), which restricts an alternative mutual fund from selling a security short if, at the time, the aggregate market value of all securities sold short by the fund exceeds 50% of the fund's NAV; and

(b) Section 2.6.2 of NI 81-102, which prohibits an alternative mutual fund from borrowing cash or selling securities short if, immediately after entering into a cash borrowing or short selling transaction, the aggregate value of cash borrowed combined with the aggregate market value of all securities sold short by the fund would exceed 50% of the fund's NAV;

(the **Market-Neutral Strategy Relief**);

(ii) a Fund from the requirement in subsection 6.1(1) of NI 81-102, which provides that, except as provided in sections 6.8, 6.8.1 and 6.9 of NI 81-102, all portfolio assets of an investment fund must be held under the custodianship of one custodian that satisfies the requirement of section 6.2 of NI 81-102, in order to permit a Fund to deposit portfolio assets with a borrowing agent that is not the Fund's custodian or sub-custodian in connection with a short sale of securities, if the aggregate market value of the portfolio assets held by the borrowing agent after such deposit, excluding the aggregate market value of the proceeds from outstanding short sales of securities held by the borrowing agent, does not:

(a) in the case of a Conventional Fund (as defined below) exceed 10% of NAV of the Conventional Fund at the time of deposit; and

(b) in the case of an Alternative Fund, exceed 25% of the NAV of the Alternative Fund at the time of deposit;

(the **Short Sale Collateral Relief**); and

(iii) a Fund from the requirement in subsection 6.1(1) of NI 81-102 solely to permit the Fund to appoint more than one custodian, each of which is qualified to be a custodian under section 6.2 of NI 81-102 and each of which is subject to all of the other requirements in Part 6 of NI 81-102 other than the prohibition against the Fund appointing more than one custodian in subsection 6.1(1) of NI 81-102 (the **Custodian Relief**, and collectively with the Market-Neutral Strategy Relief and the Short Sale Collateral Relief, 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 regulatory for the Application;

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-202 – *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (the **Other Jurisdictions** and, together with the Jurisdiction, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined;

AIF means an annual information from of a Fund prepared in accordance with Form 81-102F2 – *Contents of Annual Information Form* under NI 81-101, as the same may be amended from time to time;

Alternative Fund means a Fund that is an alternative mutual fund under NI 81-102;

Conventional Fund means a Fund that is not an alternative mutual fund under NI 81-102;

NAV means net asset value;

Prime Broker means any entity that acts as a lender or borrowing agent, as the case may be, to one or more investment funds, whether the investment fund is an alternative mutual fund or a mutual fund;

Prospectus means a simplified prospectus of a Fund prepared in accordance with Form 81-101F1 – *Contents of Simplified Prospectus* under NI 81-101 as the same may be amended from time to time;

Securities Lending Agreements means agreements which effect securities lending, repurchase or reverse repurchase transactions between a Fund, as lender of the securities, third party borrowers and the Fund's securities lending agent; and

Short Sale Collateral Limits means the limits specified in subparagraph 6.8.1(1)(a) (for Conventional Funds) and subparagraph 6.8.1(1)(b) (for Alternative Funds) of NI 81-102 on the deposit of portfolio assets by a Fund with a borrowing agent (that is not the custodian or a sub-custodian of the Fund) as security in connection with a short sale of securities

Representations

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

The Filer

1. The Filer is a corporation incorporated under the *Canada Business Corporations Act*. The head office of the Filer is in Toronto, Ontario.

2. The Filer is the investment fund manager of each Existing Fund and will be the investment fund manager of the Future Funds.

3. Connor, Clark & Lunn Investment Management Ltd., Global Alpha Capital Management Ltd or such other portfolio managers as the Filer may engage, act as portfolio managers to the Existing Funds. The Filer may engage Connor, Clark & Lunn Investment Management Ltd., Global Alpha Capital Management Ltd. or other portfolio managers to act as portfolio manager of the Future Funds (each referred to herein as a **Portfolio Manager**).

4. The Filer is registered as an investment fund manager and exempt market dealer in the provinces of Ontario, Québec and Newfoundland and Labrador. The Filer is also registered as an exempt market dealer in British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia and Prince Edward Island.

5. The Filer is not in default of applicable securities legislation in any of the Jurisdictions.

The Funds

6. Each of the Funds is, or will be, organized as a trust established under the laws of the Province of Ontario or another Jurisdiction.

7. Each of the Funds is, or will be, an open-ended public Alternative Fund or Conventional Fund governed by NI 81-102.

8. Units of the Funds are, or will be, offered by Prospectus, AIF and fund facts filed in one or more of the Jurisdictions and, accordingly, each Fund is, or will be, a reporting issuer in the Jurisdictions where the Exemption Sought is relied upon.

Reasons for the Exemption Sought

Market-Neutral Strategy Relief

9. The investment strategies of each Alternative Fund will permit the Alternative Fund to borrow cash, enter into specified derivatives transactions or sell securities short, provided that immediately after entering into a cash borrowing, specified derivative or short selling transaction, the aggregate value of cash borrowed combined with the aggregate market value of securities sold short by the Alternative Fund and aggregate notional amount of the Alternative Fund's specified derivatives positions (other than positions held for hedging purposes, as defined in NI 81-102) would not exceed 300% of the NAV of the Alternative Fund (the **Leverage Limit**). If the Leverage Limit is exceeded, the Alternative Fund shall, as quickly as is commercially reasonable, take all necessary steps to reduce the aggregate value of cash borrowed combined with the aggregate market value of securities sold short and the aggregate notional amount of the Alternative Fund's specified derivatives positions to be within the Leverage Limit, in compliance with section 2.9.1 of NI 81-102.

10. A key investment strategy to be utilized by each of the Alternative Funds includes the use of market-neutral, offsetting, inverse or shorting strategies (**Market-Neutral Strategies**) requiring the use of short selling in excess of 50% of the NAV of the Alternative Fund.

11. Market-Neutral Strategies are well-recognized for limiting market risk by balancing long and short positions within an investment portfolio with the objective of providing positive returns regardless of whether the broader market rises, falls or is flat. Market-Neutral Strategies are designed to have less volatility than the broader market when measured over medium to long term periods. Market-Neutral Strategies also provide diversification to investors as returns are intended to be uncorrelated to the performance of the broader market – such strategies are designed to effectively remove any "beta" component from their returns and investment exposures.

12. Market-Neutral Strategies include strategies which offset exposure to certain markets or provide inverse exposure to particular sets of securities

would also fall within the investment strategies of the Alternative Funds and serve to reduce market risk or keep market risk at a specified level or deliver a specific investment risk-return profile that investors and their advisors can utilize for the purposes of portfolio diversification.

13. In a Market-Neutral Strategy, short positions can serve as both a hedge against exposure to a long position, or group of long positions, and also as a source of returns with an offsetting long position or positions. The objective of Market-Neutral Strategies is to generate an attractive risk/return profile independent of the direction of broad equity markets.

14. The Alternative Funds require the flexibility to enter into physical short positions in order to implement Market-Neutral Strategies, when doing so is, in the opinion of the Portfolio Manager, in the best interests of the Alternative Funds.

15. The Filer is an experienced investment fund manager and engages, or will engage, experienced Portfolio Managers that have an ability to effectively utilize Market-Neutral Strategies on behalf of their clients.

16. In addition, while there may be certain situations in which using a synthetic short position may be preferable, physical shorts are typically less costly, because of the ability to execute trades with a larger number of counterparties, compared to a single counterparty for synthetic shorts. This can result in wider options for borrowing securities resulting in lower borrowing costs. Alternative Funds may also be exposed to less counterparty risk than with a synthetic short position (e.g. counterparty default, counterparty insolvency and premature termination of derivatives).

17. Any physical short position entered into by an Alternative Fund will be consistent with the investment objectives and strategies of the applicable Alternative Fund.

18. The investment strategies of each Alternative Fund permit, or will permit, it to sell securities short provided that, at the time the Alternative Fund sells a security short (i) the aggregate market value of securities of any one issuer (other than "government securities" as defined in NI 81-102) sold short by the Alternative Fund does not exceed 10% of the NAV of the Alternative Fund and (ii) the aggregate market value of all securities sold short by the Alternative Fund does not exceed 100% of its NAV.

19. The investment strategies of each Alternative Fund permit, or will permit, it to enter into a cash borrowing (to a maximum of 50% of the Alternative Fund's NAV) or short selling transaction, provided that the aggregate value of cash borrowed combined with the aggregate market value of the securities sold short by the Alternative Fund does not exceed 100% of the Alternative Fund's NAV (the **Total Borrowing and Short Sales Limit**). If the Total Borrowing and Short Sales Limit is exceeded, the Alternative Fund shall, as quickly as is commercially reasonable, take all necessary steps to reduce the aggregate value of cash borrowed combined with the aggregate market value of securities sold short to be within the Total Borrowing and Short Sales Limit.

20. While the Filer could achieve the desired short position using specified derivatives under NI 81-102, it is requesting the Market-Neutral Strategy Relief in order to have the flexibility to use physical short selling to achieve the desired short exposure as appropriate, rather than being required to use synthetic means to achieve the Market Neutral Strategies. The Market-Neutral Relief will provide the Portfolio Manager, on behalf of the Alternative Funds, with the necessary flexibility to make timely trading decisions between physical short and synthetic short positions based on what is in the best interests of the Alternative Funds. The Filer and the Portfolio Manager, as registrants and fiduciaries, are in the best position to determine whether an Alternative Fund should enter into a physical short position or a synthetic short position, depending on the relevant circumstances. The Filer has requested the Market-Neutral Relief in order to permit the Portfolio Manager to engage in the most effective portfolio management available for the benefit of the Alternative Funds and their unitholders.

21. The Prospectus, AIF and fund facts will comply with the requirements of NI 81-101 applicable to alternative mutual funds, including cover page text box disclosure in the fund facts to highlight how the Alternative Fund differs from other mutual funds and emphasize that short selling strategies permitted by the Alternative Fund are outside the scope of NI 81-102 applicable to both mutual funds and alternative mutual funds.

22. The investment strategies of each Alternative Fund will clearly disclose that short selling strategies of the Alternative Fund which are outside the scope of NI 81-102, including that the aggregate market value of all securities sold short by the Alternative Fund may exceed 50% of the NAV of the Alternative Fund. The Prospectus will also contain appropriate risk disclosure, alerting investors of any material risks associated with such investment strategies.

23. The Filer will determine the risk rating for each Alternative Fund using the Investment Risk Classification Methodology as set out in Appendix F of NI 81-102.

24. The Filer has satisfied itself, on behalf of each Alternative Fund, that the Portfolio Manager has

comprehensive risk management policies and procedures that address the risks associated with short selling in connection with the utilization of a market-neutral strategy. The Filer will ensure that any Portfolio Manager of an existing Alternative Fund or a Future Fund that is an Alternative Fund also has satisfactory risk controls in place, and policies and procedures that address the risks associated with short selling in connection with the utilization of a market-neutral strategy.

25. Each Alternative Fund will implement the following controls when conducting a short sale:

    (a) The Alternative Fund will assume the obligation to return to the borrowing agent the securities borrowed to effect the short sale;

    (b) The Alternative Fund will receive cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;

    (c) The Filer will ensure that the Portfolio Manager monitors the short positions within the constraints of the Market-Neutral Strategy Relief as least as frequently as daily;

    (d) The security interest provided by the Alternative Fund over any of its assets that is required to enable the Alternative Fund to effect a short sale transaction is made in accordance with industry practice for that type of transaction and relates only to obligations arising under such short sale transactions;

    (e) The Filer will ensure that the Portfolio Manager of an Alternative Fund maintains appropriate internal controls regarding short sales, including written policies and procedures for the conduct of short sales, risk management controls and proper books and records; and

    (f) The Filer will ensure that the Portfolio Manager of each Alternative Fund keeps proper books and records of short sales and all assets of an Alternative Fund deposited with borrowing agents as security.

26. The Filer believes that it is in the best interests of each of the Alternative Funds to be permitted to engage in physical short selling in excess of the current limits set out in NI 81-102 applicable to alternative mutual funds.

Short Sale Collateral Relief

27. As part of its investment strategies, each Fund that engages in short sales of securities is permitted to grant a security interest in favour of and to deposit pledged portfolio assets with its Prime Broker. If a Fund engages as its Prime Broker an entity that is not its custodian or sub-custodian, then a Conventional Fund may only deliver to its Prime Broker portfolio assets having a market value, in the aggregate, of not more than 10% of the NAV of the Conventional Fund at the time of deposit and an Alternative Fund may only deliver to its Prime Broker portfolio assets having a market value, in the aggregate, of not more than 25% of the NAV of the Alternative Fund at the time of deposit.

28. A Prime Broker may not wish to act as the borrowing agent for a Conventional Fund that wants to short sell securities having an aggregate market value of up to 10% of the Conventional Fund's NAV if the Prime Broker is only permitted to hold, as security for such transactions, portfolio assets having and aggregate market value that is not in excess of 10% of the NAV of the Conventional Fund. This issue is even greater in the context of an Alternative Fund as a counterparty may not act as the Prime Broker for an Alternative Fund that wants to sell securities short that have an aggregate market value of up to 50% of the Alternative Fund's NAV (or more if the Market-Neutral Relief is granted) if the Prime Broker is only permitted to hold, as security for such transactions, portfolio assets having an aggregate market value that is not in excess of 25% of the NAV of the Alternative Fund.

29. As a result of the Short Sale Collateral Limits, the Funds are required to engage numerous Prime Brokers in order to fully utilize the ability of the Funds to engage in short selling of securities. Managing and overseeing relationships with multiple Prime Brokers introduces unnecessary operational and administrative complexities and additional potential costs to a Fund.

30. Prime Brokers that are qualified to act as a custodian or sub-custodian under NI 81-102 are not widely appointed as custodians or sub-custodians under NI 81-102 as it can be both operationally challenging and costly to appoint them to act in such capacity.

31. Given the typical collateral requirements that Prime Brokers impose on their customers who engage in the short sale of securities, if the Short Sale Collateral Limits apply, the Funds would need to retain multiple Prime Brokers in order to sell short securities to the extent permitted under Section 2.6.1 of NI 81-102 and, if granted, the Market-Neutral Strategy Relief described above. This would result in inefficiencies for the Funds and would increase their costs of operations.

32. The Filer does not believe that there should be any policy reason to differentiate between its Alternative Funds and its Conventional Funds to the extent that these Funds also engage in the short selling of securities.

Custodian Relief

33. The Filer would like the flexibility for each Fund to engage Prime Brokers as additional custodians provided that such Prime Brokers are qualified to act as a custodian under subsection 6.2(3) of NI 81-102 (each, an **Additional Custodian**). The Filer and any Additional Custodians would be subject to all requirements applicable to custodians under Part 6 of NI 81-102, other than the requirement in subsection 6.1(1) of NI 81-102 that there only be one custodian. The Filer has requested the Custodian Relief in order to provide additional flexibility for the Funds to engage in the short selling of securities under Section 6.8.1 of NI 81-102, as portfolio assets deposited with a borrowing agent that is the custodian or a sub-custodian of the Fund are not subject to the 10% and 25% of NAV limitations in subparagraph 6.8.1(1)(a) and 6.8.1(1)(b), respectively.

34. An Additional Custodian may also be appointed as a securities lending agent of the Funds and, in such circumstances, would provide the Funds with the opportunity to enter into a greater number of Securities Lending Agreements than would be the case with a single custodian and would therefore have the potential to increase revenues to the Funds from securities lending activities.

35. Prime Brokers are not widely appointed as sub-custodians by custodians under NI 81-102 as it can be both operationally challenging for the custodian and the Filer to appoint them to act in such capacity. This is especially true in circumstances where the custodian of a Fund is a Prime Broker.

36. If the Custodian Relief is granted, an Additional Custodian's responsibility for custody of the Funds' assets will apply only to the assets held by the Additional Custodian on behalf of the Funds (the **Relevant Assets**). The custodial arrangements between the Funds and each Additional Custodian will comply with the requirements of Part 6 of NI 81-102 other than subsection 6.1(1).

37. The appointment of an Additional Custodian as a securities lending agent by the Funds would provide the Funds with the opportunity to participate in a greater number of Securities Lending Agreements than would be the case with a single custodian and would therefore have the potential to increase revenues to the Funds from securities lending activities.

38. Any Additional Custodian will meet the requirements of NI 81-102 to act as a custodian for an investment fund and will have experience acting as custodian of the assets of public investment funds governed by NI 81-102. As custodian of the Relevant Assets, an Additional Custodian will comply with the standard of care applicable to qualified custodians under Section 6.6 of NI 81-102, will hold the Relevant Assets in the name of the applicable Fund in accordance with Section 6.5 of NI 81-102 and will include the provisions prescribed in Section 6.4 of NI 81-102 in its custody agreement with the Filer and the Funds. Each Additional Custodian will complete the review and provide compliance reports to the Filer as contemplated in Section 6.7 of NI 81-102.

39. The ability to terminate an Additional Custodian as custodian of the Relevant Assets of a Fund at any time without cause on written notice will ensure that the Filer maintains ultimate control over all of the portfolio assets of the Funds and can restore all assets to the custody of the Custodian at any time if the Filer considers it to be in the best interests of the Funds and their respective unitholders to do so.

40. The appointment of an Additional Custodian should have no impact on the safety of the portfolio assets of the Funds while enhancing the Fund's abilities to engage in the short selling of securities under Section 6.8.1 of NI 81-102 and to enter into additional Securities Lending Agreements.

41. Upon receipt of the Custodian Relief and appointment of an Additional Custodian, the Filer will provide notice of the appointment of any Additional Custodian to unitholders and amend the Prospectus and AIF of the applicable Funds to include disclosure regarding the Custodial Relief and particulars of the appointment of an Additional Custodian of the Funds with respect to the Relevant Assets.

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:

In respect of the Market-Neutral Strategy Relief:

1. An Alternative Fund may sell a security short or borrow cash only if, immediately after the cash borrowing or short selling transaction:

   (a) the aggregate market value of all securities sold short by the Alternative Fund does not exceed 100% of the Alternative Fund's NAV;

   (b) the aggregate value of cash borrowing by the Alternative Fund does not exceed 50% of the Alternative Fund's NAV;

   (c) the aggregate market value of securities sold short by the Alternative Fund combined with the aggregate value of cash borrowing by the Alternative Fund does not exceed

100% of the Alternative Fund's NAV; and

(d) the Alternative Fund's aggregate exposure to short selling, cash borrowing and specified derivatives does not exceed the Leverage Limit.

2. In the case of a short sale, the short sale:

(a) otherwise complies with all of the short sale requirements applicable to alternative mutual funds under section 2.6.1 and 2.6.2 of NI 81-102; and

(b) is consistent with the Alternative Fund's investment objectives and strategies.

3. The Prospectus under which units of an Alternative Fund are offered:

(a) discloses that the Alternative Fund can short sell securities having an aggregate market value of up to 100% of the Alternative Fund's NAV; and

(b) describes the material terms of this decision.

In respect of the Short Sale Collateral Relief:

4. Each Fund otherwise complies with subsections 6.8.1(2) and (3) of NI 81-102.

In respect of the Custodian Relief:

5. A Fund may appoint one or more Additional Custodians if:

(a) a single entity reconciles all the portfolio assets of the Fund and provides the Fund with valuation and unitholder recordkeeping services and will complete daily reconciliations amongst the custodians before striking a daily NAV;

(b) the Filer maintains such operational systems and processes, as between two or more custodians and the single entity referred to in clause 7(a), in order to keep a proper reconciliation of all the portfolio assets that will move amongst the custodians, as appropriate; and

(c) Each Additional Custodian will act as custodian and securities lending agent only for the portion of portfolio assets of the Fund transferred to it.

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

2.1.4 WisdomTree Asset Management Canada, Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval granted for change of manager – change of manager is not detrimental to securityholders or the public interest – change of manager approved by the fund's securityholders at a special meeting of securityholders – National Instrument 81-102 Investment Funds.

Applicable Legislative Provisions

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

January 23, 2020

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
WISDOMTREE ASSET MANAGEMENT CANADA, INC.
(the Filer)

AND

WISDOMTREE EUROPE HEDGED EQUITY INDEX ETF
WISDOMTREE U.S. QUALITY DIVIDEND GROWTH INDEX ETF
WISDOMTREE INTERNATIONAL QUALITY DIVIDEND GROWTH INDEX ETF
WISDOMTREE U.S. MIDCAP DIVIDEND INDEX ETF
WISDOMTREE EMERGING MARKETS DIVIDEND INDEX ETF
WISDOMTREE U.S. QUALITY DIVIDEND GROWTH VARIABLY HEDGED INDEX ETF
WISDOMTREE INTERNATIONAL QUALITY DIVIDEND GROWTH VARIABLY HEDGED INDEX ETF
WISDOMTREE YIELD ENHANCED CANADA AGGREGATE BOND INDEX ETF
WISDOMTREE YIELD ENHANCED CANADA SHORT-TERM AGGREGATE BOND INDEX ETF
WISDOMTREE CANADA QUALITY DIVIDEND GROWTH INDEX ETF
WISDOMTREE JAPAN EQUITY INDEX ETF
WISDOMTREE ICBCCS S&P CHINA 500 INDEX ETF
ONE GLOBAL EQUITY ETF
ONE NORTH AMERICAN CORE PLUS BOND ETF
(collectively, the Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of the Funds, for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for approval of the proposed change of manager of the Funds (the **Change of Manager**) from the Filer to CI Investments Inc. (**CII**) under paragraph 5.5(1)(a) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) (the **Approval Sought**).

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

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

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

Interpretation

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

Representations

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

The Funds

1. Each of the Funds is an exchange-traded mutual fund trust established under the laws of the Province of Ontario.

2. With the exception of ONE Global Equity ETF and ONE North American Core Plus Bond ETF, the Funds are distributed in each of the Canadian Jurisdictions pursuant to a long-form prospectus prepared in accordance with Form 41-101F2 *Information Required in an Investment Fund Prospectus* (**Form 41-101F2**) dated June 21, 2019. ONE Global Equity ETF and ONE North American Core Plus Bond ETF are distributed in each of the Canadian Jurisdictions pursuant to a long-form prospectus prepared in accordance with Form 41-101F2 dated August 13, 2019.

3. Each of the Funds is a reporting issuer under the laws of all of the Canadian Jurisdictions.

4. None of the Funds are in default of the securities legislation of any of the Canadian Jurisdictions.

The Filer

5. The Filer is the trustee and manager of each of the Funds.

6. The Filer, a corporation incorporated under the laws of the Province of Ontario, is a privately-owned company and a wholly-owned subsidiary of WisdomTree. The Filer's head office is located in Toronto, Ontario.

7. The Filer is registered as (a) an investment fund manager in Ontario, Quebec, and Newfoundland and Labrador, and (b) an exempt market dealer in each of the provinces of Canada.

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

CI and CII

9. CI Financial Corp. (**CI**) is an independent Canadian company offering global asset management and wealth management advisory services. Through its principal operating subsidiaries, CI offers a broad range of investment products and services.

10. CI is a reporting issuer in all of the provinces of Canada and its common shares are listed on the Toronto Stock Exchange.

11. CI's Canadian investment management business is conducted through two registered advisers, namely CII and CI Private Counsel LP. CI's securities trading business is conducted through three registered brokers or dealers, namely Assante Capital Management Ltd., Assante Financial Management Ltd. and BBS Securities Inc. CI also owns 65% of the issued and outstanding shares of Marret Asset Management Inc., 40% of the issued and outstanding shares of Lawrence Park Asset Management Ltd. and 75% of the issued and outstanding shares of WealthBar Financial Services Inc.

12. CII is a corporation incorporated under the laws of the Province of Ontario. Its head office is located in Toronto, Ontario.

13. CII is registered as (a) an investment fund manager in Ontario, Quebec, and Newfoundland and Labrador; (b) an exempt market dealer in each of the provinces and territories of Canada; (c) a commodity trading counsel in Ontario; and (d) a commodity trading manager in Ontario.

14. CII manages over 200 core mutual and pooled funds and over 40 exchange-traded funds, closed-end investment funds and limited partnerships, which are sold under various fund family names. CII also manages or administers segregated funds

and acts as portfolio sub-advisor to other institutions.

15. CII is not in default of the securities legislation of any of the Canadian Jurisdictions.

The Transaction

16. On November 7, 2019, WisdomTree Investments, Inc. (**WisdomTree**) announced that it had entered into a definitive agreement to sell its Canadian subsidiary, the Filer, to CI. Under the terms of the agreement, CI will acquire all of the issued and outstanding shares of the Filer, thereby enabling CI to continue to operate the business of the Filer, which consists primarily of the management of the Funds (the **Transaction**).

17. The Transaction has been approved by the board of directors of WisdomTree and is scheduled to close in the first quarter of 2020.

18. Immediately following completion of the Transaction, it is expected that the Filer will continue to act as the manager of the Funds, although CI will change the name of the Filer and the Funds, as applicable, to reflect CI's ownership.

19. CI has advised the Filer that, after the closing of the Transaction, CI anticipates that it will cause the amalgamation of the Filer with CII, which is currently expected to occur in the first half of 2020. It is therefore anticipated that CII will become the manager of the Funds upon CI amalgamating or otherwise consolidating the Filer with CII.

20. In accordance with National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**), the Change of Manager was presented to the independent review committee of the Funds (the **Funds' IRC**) for its consideration and, after making reasonable inquiries, the Funds' IRC has determined that the Change of Manager would achieve a fair and reasonable result for the Funds.

21. In accordance with National Instrument 81-106 *Investment Funds Continuous Disclosure*, a press release describing the Transaction was issued by WisdomTree on November 7, 2019 and subsequently filed on the System for Electronic Document Analysis and Retrieval (**SEDAR**). In addition, a material change report was filed on SEDAR on November 15, 2019 relating to the Change of Manager.

22. Amendments to the long form prospectuses of the Funds dated June 21, 2019 and August 13, 2019 announcing the Change of Manager were filed on SEDAR on November 18, 2019.

23. Unitholders of each of the Funds approved the Change of Manager at joint special meetings of unitholders of the Funds (collectively, the **Meetings**, and each, a **Meeting**) on January 14, 2020, as required by NI 81-102.

24. The notice of the Meeting, management information circular containing the details of the Change of Manager and a form of proxy in respect of the Meetings (collectively, the **Meeting Materials**) were mailed on December 6, 2019. In accordance with applicable securities legislation, the Meeting Materials were filed on SEDAR following the mailing and contain all information necessary to allow unitholders of the Funds to make an informed decision about the Change of Manager.

Impact of the Change of Manager

25. The Transaction allows the Funds to benefit from the scale and resources of CI, which should facilitate growth in the Funds' portfolio assets and an overall reduction in expenses.

26. Pursuant to NI 81-107, upon the completion of the Transaction, members of the Funds' IRC will cease to be members of the Funds' IRC, and the Funds' IRC will be reconstituted with those individuals who are currently members of the independent review committee of the investment funds managed by CII, namely James M. Werry, Tom Eisenhauer, Karen Fisher, Stuart P. Hensman and James McPhedran.

27. Upon the completion of the Transaction and prior to the amalgamation or other consolidation of the Filer with CII, all of the current officers and directors of the Filer will be replaced by the existing directors and officers of CII.

28. The individuals that will be principally responsible for the investment fund management and portfolio management of the Funds upon the completion of the Transaction and the Change of Manager have the requisite integrity and experience, as required under subparagraph 5.7(1)(a)(v) of NI 81-102.

29. CII intends to manage and administer the Funds in substantially the same manner as the Filer. There is no current intention to change the investment objectives, investment strategies, or increase the fees and expenses of the Funds following the closing of the Transaction and the Change of Manager. CII does not contemplate any immediate changes to the material contracts of the Funds.

30. There is no current intention to change the trustee and auditor of the Funds following the closing of the Transaction and the Change of Manager.

31. There is no current intention to make material changes to the Filer's operations, compliance, supervision and management functions as a result of the Transaction for a reasonable period of time after the closing of the Transaction and the Change of Manager. In this regard, in the short-term, it is possible that certain services will continue to be provided by WisdomTree for a

period following the completion of the Transaction.

32. Funds which currently track proprietary indices of the Filer will continue to do so pursuant to a license agreement to be entered into between WisdomTree and the Filer. It is expected that the third-party index providers will continue to license or sublicense their indices to the relevant Funds.

33. The Transaction is not expected to negatively impact the financial stability of the Filer, CI or CII, or any of their ability to fulfill their respective regulatory obligations.

34. None of the costs of the Transaction and the Change of Manager will be borne by the Funds. The costs of the Transaction and the Change of Manager will instead be borne by the Filer, CI and/or CII.

35. The Transaction and the Change of Manager are not expected to have any material impact on the business, operations or affairs of the Funds or the unitholders of the Funds.

Approval Sought

36. Under paragraph 5.5(1)(a) of NI 81-102, the approval of the securities regulatory authority or regulator is required before the manager of an investment fund is changed, unless the new manager is an affiliate of the current manager.

37. The Filer and CII are not affiliates. Therefore, the approval of the Commission is required before the Change of Manager can occur.

38. The Approval Sought will not be detrimental to the protection of investors in the Funds or prejudicial to the public interest.

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 is that the Approval Sought is granted.

"Neeti Varma"
Manager
Investment Funds and Structured Products Branch
Ontario Securities Commission

2.2 Orders

2.2.1 WestJet Airlines Ltd.

Headnote

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

Applicable Legislative Provisions

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

Citation: *Re WestJet Airlines Ltd.*, 2019 ABASC 182

December 23, 2019

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

AND

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

AND

IN THE MATTER OF
WESTJET AIRLINES LTD.
(the Filer)

ORDER

Background

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

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

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

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

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

in Ontario.

Interpretation

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

Representations

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

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

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

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

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

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

Order

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

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

"Timothy Robson"
Manager, Legal
Corporate Finance

2.2.2 Firm Capital American Realty Partners Corp.

Headnote

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

Applicable Legislative Provisions

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

January 22, 2020

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
FIRM CAPITAL AMERICAN REALTY PARTNERS CORP.
(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 of the principal regulator (the "**Legislation**") that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the "**Order Sought**").

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

a) the Ontario Securities Commission 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 British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland & Labrador.

Interpretation

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

Representations

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

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

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

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

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

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

Order

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.

"Winnie Sanjoto"
Manager, Corporate Finance
Ontario Securities Commission

2.2.3 Telecom Italia S.p.A. (also named TIM S.p.A.)

Headnote

National Policy 11-206 Process for Cease to be Reporting Issuer Applications – Application by foreign issuer for a decision that it is no longer reporting issuers in the jurisdictions – The foreign issuer has a de minimis market presence in Canada – In the preceding 12 months, foreign issuer has not taken any steps that indicate there is a market for its securities in Canada – The issuer's securities are not listed on any stock exchange or traded on a marketplace in Canada – The foreign issuer has no intention to seek public financing by way of an offering of its securities in Canada – Canadian securityholders will continue to receive continuous disclosure as required by Italian law – The foreign issuer previously announced that it was applying for a decision that it is not a reporting issuer – Requested relief granted.

Applicable Legislative Provisions

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

December 18, 2019

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
TELECOM ITALIA S.P.A. (ALSO NAMED TIM S.P.A.)
(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 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 is the principal regulator for this application, and

(b) the Filer has provided notice that section 4C.5(1) of Multilateral Instrument 11-102 Passport System (MI 11-102) is intended to be relied upon in each of British Columbia, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia and Newfoundland and Labrador.

Interpretation

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

Representations

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

1. The Filer is a joint stock company established under Italian law on October 29, 1908, with registered offices in Milan, Italy at Via Gaetano Negri 1. The secondary head office of the Filer is located at Corso d'Italia 41, Rome, Italy.

2. The Filer is a reporting issuer in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova

Scotia and Newfoundland and Labrador (collectively, the **Reporting Jurisdictions**) and it is applying for the Order Sought in each Reporting Jurisdiction.

3. The Ontario Securities Commission was selected as principal regulator because Canadian legal counsel to the Filer is located in Ontario

4. The Filer became a reporting issuer in the Reporting Jurisdictions in 1997 in connection with a public offering of the Filer's shares into Canada in the form of ADRs (defined below). There have been no subsequent public or private offerings of securities of the Filer in Canada since 1997.

5. The Filer is a paper filer in the Reporting Jurisdictions so its continuous disclosure documents are not filed on SEDAR but are publicly available upon request.

6. The Filer's continuous disclosure materials are filed under Italian securities laws on the Filer's website as well as on the regulated storage system 1Info (www.1Info.it), where they are published in both Italian and English.

7. As of March 31, 2019, the subscribed and fully paid-up capital stock was equal to €11,677,002,855.10 divided into 15,203,122,583 ordinary shares (**Ordinary Shares**) and 6,027,791,699 savings shares (**Savings Shares**), all without par value. According to Italian law, Savings Shares circulate either in bearer form or as registered securities, and are therefore identified by two separate sets of ISIN.

8. The Ordinary Shares and Savings Shares are listed in Italy on the Borsa Italiana stock exchange (the **BI**). The Ordinary Shares and Savings shares were listed on the New York Stock Exchange (NYSE) in the form of American Depositary Shares (**ADSs**). Each ADS represents 10 Ordinary Shares or Savings Shares, as applicable, and are represented by American Depositary Receipts (**ADRs**) issued by JPMorgan Chase Bank.

9. The Filer is the parent company in the TIM group of companies (the **TIM Group**). The TIM Group consists of over 75 companies. All of the companies in the TIM Group are incorporated outside of Canada and have head offices located outside of Canada. None of the companies in the TIM Group have operations in Canada but engage in commercial relationships with Canadian telecom operators from time to time.

10. As of April 8, 2019, the Filer had an aggregate principal amount of €13,586 million of senior unsecured bonds (the **Euro Bonds**) outstanding, with coupons ranging from the 6 month Euro Interbank Offered Rate to 5.250%. The Filer also has £1,225 million of senior unsecured bonds (the **GBP Bonds**) outstanding, with coupons ranging from 5.875% to 6.375%, and US$1,500 million of 5.303% senior unsecured bonds outstanding (the **USD Bonds** and, together with the Euro Bonds and GBP Bonds, the **TIM Bonds**). Almost all of the TIM Bonds are listed on the Luxembourg Stock Exchange, Euronext Dublin and the Vienna Stock Exchange.

11. The Filer was an "SEC foreign issuer" under National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (**NI 71-102**) and has relied on and complied with the exemptions from Canadian continuous disclosure requirements afforded to SEC foreign issuers under Part 4 of NI 71-102. On June 25, 2019, the Filer filed with the SEC an application to delist its ADRs from the NYSE, effective July 8, 2019. On July 9, 2019 the Filer filed with the U.S. Securities and Exchange Commission (the **SEC**) an application requesting the SEC to deregister all classes of its financial instruments. Deregistration became effective after a 90-day period from the filing date. The ADRs were deregistered on or around October 7, 2019.

12. The Filer retained IHS Markit (**IHS**), a provider of shareholder identification and analysis, to assist it in determining Canadian holdings of the Filer's securities. Based on this investigation, the Filer has concluded there was the following ownership by Canadian residents of the Filer's securities as of April 15, 2019:

ISIN/CUSIP	Number of Securities held by Canadian residents	% of Securities held by Canadian residents
IT0003497168 / T92778108 (Ordinary Shares)	36,691,560	0.24%
US87927Y1029 / 87927Y102 (Ordinary ADRs)	274,398 (corresponding to 2,743,980 Ordinary Shares)	1.23% (corresponding to 0.02% of the Ordinary Shares)
IT0003497184 / T92778124 (Registered Savings Shares)	-	0.00%
IT0003497176 (Bearer Savings Shares)	29,150,421	0.48%

US87927Y2019 / 87927Y201 (Savings ADRs)	665,342 (corresponding to 6,653,420 Savings Shares)	4.51% (corresponding to 0.11% of the Savings Shares)
XS0195160329 / T9277NAJ4 (Notes)	10,300,000	1.21%
XS0254907388 / T9277NAP0 (Notes)	-	0.00%
XS0486101024 / T9277NAY1 (Notes)	-	0.00%
XS0214965963 / T9277NAK1 (Notes)	-	0.00%
XS0974375130 / T92777AG5 (Notes)	110,000	0.02%
XS1020952435 / T92777AH3 (Notes)	115,000	0.02%
XS0868458653 / T92777AF7 (Notes)	851,000	0.12%
XS1935256369 / T9344YAB6 (Notes)	14,160,000	1.13%
XS1347748607 / T92777AL4 (Notes)	-	0.00%
XS1419869885 / T92777AM2 (Notes)	1,092,000	0.11%
XS1169832810 / T92777AJ9 (Notes)	450,000	0.05%
XS1497606365 / T92777AN0 (Notes)	400,000	0.04%
XS1846631049 / T9344YAA8 (Notes)	100,000	0.01%
XS1551678409 / T92777AP5 (Notes)	-	0.00%
XS1698218523 / T92777AQ3 (Notes)	400,000	0.03%
XS1209185161 / T92777AK6 (Notes)	-	0.00%
US87927YAA01 / 87927YAA0 (Notes)	5,056,000	0.34%
US87927YAB83 / 87927YAB8 (Notes)	0	0.00%

13. The analysis completed by IHS indicates that holdings of the Filer's securities by Canadian residents are de minimis. Canadian residents hold less than 2% of the issued and outstanding securities for each class of the Filer's securities. Many of the Filer's classes of securities as detailed above have no Canadian resident holders.

14. According to the analysis performed by IHS, Canadian residents hold: (i) 0.59% of the total Savings Shares (including Savings Shares represented by ADRs); (ii) 0.26% of the total Ordinary Shares (including Ordinary Shares represented by ADRs); and (iii) 0.35% of the total Savings Shares and Ordinary Shares (including Savings Shares and Ordinary Shares represented by ADRs).

15. On the basis of the information set out above, the Filer believes that the number of its Canadian securityholders is de minimis. Issuers under Italian law do not operate real-time shareholders' registers and rely on corporate actions to update share ownership. At the time of the application for the Order Sought, the Filer's last relevant corporate action for its Savings Shares in 2018 and for its Ordinary Shares in 2013 indicated that the number of Canadian securityholders of Savings Shares and Ordinary Shares represented less than 2% of the total number of securityholders of Savings Shares and Ordinary Shares, respectively, of the Filer worldwide, at the time of the respective corporate action.

16. None of the Filer's securities, including debt securities, are listed, quoted or traded on a marketplace or exchange in Canada.

17. In the 12 months before applying for this order, the Filer has not taken any steps that indicate there is a market for its securities in Canada, including conducting a prospectus offering in Canada, establishing or maintaining a listing on an exchange in Canada or having its securities traded on a marketplace in Canada.

18. The Filer has issued a news release on September 12, 2019 regarding the application it filed for the Order Sought, and has not received any complaints in response.

19. The Filer is not in default of securities legislation in any jurisdiction.

20. Upon granting of the Order Sought, the Filer will no longer be a reporting issuer in any jurisdiction in Canada.

21. Upon granting of the Order Sought, the Filer will deliver to its Canadian resident securityholders all disclosure it will be required to deliver to Italian resident securityholders under Italian securities laws or the rules of the BI.

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.

"Heather Zordel"
Commissioner
Ontario Securities Commission

"Poonam Puri"
Commissioner
Ontario Securities Commission

2.2.4 Authorization Order – s. 3.5(3)

**IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, c S.5
(the "Act")**

AND

**IN THE MATTER OF
AN AUTHORIZATION PURSUANT TO
SUBSECTION 3.5(3) OF THE ACT**

**AUTHORIZATION ORDER
(Subsection 3.5(3))**

WHEREAS a quorum of the Ontario Securities Commission (the "Commission") may, pursuant to subsection 3.5(3) of the Act, in writing authorize any member of the Commission to exercise any of the powers and perform any of the duties of the Commission, including the power to conduct contested hearings on the merits.

AND WHEREAS, by an authorization order made on December 13, 2019, pursuant to subsection 3.5(3) of the Act (the "**Prior Authorization**"), the Commission authorized each of MAUREEN JENSEN, D. GRANT VINGOE, TIMOTHY MOSELEY, MARY ANNE DE MONTE-WHELAN, GARNET W. FENN, LAWRENCE P. HABER, CRAIG HAYMAN, RAYMOND KINDIAK, POONAM PURI and HEATHER ZORDEL acting alone, subject to subsection 3.5(4) of the Act,

(a) to exercise the powers of the Commission to grant adjournments and set dates for hearings, to hear and determine procedural matters, including making an order under section 147 of the Act to exempt a person or company from any time limit imposed by Ontario securities law,

(b) to make and give any orders, directions, appointments, applications, consents and determinations under sections 5, 11, 12, 17, 19, 20, 122, 126, 128, 129, 144, 146, 152 and 153 of the Act that the Commission is authorized to make or give,

(c) to exercise the powers of the Commission under subsections 8(2) and (3) of the Act, including those powers conferred on the Commission because of subsection 21.7(2) of the Act,

(d) to exercise the powers of the Commission under sections 104 and 127 of the Act, and

(e) to provide the opinion contemplated by subsection 140(2) of the Act,

including to exercise the power to conduct contested hearings on the merits.

IT IS ORDERED that the Prior Authorization is hereby revoked;

THE COMMISSION HEREBY AUTHORIZES, pursuant to subsection 3.5(3) of the Act, each of MAUREEN JENSEN, D. GRANT VINGOE, TIMOTHY MOSELEY, MARY ANNE DE MONTE-WHELAN, GARNET W. FENN, LAWRENCE P. HABER, CRAIG HAYMAN, RAYMOND KINDIAK, M. CECILIA WILLIAMS and HEATHER ZORDEL acting alone, subject to subsection 3.5(4) of the Act,

(a) to exercise the powers of the Commission to grant adjournments and set dates for hearings, to hear and determine procedural matters, including making an order under section 147 of the Act to exempt a person or company from any time limit imposed by Ontario securities law,

(b) to make and give any orders, directions, appointments, applications, consents and determinations under sections 5, 11, 12, 17, 19, 20, 122, 126, 128, 129, 144, 146, 152 and 153 of the Act that the Commission is authorized to make or give,

(c) to exercise the powers of the Commission under subsections 8(2) and (3) of the Act, including those powers conferred on the Commission because of subsection 21.7(2) of the Act,

(d) to exercise the powers of the Commission under sections 104 and 127 of the Act, and

(e) to provide the opinion contemplated by subsection 140(2) of the Act,

including to exercise the power to conduct contested hearings on the merits.

DATED at Toronto, this 24th day of January, 2020.

"Raymond Kindiak"
Commissioner

"Craig Hayman"
Commissioner

2.2.5 Majd Kitmitto et al.

FILE NO.: 2018-70

IN THE MATTER OF
MAJD KITMITTO,
STEVEN VANNATTA,
CHRISTOPHER CANDUSSO,
CLAUDIO CANDUSSO,
DONALD ALEXANDER (SANDY) GOSS,
JOHN FIELDING AND
FRANK FAKHRY

M. Cecilia Williams, Commissioner and Chair of the Panel

January 24, 2020

ORDER

WHEREAS on January 24, 2020, the Ontario Securities Commission (the **Commission**) held a hearing at 20 Queen Street West, 17th Floor, Toronto, Ontario;

ON HEARING the submissions of the representatives for Staff of the Commission (**Staff**) and for Majd Kitmitto, Steven Vannatta, Christopher Candusso, Claudio Candusso, Donald Alexander (Sandy) Goss, John Fielding and Frank Fakhry (the **Respondents**);

IT IS ORDERED THAT:

1. the merits hearing dates scheduled for February 20, 2020 and February 21, 2020 are vacated and the previously ordered merits hearing dates remain as scheduled, subject to other dates and times as provided by the Office of the Secretary and agreed to by the parties;

2. each Respondent, except Frank Fakhry, shall serve every other party with a hearing brief containing copies of the documents, and identifying the other things, that the party intends to produce or enter as evidence at the merits hearing by January 31, 2020;

3. Frank Fakhry shall serve every other party with a hearing brief containing copies of the documents, and identifying the other things, that he intends to produce or enter as evidence at the merits hearing by February 14, 2020;

4. a disclosure motion in this matter will be heard on February 20, 2020 at 10:00 a.m., or such other date and time as provided by the Office of the Secretary and agreed to by the parties;

5. any amendments to the Respondents' hearing briefs by the Respondents be served by July 3, 2020;

6. an attendance is scheduled for July 31, 2020 at 10:00 a.m., or such other date and time as provided by the Office of the Secretary and agreed to by the parties;

7. each party shall provide to the Registrar an E-hearing Checklist by August 24, 2020; and

8. each party shall provide to the Registrar the electronic documents that the party intends to rely on or enter into evidence at the merits hearing, along with an index file, in accordance with the *Protocol for E-hearings*, by August 24, 2020.

"M. Cecilia Williams"

2.2.6 Chemtrade Electrochem Inc.

Headnote

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

Applicable Legislative Provisions

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

Citation: *Re Chemtrade Electrochem Inc.*, 2020 ABASC 9

January 22, 2020

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

AND

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

AND

IN THE MATTER OF
CHEMTRADE ELECTROCHEM INC.
(the Filer)

ORDER

Background

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

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

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

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

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

Interpretation

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

Representations

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

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

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

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

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

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

Order

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

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

"Timothy Robson"
Manager, Legal
Corporate Finance
Alberta Securities Commission

2.2.7 Money Gate Mortgage Investment Corporation et al.

IN THE MATTER OF
MONEY GATE MORTGAGE INVESTMENT CORPORATION,
MONEY GATE CORP.,
MORTEZA KATEBIAN and
PAYAM KATEBIAN

File No. 2017-79

Timothy Moseley, Vice-Chair and Chair of the Panel

January 27, 2020

ORDER

WHEREAS on January 27, 2020, the Ontario Securities Commission (the **Commission**) held a hearing at 20 Queen Street West, 17th Floor, Toronto, Ontario, to schedule a hearing with respect to sanctions and costs;

ON HEARING the submissions of the representatives for Staff of the Commission and for Money Gate Corp., Morteza Katebian and Payam Katebian (the **Remaining Respondents**), and no one appearing on behalf of Money Gate Mortgage Investment Corporation;

IT IS ORDERED THAT:

1. an attendance is scheduled for March 5, 2020 at 9:00 a.m., or such other date and time as provided by the Office of the Secretary and agreed to by the parties;

2. the Remaining Respondents shall serve the summary of Payam Katebian's anticipated evidence on Staff by no later than March 16, 2020; and

3. the hearing with respect to sanctions and costs will commence on April 8, 2020, at 10:00 a.m., and will continue on April 15, 2020, at 10:00 a.m., or such other dates and times as provided by the Office of the Secretary and agreed to by the parties.

"Timothy Moseley"

2.2.8 Canada Cannabis Corporation et al.

IN THE MATTER OF
CANADA CANNABIS CORPORATION,
CANADIAN CANNABIS CORPORATION,
BENJAMIN WARD,
SILVIO SERRANO, and
PETER STRANG

File No. 2019-34

Raymond Kindiak, Commissioner and Chair of the Panel

January 27, 2020

ORDER

WHEREAS the Registrar advised the parties that the February 6, 2020 attendance would not proceed on that date;

ON READING the email responses of the parties;

IT IS ORDERED THAT:

1. the attendance scheduled for February 6, 2020 is vacated;

2. the respondents shall serve and file a motion, if any, regarding Staff's Disclosure or seeking disclosure of additional documents by no later than February 25, 2020; and

3. a further attendance in this proceeding is scheduled for March 6, 2020 at 10:00 a.m., or on such other date and time as provided by the Office of the Secretary and agreed to by the parties.

"Raymond Kindiak"

2.2.9 Sun Life Capital Trust II

Headnote

Application for an order that the issuer is not a reporting issuer under applicable securities laws – requested relief granted.

Applicable Legislative Provisions

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

January 24, 2020

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
SUN LIFE CAPITAL 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 of the principal regulator (the **Legislation**) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the **Order Sought**).

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

1. the Ontario Securities Commission is the principal regulator for this application, and

2. 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 all provinces and territories of Canada other than Ontario.

Interpretation

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

Representations

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

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

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

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

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

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

Order

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.

"Marie-France Bourret"
Manager
Corporate Finance

2.2.10 Quad/Graphics, Inc.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Application for an order that an issuer is not a reporting issuer under applicable securities laws – the issuer has more than 15 securityholders in each of the jurisdictions of Canada and more than 51 securityholders in total worldwide – issuer's securities are traded only on a market or exchange outside of Canada – Canadian residents own less than 2% of the issuer's securities and represent less than 2% of the issuer's total number of securityholders.

Applicable Legislative Provisions

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

[TRANSLATION]

Decision n°: 2019-IC-0020
File n°: 31507

December 2, 2019

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

AND

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

AND

IN THE MATTER OF
QUAD/GRAPHICS, INC.
(the "Filer")

ORDER

Background

The securities regulatory authority or regulator of the Jurisdictions ("**Decision Makers**") 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 jurisdictions of Canada in which it is a reporting issuer (the "**Order Sought**").

Under the Process for Cease to be a Reporting Issuer Applications:

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

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

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

Interpretation

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

Representations

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

1. The Filer is a corporation governed by the laws of the State of Wisconsin, with its head office in Sussex, Wisconsin;

2. The Filer is a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (collectively, the "**Reporting Jurisdictions**");

3. On July 2, 2010, the Filer became a reporting issuer in the Reporting Jurisdictions pursuant to a court-approved plan of arrangement between the Filer and World Color Press Inc., a Canadian corporation who was then a reporting issuer in the Reporting Jurisdictions;

4. On March 1, 2012, the Filer divested its Canadian operations and assets;

5. The Filer is not in default of securities legislation in any jurisdiction in Canada;

6. The securities of the Filer have never been traded in Canada on any marketplace or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

7. The Filer's authorized capital consists of 105,000,000 shares of Class A Stock ("**Class A Stock**"), 80,000,000 shares of Class B Stock ("**Class B Stock**"), 20,000,000 shares of class C stock ("**Class C Stock**") and 500,000 shares of preferred stock ("**Preferred Stock**");

8. As of the date hereof, the Filer's outstanding capital stock consists of 40,311,826 shares of Class A Stock, 13,556,858 shares of Class B Stock, and no shares of Class C Stock or Preferred Stock are outstanding;

9. The Filer's Class A Stock are registered under the United States Securities Exchange Act of 1934 (the "**1934 Act**"). The Class A Stock is listed on the New York Stock Exchange (the "**NYSE**") under the symbol "QUAD";

10. There is no public trading market for the Class B Stock;

11. Under the Filer's Omnibus Plan (the "**Omnibus Plan**") an aggregate of 12,671,652 shares of Class A Stock are reserved for issuance. Awards under the Omnibus Plan may consist of restricted stock awards (RSAs), restricted stock units (RSUs), stock options, deferred stock units (DSUs), incentive awards, stock appreciation rights, performance share and performance share unit awards (collectively, "**Equity Awards**");

12. As of the date hereof, there are no Equity Awards that were granted to or held by Canadian residents;

13. The Filer is subject to and is in compliance with all requirements applicable to it imposed by the Securities and Exchange Commission ("**SEC**"), the United States Securities Act of 1933, the 1934 Act, and the rules of the NYSE (collectively, the "**US Rules"**), and it complies with all of them;

14. The Filer qualifies as an "SEC foreign issuer" under Regulation 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (**"71-102"**) and as such relies on and complies with the exemptions from Canadian continuous disclosure requirements afforded to SEC foreign issuers under Part 4 of 71-102;

15. The Filer is not eligible to use the simplified procedure under Policy Statement 11-206 *Process for Cease to be a Reporting Issuer Applications* since its outstanding securities are beneficially owned by more than 15 securityholders in each of the jurisdictions of Canada and by more than 51 securityholders in total worldwide and its securities are traded in another country on a marketplace;

16. In the 12 months before applying for this order, the Filer has not taken any steps that indicate there is a market for its securities in Canada, including conducting a prospectus offering in Canada, establishing or maintaining a listing on an exchange in Canada or having its securities traded on a marketplace or any other facility in Canada for bringing together buyers and sellers where trading data is publicly reported;

17. The Filer does not currently anticipate offering its securities in Canada at any time in the future;

18. The Class A Stock will remain listed on the NYSE, and the Filer will be subject to the periodic and timely disclosure requirements under the US Rules;

19. On April 28, 2014, the Filer completed an offering of USD$300,000,000 aggregate principal amount of its unsecured 7.00% senior notes due May 1, 2022 (the "**Notes**");

20. The Notes do not constitute voting or equity securities in the capital of the Filer and are not convertible into or exchangeable for voting or equity securities;

21. The Notes were issued to qualified institutional buyers in the United States and the Notes were not initially offered, issued or sold by the Filer in any jurisdiction in Canada;

22. As of the date hereof, the Filer continues to have USD$243,477,000.00 aggregate principal amount of Notes outstanding;

23. The Notes have not been listed for trading on any stock exchange or marketplace.

24. The Filer has made a diligent enquiry to confirm the residency of the holders of its outstanding securities as of the date hereof. More specifically, the Filer has:

    a. conducted a thorough review of its internal corporate records for the Class A Stock, the Class B Stock, the Equity Awards and the Notes;

    b. requested information from American Stock Transfer & Trust Company, the transfer agent for the Filer's Class A Stock (the "**Transfer Agent**"), regarding the record holders and registered ownership of the Filer's Class A Stock;

    c. obtained geographical analysis of the beneficial holders of the Class A Stock and the Notes from Broadridge Financial Solutions Inc. ("**Broadridge**"); and

    d. examined the Transfer Agent's and Broadridge reports for any indication of shareholdings, of record or beneficially, in Canada.

25. The diligent enquiry reveals that:

    a. 484,777 shares of Class A Stock (representing approximately 1.20% of the total issued and outstanding shares of Class A Stock) are held by 482 residents of Canada (representing approximately 1.68% of holders of Class A Stock worldwide);

    b. no Class B Stock are held by residents of Canada

    c. no Equity Awards are held by any residents of Canada;

d. five Notes representing an aggregate principal amount of approximately USD$2,870,000 (representing approximately 1.18% of the aggregate principal amount of USD$243,477,000 under the Notes) are held by five residents of Canada (representing approximately 0.16% of holders of Notes worldwide); and

e. 487 securityholders of the Filer reside in Canada which represents approximately 1.53% of securityholders worldwide.

26. Based on the foregoing, residents of Canada do not directly or indirectly beneficially own more than 2% of each class or series of outstanding securities (including debt securities) of the Filer worldwide, and do not directly or indirectly comprise more than 2% of the total number of securityholders of the Filer worldwide;

27. In a news release disseminated on October 1, 2019, the Filer has provided advance notice to Canadian resident securityholders that it will apply for an order to cease to be a reporting issuer in the Reporting Jurisdictions and, if the Order Sought is granted, the Filer will no longer be a reporting issuer in any jurisdiction in Canada;

28. The Filer has undertaken to each of the Decision Makers to concurrently deliver to its Canadian securityholders all disclosure the Filer would be required to deliver to U.S. resident securityholders under the US Rules;

29. All public documents of the Filer are available on the Filer's EDGAR profile under the filings section of the SEC website (www.edgar.gov);

30. Upon the grant of the Order Sought, the Filer will no longer be a reporting issuer in any jurisdiction of Canada;

Order

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

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

"Martin Latulippe"
Director, Continuous Disclosure

2.2.11 CannaRoyalty Corp. dba Origin House

Headnote

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

Applicable Legislative Provisions

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

January 28, 2020

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
CANNAROYALTY CORP. DBA ORIGIN HOUSE
(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 of the principal regulator (the Legislation) that the Filer has ceased to be a reporting issuer in all jurisdictions in 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 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 British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland.

Interpretation

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

Representations

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

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

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

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

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

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

Order

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.

"Michael Balter"
Manager, Corporate Finance
Ontario Securities Commission

2.2.12 Joseph Debus

IN THE MATTER OF
JOSEPH DEBUS

File No. 2019-16

M. Cecilia Williams, Commissioner and Chair of the Panel

January 28, 2020

ORDER

WHEREAS the Ontario Securities Commission (**Commission**) has considered a request by Joseph Debus (**Debus**) for an extension of time to serve and file his hearing brief, witness summaries, and written submissions, previously set by order of the Commission issued August 26, 2019;

ON READING the correspondence of Staff of the Investment Industry Regulatory Organization of Canada (**IIROC**), Staff of the Commission, and the representative of Debus, and considering all parties consent to the extensions sought;

IT IS ORDERED THAT:

1. Debus shall serve and file his hearing brief and witness summaries, if any, and written submissions, by no later than February 14, 2020;

2. IIROC Staff shall serve and file their hearing brief and witness summaries, if any, and responding written submissions, by no later than February 28, 2020;

3. Staff of the Commission shall serve and file written submissions by no later than March 6, 2020; and

4. Debus shall serve and file reply written submissions, if any, by no later than March 13, 2020.

"M. Cecilia Williams"

2.3 Orders with Related Settlement Agreements

2.3.1 BDO Canada LLP – ss. 127, 127.1

IN THE MATTER OF
BDO CANADA LLP

FILE NO.: 2018-59

D. Grant Vingoe, Vice Chair and Chair of the Panel
Lawrence P. Haber, Commissioner
Mary Anne De Monte-Whelan, Commissioner

January 24, 2020

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

WHEREAS on January 24, 2020, the Ontario Securities Commission (the **Commission**) held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider the Joint Request for a Settlement Hearing filed by BDO Canada LLP (**the Respondent**) and Staff of the Commission for approval of a settlement agreement dated as of January 20, 2020 (the **Agreement**);

ON READING the Amended Statement of Allegations dated September 16, 2019 and the Agreement and on hearing the submissions of the representatives for the parties, including that the Commission has received $4.0 million in respect of the amounts ordered in paragraphs 2 and 3 below;

IT IS ORDERED THAT:

1. the Agreement is approved;

2. the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);

3. the Respondent pay an administrative penalty in the amount of $3,500,000, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act; and

4. the Respondent pay costs in the amount of $500,000, pursuant to section 127.1 of the Act.

"D. Grant Vingoe"

D. Grant Vingoe

"Lawrence P. Haber"

Lawrence P. Haber

"Mary Anne De Monte-Whelan"

Mary Anne De Monte-Whelan

IN THE MATTER OF
BDO CANADA LLP

SETTLEMENT AGREEMENT

PART I - INTRODUCTION

1. As gatekeepers, auditors play an important role in investor protection because they contribute to public confidence in the integrity of financial reporting, a cornerstone of our capital markets. The framework for proper disclosure is undermined when they fail to adequately carry out their role.

2. Auditors must comply with generally accepted auditing standards when conducting audits. When auditing an investment fund in the exempt market, an auditor must understand the fund's portfolio, operations and service organizations to carry out its role. It is critical that the auditor obtain appropriate audit evidence to support its opinion, that it exercise appropriate professional skepticism and that its audit work be appropriately overseen.

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

PART II - JOINT SETTLEMENT RECOMMENDATION

4. Staff ("**Staff**") of the Commission recommend settlement of the proceeding (the "**Proceeding**") against the Respondent commenced by the Notice of Hearing dated October 12, 2018, in accordance with the terms and conditions set out in Part V of this Agreement. The Respondent consents to the making of an order substantially in the form attached as Schedule A to this Agreement (the "**Order**") based on the facts set out herein.

5. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondent agrees with the facts set out in Part III of this Agreement and the conclusions in Part IV of this Agreement.

PART III - AGREED FACTS

A. OVERVIEW

6. Between 2005 and 2017, the Respondent was the auditor of Crystal Wealth Management Systems Limited ("**Crystal Wealth**") and the investment funds managed by it at the time (the "**Crystal Wealth Funds**"). In April 2017, on application by the Commission, Crystal Wealth, the Crystal Wealth Funds and their directing mind, Clayton Smith ("**Smith**"), were put into receivership by the Ontario Superior Court of Justice. The Commission subsequently approved a settlement agreement between Smith and Staff in which Smith admitted to fraud on two Crystal Wealth Funds—Crystal Wealth Media Strategy (the "**Media Fund**") and Crystal Wealth Mortgage Strategy (the "**Mortgage Fund**" and, together with the Media Fund, the "**Funds**" and each a "**Fund**"). Certain of the fraudulent investments were recorded in the Funds' financial statements that were audited by the Respondent.

7. The Respondent audited the Funds' financial statements as at and for the years ended December 31, 2014 and December 31, 2015. In those financial statements, the Media Fund and Mortgage Fund were valued at approximately $50 million and $40 million, respectively. In each of the four auditor's reports accompanying those financial statements, the Respondent stated that it had performed its audit (each, an "**Audit**") in accordance with Canadian generally accepted auditing standards ("**GAAS**").

8. The Respondent did not meet GAAS in the conduct of the Audits in three principal ways. First, the Respondent did not obtain sufficient appropriate audit evidence of the existence and valuation of the Funds' assets. Second, the Respondent did not undertake its work with sufficient professional skepticism. Third, in issuing its audit opinions, the Respondent did not complete the engagement quality control reviews ("**EQCRs**") of the Audits that it had determined were required.

9. By stating in each auditor's report that it had conducted the Audit in accordance with GAAS, the Respondent breached subsection 122(1)(b) of the Act. In addition, each of the Respondent's breaches of GAAS violated subsection 78(3) of the Act.

B. BACKGROUND

10. The Funds were privately-offered mutual fund trusts managed by Crystal Wealth, a Burlington, Ontario-based corporation. Crystal Wealth also acted as the Funds' trustee, portfolio manager and promoter.

11. Smith was Crystal Wealth's founder, principal shareholder, directing mind and sole director and officer. He acted as Crystal Wealth's President, Chief Executive Officer, Chief Financial Officer and Chief Compliance Officer and was the Respondent's principal point of contact during the Audits.

12. The Respondent is a limited liability partnership, the head office of which is in Toronto, Ontario. It has more than 125 offices across Canada and is part of the international BDO network of independent member firms.

13. By 2005, the Respondent had been appointed auditor of Crystal Wealth and the Crystal Wealth Funds. The Respondent's Burlington, Ontario office conducted the audits of the Funds' 2014 and 2015 financial statements.

14. The Respondent was also engaged to audit the Funds' 2016 financial statements. At the time of those audits, the Respondent was aware of Staff's investigation in this matter. In the audits, the Respondent introduced new procedures, such as seeking additional evidence from sources independent of the Funds and Smith. The Respondent was not able to obtain the additional evidence it determined was required to issue its auditor's reports. They were not issued by March 31, 2017, when the financial statements were due to be delivered to unitholders.

15. Thereafter, on April 6, 2017, on application by Staff, the Commission ordered that all trading in securities of the Crystal Wealth Funds cease. On April 26, 2017, on application by the Commission, the Ontario Superior Court of Justice appointed Grant Thornton Limited (the "**Receiver**") receiver and manager of the assets of the Crystal Wealth Funds, Crystal Wealth and Smith, personally.

16. On June 13, 2018, the Commission approved a settlement agreement between Staff and Smith. In the settlement agreement, Smith admitted to fraud relating to investments recorded in the Media Fund's 2014 and 2015 financial statements and the Mortgage Fund's 2015 financial statements.

C. DETAILED FACTS

17. Staff's allegations and the Respondent's admissions are restricted to compliance with auditing standards and do not address the accuracy of the Funds' financial statements. The Proceeding does not involve allegations of breaches of accounting standards by the Respondent, by Crystal Wealth, or by any other party.

(1) Generally Accepted Auditing Standards

18. As the basis for the auditor's opinion, GAAS require the auditor to obtain reasonable assurance about whether the financial statements are free from material misstatement. Reasonable assurance is a high, but not absolute, level of assurance. As stated in GAAS, the auditor is not expected to, and cannot, obtain absolute assurance that the financial statements are free from material misstatement due to fraud or error.

19. To obtain reasonable assurance, GAAS set out various standards to be met, requirements to be fulfilled and steps to be taken. They include obtaining sufficient appropriate audit evidence while exercising professional skepticism, as well as completing EQCRs as required by GAAS.

(a) Sufficient Appropriate Audit Evidence Required

20. To obtain reasonable assurance, the auditor must obtain sufficient appropriate audit evidence to reduce, to an acceptably low level, the risk of incorrectly opining on misstated financial statements.

The Need for Retrospective Reviews

21. To assess the risk of material misstatement in the current period, the auditor must perform a retrospective review of the outcomes of accounting estimates included in the prior financial statements. Among other things, retrospective reviews assist in assessing the likelihood that the current estimates may be misstated and in identifying any indications of management bias that might represent a risk of material misstatement due to fraud or error.

<u>The Need for Independent Evidence</u>

22. The higher the assessed risk of material misstatement, the more persuasive the required audit evidence. Generally, evidence from independent sources outside the audited entity is more reliable than evidence from the entity.

<u>The Need for Assurance about Service Organization Controls</u>

23. A service organization is a service provider whose services are part of the audited entity's financial reporting information systems. When an audited entity uses a service organization, transactions that affect its financial statements become subject to the service organization's controls. If the auditor obtains evidence from the service organization, the auditor cannot simply assume that the service organization's related controls operate effectively. It must obtain evidence about their effectiveness by testing the controls directly or performing alternative procedures considered necessary.

The Need to Address Inconsistencies and Obtain Sufficient Appropriate Audit Evidence

24. Determining what procedures are required to complete an audit is a dynamic process that must be responsive to any changes in the auditor's assessment of the risk of material misstatement. For example, if evidence from two sources is inconsistent, the auditor must determine what changes to its planned procedures are necessary to resolve the matter. If the auditor cannot obtain sufficient appropriate evidence of a material item, the auditor must not provide an unmodified opinion on the financial statements.

The Need to Respond to Misstatements

25. If the auditor identifies a material misstatement, it must determine whether the misstatement is indicative of fraud or error. If it is, the auditor must evaluate the implications for the audit, including the reliability of management representations, recognizing that an instance of fraud is unlikely to be an isolated occurrence. If the auditor concludes that the financial statements are not free from material misstatement, the auditor must not provide an unmodified opinion on them.

The Need to Document the Audit

26. Audit documentation is the record of the audit procedures performed, relevant audit evidence obtained and conclusions reached. A principal purpose of audit documentation is to evidence that the audit was planned and performed in accordance with GAAS. The audit documentation must provide evidence of the auditor's basis for conclusions about critical matters such as whether the auditor has obtained reasonable assurance that the financial statements are free from material misstatement. The audit documentation for an engagement must be assembled in the audit file for that engagement.

(b) Professional Skepticism Required

27. The auditor must plan and perform its audit with professional skepticism, recognizing that circumstances may cause the financial statements to be materially misstated. Professional skepticism requires a questioning mind and a critical assessment of the audit evidence. It includes alertness to contradictory audit evidence, information that brings the reliability of documents into question and conditions that may indicate fraud, such as missing evidence.

(c) Engagement Quality Control Reviews Required

28. If the auditor determines that an EQCR is required, the EQCR must be performed before the auditor's report is completed. An EQCR is an objective evaluation of the engagement team's significant judgments and conclusions. The EQCR reviewer cannot be part of the engagement team.

(2) Non-Compliance with Generally Accepted Auditing Standards

29. The Respondent's Audits did not comply with GAAS due to a lack of sufficient appropriate audit evidence, professional skepticism, and appointing an EQCR reviewer.

(a) Lack of Sufficient Appropriate Audit Evidence

30. The Respondent did not obtain sufficient appropriate audit evidence of the existence and valuation of the significant assets recorded in the Media Fund's and the Mortgage Fund's 2014 and 2015 financial statements.

Media Fund

Background to the Fund

31. In the 2014 and 2015 financial statements, the Media Fund was valued at approximately $50 million. The Fund primarily invested in asset-backed debt obligations ("**Loans**") of motion picture and series television productions. The Loans were to finance the production projects. In 2014 and 2015, approximately 25 Loans represented 85% of the Fund's assets.

32. Media House Capital (Canada) Corp. ("**MHC**") was retained by the Fund to conduct due diligence on potential Loan investments and present them to the Fund for purchase. If the Fund acquired a Loan, MHC was to manage and service it, including collecting principal and interest payments for the Fund. MHC received an upfront fee of up to 10% of the value of the Loans it sold to the Fund. The Fund purchased Loans from MHC on an ongoing basis.

The Respondent Did Not Adequately Address Existence of Loans

33. The Respondent did not obtain sufficient appropriate evidence of the existence of the Loans. Its planned procedures were to confirm all the Loans with MHC, whether they had been acquired in the current or previous years. In addition, the Respondent planned to review the "loan agreements" for Loans ("**New Loans**") purchased in the current year.

34. The Respondent did not adequately assess whether MHC was a service organization in the 2014 Audit and did not take other steps required by GAAS when service organizations are involved in either Audit. MHC was to record information about the Loans for the Fund, but the Respondent did not obtain assurance about the controls relevant to the audit evidence provided by MHC.

35. In addition, there were three significant deficiencies in the "loan agreements" the Respondent obtained for the New Loans. First, they were not agreements between the borrower—the production company—and the lender—the Fund. Instead, the Respondent obtained two types of documents ("**Loan Documents**"): (a) purchase notices, each of which was a notice from the Fund to MHC that it wished to purchase a Loan; and (b) supplements, each of which evidenced MHC's sale of a Loan to the Fund. The Loan Documents did not provide sufficient evidence of the borrowers' obligations to the Fund.

36. Second, the Respondent did not obtain a complete set of Loan Documents for every New Loan. Purchase notices were unaccompanied by supplements and many of the supplements were only partially executed.

37. Third, even though information in many Loan Documents was inconsistent with other audit evidence, the Respondent did not enhance its procedures to properly resolve the discrepancies. For instance, various Loan Documents set forth principal amounts that differed from those in MHC's confirmations. Yet in its Audits, the Respondent identified and performed procedures on few of the inconsistencies and, in one case, relied solely on information from Smith, rather than independent evidence.

38. The audit files also included a variety of Loan Documents and promissory notes for Loans purchased in previous years. There were deficiencies with this documentation. These deficiencies should have prompted the Respondent to perform further procedures.

The Respondent Did Not Adequately Address Valuation of Loans

39. The Respondent did not appropriately assess Smith's valuation of the Loans.

40. The value of the Loans turned on the probability of collecting on them. That probability depended on the sales of the productions to be financed by the Loans. As a result, forecasts of those sales ("**Sales Forecasts**") were critical to determining the value of the Loans. In the 2014 and 2015 Audits, the Respondent relied on Sales Forecasts that it stated had been confirmed by, or obtained from, MHC.

41. The Respondent's procedures for auditing Smith's Loan valuations and its responses to the results of those procedures did not comply with GAAS.

2014 Audit

42. In the 2014 Audit, the Respondent did not conduct the required retrospective review of Smith's 2013 Loan valuation and inappropriately relied on an analysis from the Respondent's valuations group.

43. First, because the Respondent did not conduct the required retrospective review of Smith's 2013 Loan valuation, it could not determine whether there was an increased risk of material misstatement due to fraud or error. The Respondent's audit documentation included a checklist (the "**Fraud Checklist**") to assist its engagement team in complying with the GAAS requirements concerning fraud. The Fraud Checklist required retrospective reviews of significant accounting estimates and a determination of whether differences between the estimates and the actual results indicated management bias. The Respondent completed the Fraud Checklist by stating that no retrospective reviews were necessary because there were no significant accounting estimates. Yet in other audit documentation, the Respondent recognized that the value of the Loans was a significant accounting estimate.

44. Second, in evaluating Smith's 2014 Loan valuation, the Respondent relied on an analysis from its valuations group. The valuations group's analysis was based on Sales Forecasts, the appropriateness and reliability of which were to be assessed with a confirmation from MHC. The audit file, however, contained no such confirmation of the Sales Forecasts.

2015 Audit

45. In the 2015 Audit, the Respondent failed to comply with GAAS in its retrospective review of Smith's 2014 Loan valuation and in its audit of Smith's 2015 Loan valuation.

Deficient Retrospective Review of Smith's 2014 Loan Valuation

46. The Respondent's retrospective review in the 2015 Audit was problematic because its procedures, and its response to the results of those procedures, were inadequate.

47. In its retrospective review, the Respondent compared Smith's 2014 forecast of expected receipts on the Loans with the amounts collected on the Loans in 2015 and early 2016. In determining the amounts collected in 2015, the Respondent relied on the Fund's accounting records. The Respondent did not corroborate the amounts collected with evidence such as bank records.

48. The results of the Respondent's analysis revealed that the 2014 forecast of receipts, when compared to amounts collected by early 2016, fell short by almost 80% or $25 million.

49. The Respondent concluded that the shortfall appeared to be largely due to timing and noted that Smith was revising his current estimates. The Respondent did not adequately consider whether the shortfall represented a risk of material misstatement due to fraud or error in the 2015 financial statements it was auditing, particularly in light of the magnitude of the shortfall.

Deficient Audit of Smith's 2015 Loan Valuation

50. The Respondent's procedures relating to Smith's 2015 Loan valuation were deficient because of the steps that the Respondent took and because of the Respondent's response to the results. To evaluate Smith's 2015 Loan valuation, the Respondent developed its own Loan valuation.

51. Both the valuation of Smith and that of the Respondent depended on Sales Forecasts from MHC. The Respondent's procedures to determine the appropriateness of the Sales Forecasts were inadequate. They consisted of conducting the flawed retrospective review described above and obtaining oral representations from MHC, the organization that had provided the Sales Forecasts.

52. In the Respondent's Loan valuation, the Respondent came to a single estimate of the value of the Loans (the "**Value**") of $47 million. To calculate the Value, the Respondent added what it determined was the "most likely" value of each Loan to $1.5 million in respect of a guarantee from MHC.

53. There were several issues with the Respondent's calculation of the Value. First, the Respondent did not follow the methodology it stated it used to determine the "most likely" value of each Loan. Instead, in determining the "most likely" value of each Loan, the Respondent often arrived at values for the Loans that were greater than what had been recorded as owing on the Loans. The result was an inappropriate increase in the Value of $1.4 million.

54. Additionally, the Respondent should not have included the amount of the guarantee in the Value. The guarantee consisted of a letter dated March 31, 2016, in which MHC stated that it would pay a "recoupable" $1.5 million towards the Fund, for any losses above and beyond the Fund's accrued loan-loss provisions. Aside from its "recoupable" nature, the guarantee was not in effect at the date of the financial statements. The result was a further, inappropriate increase in the Value of $1.5 million.

55. Finally, although the Respondent planned to request an analysis from its valuations group to value the Loans, the Respondent finalized the Value without that analysis. According to the audit documentation, the valuations group's analysis would be, and was, provided in report form. But there were no reports, or any other evidence of the valuations group's steps, in the audit file.

56. The Value was approximately $3 million less than Smith's Loan value. The difference between the Value and Smith's Loan value would have been twice the size—approximately $6 million—had the Respondent not inappropriately increased the Value.

57. Two days before the date of its auditor's report, the Respondent sent Smith an interim, working copy of its Loan valuation. In the covering email, the Respondent wrote: "The numbers may not make sense at the moment but I'm hoping we can clarify a few things/I can let you know our thought process and we can meet somewhere in the middle."

58. The $3 million was ultimately disclosed in a note to the financial statements as a "potential change" in Smith's Loan value, and Smith's Loan value appeared in the body of the financial statements. The Respondent should have taken steps to identify the reason for the difference between the Value and Smith's Loan value and to determine whether the difference was due to fraud or error.

Mortgage Fund

Background to the Fund

59. In the 2014 and 2015 financial statements, the recorded value of the Mortgage Fund was $40 million and $44 million, respectively. The Fund primarily invested in residential mortgages in Canada. In 2014 and 2015, the Fund held over 300 residential mortgages constituting 83% and 63% of its assets, respectively. The Fund also held commercial mortgages and commercial loans. In connection with its investments, the Fund engaged several service providers.

60. Spectrum-Canada Capital (2002) Corporation and Spectrum-Canada Mortgage Services Inc. (collectively, "**Spectrum**") was the principal seller of residential mortgages to the Fund. Like MHC, Spectrum was to evaluate investments in accordance with due diligence guidelines and present them to the Fund for potential purchase. Once the Fund purchased a mortgage from Spectrum, Spectrum managed and serviced it. Among other things, Spectrum held a bank account for mortgage payments and provided reports on which the Fund's records were based. Spectrum's fees were based on the Fund's outstanding advances on the mortgages. The Fund purchased mortgages from Spectrum on an ongoing basis.

61. Other of the Fund's residential mortgages were administered by Squire Management Inc. ("**Squire**"). Like Spectrum, Squire held a bank account into which mortgage payments were deposited and sent Smith weekly reports summarizing all mortgages and payments.

62. Liberty Mortgage Services Ltd. ("**Liberty**") dealt with the Fund's commercial mortgages. Like Spectrum, Liberty sold the Fund mortgages it held that met the Fund's criteria. The Fund recorded the mortgages in its books based on Liberty's weekly reports.

The Respondent Did Not Adequately Address Existence of Mortgages

63. The Respondent did not obtain sufficient appropriate evidence of the existence of the mortgages. In performing its procedures, the Respondent relied on audit evidence from Spectrum, Squire and Liberty (collectively, the "**Service Providers**") and failed to properly test the audit evidence it obtained.

64. In the 2014 Audit, the Respondent did not adequately evaluate Spectrum as a service organization and in neither audit, took other steps required by GAAS when service organizations are involved.

65. The Service Providers were to note information about the Fund's mortgage loans in the records they maintained for the Fund, but the Respondent did not obtain assurance about the controls related to the audit evidence provided by the Service Providers.

66. The Respondent's approach to testing the new mortgages was inadequate at both the sampling and testing stages.

67. To start, in sampling the new residential mortgages to be tested in its 2014 Audit, the Respondent assessed overall risk as "low/normal" because Spectrum administered the mortgages. In making this assessment, the Respondent did not explain why Spectrum's involvement reduced the risk. The lower risk assessment resulted in a smaller sample size and thus less reliable test results.

68. To test the selected mortgages, in each Audit, the Respondent stated that it had compared information in a listing of new mortgages provided by Smith against information in mortgage files. However, the Respondent's documentation of its review of the mortgage files was deficient. The audit files did not provide sufficient evidence that the Respondent performed procedures to confirm key mortgage details such as property location, term and interest rate.

69. Last, in the 2014 audit file, Smith's listing of initial loan amounts differed from the information in Spectrum's confirmation. The Respondent neither identified the discrepancies nor performed procedures to reconcile them.

The Respondent Did Not Adequately Address Valuation of Mortgages and Commercial Loans

70. The Respondent's audits of Smith's valuations of the Fund's mortgages and commercial loans were also inadequate.

Deficient Audit of Smith's Mortgage Valuation

71. The Respondent's mortgage valuation work was deficient with respect to retrospective reviews and obtaining sufficient appropriate audit evidence.

72. In its 2014 Audit, the Respondent did not perform a retrospective review on the accrued loss provision on the mortgages—an essential component in their value. Without this review, the Respondent could not assess whether there was a heightened risk of material misstatement due to fraud or error. On the Fraud Checklist that required this analysis, the Respondent indicated that no retrospective review was required because there were no significant

accounting estimates. Yet in other audit documentation, the Respondent recognized that the accrued loss provision on the mortgages was a significant accounting estimate.

73. In addition, the Respondent did not obtain the evidence required to verify Smith's estimated accrued loss provision in either Audit. To start, the Respondent relied on evidence from the Service Providers, despite not having adequately considered the reliability of this evidence. Further, in the 2014 Audit, to determine which commercial mortgages were in arrears, the Respondent relied solely on Smith. The Respondent did not corroborate the completeness of Smith's listing of mortgages in arrears with independent evidence.

Deficient Audit of Smith's Commercial Loan Valuation

74. The Respondent's audit work on Smith's 2015 commercial loan valuation was also deficient.

75. To audit Smith's 2015 valuation, the Respondent developed its own valuation. The Respondent's valuation did not consider the probability of collecting on the commercial loans held by the Mortgage Fund. For example, one of the commercial loans was a Loan on a media production that the Mortgage Fund had acquired from MHC. The Respondent did not consider Sales Forecasts in valuing that Loan, even though the Respondent had determined in its Media Fund Audits that Sales Forecasts were critical to the Loan valuation.

76. In its working papers, the Respondent indicated that there was a memorandum explaining its methodology for valuing the commercial loans. But there was no such memorandum or other explanation of the Respondent's approach to valuing the commercial loans in the audit file.

77. Because of all the admissions described above, the Respondent's Audits of the Mortgage Fund's 2014 and 2015 financial statements did not comply with GAAS.

(b) Insufficient Professional Skepticism

78. The Respondent did not conduct its Audits with sufficient professional skepticism. In some instances, the Respondent did not take proper account of contradictory audit evidence and other circumstances which should have caused it to treat Smith's representations with greater caution, obtain additional evidence from independent sources and perform additional procedures on that evidence.

(c) Lack of Engagement Quality Control Reviews

79. The Respondent did not complete EQCRs on any of the Audits, even though it had determined that they were required. Although the Respondent indicated in its audit documentation for each of the Audits that one of its partners had acted as EQCR reviewer, that partner could not conduct an EQCR under GAAS because he was a member of the engagement team. Other documentation in each audit file confirmed that no EQCR had been completed.

D. MITIGATING FACTORS

80. Staff do not allege dishonest conduct or intentional misconduct by the Respondent.

81. Since 2015, in addition to its continuous efforts to improve its audit policies and procedures, the Respondent has taken a number of steps to ensure adherence to those policies and procedures to address and prevent re-occurrences of conduct such as that at issue in the Proceeding. Those steps include:

    (a) requiring discussions of audit approaches between the National Assurance Team and audit partners on mortgage investment corporation or investment fund audits;

    (b) enhancing the Respondent's review of file risk ratings on audits of entities that raise capital from accredited investors;

    (c) requiring discussions of planned audit approaches for investment fund audits between the National Assurance Standards Partners and Burlington-based personnel;

    (d) mandating a consultation with valuation experts where significant accounting estimates have been identified, including on whether to involve a valuation expert in the audit;

    (e) introducing national training on the audit work required in identifying and relying upon the work of service organizations;

    (f) mandating consultations by audit engagement teams with the Respondent's technical leaders in certain situations involving service organizations; and

(g) mandating financial statement reviews by independent technical leaders on all moderate and high-risk audit/review engagements and certain low risk engagements involving transactions that are potentially higher risk.

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

82. The Respondent acknowledges and admits that:

(a) each of the Respondent's statements in its auditor's reports that the relevant Audit had been conducted in accordance with GAAS was contrary to subsection 122(1)(b) of the Act;

(b) each of the Respondent's failures to comply with GAAS in auditing the Funds' 2014 and 2015 financial statements constituted a breach of subsection 78(3) of the Act; and

(c) as set out in sub-paragraphs (a) and (b), the Respondent engaged in conduct contrary to the public interest.

PART V - TERMS OF SETTLEMENT

83. The Respondent agrees to the terms of settlement set forth below.

84. The Respondent consents to the Order, pursuant to which it is ordered that:

(a) this Agreement be approved;

(b) the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

(c) the Respondent pay an administrative penalty in the amount of $3,500,000, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act;

(d) the Respondent pay costs in the amount of $500,000, pursuant to section 127.1 of the Act; and

(e) the amounts set out in sub-paragraphs (c) and (d) be paid by wire transfer prior to the issuance of the Order.

85. Upon court approval of the settlement between BDO and the Receiver, Staff will recommend to the Commission that $2,500,000 of the $3,500,000 specified in paragraph 84(c) be allocated or used for the benefit of unitholders of the Crystal Wealth Funds in accordance with subsection 3.4(2)(b)(i) of the Act. Such amounts are to go to the unitholders, without any deduction for legal fees or expenses, including any expenses related to the distribution of the amounts.

PART VI - FURTHER PROCEEDINGS

86. If the Commission approves this Agreement, Staff will not commence or continue any proceeding against the Respondent under Ontario securities law based on the misconduct described in Part III of this Agreement, unless the Respondent fails to comply with any term in this Agreement (any such failure, a "**Breach**"). If a Breach occurs, Staff may bring proceedings under Ontario securities law against the Respondent that may be based on, among other things, the facts set out in Part III of this Agreement as well as the Breach.

87. The Respondent waives any defences to a proceeding referenced in paragraph 86 that are based on the limitation period in the Act, provided that no such proceeding shall be commenced later than six years from the date of the occurrence of the last Breach.

PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT

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

89. The Respondent's National Risk Management Partner, on behalf of the Respondent, will attend the Settlement Hearing in person.

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

91. If the Commission approves this Agreement:

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

(b) neither party will make any public statement that is inconsistent with this Agreement or with any additional agreed facts submitted at the Settlement Hearing.

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

PART VIII - DISCLOSURE OF AGREEMENT

93. If the Commission does not make the Order:

(a) this Agreement and all discussions and negotiations between Staff and the Respondent before the Settlement Hearing will be without prejudice to Staff and the Respondent; and

(b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations contained in the Amended Statement of Allegations in respect of the Proceeding. Any such proceedings, remedies and challenges will not be affected by this Agreement, or by any discussions or negotiations relating to this Agreement.

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

PART IX - EXECUTION OF AGREEMENT

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

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

DATED at Toronto, Ontario, as of the 20th day of January, 2020.
BDO CANADA LLP

"David Simkins"
Chief Operating Officer
I have the authority to bind the partnership.

DATED at Toronto, Ontario, as of the 20th day of January, 2020.
ONTARIO SECURITIES COMMISSION

"Jeff Kehoe"
Director, Enforcement Branch

SCHEDULE A

FORM OF ORDER

IN THE MATTER OF
BDO CANADA LLP

FILE NO.: 2018-59

[Name(s) of Commissioner(s) comprising the Panel]

[Day and date order made]

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

WHEREAS on **[date]**, the Ontario Securities Commission (the **Commission**) held a hearing at the offices of the Commission, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider the Joint Request for a Settlement Hearing filed by BDO Canada LLP (**the Respondent**) and Staff of the Commission for approval of a settlement agreement dated as of **[date]** (the **Agreement**);

ON READING the Amended Statement of Allegations dated September 16, 2019 and the Agreement and on hearing the submissions of the representatives for the parties, including that the Commission has received $4.0 million in respect of the amounts ordered in paragraphs 2 and 3 below;

IT IS ORDERED THAT:

1. the Agreement is approved;

2. the Respondent be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);

3. the Respondent pay an administrative penalty in the amount of $3,500,000, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b) of the Act; and

4. the Respondent pay costs in the amount of $500,000, pursuant to section 127.1 of the Act.

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[*Name of Panel Chair*]

•

[*Name of Commissioner*]

•

[*Name of Commissioner*]

Chapter 3

Reasons: Decisions, Orders and Rulings

3.2 Director's Decisions

3.2.1 Merit Valor Capital Asset Management Corporation – s. 31

IN THE MATTER OF
STAFF'S RECOMMENDATION TO SUSPEND THE REGISTRATION OF
MERIT VALOR CAPITAL ASSET MANAGEMENT CORPORATION

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

Decision

1. For the reasons outlined below, my decision is to suspend the registration of Merit Valor Capital Asset Management Corporation (**MV** or the **Registrant**) as a dealer in the category of exempt market dealer (**EMD**), effective immediately.

Background

2. By letter dated November 26, 2019, staff (**Staff**) of the Ontario Securities Commission (**OSC**) advised Richard Samuels, Ultimate Designated Person (**UDP**) of the Registrant that Staff has recommended to the Director that the firm's registration be suspended indefinitely for failure to comply with the requirements in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) to deliver audited annual financial statements and the calculation of excess working capital forms.

3. MV obtained its registration as an EMD in September of 2015. Since that time MV has been consistently late in complying with and is currently in breach of s. 12.12 of NI 31-103. For fiscal years ending 2016 and 2017, MV was late in filing its audited financial statements and Form 31-103F1 *Calculation of Excess Working Capital* (**Form 31-103F1**). As of the date of this decision, MV has failed to file its audited financial statements and Form 31-103F1 for fiscal years ending 2018 and 2019.

4. Staff has made repeated requests to MV to establish a date for when the missing audited financial statements and Form 31-103F1 will be filed to bring the firm in compliance with its regulatory obligations. MV provided a date for when the 2018 financial information would be filed and missed that date. MV provided another date and missed that date as well. It now stands that the 2018 annual audited financial statements are more than a year overdue. Through submissions, MV has requested another 90 days to submit the audited annual financial statements and Form 31-103F1 for fiscal years ending 2018 and 2019.

Law and Reasons

5. Section 28 of the *Securities Act* (Ontario) (the **Act**) provides that the Director may revoke or suspend the registration of a person or company if it appears to the Director that the person or company is not suitable for registration under the Act, or that the registration is otherwise objectionable. Subsection 27(2) of the Act enumerates the factors that the Director shall consider in determining whether a company is suitable for registration which includes proficiency, solvency and integrity.

6. Section 31 of the Act provides that before the Director makes a determination, registrants are entitled to an opportunity to be heard (**OTBH**). This OTBH was conducted in writing and written submissions were submitted by Joyce Taylor, Legal Counsel, OSC and Richard Samuels, UDP for MV.

7. Staff submits that "the filing of annual audited financial statements and the Form 31-103F1 Calculation of Excess Working Capital by registrants is a serious regulatory obligation placed on all registrants. These filings are the principal tool used by Staff to monitor a registrant's financial viability and capital position."[1]

[1] Written Submissions on behalf of Staff of the Ontario Securities Commission (December 23, 2019), para 18.

8. Since MV has failed to comply with its regulatory obligations, Staff is not able to assess whether the Registrant meets its solvency requirements. Solvency is one of the factors for determining whether a person or company is suitable for registration. Therefore, without solvency the registrant is not suitable for registration.

9. Also, Staff submits that MV has brought its integrity into question by failing to follow through on commitments made to Staff and has brought its proficiency into question by failing to comply with its regulatory obligations.

10. MV submits that it is has been a small firm (1 individual in 2017 and most of 2018) for a few years, that it was developing a custom software application and that the firm was not actively dealing or underwriting any third-party exempt securities.[2]

11. MV further submits that due to its small size it was not able to get the appropriate response from its accountant or find a new accountant to complete the annual audited financial statements by the annual filing deadlines.

12. In support of its position to seek more time to file its annual audited financial statements and Form 31-103F1, MV provided a number of Director's Decisions as precedent[3]. I did not find any of the cases to be persuasive. The registrants in those OTBHs had eventually submitted their annual audited financial statements and Form 31-103F1 which brought them back in compliance with their regulatory obligations. In MV's case, two years of audited financial statements and Form 31-103F1s have not yet been submitted. Also, the question before the Director in those decisions was whether terms and conditions should be applied to the firms after they had submitted the required financial statements and forms. The question here is whether to suspend the registration of MV for failing to comply with its regulatory obligations.

13. However, in *Access Capital Corporation Re* (2011), 34 OSCB 8433, the rationale for not imposing terms and conditions was that the death of a parent was a contributing factor for why the annual financial statements were filed late. The Director determined that this was an extremely rare circumstance and decided not to impose terms and conditions.

14. I agree with Staff that the requirement to file annual audited financial statements and the Form 31-103F1 is a serious regulatory obligation and failing to comply with the requirements of s. 12.12 of NI 31-103 is a breach of Ontario securities law.

15. Staff was more than reasonable in attempting to work with MV to remedy its non-compliance, but time after time MV failed to follow through on its commitments. It is not clear to me whether MV intentionally disregarded Staff by failing to meet its commitments or if it was inadvertent. Therefore, I cannot determine if MV lacks integrity.

16. Also, I am not persuaded that MV's rationale for failing to file the annual audited financial statements and Form 31-103F1 rises to the level of an extremely rare circumstance that would warrant additional time to meet its regulatory obligations.

17. Registration is a privilege, not a right, and registrants of all sizes and stages of operations are able to meet their regulatory requirements in a timely manner.

18. My decision is that MV is not currently suitable for registration because it has breached Ontario securities laws by failing to comply with s. 12.12 of NI 31-103 and that the ongoing registration of MV is objectionable. I accept Staff's recommendation to suspend MV's registration as an EMD, effective immediately.

19. Staff had recommended an indefinite suspension for MV based in part on the submission that MV had called its integrity and proficiency into question. Since I was not able to determine if MV lacks integrity, I am unable to determine if the suspension should be indefinite. Therefore, if MV decides to re-apply for registration, then MV must be responsive to Staff's requests, demonstrate how it has remedied its non-compliance and have the 2018 and 2019 audited financial statements and Form 31-103F1 available for Staff's review. Further, MV should expect that terms and conditions to monitor the financial situation of the firm will be recommended.

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

January 27, 2020

[2] Written Submissions on behalf of Merit Valor Capital Asset Management Corporation (January 9, 2020).
[3] *Access Capital Corp, Re* (2011), 34 OSCB 8433; *AIG Global Investment Corp (Canada), Re* (2008), 31 OSCB 4639; *CR Advisors Corp, Re* (2008), 31 OSCB 6269; *Enterprise Capital Management Inc, Re* (2005), 28 OSCB 9269; *Goldman Sachs Asset Management LP, Re* (2006), 29 OSCB 4349.

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
Avalon Works Corp.	06 January 2020	24 January 2020
Biosenta Inc.	01 February 2019	24 January 2020
PepCap Resources, Inc.	01 February 2019	22 January 2020

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
CannTrust Holdings Inc.	15 August 2019	

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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:
Frontenac Mortgage Investment Corporation
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated to Final Long Form Prospectus January 21, 2020
Received on January 21, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2815141

Issuer Name:
Horizons Emerging Marijuana Growers Index ETF
Principal Regulator - Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated January 24, 2020
Received on January 24, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2862363

Issuer Name:
Frontenac Mortgage Investment Corporation
Principal Regulator - Ontario
Type and Date:
Amendment #2 to Final Long Form Prospectus dated January 21, 2020
NP 11-202 Receipt dated January 23, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2815141

Issuer Name:
CI Lawrence Park Alternative Investment Grade Credit ETF
CI Marret Alternative Absolute Return Bond ETF
CI Munro Alternative Global Growth ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Jan 20, 2020
NP 11-202 Final Receipt dated Jan 21, 2020
Offering Price and Description:
US$ Common Units and Common Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2991185

Issuer Name:
Wealthsimple Developed Markets ex North America Socially Responsible Index ETF
Wealthsimple North America Socially Responsible Index ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Jan 23, 2020
NP 11-202 Preliminary Receipt dated Jan 23, 2020
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3009720

Issuer Name:
Venator Alternative Income Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Jan 23, 2020
NP 11-202 Final Receipt dated Jan 24, 2020
Offering Price and Description:
Class F Units, Class I Units, Class A Units and Class D Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2997637

Issuer Name:
Counsel Global Small Cap
Principal Regulator - Ontario
Type and Date:
Amendment to Final Simplified Prospectus dated January 24, 2020
NP 11-202 Final Receipt dated Jan 27, 2020
Offering Price and Description:
Series A securities, Series F securities, Series I securities
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2965013

Issuer Name:
PIMCO Global Short Maturity Fund (Canada)
Principal Regulator - Ontario
Type and Date:
Amendment to Final Simplified Prospectus dated January 20, 2020
NP 11-202 Final Receipt dated Jan 24, 2020
Offering Price and Description:
Series A (US$) units, Series A units, ETF Series units, Series F (US$) units, Series F units and Series I units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2936923

Issuer Name:
1832 AM U.S. $ Investment Grade U.S. Corporate Bond Pool
Scotia Private High Yield Income Pool
Scotia U.S. $ Bond Fund
Scotia Private U.S. Dividend Pool
Scotia Private U.S. Large Cap Growth Pool
Scotia Private International Core Equity Pool
Scotia Private Global Infrastructure Pool
Scotia Private World Infrastructure Pool
Scotia Private Options Income Pool
Scotia Selected Income Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment to Final Simplified Prospectus dated January 15, 2020
NP 11-202 Final Receipt dated Jan 22, 2020
Offering Price and Description:
Pinnacle Series units, Series A units, Series F units, Series I units, Series K units, Series M units, Series T units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2972505

Issuer Name:
Horizons NASDAQ-100® Index ETF
Principal Regulator - Ontario
Type and Date:
Amendment to Final Long Form Prospectus dated January 10, 2020
NP 11-202 Final Receipt dated Jan 22, 2020
Offering Price and Description:
ETF Shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2975190

Issuer Name:
Lazard Global Compounders Fund
Principal Regulator - Ontario
Type and Date:
Amendment to Final Simplified Prospectus dated January 15, 2020
NP 11-202 Final Receipt dated Jan 21, 2020
Offering Price and Description:
Series A securities, Series AH securities, Series F securities and Series FH securities
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2914040

NON-INVESTMENT FUNDS

Issuer Name:
Bank of Nova Scotia, The
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated January 20, 2020
NP 11-202 Preliminary Receipt dated January 21, 2020
Offering Price and Description:
$6,000,000,000.00 - Senior Notes (Principal at Risk Notes)
Underwriter(s) or Distributor(s):
SCOTIA CAPITAL INC.
DESJARDINS SECURITIES INC.
INDUSTRIAL ALLIANCE SECURITIES INC.
LAURENTIAN BANK SECURITIES INC.
MANULIFE SECURITIES INCORPORATED
Promoter(s):
-
Project #3008755

Issuer Name:
Radient Technologies Inc.
Principal Regulator - Alberta
Type and Date:
Amendment dated January 21, 2020 to Final Shelf Prospectus dated January 15, 2020
Receipt dated 21, 2020
Offering Price and Description:
$75,000,000.00 - Common Shares, Debt Securities, Convertible Securities, Warrants, Subscription Receipts, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2999730

Issuer Name:
Recipe Unlimited Corporation (formerly Cara Operations Limited)
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated January 22, 2020
NP 11-202 Preliminary Receipt dated January 22, 2020
Offering Price and Description:
$1,500,000,000.00 - Subordinate Voting Shares, Preference Shares, Subscription Receipts, Debt Securities, Warrants, Share Purchase Contracts, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3009286

Issuer Name:
SmartCentres Real Estate Investment Trust (formerly, Smart Real Estate Investment Trust)
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated January 27, 2020
Preliminary Receipt dated January 28, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3010708

Issuer Name:
Trillium Acquisition Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated January 16, 2020
NP 11-202 Preliminary Receipt dated January 21, 2020
Offering Price and Description:
Minimum of 2,000,000 common shares and up to a Maximum of 40,000,000 common shares
PRICE: $0.10 PER COMMON SHARE - Minimum of $200,000.00 and up to a Maximum of $4,000,000.00
Underwriter(s) or Distributor(s):
ECHELON WEALTH PARTNERS INC.
Promoter(s):
-
Project #3008329

Issuer Name:
XTM Inc.
Principal Regulator - Ontario
Type and Date:
Amendment dated January 20, 2020 to Preliminary Long Form Prospectus dated October 22, 2019
NP 11-202 Preliminary Receipt dated January 21, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2977455

Issuer Name:
Frontenac Mortgage Investment Corporation
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated January 21, 2020 to Final Long Form Prospectus dated January 21, 2019
NP 11-202 Receipt dated January 23, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2815141

Issuer Name:
Moon River Capital Ltd
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated January 21, 2020
NP 11-202 Receipt dated January 23, 2020
Offering Price and Description:
$260,000.00 - 2,600,000 Common Shares
PRICE: $0.10 per Common Share
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
Promoter(s):
Jamie Levy
Kerry Knoll
Ian McDonald
Project #2990441

Issuer Name:
Orezone Gold Corporation
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated January 22, 2020
NP 11-202 Receipt dated January 22, 2020
Offering Price and Description:
C$20,034,000.00
37,100,000 Units
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
PI FINANCIAL CORP.
CIBC WORLD MARKETS INC.
RAYMOND JAMES LTD.
CORMARK SECURITIES INC.
PARADIGM CAPITAL INC.
Promoter(s):
-
Project #3006196

Issuer Name:
Osino Resources Corp. (formerly Romulus Resources Ltd.)
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated January 23, 2020
NP 11-202 Receipt dated January 24, 2020
Offering Price and Description:
Offering: $12,500,280.00 - 16,026,000 Units $0.78 per Unit
Underwriter(s) or Distributor(s):
CORMARK SECURITIES INC.
M PARTNERS INC.
CANACCORD GENUITY CORP.
BEACON SECURITIES LIMITED
HAYWOOD SECURITIES INC.
Promoter(s):
Heye Daun
Alan Friedman
Project #3007020

Issuer Name:
Radient Technologies Inc.
Principal Regulator - Alberta
Type and Date:
Amendment dated January 21, 2020 to Final Shelf Prospectus dated January 15, 2020
NP 11-202 Receipt dated January 21, 2020
Offering Price and Description:
$75,000,000.00 - Common Shares, Debt Securities, Convertible Securities, Warrants, Subscription Receipts, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2999730

Issuer Name:
SHAW COMMUNICATIONS INC.
Principal Regulator - Alberta (ASC)
Type and Date:
Final Shelf Prospectus dated January 22, 2020
NP 11-202 Receipt dated January 22, 2020
Offering Price and Description:
$3 Billion
Debt Securities
Class B Non-Voting Participating Shares
Class 1 Preferred Shares
Class 2 Preferred Shares
Warrants
Subscription Receipts
Share Purchase Contracts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3007800

Issuer Name:
True North Commercial Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated January 23, 2020
NP 11-202 Receipt dated January 23, 2020
Offering Price and Description:
$500,000,000.00 - Trust Units, Preferred Trust Units, Debt Securities, Subscription Receipts, Warrants, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3006653

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Shariaportfolio Canada, Inc.	Portfolio Manager and Exempt Market Dealer	January 20, 2020
Change in Registration Category	Rally Assets Inc.	From: Portfolio Manager To: Exempt Market Dealer, Portfolio Manager	January 21, 2020
Change in Registration Category	Canaccord Genuity Corp.	From: Investment Dealer To: Investment Dealer and Futures Commission Merchant	January 21, 2020
Change in Registration Category	Oberon Capital Corporation	From: Restricted Portfolio Manager, Investment Fund Manager and Exempt Market Dealer To: Portfolio Manager, Investment Fund Manager and Exempt Market Dealer	January 22, 2020
New Registration	Peer Securities Corporation	Exempt Market Dealer	January 23, 2020

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.1 SROs

13.1.1 Mutual Fund Dealers Association of Canada (MFDA) – Proposed Amendments to MFDA Rule 1.1.2 (Compliance by Approved Persons) – Request for Comment

REQUEST FOR COMMENT

MUTUAL FUND DEALERS ASSOCIATION OF CANADA (MFDA)

PROPOSED AMENDMENTS TO MFDA RULE 1.1.2 (COMPLIANCE BY APPROVED PERSONS)

The MFDA is publishing for public comment proposed amendments (Proposed Amendments) to MFDA Rule 1.1.2 which currently requires Approved Persons to comply with MFDA by-laws and rules. The primary objective of the Proposed Amendments is to expressly require compliance with applicable securities legislation relating to the operations, standards of practice and business conduct of MFDA Members and Approved Persons.

A copy of the MFDA Notice, including the text of the Proposed Amendments, is published on our website at www.osc.gov.on.ca. The comment period ends on April 29, 2020.

13.1.2 Mutual Fund Dealers Association of Canada (MFDA) – Amendments to MFDA By-Law No. 1 Sections 3.3 (Election and Term), 3.6.1 (Governance Committee) and 4.7 (Quorum) – Notice of Commission Approval

NOTICE OF COMMISSION APPROVAL

MUTUAL FUND DEALERS ASSOCIATION OF CANADA (MFDA)

AMENDMENTS TO MFDA BY-LAW NO. 1 SECTIONS 3.3 (ELECTION AND TERM), 3.6.1 (GOVERNANCE COMMITTEE) AND 4.7 (QUORUM)

The Ontario Securities Commission has approved the proposed amendments (Amendments) to section 3.3 (Election and Term), 3.6.1 (Governance Committee) and 4.7 (Quorum) of MFDA By-law No. 1. The Amendments increase the term limits for industry and public directors, provide that a majority of public directors be present at board meetings and governance committee meetings, and require that the governance committee consist of a majority of public directors.

The Amendments were published for public comment on March 14, 2019. Eleven public comment letters were received. A summary of the public comments and the MFDA's responses can be found at www.osc.gov.on.ca. The Amendments will be effective on a date to be subsequently determined by the MFDA.

In addition, the British Columbia Securities Commission; the Alberta Securities Commission; the Financial and Consumer Affairs Authority of Saskatchewan; the Financial and Consumer Services Commission of New Brunswick; the Manitoba Securities Commission; the Nova Scotia Securities Commission; the Office of the Superintendent of Securities, Service Newfoundland and Labrador; and the Prince Edward Island Office of the Superintendent of Securities Office have either not objected to or have approved the Amendments.

13.2 Marketplaces

13.2.1 Instinet Canada Cross Ltd. – Change to Instinet Canada Cross Trading System – Notice of Proposed Change and Request for Comment

INSTINET CANADA CROSS LTD.

NOTICE OF PROPOSED CHANGE AND REQUEST FOR COMMENT

CHANGE TO INSTINET CANADA CROSS TRADING SYSTEM

Instinet Canada Cross (**ICX**) has announced plans to implement the change described below subject to approval by the Ontario Securities Commission (the **OSC**). ICX is publishing this Notice of Proposed Change and Request for Comment in accordance with the "Process for the Review and Approval of Rules and the Information Contained in Form 21-101F2 and the Exhibits Thereto". Market participants are invited to provide the OSC with comments on the proposed change.

Feedback on the proposed change should be in writing and submitted by February 2, 2020 to:

Market Regulation Branch
Ontario Securities Commission
22nd Floor
20 Queen Street West
Toronto, Ontario M5H 3S8
Fax: (416) 595-8940
e-mail: marketregulation@osc.gov.on.ca

And to:

Torstein Braaten
Chief Operating Officer and Chief Compliance Officer
Instinet Canada Cross Ltd.
100 Wellington Street West, Suite 2202
Toronto, Ontario M5K 1H1
e-mail: torstein.braaten@instinet.com

Feedback received will be made public on the OSC website. Upon completion of the review by OSC staff, and in the absence of any regulatory concerns, notice will be published to confirm the completion of OSC staff's review and to specify the intended implementation date of the change.

If you have any questions concerning the information below, please contact Torstein Braaten, Chief Operating Officer of ICX, at (416) 304-6367.

Conditional Orders

A. Detailed description of the proposed change to the ICX trading system

Overview

ICX proposes to create a conditional order book (the **ICX Conditional Order Book**) separate from the order book for the current ICX liquidity pool (the **ICX Order Book**). In connection with the ICX Conditional Order Book, ICX proposes to allow ICX subscribers (**Subscribers**) to submit to the ICX Conditional Order Book non-executable electronic messages representing a notification of potential trading interest (**Conditional Orders**). Subscribers with Conditional Orders in the ICX Conditional Order Book will be invited by ICX to "firm-up" their trading interest when contra-side Conditional Orders in the ICX Conditional Order Book are available. Subscribers may then choose to transmit an executable order to the ICX Order Book for potential matching and execution, which is commonly known as a "firm-up". The Conditional Orders that generate firm-up requests to trade will be cancelled on the ICX Conditional Order Book. Subscribers can re-enter a new Conditional Order after they receive the invitation. These processes, and an associated compliance mechanism designed to limit potential information leakage, are described in further detail below.

ICX will continue to operate through two main components (1) a "FIX" (or Financial Information exchange) electronic gateway system that allows Subscribers to enter, revise, and cancel orders and Conditional Orders; and (2) a proprietary matching engine.

The ICX Conditional Order Book will be made available through the creation of a new Conditional Order engine for Canadian symbols currently trading on ICX and with Conditional Orders expressed in Canadian dollars to facilitate the resulting firm-up process for Conditional Orders.

Subscribers may submit Conditional Orders to, and manage Conditional Orders on, the ICX Conditional Order Book in the same manner they may submit and manage orders transmitted to the ICX Order Book, by transmitting electronic messages which comply with the FIX protocol. The proposed ICX Conditional Order Book will be distinct from the ICX Order Book. The ICX Conditional Order Book and the ICX Order Book will not share any information or order interest between them. A diagram of order flows is set out in the attached Appendix.

Order Interaction, Matching, and Execution:

Subscribers submitting Conditional Orders to the ICX Conditional Order Book may select any available pricing instructions (e.g. market, limit), set an ultimate limit price, and/or utilize a "minimum quantity" instruction that will prevent their Conditional Order from triggering firm-up messages in relation to contra-side Conditional Orders below the specified minimum quantity. All Conditional Orders on the ICX Conditional Order Book will expire at the end of the trading day (i.e. 4 PM EST).

Conditional Orders will remain in the ICX Conditional Order Book until (a) the sending Subscriber is invited to firm-up the Conditional Order or (b) the Conditional Order is cancelled by the sending Subscriber or ICX.

ICX will match Conditional Orders where contra-side interest is eligible to match within the Canadian Best Bid and Offer (**CBBO**) by price, broker and time priority. Unmarketable Conditional Orders or those not in accordance with any Subscriber-selected minimum quantity requirements are not eligible to generate a firm-up message.

In the event the ICX Conditional Order Book identifies potential contra-side interest, Subscriber(s) with Conditional Order(s) will receive notification of the potential trading opportunity, or an invitation to firm-up. The notification received will identify the symbol and side of the trading opportunity but will not display the size of the order, the price or the identity of the potential counterparty.

Upon receiving the notification, a Subscriber may accept or reject the notification. If a Subscriber rejects the notification, no trade occurs. In the event a Subscriber elects to accept the notification, the Subscriber submits an order to the ICX Order Book providing information that references the Subscriber's original Conditional Order. Subscribers may also specify a time in force for their firm order.

Once a firm order is routed to ICX Order Book, the order is eligible for matching and execution in accordance with existing ICX matching and execution logic. All executions on ICX are done at the CBBO mid-point. In the event contra-side interest is no longer available, no execution will occur.

Orders submitted to ICX are prioritized for execution based upon strict time priority. No two orders can enter the ICX Order Book at precisely the same time, so time priority is determined by the actual time an order is received by the ICX Order Book. All orders retain the original time-stamp received upon entry to the ATS. Unmarketable orders or those orders not in accordance with minimum quantity requirements are not eligible to execute.

Order Sizes

ICX does not enforce a minimum order quantity. Subscribers may utilize a minimum quantity instruction on their Conditional Orders that will prevent ICX from sending firm-up messages in relation to contra-side Conditional Orders below the Subscriber specified minimum quantity.

If in the future, based on Subscriber activity and preference, ICX determines that it will implement a system-wide minimum quantity for Conditional Orders, ICX will file an additional amendment to our Form 21-101F2 at such future time.

Compliance Mechanism

As part of this proposed change, ICX will adopt a compliance mechanism which will be operating on launch and is intended to limit information leakage. ICX will monitor Conditional Orders transmitted and related firm-up rates for each Subscriber in order to limit a Subscriber's ability to receive information about potential trading interest within the ICX Conditional Order Book without transmitting related firm orders to ICX.

To limit the potential for information leakage, ICX personnel will evaluate, on an ongoing basis for each trading day, the firm-up rate for each Subscriber and their users. In the event that a Subscriber's individual user ID or connection firm-up rate drops below 50% for the relevant trade date, provided that no less than 10 conditional orders have been sent, ICX will manually suspend such a Subscriber's ability to send new Conditional Orders for the duration of that trading day. At the time such restriction is implemented, ICX personnel will attempt to contact or notify the relevant Subscriber on a best efforts basis. At the start of each trading day, the restriction will be lifted.

On a periodic basis (e.g. monthly), ICX personnel will review each Subscriber's firm-up rate and group Subscribers into quartiles based upon their firm-up rates over the relevant time period. Subscribers that are grouped into the lowest quartile based upon their firm-up rate in three consecutive periods will be further reviewed for their fall down rates. ICX personnel will inquire as to the reason for the relatively high fall-down rates and use this information to determine whether additional action is necessary. ICX will temporarily prohibit a Subscriber user ID from submitting additional Conditional Orders when that Subscriber user ID or connection is associated with less than 50% firm-up rates over the three periods. The compliance system is predicated on the premise that Subscribers can use multiple venues for their conditional orders and ICX may experience lower than anticipated firm-up rates depending on how the Subscribers integrate the various competing venue offerings and options. The bottom quartile is being used to identify a population of Subscribers that consistently demonstrates low firm-ups rates that may decrease the quality and experience by other Subscribers that have consistently higher firm-up rates.

ICX believes this compliance mechanism will encourage higher firm-up rates and more liquidity and is reasonably designed to allow for compliance with Ontario securities law, as explained in Section E below.

Fees

Current ICX fees will apply to trades resulting from a Conditional Order. If, in the future, one or more new fees are determined to be appropriate with respect to trades that result from a Conditional Order, ICX will file a fee change amendment to our Form 21-101F2 at such future time.

B. Expected Implementation Date

The Proposed Change is expected to be implemented 90 days after approval by OSC Staff.

C. Rationale for the proposed change

The proposed change will allow ICX to add liquidity and value by improving its current order offerings. Conditional orders similar to the proposed Conditional Orders are already in use on marketplaces in Canada, including MatchNow, Liquidnet Canada and in the United States and Europe.

D. Expected impact of the proposed change on Market Structure, Subscribers, Investors and the capital markets

The proposals described in this letter are not expected to have any impact on market structure, subscribers, investors and capital markets. The proposed Conditional Order type is substantially similar to other conditional order types currently offered by other Canadian marketplaces such as MatchNow. ICX expects to continue to operate as a non-displayed dark market. Conditional Orders will be handled as described above and will not be displayed.

E. Expected impact of the proposed change on ICX's compliance with Ontario securities law and the requirements of fair access and the maintenance of a fair and orderly market

We foresee no negative impact with respect to compliance with Ontario securities law and the requirements for fair access.

In particular, the proposed Conditional Order type would be optional and would be made available on an equal basis to all ICX subscribers, in accordance with the "fair access" requirements set out in section 5.1 of National Instrument 21-101 – *Marketplace Operation*.

ICX will take reasonable steps to monitor order entry and trading activity through the proposed Conditional Order type for compliance with ICX's operational policies and procedures, as well as to encourage compliance with securities laws and the rules of ICX's regulatory services provider (IIROC), just as it does for all order types, in accordance with the "fair and orderly markets" requirements set out in section 5.7 of NI 21-101 and subsections 7.6(2) and (3) of 21-101CP.

F. Consultations

ICX discussed the proposed change with several Subscribers and received supportive responses. The Proposed Change was approved by the management of ICX.

G. Systems modifications required by subscribers or service vendors

The proposed change will require some work by existing Subscribers to modify their own systems, but only insofar as they wish to utilize Conditional Orders, because this is optional functionality.

ICX could not make a reasonable estimate of the time needed for Subscribers to modify their own systems as a result of the proposed change, as this will depend on the specific circumstances of each Subscriber.

H. Does the proposed change introduce a feature that currently exists in other markets or jurisdictions?

The proposed change is not novel. The Conditional Order is similar to other conditional orders offered by other Canadian, U.S. and European marketplaces, including MATCHNow and LiquidNet Canada.

Appendix – Conditional Orders: Examples and Diagrams

Instinet Canada Cross Ltd (ICX) Conditional Order examples

CBBO for ABC is bid 10.00 offer 10.02 with mid being 10.01 — ICX Order Book only executes at the mid-point of CBBO when markets are not locked or crossed.

Example 1 most simple conditional match

Step 1 Orders
10:00 AM Subscriber A sends Conditional Buy 10,000 ABC Mkt
10:05 AM Subscriber B sends Conditional Sell 30,000 ABC Mkt

Step 2 Firm-up request
At 10:05:00 AM ICX Conditional Order Book sees opportunity for a match.
10:05:00 AM firm-up request sent to Subscriber A and B and both Conditional Orders for Subscriber A and B are cancelled in the Conditional Order book.

Step 3 Both Subscribers respond to manual OMS pop-up
10:05:02 AM Subscriber A sends Buy 10,000 ABC Mkt to ICX Order Book referencing the Conditional order
10:05:08 AM Subscriber B sends Sell 30,000 ABC Mkt to ICX Order Book referencing the Conditional order

Step 4 Matching process in ICX Order Book
10:05:08 AM Trade of 10,000 ABC at mid-point 10.01
10:05:08 AM Subscriber A receives buy fill of 10,000 at 10.01
10:05:08 AM Subscriber B receives sell fill of 10,000 at 10.01

Step 5 Unfilled Orders
Subscriber B still has 20,000 shares unfilled open in the ICX Order Book. Subscriber B can decide to cancel the unfilled portion of their order and send new Conditional order for 20,000 to sell at Mkt back to the Conditional Order book

Example 2 conditional match with interference in ICX Order Book

Step 1 Orders
9:45 AM Subscriber C sends to ICX Order book Sell 500 at 10.00 ABC
10:00 AM Subscriber A sends Conditional Buy 10,000 ABC Mkt
10:05 AM Subscriber B sends Conditional Sell 30,000 ABC Mkt

Step 2 Firm-up request
At 10:05:00 AM ICX Conditional Order Book sees opportunity for a match
10:05:00 Am firm-up request sent to Subscriber A and B and both Conditional Orders for Subscriber A and B are cancelled

Step 3 Subscriber A respond to manual OMS pop-up
10:05:02 AM Subscriber A sends Buy 10,000 ABC Mkt to ICX Order Book

Step 4 Matching process in ICX Order Book — interference with other orders
10:05:02 AM CBX trades 500 ABC at mid-point 10.01
10:05:08 AM Subscriber A receives buy fill of 500 at 10.01, Buy for 9,500 rests in ICX Order book

Step 5 Subscriber B responds to manual OMS pop-up
10:05:08 AM Subscriber B sends Sell 30,000 ABC Mkt to ICX Order Book

Step 6 Matching process in ICX Order Book
10:05:08 AM CBX trades 9,500 ABC at mid-point 10.01
10:05:08 AM Subscriber A receives buy fill of 9,500 at 10.01
10:05:08 AM Subscriber B receives sell fill of 9,500 at 10.01

Example 3 conditional match with Time-in-Force in ICX Order Book (failed match)

Step 1 Orders
10:00 AM Subscriber A Algo sends Conditional Buy 10,000 ABC Mkt
10:05 AM Subscriber B sends Conditional Sell 30,000 ABC Mkt

Step 2 Firm-up request
At 10:05:00 AM ICX Conditional Order Book sees opportunity for a match
10:05:00 AM firm-up requests sent to Subscriber A and B and both Conditional Orders are cancelled

Step 3 Subscriber A Algo responds immediately to firm up request
10:05:00 AM Subscriber A sends Buy 10,000 ABC Mkt to ICX Order book with Time-in-Force of 10 seconds

Step 4 Time-in-Force expires
Subscriber A firm order expired at 10:05:10 AM before Subscriber B sent in a firm order to ICX Order book

Step 5 Subscriber B responds to manual OMS pop-up
10:05:15 AM Subscriber B sends Sell 30,000 ABC Mkt to ICX Order book

Step 6 No match in ICX Order book
Note both Subscribers responded to the firm-up request so both get credit for firming up even if there was no trade executed

Example 4 conditional match with "fall-down" (failed match)

Step 1 Orders
10:00 AM Subscriber A Algo sends Conditional Buy 10,000 ABC Mkt
10:05 AM Subscriber B sends Conditional Sell 30,000 ABC Mkt

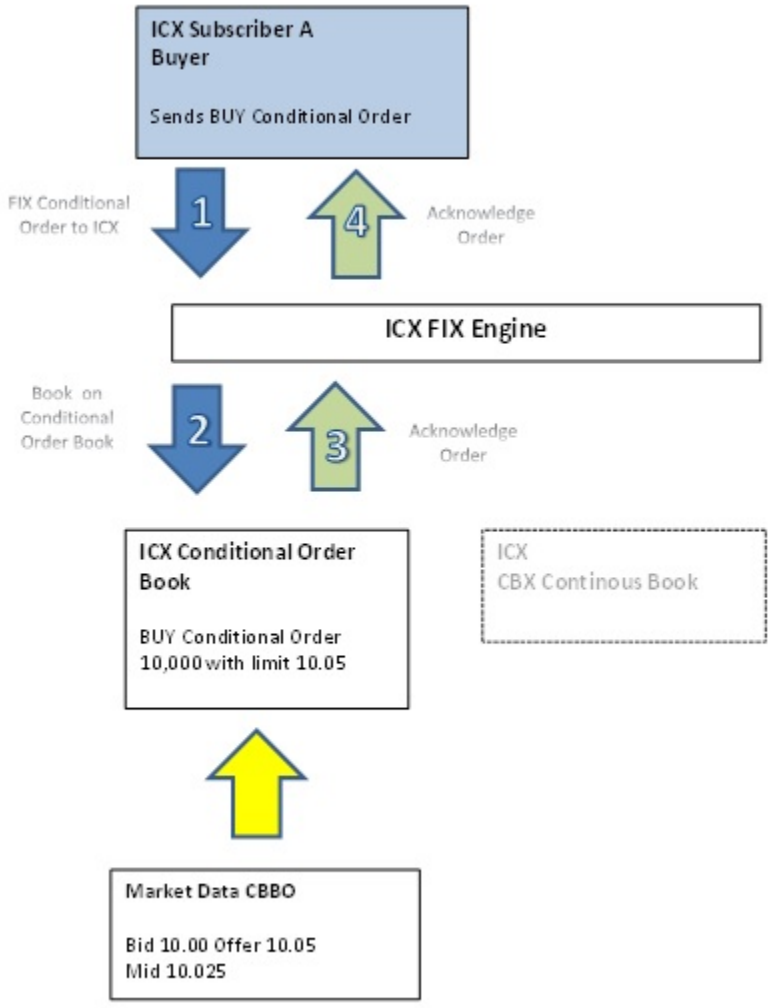
Step 2 Firm-up request
At 10:05:00 AM ICX Conditional Order Book sees opportunity for a match
10:05:00 AM firm-up requests sent to Subscriber A and B and both Conditional Orders are cancelled

Step 3 Subscriber A Algo responds immediately to firm up request
10:05:00 AM Subscriber A sends Buy 10,000 ABC Mkt to ICX Order Book and will remain open until filled or cancelled.

Step 4 Subscriber B does not respond to manual OMS pop-up. Note that there is no time limit set to respond to the notification.

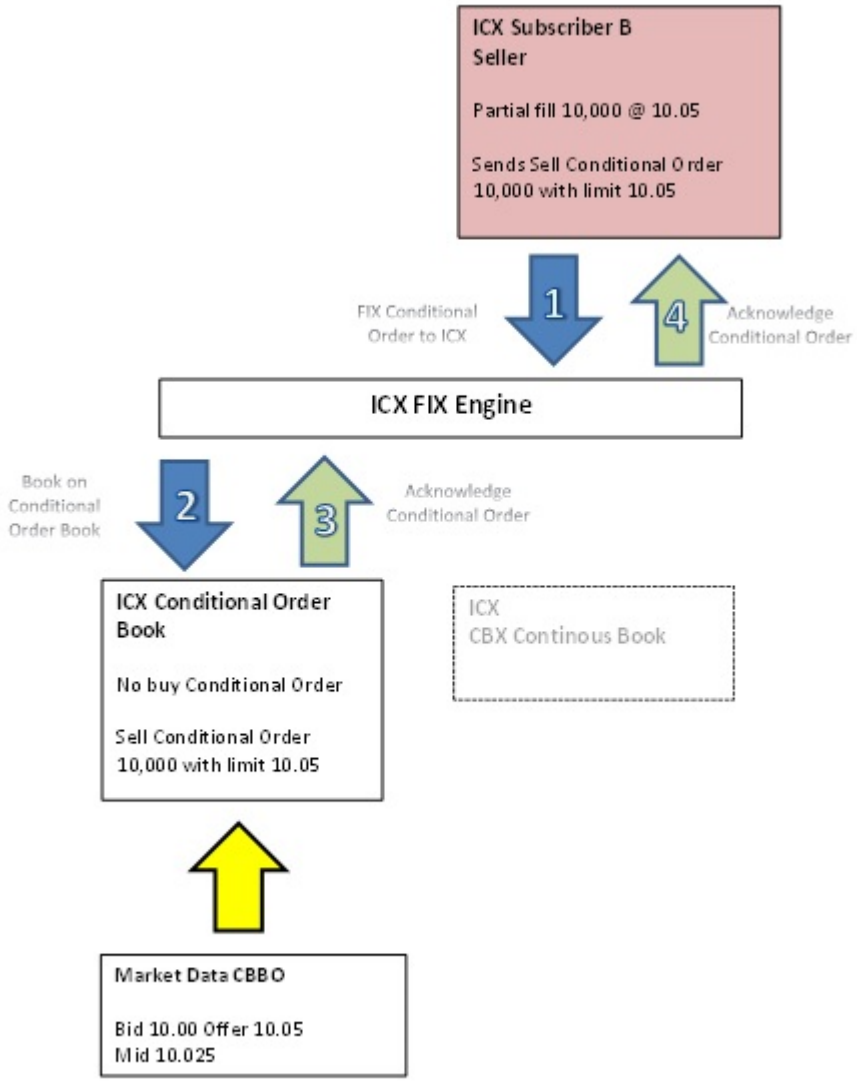
Step 5 No Match in ICX Order Book
Subscriber B "fall-down" tracked for compliance mechanism.

Illustration 1: Submitting a Conditional Buy Order to ICX



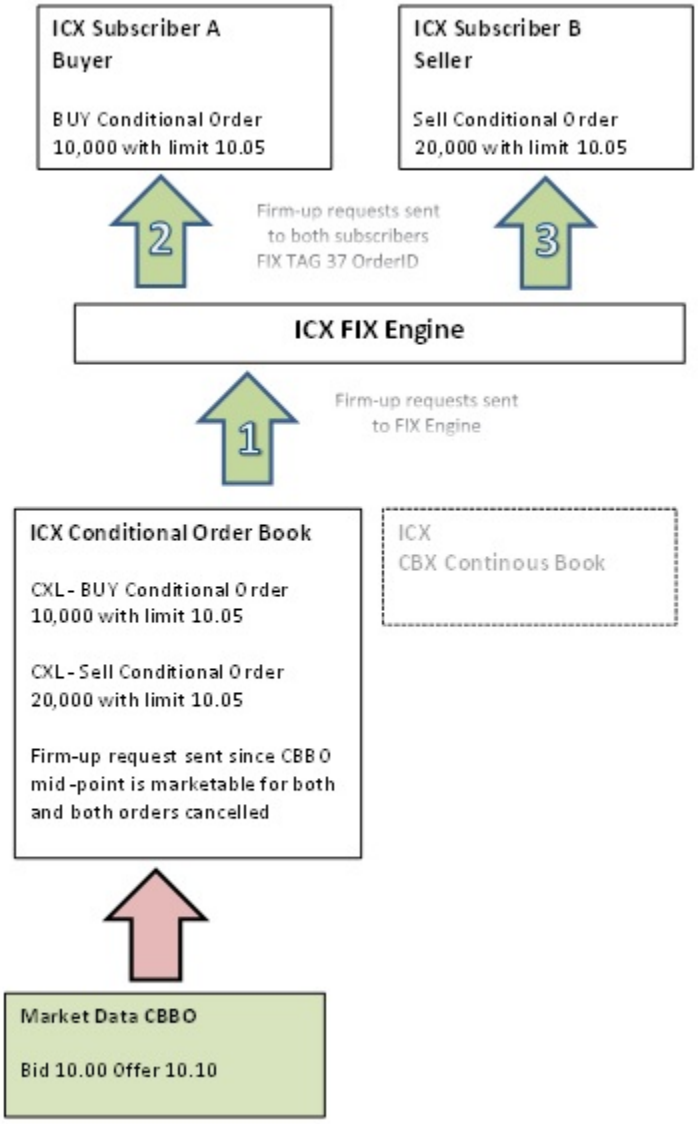
1. Conditional Buy order is routed to the ICX FIX Engine.
2. The ICX FIX Engine routes the Conditional Buy order to the ICX Conditional Order Box. The ICX Conditional Order Box does not check orders or communicate with the ICX Order Book
3. The ICX Conditional Order Book acknowledges the Conditional Order.
4. The ICX FIX Engine acknowledges the Conditional Order to Subscriber A.

Illustration 2: Submitting a Conditional Sell Order to ICX



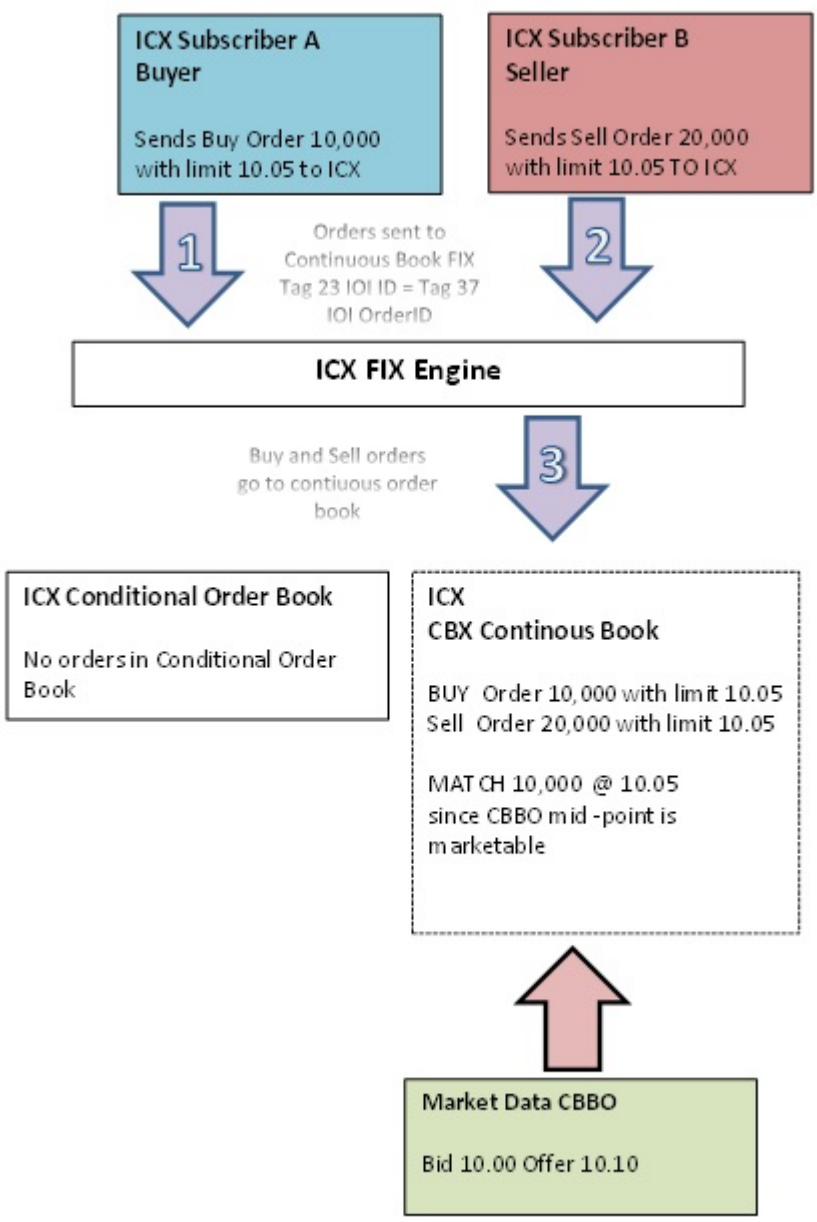
1. Conditional Sell order is routed to the ICX FIX Engine.
2. The ICX FIX Engine routes the Conditional Sell order to the ICX Conditional Order Box. The ICX Conditional Order Box does not check orders or communicate with the ICX Order Book
3. The ICX Conditional Order Book acknowledges the Conditional Order.
4. The ICX FIX Engine acknowledges the Conditional Order to Subscriber B.

Illustration 3: ICX Conditional Order Book sees opportunity for a match



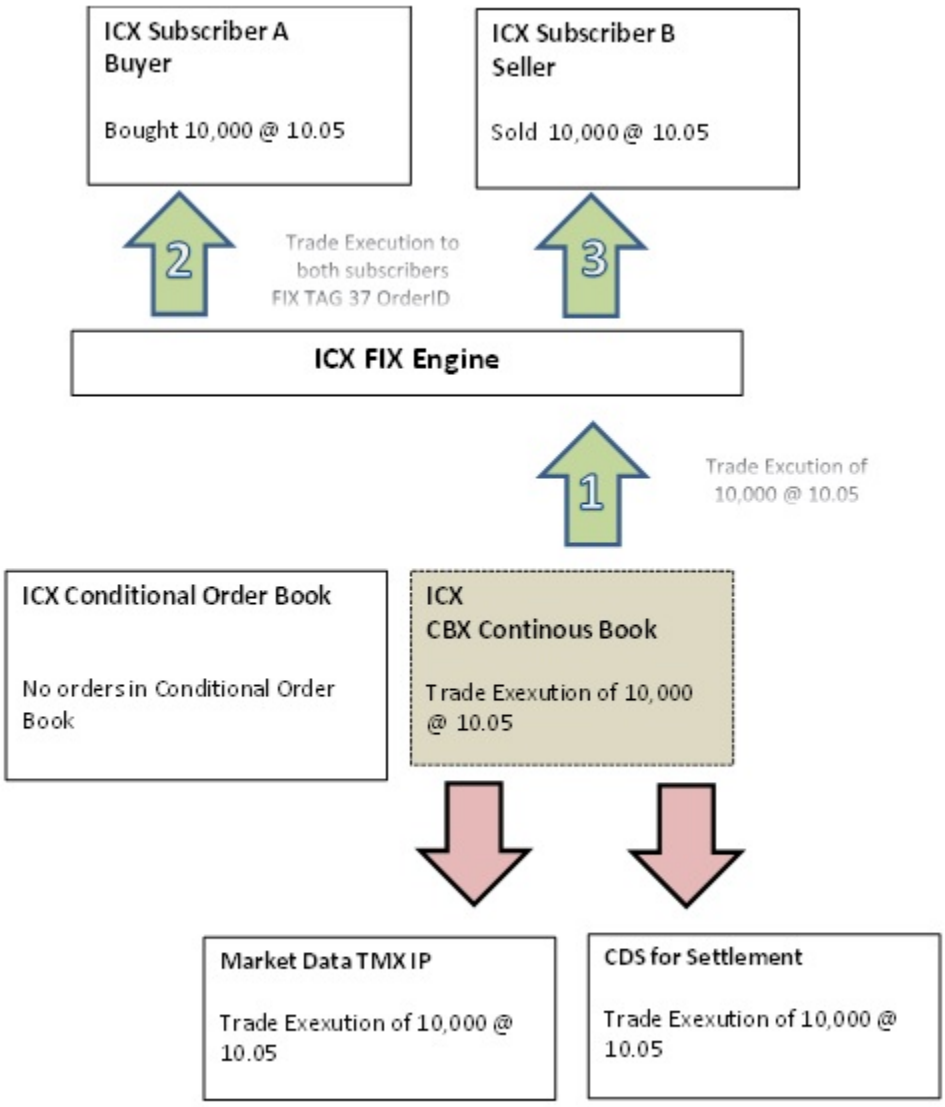
1. ICX Conditional Order Book sends notification to ICX FIX Engine that there is an opportunity for a match.
2. The ICX FIX Engine routes firm-up notification to Subscriber A
3. The ICX FIX Engine routes firm-up notification to Subscriber B

Illustration 4: Subscribers firm-up their trading interest with firm orders to ICX



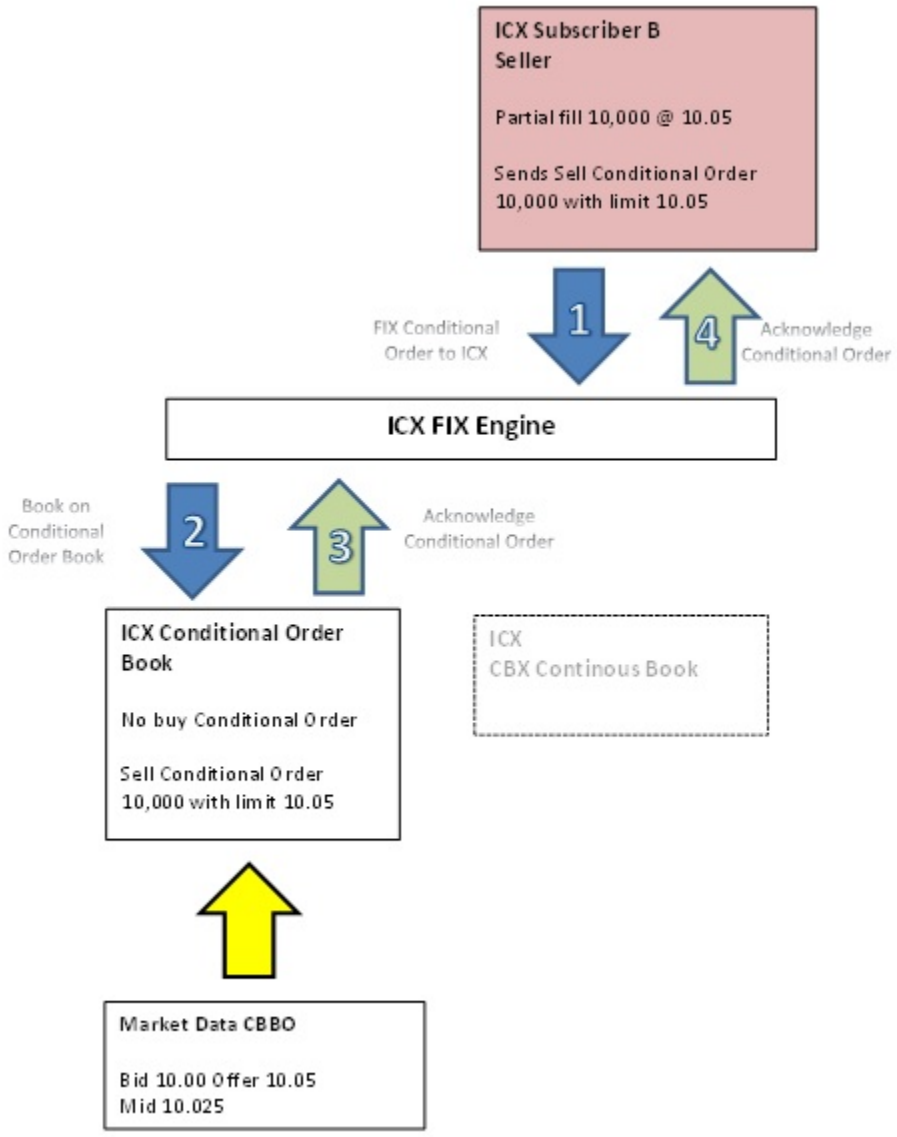
1. Subscriber A sends a firm order to ICX referencing the conditional order firm-up request.
2. Subscriber B sends a firm order to ICX referencing the conditional order firm-up request.
3. The ICX FIX Engine routes orders to ICX Order Book. Since the order limits are marketable at the CBBO is at mid-point a match is executed

Illustration 5: Execution and reporting of ICX trade



1. The ICX Order Book reports and execution to the ICX FIX Engine
2. Subscriber A is notified of trade execution on ICX.
3. Subscriber B is notified of trade execution on ICX (partial fill). Subscriber B still has the unfilled portion of their order on ICX

Illustration 6: Subscriber B enters unfilled amount back into ICX Conditional Order Book



1. Subscriber B cancels order in ICX Order Book and then sends new Conditional Sell order is routed to the ICX FIX Engine.
2. The ICX FIX Engine routes the Conditional Sell order to the ICX Conditional Order Box. The ICX Conditional Order Box does not check orders or communicate with the ICX Order Book
3. The ICX Conditional Order Book acknowledges the Conditional Order.
4. The ICX FIX Engine acknowledges the Conditional Order to Subscriber B.

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