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The Ontario Securities Commission
Cadillac Fairview Tower
22nd Floor, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

416-593-8314 or Toll Free 1-877-785-1555

Contact Centre – Inquiries, Complaints:

Office of the Secretary:

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Thomson Reuters
One Corporate Plaza
2075 Kennedy Road
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M1T 3V4

416-609-3800 or 1-800-387-5164

Fax: 416-593-8122
TTY: 1-866-827-1295

Fax: 416-593-2318

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One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

Customer Support
1-416-609-3800 (Toronto & International)
1-800-387-5164 (Toll Free Canada & U.S.)
Fax 1-416-298-5082 (Toronto)
Fax 1-877-750-9041 (Toll Free Canada Only)
Email CustomerSupport.LegalTaxCanada@TR.com

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CSA Staff Notice 21-328

Regulatory Approach to Foreign Marketplaces Trading Fixed Income Securities

March 5, 2020

I. Introduction

The Canadian Securities Administrators (the **CSA** or **we**) have developed a framework for granting exemptions to foreign alternative trading systems trading fixed income securities (**foreign ATSs**)[1] that request to carry on business in Canada. We are also providing notice that foreign multilateral trading facilities (**foreign MTFs**) may be permitted to trade fixed income securities.

The framework describes the approach that will be used to evaluate the requests and determine whether to recommend granting the exemptions. The approach considers the risks that need to be managed, the regulatory regime in the jurisdiction of the foreign ATS, and the key requirements that will need to be addressed. It is aimed at removing unnecessary regulatory burden to operating in Canada while maintaining high standards of investor protection and market integrity.

The nature of trading is increasingly global due to the reliance on technology by market participants. In this environment, more marketplaces are applying to carry on business in Canada. We have examined the regulatory approach historically followed with respect to foreign marketplaces that trade or are seeking to trade fixed income securities, taking into consideration potential market fragmentation,[2] regulatory duplication, and regulatory burden.

II. Background

Historically, alternative trading systems based in foreign jurisdictions have been permitted to conduct business in Canada. To do so, we have required that they create Canadian subsidiaries that are registered as investment dealers, members of the Investment Industry Regulatory Organization of Canada (**IIROC**), and subject to National Instrument 21-101 *Marketplace Operation* (**NI 21-101**), National Instrument 23-101 *Trading Rules* (**NI 23-101**), and National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**), (together, the **Marketplace Rules**).

As access to markets becomes increasingly global, Canadian market participants want access to foreign markets. However, some foreign ATSs wishing to offer their services to Canadian participants may choose not to do so for various reasons, such as concerns that the anticipated volume and size of activity in Canada may not be large enough to justify the business and regulatory costs of complying with the requirements to operate a marketplace.

In the context of foreign derivatives exchanges and swap execution facilities (**SEFs**) or foreign MTFs trading derivatives, we have for many years provided exemptions from licensing requirements.[3] Specifically, exemptions from the exchange recognition

[1] Fixed income securities do not include any crypto assets.
[2] See The Board of the International Organization of Securities Commissions, "Market Fragmentation & Cross-border Regulation Report" (June 2019), available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD629.pdf.
[3] In Ontario, see OSC Staff Notice 21-702 Regulatory Approach for Foreign-Based Stock Exchanges, available at https://www.osc.gov.on.ca/en/SecuritiesLaw_sn_20031031_21-702_foreignbased.jsp; OSC Staff Notice 21-707 Swap Execution Facilities – Exemption from Requirement to be Recognized as an Exchange, available at https://www.osc.gov.on.ca/en/SecuritiesLaw_sn_20131010_21-707_swap-execution-facilities.htm; and OSC Staff Notice 21-711 Multilateral Trading Facilities – Exemption from Requirement to be Recognized as an Exchange, available at https://www.osc.gov.on.ca/en/SecuritiesLaw_20180104_21-711_multilateral-trading-facilities.htm. In Quebec, see Policy Statement Respecting the Authorization of Foreign-Based Exchanges, available at https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/instr-gen-bourses-etrangeres/2005-03-30/2005mars30-ig-boursesetrangeres-en.pdf.

requirements of securities and derivatives legislation have been granted.[4] This approach has not yet been used for foreign ATSs or foreign MTFs trading products other than derivatives.

Recently, we have received inquiries from foreign ATSs and foreign MTFs that trade fixed income securities requesting exemptions from the Marketplace Rules on the grounds that they are subject to a comprehensive regulatory regime in their home jurisdiction.

Given these factors, the CSA has reviewed the approach to determine whether an exemption model similar to the one used for foreign futures exchanges, SEFs, and MTFs trading derivatives is appropriate. We reviewed the regulatory models applicable to several foreign ATSs and foreign MTFs trading fixed income securities, particularly those used in the United States and Europe, in order to understand whether they are comparable and, specifically, whether they may be relied on for investor protection and the promotion of a fair and efficient market.[5] We considered whether these regimes met certain criteria, identified below, such that we can rely on the home regulatory regime to manage the risks associated with these marketplaces.

This notice describes the outcome of that review: a proposed exemption model for foreign ATSs that would rely on the home jurisdiction for regulation but impose relevant regulatory terms and conditions on the operations of the foreign ATS within Canada. With respect to foreign MTFs, we will consider allowing them to trade fixed income securities under their existing exemption orders. We don't intend for the exemption model to be available to foreign marketplaces that facilitate the trading of securities other than fixed income securities.

III. Regulatory Framework

a. Regulatory Framework for Exempting Foreign ATSs

Under the exemption model, foreign ATSs may be permitted to offer direct access to Canadian participants without having to establish a Canadian-based affiliate, provided they meet certain terms and conditions, including a requirement that they comply with the applicable regulation in their home jurisdiction.

To offer direct access to Canadian participants, a foreign ATS would need to apply for an exemption from the Marketplace Rules.[6] Below, we provide details on the application process, exemption criteria, and sample terms and conditions that may be included in a foreign ATS's exemption order. With respect to a foreign MTF seeking to offer direct trading in fixed income securities to Canadian participants, the MTF may apply to expand its existing exchange exemption order to allow for trading of fixed income securities. Additional terms and conditions may be appropriate to facilitate this trading.

We note that although the proposed exemption would grant foreign ATSs relief from the Marketplace Rules, depending on their model of operations, foreign ATSs or their participants may still be subject to registration under applicable securities legislation. Foreign ATSs may trigger registration requirements under applicable Canadian securities laws because they may engage in the business of trading. A common exemption available in these cases would be the International Dealer Exemption (**IDE**).[7] The IDE may be available where the foreign ATS offers trading in foreign securities.[8] Foreign ATSs should consider the registration requirement and available exemptions when determining which securities to offer for trading.

In the case of participants on foreign ATSs, they may also need to be registered where they are dealing with Canadian participants. For example, in the case of a request-for-quote system that results in agreements to trade where a foreign participant is interacting directly with Canadian participants, the foreign participant may need to be registered as a dealer or rely on a registration exemption.

b. Obtaining an Exemption

A foreign ATS seeking an exemption must file an application for exemption from the Marketplace Rules outlining the following:

1. How the foreign ATS is regulated by a government authority responsible for regulation of alternative trading systems (**home regulator**) and what authority and procedures the home regulator has in place for oversight of the foreign ATS, comparing the home regulatory regime to the Marketplace Rules;[9]

[4] This exemptive relief was granted on the basis that these entities are subject to a comprehensive regulatory regime in their home jurisdictions.
[5] The characteristics of an efficient market, initially identified by the Toronto Stock Exchange in its 1997 report, *Market Fragmentation: Responding to the Challenge*, are considered by the CSA when evaluating the impact of any change to the Canadian market. They are market liquidity, transparency, price discovery, fairness, and market integrity.
[6] A foreign ATS would need to seek the exemption pursuant to the following provisions: s. 15.1 of NI 21-101 from NI 21-101 in whole; s. 12.1 of NI 23-101 from NI 23-101 in whole; and s. 10 of NI 23-103 from NI 23-103 in whole.
[7] See s. 8.18 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**).
[8] Defined in s. 8.18(1) of NI 31-103.
[9] Preference will be given to foreign ATSs from jurisdictions where there is a memorandum of understanding in place between the foreign regulator and the applicable securities regulatory authorities.

2. What activities the foreign ATS carries out, noting that an exemption will only be available where the foreign ATS' activities are limited to those that fall within the definition of an alternative trading system as set out in NI 21-101;[10]

3. Who can access the foreign ATS and how access is provided;

4. Actual and potential conflicts of interest and the tools used to manage them;

5. How clearing and settlement is achieved. The foreign ATS needs to demonstrate that these functions are performed appropriately through a regulated clearing house;[11]

6. Whether the foreign ATS performs custody functions and if so, how;

7. The approach used to foster system resiliency, integrity, reliability, and cybersecurity of the foreign ATS;

8. Outsourcing of services and systems and how the outsourcing is managed;[12]

9. The transparency of operations of the foreign ATS, including disclosure relating to order execution, fees, and order priority;

10. How, if at all, the foreign ATS contributes to price discovery (i.e. pre- and/or post-trade transparency);

11. How the foreign ATS maintains adequate systems for the keeping of books and records, including a detailed audit trail, and how confidential information is maintained;

12. Whether the foreign ATS has sufficient financial resources for the proper performance of its functions and to meet its responsibilities;

13. How trading is monitored on the foreign ATS to prevent against market abuse or manipulation; and

14. The foreign ATS's mechanisms for sharing information and otherwise cooperating with the applicable regulatory authorities and their staff, self-regulatory organizations, other marketplaces, clearing agencies, investor protection funds, and other appropriate regulatory bodies.[13]

We note that, if the circumstances change, we may, at any time, re-evaluate whether it is appropriate for a foreign ATS to continue to operate under an exemption or whether it must comply with the Marketplace Rules, become an IIROC member, and/or register with securities regulators in Canada.

c. Terms and Conditions of the Exemption

The specific terms and conditions applicable to the foreign ATS may vary depending on its operations, the information in its application, the regulatory regime in its home jurisdiction, and any other matters relevant to the application. The terms and conditions focus on maintaining regulatory compliance in its home jurisdiction, providing the CSA with ongoing information about its operations and trading activity in Canada, and ensuring that there is sufficient transparency to participants of the regulatory structure, specifically the substituted compliance model. Generally, these terms and conditions will require:

1. Ongoing regulation and oversight of the foreign ATS by its home regulator;

2. Ongoing compliance with regulatory requirements in its home jurisdiction;

3. Prior notice of material changes to the business and operations of the foreign ATS or the information included in the application;

4. Information and limitations on the types of Canadian participants that may access the foreign ATS and the products available to Canadian participants;

5. Ad hoc and periodic filing requirements that would permit the CSA to monitor certain activities of the foreign ATS, trading by Canadian participants on the foreign ATS, and the financial conditions of the foreign ATS;

[10] If the foreign ATS is an exchange or equivalent, the existing practice of exempting foreign exchanges is available.
[11] Note that the clearing house may also require recognition or an exemption from same.
[12] Please see the International Organization of Securities Commissions' "Principles on Outsourcing by Markets" (February 2009), available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD283.pdf.
[13] See, for instance, the memorandums of understanding between the Financial Industry Regulatory Authority and IIROC (available at https://www.finra.org/sites/default/files/Industry/p122062.pdf), as well as the Ontario Securities Commission (available at https://www.finra.org/sites/default/files/Industry/p125113.pdf) and the British Columbia Securities Commission (available at https://www.bcsc.bc.ca/uploadedFiles/About_Us/Other_Jusrisdictions/FINRA-BCSC_International_Information_Sharing_Memorandum_of_Understanding_(effective_July_1__2016).pdf).

6. Disclosure to participants regarding the regulatory structure, the implications of the exemption, and the legal rights of a participant;

7. Submission to jurisdiction and appointment of agent for service requiring the foreign ATS to submit to the non-exclusive jurisdiction of Canadian courts, administrative tribunals, and proceedings; and

8. General information sharing provisions to ensure that the CSA has access to any information required to carry out its mandate with respect to the marketplace activities of the foreign ATS in Canada.

A detailed, sample set of terms and conditions can be found in **Schedule A** to this notice. However, foreign ATSs should be aware that additional terms and conditions may be required depending on the operational model and regulatory structure under review. Foreign ATSs are also advised that any breach of a term and condition to their exemption orders may be a contravention of Canadian securities law.

d. Exemption Application Process

While the application process varies across the CSA, in most circumstances, a foreign ATS seeking an exemption must submit a draft order, along with an application detailing its history, business, and regulatory structure, and addressing how it meets the specific criteria outlined above. The application should also address if the foreign ATS is subject to any trade reporting and if so, what must be reported, when, and where. In Ontario, the application and order will be subject to a 30-day public comment period. Foreign ATSs that are currently regulated in Canada through a Canadian subsidiary and meet the criteria set out above could consider applying for a similar exemption.

The CSA will review applications for exemption and will work with foreign ATSs on the appropriate terms and conditions that may be included in a foreign ATS exemption order. The foreign ATS exemption regime ultimately aims to avoid market fragmentation and reduce regulatory duplication and burden while facilitating investor protection and promoting a fair and efficient market.

IV. Questions

Questions may be referred to:

Heather Cohen Legal Counsel, Market Regulation Ontario Securities Commission hcohen@osc.gov.on.ca	Ruxandra Smith Senior Accountant, Market Regulation Ontario Securities Commission ruxsmith@osc.gov.on.ca
Serge Boisvert Senior Policy Advisor Exchanges and SRO Oversight Autorité des marchés financiers serge.boisvert@lautorite.qc.ca	Pascal Bancheri Senior Analyst Exchanges and SRO Oversight Autorité des marchés financiers pascal.bancheri@lautorite.qc.ca
Katrina Prokopy Senior Legal Counsel, Market Regulation Alberta Securities Commission katrina.prokopy@asc.ca	Vida Mehin Senior Legal Counsel, Capital Markets Regulation British Columbia Securities Commission vmehin@bcsc.bc.ca

SCHEDULE A

SAMPLE TERMS AND CONDITIONS (ATS)

Regulation and Oversight of the ATS

1. The ATS will continue to be subject to the regulatory oversight of its home regulator;

2. The ATS will either be registered in an appropriate category or rely on an exemption from registration under Canadian securities laws;

3. The ATS will promptly notify the applicable securities regulatory authorities if its status in its home jurisdiction has been revoked, suspended, or amended, or the basis on which its status has significantly changed;

Access

4. The ATS will not provide direct access to a Canadian participant unless the Canadian participant is a permitted client as that term is defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

5. The ATS will require Canadian participants to provide prompt notification to the ATS if they no longer qualify as permitted clients;

6. The ATS must make available to Canadian participants appropriate training for each person who has access to trade on the ATS;

Trading by Canadian Participants

7. The ATS will permit Canadian participants to only trade fixed income securities;

8. Trading on the ATS by Canadian participants must be cleared and settled through a clearing agency that is regulated as a clearing agency by the clearing agency's home regulator;

9. The ATS will permit Canadian participants to only trade those securities which are permitted to be traded in the ATS' home jurisdiction under applicable securities laws and regulations;

Reporting

10. The ATS will promptly notify Staff at the applicable securities regulatory authorities of any of the following:

    a. any material change to its business or operations or the information provided in its application for exemptive relief, including, but not limited to:

        i. changes to its regulatory oversight;

        ii. the access model, including eligibility criteria, for Canadian participants;

        iii. systems and technology; and

        iv. its clearing and settlement arrangements;

    b. any material change in its regulations or the laws, rules, and regulations in the home jurisdiction relevant to the products traded;

    c. any known investigations of, or regulatory action against, the ATS by its home regulator or any other regulatory authority to which it is subject;

    d. any matter known to the ATS that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and

    e. any default, insolvency, or bankruptcy of any participant known to the ATS or its representatives that may have a material, adverse impact upon the ATS or any Canadian participant;

11. The ATS will maintain the following updated information and submit such information in a manner and form acceptable to Staff of the applicable securities regulatory authorities on a bi-annual basis (within 30 days of the end of each six-month period), and at any time promptly upon the request of Staff of the applicable securities regulatory authorities:

a. a current list of all Canadian participants, organized on a provincial basis, specifically identifying for each Canadian participant the basis upon which it represented to the ATS that it could be provided with direct access;

b. a list of all Canadian applicants for status as a Canadian participant, on a provincial basis, who were denied such status or access or who had such status or access revoked during the period;

i. for those Canadian participants who had their status revoked, an explanation as to why their status was revoked;

c. for each product:

i. the total trading volume and value originating from Canadian participants, presented on a per provincial participant basis, and

ii. the proportion of worldwide trading volume and value on the ATS conducted by Canadian participants, presented in the aggregate for such Canadian participants on a provincial basis; and

d. a list outlining each incident of a significant system outage that occurred at any time during the period for any system impacting Canadian participants' trading activity, including trading, routing, or data, specifically identifying the date, duration, and reason for the outage, and noting any corrective action taken;

Disclosure

12. The ATS will provide to its Canadian participants disclosure that states that:

a. rights and remedies against it may only be governed by the laws of the home jurisdiction, rather than the laws of Canada, and may be required to be pursued in the home jurisdiction rather than in Canada;

b. the rules applicable to trading on the ATS may be governed by the laws of the home jurisdiction, rather than the laws of Canada; and

c. the ATS is regulated by the regulator in the home jurisdiction, rather than the CSA;

Submission to Jurisdiction and Appointment of Agent for Service

13. With respect to a proceeding brought by an applicable securities regulatory authority arising out of, related to, concerning, or in any other manner connected with that securities regulatory authority's regulation and oversight of the activities of the ATS in Canada, the ATS will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of that securities regulatory authority's province or territory, and (ii) an administrative proceeding in that province or territory;

14. The ATS will submit to the applicable securities regulatory authorities a valid and binding appointment of an agent for service in those jurisdictions upon which the applicable securities regulatory authorities may serve a notice, pleading, subpoena, summons, or other process in any action, investigation, or administrative, criminal, quasi-criminal, penal, or other proceeding arising out of or relating to or concerning the applicable securities regulatory authorities' regulation and oversight of the ATS' activities in Canada;

Information Sharing

15. The ATS must, and must cause its affiliated entities, if any, to promptly provide to the applicable securities regulatory authorities, on request, any and all data, information, and analyses in the custody or control of the ATS or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:

a. data, information, and analyses relating to all of its or their businesses; and

b. data, information, and analyses of third parties in its or their custody or control; and

16. The ATS must share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

1.1.2 CSA Staff Notice 43-310 Confidential Pre-File Review of Prospectuses (for non-investment fund issuers)

CSA Staff Notice 43-310

Confidential Pre-File Review of Prospectuses

(for non-investment fund issuers)

March 5, 2020

Introduction

Staff of the Canadian Securities Administrators (**staff** or **we**) are introducing a harmonized process for full reviews of prospectuses on a confidential pre-file basis (the **pre-file process**) for non-investment fund issuers. Investment fund issuers should continue to use the existing pre-filing process.

Purpose

Introducing a harmonized pre-file process is part of our effort to foster capital formation and to provide issuers with greater flexibility and more certainty in planning their prospectus offerings. The harmonized pre-file process expands the availability of pre-file reviews that some Canadian Securities Administrators (CSA) jurisdictions are already conducting.

Background

The regulatory review process for prospectuses normally begins when an issuer publicly files its preliminary prospectus. If a material issue is raised during the review process, this may cause delays in receipting the prospectus and closing the offering. Market participants have expressed concern that delays can cause uncertainty in the market and have indicated that the pre-file process would help reduce this uncertainty.

CSA jurisdictions currently have various approaches to confidential pre-file reviews of prospectuses. For those allowing confidential pre-filings, the process has typically been limited to more complex filings and those involving cross-border offerings. With the exception of guidance provided for structured notes set out in question 2 below, this notice supersedes guidance on non-investment fund pre-filing reviews previously provided by staff.

The following sets out staff guidance for the pre-file process.

Specific questions and related guidance

If an issuer wants to confidentially pre-file a prospectus, the issuer should generally follow the process for pre-filing interpretations set out in Part 8 of National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions* (**NP 11-202**), as supplemented by the following guidance:

1. Which issuers can use the pre-file process?

Any non-investment fund issuer that intends to file a prospectus in a Canadian jurisdiction can use the pre-file process.

2. For what types of prospectus offerings can the pre-file process be used?

An issuer can use the pre-file process to pre-file a long form prospectus under National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**), a short form prospectus under National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**), and a base shelf prospectus under National Instrument 44-102 *Shelf Distributions* (**NI 44-102**).

However, the pre-file process does not apply to structured notes distributed under the shelf prospectus system as discussed in CSA Staff Notice 44-304 *Linked Notes Distributed under Shelf Prospectus System* and CSA Staff Notice 44-305 *2015 Update – Structured Notes Distributed Under the Shelf Prospectus System.*

Additionally, as one of the key purposes of the pre-file process is to provide certainty in respect of prospectus offerings, the pre-file process does not apply to

- non-offering prospectuses, other than non-offering prospectuses filed in connection with cross-border financings, and

- prospectuses filed solely to qualify the issuance of securities on conversion of convertible securities, such as special warrants.

For non-offering prospectuses with complex issues, an issuer may contact their principal regulator to determine if the pre-file process is appropriate.

3. In which jurisdictions should an issuer pre-file the prospectus?

An issuer should pre-file the prospectus with their principal regulator only.

If the principal regulator determines, upon review, that the prospectus involves a novel and substantive issue, or raises a novel policy concern, the principal regulator will follow the procedures set out in subsections 8.2 (4) and (5) of NP 11-202 (which set out how non-principal regulators may become involved in these situations).

4. At what stage in the prospectus process should the prospectus be pre-filed?

To use the pre-file process, we expect the terms and conditions of the offering, and any related transactions, to be clearly determined. We also expect that the underwriters would have substantially completed their review of the pre-filed prospectus.

Staff expect the pre-filed prospectus generally to

- be of the same form and quality as if it was the publicly filed preliminary prospectus, and
- contain the disclosure (including financial statements) prescribed under securities legislation and described in the form of prospectus that the issuer intends to use.

The price of the offering and other information derived from the price are frequently omitted from a preliminary prospectus. We ask that issuers include an estimate of any such amounts in the pre-filed prospectus where practical. Including estimates may allow staff to identify potential concerns as part of the pre-file process instead of during the review of the publicly filed preliminary prospectus.

If staff determine that the pre-filed prospectus is materially non-compliant or incomplete, the principal regulator will stop the review and ask the filer to file a revised draft with the necessary information. This will likely delay the review. In the event staff do not receive a response within a reasonable period of time, they may advise the filer that the pre-file will be closed unless a response to the request for information or comment letter is received by a specified date. Staff will consider the pre-filing to be withdrawn if there is no response within 90 days of the initial pre-filing date.

5. What documents should accompany the pre-filed prospectus?

Generally, a pre-file should include all documents required to be filed with the publicly filed prospectus. In particular, for a long form prospectus under NI 41-101, the issuer should include

- a cover letter that sets out
    - the information under subsection 8.2(1) of NP 11-202 (which sets out information that should be in the application including identification of the principal regulator and non-principal regulators), and
    - when the issuer expects to file the public long form preliminary prospectus,
- copies of any material contracts required to be filed under section 9.3 of NI 41-101, and
- if the issuer has a mineral project, the technical report required to be filed with a preliminary long form prospectus under National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (**NI 43-101**).

For a short form prospectus under NI 44-101, or a base shelf prospectus under NI 44-102, the issuer should include

- a cover letter that sets out
    - the information under subsection 8.2(1) of NP 11-202,
    - when the issuer expects to file the public preliminary short form prospectus, and
    - which of the qualifying criteria set out in Part 2 of NI 44-101 the issuer is relying on in order to be qualified to file a short form prospectus,

- the final technical report, if a technical report under NI 43-101 will be triggered by the filing of the short form prospectus, and
- the annual information form, if the issuer is a venture issuer that has not yet filed an annual information form for its most recently completed financial year.

Staff will contact the issuer if they require more documents, including personal information forms, to complete their review.

6. How far in advance of the anticipated filing of the public preliminary prospectus should the prospectus be pre-filed?

A filer should submit the pre-filing sufficiently in advance of filing the public preliminary prospectus. The timing of staff comments will depend upon a number of factors and staff will prioritize reviews of public prospectus filings. Generally, staff will use their best efforts to provide initial comments within 10 working days of receiving the pre-filing. However, staff may not be able to meet this suggested timing in the following circumstances:

- the pre-filing is complex or involves a novel and substantive issue, or raises a novel policy concern, or
- the issuer's disclosure is incomplete.

If staff cannot meet this timing, they may give an estimate of when they expect to be in a position to provide initial comments.

7. What level of review will the principal regulator conduct?

Normally, staff will conduct the same level of review that they would for the publicly filed preliminary prospectus.

The pre-file process covers full reviews of prospectuses on a confidential pre-file basis. An issuer may still seek a confidential pre-file interpretation of only a certain aspect of the prospectus under NP 11-202. In this situation, staff will focus only on that aspect and will conduct a full prospectus review at the time of the public preliminary prospectus filing.

8. Can the principal regulator raise additional comments once the preliminary prospectus is filed publicly?

The intention of the pre-file process is to address as many issues as possible prior to the public preliminary prospectus filing. However, staff may still raise comments at the time of the public filing including if new issues arise or if there are changes to the prospectus or any documents incorporated by reference.

To facilitate the review of the public preliminary prospectus, the issuer should also deliver a copy of the preliminary prospectus blacklined to show changes from the pre-filed prospectus at the time of the public preliminary prospectus filing.

9. How will communication take place?

Communications will normally take place by email, however the filer may request in its cover letter an alternative means of communication.

10. How can an issuer pre-file a prospectus and what are the applicable fees?

The current filing process and fees payable for the confidential pre-file system for all principal regulators that are specified jurisdictions under NI 11-202 are as follows:

Principal Regulator	Filing process	Fees*
British Columbia	Submit application by e-mail to financialreporting@bcsc.bc.ca	None
Alberta	Submit application by e-mail to legalapplications@asc.ca	None
Saskatchewan	Submit application by e-mail to corpfin@gov.sk.ca	None
Manitoba	Submit application by e-mail to securities@gov.mb.ca	None

Ontario	Applications for pre-filing reviews should be submitted as a prospectus pre-file through the OSC's electronic filings portal at: https://eforms1.osc.gov.on.ca/e-filings/pre-files/form.do?token=7de82153-df42-4c1a-9778-26b723efb13d	$3,800 (this payment will be credited against the filing fee for the publicly filed preliminary prospectus)
Québec	Submit application by e-mail to dispenses.passeport@lautorite.qc.ca	None
New Brunswick	Submit application by e-mail to passport-passeport@fcnb.ca	None
Nova Scotia	Submit application by e-mail to NSSC_Corp_Finance@novascotia.ca	None

*The filing fees are current as of the date of this Notice only.

Questions

Please refer your questions to any of the following:

British Columbia Securities Commission
Allan Lim
Manager, Corporate Finance
604-899-6780 or 1-800-373-6393
alim@bcsc.bc.ca

Larissa M. Streu
Senior Legal Counsel, Corporate Finance
604-899-6888 or 1-800-373-6393
lstreu@bcsc.bc.ca

Alberta Securities Commission
Timothy Robson
Manager, Legal, Corporate Finance
403-355-6297
timothy.robson@asc.ca

Gillian Findlay
Senior Legal Counsel, Corporate Finance
Alberta Securities Commission
403-297-3302
gillian.findlay@asc.ca

Financial and Consumer Affairs Authority of Saskatchewan
Heather Kuchuran
Deputy Director, Corporate Finance, Securities Division
306-787-1009
heather.kuchuran@gov.sk.ca

Manitoba Securities Commission
Patrick Weeks
Corporate Finance Analyst
204-945-3326
Patrick.weeks@gov.mb.ca

Ontario Securities Commission
David Surat
Senior Legal Counsel, Corporate Finance
416-593-8052
dsurat@osc.gov.on.ca

Jessie Gill
Legal Counsel, Corporate Finance
416-593-8114
jessiegill@osc.gov.on.ca

Autorité des marchés financiers
Andrée-Anne Arbour-Boucher
Senior Analyst, Corporate Finance
514-395-0337, extension 4394
Andree-Anne.Arbour-Boucher@lautorite.qc.ca

Marie-Josée Lacroix
Senior Analyst, Corporate Finance
514-395-0337, extension 4415
Marie-Josee.Lacroix@lautorite.qc.ca

Financial and Consumer Services Commission
Ella-Jane Loomis
Senior Legal Counsel, Securities
506-453-6591
Ella-jane.loomis@fcnb.ca

Nova Scotia Securities Commission
Peter Lamey
Legal Analyst, Corporate Finance
902-424-7630
Peter.lamey@novascotia.ca

1.4 Notices from the Office of the Secretary

1.4.1 Paramount Equity Financial Corporation et al.

FOR IMMEDIATE RELEASE
March 2, 2020

PARAMOUNT EQUITY FINANCIAL CORPORATION,
SILVERFERN SECURED MORTGAGE FUND,
SILVERFERN SECURED MORTGAGE LIMITED PARTNERSHIP,
GTA PRIVATE CAPITAL INCOME FUND,
GTA PRIVATE CAPITAL INCOME LIMITED PARTNERSHIP,
SILVERFERN GP INC.,
PARAMOUNT ALTERNATIVE CAPITAL CORPORATION,
PACC AINSLIE CORPORATION,
PACC COSTIGAN CORPORATION,
PACC CRYSTALLINA CORPORATION,
PACC DACEY CORPORATION,
PACC GOULAIS CORPORATION,
PACC HARRIET CORPORATION,
PACC MAJOR MACK CORPORATION,
PACC MAPLE CORPORATION,
PACC MULCASTER CORPORATION,
PACC REGENT CORPORATION,
PACC SCUGOG CORPORATION,
PACC SECHELT CORPORATION,
PACC SHAVER CORPORATION,
PACC SIMCOE CORPORATION,
PACC THOROLD CORPORATION,
PACC WILSON CORPORATION,
TRILOGY MORTGAGE GROUP INC.,
TRILOGY EQUITIES GROUP LIMITED PARTNERSHIP,
MARC RUTTENBERG,
RONALD BRADLEY BURDON and
MATTHEW LAVERTY,
File No. 2019-12

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

A copy of the Order dated March 2, 2020 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

1-877-785-1555 (Toll Free)
inquiries@osc.gov.on.ca

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Andlauer Healthcare Group Inc.

Headnote

National Policy 11-203 Process for *Exemptive Relief Applications in Multiple Jurisdictions* – relief from provisions in section 8.4 of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) permitting the filer exclude pro forma financial statements in the business acquisition report pursuant to section 13.1 of NI 51-102.

Applicable Legislative Provisions

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

February 25, 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
ANDLAUER HEALTHCARE GROUP INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer (the **Application**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for relief pursuant to Part 13 of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) from certain requirements in Item 3 of Form 51-102F4 and Part 8 of NI 51-102 in respect of a business acquisition report (the **BAR**) required to be filed by the Filer in connection with the completion of the acquisition (the **Acquisition**) by the Filer from Andlauer Management Group Inc. (**AMG**) of 14 entities that collectively operated the healthcare supply chain management business now operated by the Filer (the **AHG Entities**), so that the BAR is not required to include *pro forma* financial statements in respect of the Acquisition (the **Exemption Sought**).

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

(a) the Ontario Securities Commission is the principal regulator for the 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 British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Nunavut, the Northwest Territories and Yukon Territory.

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning in this decision unless they are defined in this decision.

Representations

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

1. The Filer is a corporation incorporated under the laws of the Province of Ontario on November 12, 2019 and operates a healthcare supply chain management business.

2. The Filer's head office is located in Vaughan, Ontario.

3. The Filer is a reporting issuer in each of the provinces and territories of Canada and is not in default of its reporting issuer obligations under the securities legislation of any of the jurisdictions of Canada.

4. The Filer's subordinate voting shares are listed and posted for trading on the Toronto Stock Exchange under the symbol "AND".

5. The Filer did not prepare or maintain stand-alone or *pro forma* financial statements with respect to each of the AHG Entities. In connection with the closing of the Filer's initial public offering (**IPO**), the final long-form prospectus of the Filer dated December 4, 2019 (the **Prospectus**) included condensed and combined historical financial information relating to the AHG Entities and the Filer.

6. On December 11, 2019, the Filer acquired the AHG Entities from AMG. Immediately prior to the Acquisition, each of the AHG Entities was directly or indirectly wholly-owned or controlled by AMG.

7. Following the Acquisition, the Filer will present its financial information together with that of the AHG Entities on a combined basis, in accordance with the Filer's continuous disclosure obligations under NI 51-102.

8. The Filer proposes to include (or incorporate by reference) the following financial statements in the BAR (collectively, the **Proposed Financial Statements**), all of which were included in the Prospectus and prepared in accordance with IFRS:

    (a) Audited annual combined financial statements of the AHG Entities as at December 31, 2018, 2017, 2016 and as at January 1, 2016 and for the fiscal years ended December 31, 2018, December 31, 2017 and December 31, 2016, including:

        (i) Combined Balance sheets as at December 31, 2018, December 31, 2017, December 31, 2016 and January 1, 2016;

        (ii) Combined Statements of Income and Comprehensive Income for the years ended December 31, 2018, December 31, 2017 and December 31, 2016;

        (iii) Combined Statements of Changes in Equity for the years ended December 31, 2018, December 31, 2017 and December 31, 2016; and

        (iv) Combined Statements of Cash Flow for the years ended December 31, 2018, December 31, 2017 and December 31, 2016.

    (b) Unaudited interim condensed combined financial statements of the AHG Entities as at September 30, 2019 and for the three and nine-month periods ended September 30, 2019 and September 30, 2018, including:

        (i) Interim Condensed Combined Balance Sheets as at September 30, 2019 and December 31, 2018;

        (ii) Interim Condensed Combined Statements of Income and Comprehensive Income for the three and nine month periods ended September 30, 2019 and September 30, 2018;

        (iii) Interim Condensed Combined Statements of Changes in Equity for the nine month periods ended September 30, 2019 and September 30, 2018; and

        (iv) Interim Condensed Combined Statements of Cash Flow for the nine month periods ended September 30, 2019 and September 30, 2018.

    (c) Balance Sheet of the Filer as at November 12, 2019.

    (d) Notes to the Proposed Financial Statements.

9. The Filer submits that granting the Exemption Sought would not be detrimental to the public interest for the following reasons:

(a) *Omission of Pro Forma Financial Statements*

The Filer was incorporated solely for the purposes of completing the IPO, and had no independent business operations prior to the Acquisition, as depicted on its balance sheet as at November 12, 2019, included in the Prospectus. The Filer conducts its business entirely through the AHG Entities, whose financial position and performance is fully described on a combined basis in the Proposed Financial Statements. Accordingly, the Proposed Financial Statements offer a complete picture of the impact of the Acquisition on the Filer's financial position and financial performance. Any *pro forma* statements prepared in connection with the BAR would not differ materially from the Proposed Financial Statements.

(b) *Other Submissions*

The financial information the Filer intends to provide in the BAR is the same as that provided in the Prospectus. When the Filer files its financial statements for the year ended December 31, 2019 (which is expected to occur in mid-March), such financial statements will cover the full fiscal 2019 year, combining the results of the AHG Entities with those of the Filer. Full 2018 results will also be presented for comparative purposes. As a result, there will be no "gap" in the public disclosure, since the Prospectus included results for the AHG Entities through to September 30, 2019.

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 the BAR for the Acquisition includes (or incorporates by reference) the Proposed Financial Statements as set out in paragraph 8.

"Marie-France Bourret"
Corporate Finance
Ontario Securities Commission

2.1.2 IA Clarington Investments Inc.

Headnote

Policy Statement 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Existing and future mutual funds managed by the Filer or an affiliate of the Filer granted relief from paragraphs 15.3(4)(c) and (f) of Regulation 81-102 respecting Investment Funds to permit references to FundGrade A+ Awards, FundGrade Ratings, Lipper Awards and Lipper Leaders 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

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

[TRANSLATION]

February 27, 2020

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

AND

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

AND

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

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer on behalf of the Funds (as defined below) for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption under section 19.1 of *Regulation 81-102 respecting Investment Funds,* CQLR, c. V-1.1, r. 39 (**Regulation 81-102**) from the requirements set out in paragraphs 15.3(4)(c) and 15.3(4)(f) of Regulation 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:

a) 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

b) the rating or ranking is to the same calendar month end that is:

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

   ii. 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 dual application):

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

b) the Filer has provided notice that section 4.7(1) of *Regulation 11-102 respecting Passport System,* CQLR, c. V-1.1, r. 1 (**Regulation 11-102**) is intended to be relied upon in each of the jurisdictions of Canada other than the Jurisdictions, and

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

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions,* CQLR, c. V-1.1, r. 3, Regulation 11102 and Regulation 81-102 have the same meanings if used in this decision, unless otherwise defined.

Fund or **Funds** means, individually or collectively, the existing and future mutual funds governed by the provisions of Regulation 81-102 for which the Filer, or a duly registered affiliate of the Filer is, or in the future will be, the investment fund manager.

Representations

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

The Filer and the Funds

1. The Filer's head office is in Québec.

2. The Filer is registered as an investment fund manager in Québec, Ontario and Newfoundland and Labrador, as an exempt market dealer in Québec and Ontario, and as a portfolio manager in all the jurisdictions of Canada.

3. The Filer or an affiliate of the Filer is, or will be, the investment fund manager of each Fund.

4. Each of the Funds is, or will be, a mutual fund established under the laws of Canada or a jurisdiction of Canada.

5. Each of the Funds is, or will be, a reporting issuer in one or more of the jurisdictions of Canada.

6. Securities of each of the Funds are, or will be, qualified for distribution pursuant to a prospectus that has been, or will be, prepared and filed in accordance with the securities legislation of each applicable jurisdiction of Canada.

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

8. Neither the Filer nor any of the existing Funds is in default of the securities legislation in any jurisdiction of Canada.

FundGrade Ratings and FundGrade A+ Awards

9. 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 FundGrade A+ Award.

10. Fundata Canada Inc. (**Fundata**) is a "mutual fund rating entity" as that term is defined in Regulation 81-102, and is not a member of the organization of the Funds. Fundata is a supplier of mutual fund information, analytical tools, and commentary.

11. 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.

12. 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 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.

13. The FundGrade Ratings are letter grades for each fund and are determined each month and released on the seventh business day of the following month. 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.

14. 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.

15. 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. Any fund earning a GPA of 3.5 or greater earns a FundGrade A+ Award.

Lipper Leaders Ratings and Lipper Awards

16. The Filer also wishes to include in sales communications of the Funds references to the Lipper Leaders Ratings and references to the Lipper Awards, where such Funds have been awarded a Lipper Award.

17. Lipper, Inc. (**Lipper**) is a "mutual fund rating entity" as that term is defined in Regulation 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 supplier of mutual fund information, analytical tools, and commentary.

18. 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.

19. The Lipper Awards are based on a proprietary rating methodology prepared by Lipper, the Lipper Leaders Rating System. The Lipper Leaders Rating System includes Lipper Ratings for Consistent Return, Lipper Ratings for Total Return, Lipper Ratings for Preservation, Lipper Ratings for Tax Efficiency and the Lipper Ratings for Expense. 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.

20. 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), a Canadian organization that is independent of Lipper. 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.

21. The Lipper Awards, awarded annually in Canada, are based on the Lipper Ratings for Consistent Return measure, which 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. The highest Lipper Leader for Consistent Return in each applicable fund classification over these periods wins a Lipper Award.

Relief from paragraph 15.3(4)(c) of Regulation 81-102

22. The FundGrade Ratings and Lipper Leaders Ratings fall within the definition of "performance data" under Regulation 81-102 as they constitute "a rating, ranking, quotation, discussion or analysis regarding an aspect of the investment performance of an investment fund". The FundGrade A+ Awards and Lipper Awards may be considered to be "overall ratings or rankings" given that the awards are based on the FundGrade Ratings and Lipper Leaders Ratings respectively, as described above. Therefore, references to

23. FundGrade Ratings, FundGrade A+ Awards, Lipper Leaders Ratings and Lipper Awards in sales communications relating to the Funds need to meet the applicable requirements in Part 15 of Regulation 81-102.

24. Paragraph 15.3(4)(c) of Regulation 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 Regulation 81-102. Relief from paragraph 15.3(4)(c) of Regulation 81-102 is, therefore, required in order for a Fund to use FundGrade Ratings in sales communications.

26. 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 Regulation 81-102 because a rating is not available for the one year period. Relief from paragraph 15.3(4)(c) of Regulation 81-102 is therefore required in order for a Fund to reference Lipper Leaders Ratings in sales communications.

27. The exemption in subsection 15.3(4.1) of Regulation 81-102 for references to overall ratings or rankings of funds cannot be relied upon to reference the FundGrade A+ Awards and Lipper 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 Regulation 81-102. As noted above, sales communications referencing the FundGrade A+ Awards and Lipper Awards cannot comply with the "matching" requirement in paragraph 15.3(4)(c) of Regulation 81-102, given that the awards are based on the FundGrade Ratings and Lipper Leaders Ratings, respectively, rendering the exemption in subsection 15.3(4.1) of Regulation 81-102 unavailable. Relief from paragraph 15.3(4)(c) of Regulation 81-102 is, therefore, required in order for a Fund to reference the FundGrade A+ Awards and Lipper Awards in sales communications.

Relief from paragraph 15.3(4)(f) of Regulation 81-102

28. Paragraph 15.3(4)(f) of Regulation 81-102 provides that in order for a rating or ranking such as a FundGrade A+ Award or 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

29. sales communication, the rating or ranking must be published within three months of the calendar month end to which the rating or ranking applies.

30. 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 Regulation 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.

31. 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 Regulation 81-102 will prohibit it from publishing news of the award altogether.

Reasons for the Exemption Sought

32. 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 Regulation 81-102.

33. The Filer further submits that the Exemption Sought is not detrimental to the protection of investors.

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 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 FundGrade A+ Awards, FundGrade Ratings, Lipper Awards or Lipper Leaders Ratings complies with Part 15 of Regulation 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 (www.fundata.com) for greater detail on the FundGrade A+ Awards and the FundGrade Ratings or reference to Lipper's website (www.lipperweb.com) 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 mutual funds within a specified category established by CIFSC (or a successor to CIFSC).

"Jacinthe Des Marchais"
Acting Senior Director, Investment Funds

2.1.3 AGF Investments Inc. and the Terminating Funds

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Approval of investment fund merger – approval required because merger does not meet the criteria for pre-approved reorganizations and transfers – a reasonable person may not consider the Funds to have substantially similar fundamental investment objectives – merger will not be a "qualifying exchange" or a tax-deferred transaction under the Income Tax Act – merger to otherwise comply with pre-approval criteria, including securityholder vote and IRC approval – securityholders provided with timely and adequate disclosure regarding the merger – National Instrument 81-102 Investment Funds.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 5.5(1)(b) and 5.6(1), and 19.1.

February 28, 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
AGF INVESTMENTS INC.
(the Filer)

AND

THE TERMINATING FUNDS
(as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Terminating Funds for a decision under the securities legislation of the Jurisdiction (the **Legislation**) approving the proposed mergers (each, a **Merger** and collectively, the **Mergers**) of each of the Terminating Funds into the applicable Continuing Funds (as defined below) pursuant to paragraph 5.5(1)(b) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) (the **Approval Sought**).

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

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

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

Interpretation

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

AGF Fund or AGF Funds means, individually or collectively, the Terminating Funds and the Continuing Funds;

Continuing Fund or Continuing Funds means, individually or collectively, AGF Total Return Bond Fund, AGF Strategic Income Fund, AGF Global Strategic Balanced Fund, AGF Elements Yield Portfolio and AGF Emerging Markets Class; and

Terminating Fund or Terminating Funds means, individually or collectively, AGF Global Bond Fund, AGF Tactical Income Fund, AGF Emerging Markets Balanced Fund, AGF Income Focus Fund and AGF Asian Growth Class.

Representations

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

The Filer

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

2. The Filer is the manager of the AGF Funds and is the trustee of the Trust Funds (as defined below).

3. The Filer is registered in the categories of (a) exempt market dealer in Alberta, British Columbia, Manitoba, Ontario, Quebec and Saskatchewan, (b) portfolio manager in each of the provinces and territories of Canada, (c) investment fund manager in Alberta, British Columbia, Newfoundland and Labrador, Ontario and Quebec, (d) a mutual fund dealer in British Columbia, Ontario and Quebec and (e) a commodity trading manager in Ontario.

The AGF Funds

4. The AGF Funds are open-ended mutual funds for purposes of NI 81-102, established as a series of shares of a mutual fund corporation (in the case of AGF Asian Growth Class and AGF Emerging Markets Class) (each a **Corporate Class**) or a trust under the laws of the province of Ontario (each a **Trust Fund**).

5. Each of the AGF Funds is a reporting issuer under applicable securities legislation in each of the Jurisdictions.

6. None of the Filer or the AGF Funds is in default of securities legislation in any of the Jurisdictions.

7. Securities of the AGF Funds are currently qualified for sale in each of the Jurisdictions under a simplified prospectus, annual information form and fund facts dated April 18, 2019, as amended by Amendment No. 1 dated May 14, 2019, Amendment No. 2 dated July 26, 2019 and Amendment No. 3 dated December 13, 2019, as they may be further amended (the **Offering Documents**).

8. Each of the AGF Funds follows the standard investment restrictions and practices established under NI 81-102, or an exemption therefrom.

9. Each Continuing Fund has the same valuation procedure and fee structure as the corresponding Terminating Fund.

10. Although the investment objectives of the Terminating Funds may not be considered by a reasonable person to be substantially similar to the investment objectives of the Continuing Funds, in the Filer's view, the investment objectives and strategies are similar and each Terminating Fund has a similar investment mandate as the corresponding Continuing Fund and would generally attract the same or similar type of investor with a similar risk-return profile. The investment objectives of the Terminating Funds and the Continuing Funds are as follows:

Terminating Fund	Investment Objective	Continuing Fund	Investment Objective
AGF Global Bond Fund	The fund's objective is to provide interest income and capital appreciation. It invests primarily in investment grade debt securities of governments, corporations and other issuers around the world.	AGF Total Return Bond Fund	The fund's objective is to provide interest income and capital appreciation by investing in debt securities of governments and other issuers around the world.
AGF Tactical Income Fund	The fund's investment objective is to seek a balance of current income and long-term capital appreciation by investing primarily in a diversified portfolio of dividend-paying and distribution-paying Canadian equity	AGF Strategic Income Fund	The fund's objective is to provide high long-term total investment returns with moderate risk through a combination of long-term capital growth and current income. It invests primarily in a mix of common and preferred

	and income securities including income trusts, common and preferred shares and corporate debt.		shares of Canadian companies, Canadian federal and provincial bonds, high quality corporate bonds and money market instruments.
AGF Emerging Markets Balanced Fund	The fund's objective is to provide above-average long-term total return. It invests primarily in a mix of emerging market equity and fixed income (via mutual funds and/or underlying holdings), as well as cash and cash equivalents.	AGF Global Strategic Balanced Fund	The fund's objective is to provide superior returns with moderate risk through a combination of capital appreciation and interest income. The Fund uses an asset allocation approach. It invests primarily in a mix of shares of companies in countries and industries that are expected to have superior growth, bonds and short-term money market instruments.
AGF Income Focus Fund	The fund's objective is to provide income by investing primarily in fixed income securities and dividend paying equity securities.	AGF Elements Yield Portfolio	The portfolio's objective is to achieve high current income by investing primarily in a diversified mix of income, bond and equity funds that may include exposure to income trusts, royalty trusts and REITs.
AGF Asian Growth Class	The fund's objective is to provide long-term capital growth. It invests primarily in shares of companies that are located or active mainly in Asia or the Pacific Rim Region and are principally traded on Asian stock exchanges.	AGF Emerging Markets Class	The fund's objective is to provide superior capital growth. It invests primarily in shares of companies that are located or active mainly in emerging market countries.

Reason for Approval Sought

11. Regulatory approval of the Mergers is required because each Merger does not satisfy all the criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102. In particular:

    (a) the fundamental investment objectives of the Continuing Funds may be considered not to be "substantially similar" to the fundamental investment objectives of the corresponding Terminating Fund; and

    (b) neither of the Taxable Mergers (as defined below) will be completed as a "qualifying exchange" within the meaning of section 132.2 of the *Income Tax Act* (Canada) (the **Tax Act**) or a tax-deferred transaction under subsection 85(1), 85.1(1), 86(1) or 87(1) of the Tax Act.

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

The Proposed Mergers

13. The Filer intends to reorganize the AGF Funds as follows:

    (a) AGF Global Bond Fund will merge into AGF Total Return Bond Fund;

(b) AGF Tactical Income Fund will merge into AGF Strategic Income Fund;

(c) AGF Emerging Markets Balanced Fund will merge into AGF Global Strategic Balanced Fund

(d) AGF Income Focus Fund will merge into AGF Elements Yield Portfolio; and

(e) AGF Asian Growth Class will merge into AGF Emerging Markets Class.

14. The proposed Mergers of (i) AGF Emerging Markets Balanced Fund into AGF Global Strategic Balanced Fund and (ii) AGF Asian Growth Class into AGF Emerging Markets Class will each be effected on a taxable basis (each such Terminating Fund being a **Taxable Terminating Fund** and each such Continuing Fund being a **Taxable Continuing Fund**; and each such Merger being a **Taxable Merger**).

15. The proposed Mergers of (i) AGF Global Bond Fund into AGF Total Return Bond Fund, (ii) AGF Tactical Income Fund into AGF Strategic Income Fund, and (iii) AGF Income Focus Fund into AGF Elements Yield Portfolio will each be effected as a tax-deferred "qualifying exchange" within the meaning of section 132.2 of the Tax Act.

16. Securityholders of each series of a Terminating Fund will receive the same series of securities of the corresponding Continuing Fund as they currently own.

17. The Mergers were announced in a press release on February 19, 2020. A corresponding material change report and an amendment to each Terminating Fund's Offering Documents were also filed via SEDAR on February 19, 2020.

18. As required by National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**), the Filer presented the terms of each Merger to the independent review committee (the **IRC**) of the applicable AGF Fund for its review. The IRC determined that each Merger, if implemented, will achieve a fair and reasonable result for each of the Terminating Funds and Continuing Funds.

19. The Filer is convening special meetings (the **Meetings**) of the securityholders of each Terminating Fund in order to seek the approval of the securityholders of the relevant series of each Terminating Fund to complete the Mergers, as required by paragraph 5.1(1)(f) of NI 81-102. The Meetings will be held on or about April 15, 2020.

20. The Filer anticipates that none of the Mergers will constitute a material change to the corresponding Continuing Fund as of the Effective Date (as defined below), and, accordingly, there is no intention to convene a meeting of securityholders of any of the Continuing Funds to approve the Mergers pursuant to paragraph 5.1(1)(g) of NI 81-102**.**

21. Each of the Terminating Funds and the Continuing Funds currently are and are expected to continue to be either a "mutual fund trust" or a class of a "mutual fund corporation" for purposes of the Tax Act. Accordingly, securities of the AGF Funds currently are and are expected to continue to be "qualified investments" under the Tax Act for registered retirement savings plans, registered retirement income funds, deferred profit sharing plans, registered education savings plans, registered disability savings plans and tax free savings accounts.

22. By way of order dated November 4, 2016, the Filer was granted relief (the **Notice-and-Access Relief**) from the requirement set out in paragraph 12.2(2)(a) of National Instrument 81-106 *Investment Fund Continuous Disclosure* to send a printed management information circular to securityholders while proxies are being solicited, and, subject to certain conditions, instead allows a notice-and-access document (as described in the Notice-and-Access Relief) to be sent to such securityholders. In accordance with the Filer's standard of care owed to the Terminating Funds pursuant to securities legislation, the Filer will only use the notice-and-access procedure for a particular meeting where it has concluded it is appropriate and consistent with the purposes of notice-and-access (as described in Companion Policy 54-101CP *Communication with Beneficial Owners of Securities of a Reporting Issuer*) to do so, also taking into account the purpose of the meeting and whether the Terminating Funds would obtain a better participation rate by sending the management information circular with the other proxy-related materials.

23. Pursuant to the requirements of the Notice-and-Access Relief, a notice-and-access document and applicable proxies in connection with the Meetings, along with the most recent fund facts of the relevant series of each Continuing Fund, will be mailed to securityholders of the applicable Terminating Fund on or about March 13, 2020. The notice-and-access document, template form of proxy and the management information circular in respect of the Mergers (the **Circular**), which the notice-and-access document will provide a link to, will also be filed via SEDAR at the same time.

24. If all required approvals for the Mergers are obtained, it is intended that the Mergers will occur on or about May 15, 2020, or such other date as determined by the Filer (the **Effective Date**), but in any event no later than December 31, 2020. The Filer therefore anticipates that each securityholder of a Terminating Fund will become a securityholder of the corresponding Continuing Fund after the close of business on the Effective Date. As it is currently anticipated that there will be no holders of any other series of Units of the Terminating Funds following the implementation of the Mergers, each of the Terminating Funds will be wound-up as soon as reasonably practicable following the Mergers.

25. The tax implications of the Mergers as well as the differences between the investment objectives and other features of each Terminating Fund and the corresponding Continuing Fund and the IRC's determination for each Merger, will be set out in the Circular, so that securityholders may make an informed decision before voting on whether to approve the Mergers. The Circular will also describe the various ways in which securityholders can obtain a copy of the prospectus of the applicable Continuing Fund and its most recent annual information form, interim and annual financial statements and management reports of fund performance.

26. As of January 7, 2020, the Filer anticipates that substantial sales of securities of the Terminating Funds will not be needed in relation to the Mergers and the Filer does not anticipate that there will be a material amount of net capital gains that will be realized by a Terminating Fund as a result of the expected sales of the portfolio assets of a Terminating Fund. The actual amount of net realized capital gains (or capital losses) may be different between the date of the analysis and the Effective Date due to changes in the value of securities held by a Terminating Fund.

27. In respect of the Merger of AGF Emerging Markets Balanced Fund into AGF Global Strategic Balanced Fund, the Filer anticipates that the transfer of the assets of the Taxable Terminating Fund to the corresponding Taxable Continuing Fund at their current market value will not give rise to material adverse income tax consequences for the Taxable Terminating Fund. The Taxable Continuing Fund has significant unutilized loss carry-forwards that would be lost if the Merger was completed on a tax-deferred basis under the Tax Act. Therefore, the Merger will be effected on a taxable basis so that the unutilized loss carry-forwards are preserved in the Taxable Continuing Fund.

28. In respect of the Merger of AGF Asian Growth Class into AGF Emerging Markets Class, the Merger will be implemented on a taxable basis because a tax-deferred alternative is not possible under the Tax Act. The assets and liabilities of AGF Asian Growth Class will be reallocated to AGF Emerging Markets Class. The reallocation will not be a taxable transaction for AGF Asian Growth Class.

29. All costs and expenses associated with the Mergers, including the costs of the Meetings, will be borne by the Filer and will not be charged to any of the Terminating Funds or Continuing Funds. No commission or other fee will be charged to securityholders on the issue or exchange of securities of the Terminating Funds and Continuing Funds, or otherwise in connection with the Mergers.

30. No sales charges will be payable by securityholders of the Terminating Funds in connection with the Mergers.

31. The investment portfolio and other assets of each Terminating Fund to be acquired by the applicable Continuing Fund in order to effect each Merger are currently, or will be on or prior to the Effective Date, acceptable to the portfolio manager of the Continuing Fund and are, or will be, consistent with the investment objectives of the Continuing Fund.

32. Securityholders of each Terminating Fund will continue to have the right to redeem their securities of the Terminating Fund until the business day immediately prior to the Effective Date. If securityholders of the Terminating Fund approve the Merger at the Meetings, the securityholders of the Terminating Fund who do not wish to participate in the Mergers will have the opportunity to redeem their securities prior to the Effective Date.

Steps of the Merger

33. In respect of each Terminating Fund that is a Trust Fund, the specific steps the Filer intends to take in order to effect the Merger are as follows:

    (a) Prior to the Effective Date, each Terminating Fund will distribute to its securityholders sufficient net income and net realized capital gains, if any, so that the Terminating Fund will not be subject to tax under Part I of the Tax Act for the taxation year that includes the Effective Date;

    (b) The Filer will determine the value of the Terminating Fund's portfolio and other assets at the close of business on the Effective Date, in accordance with the Terminating Fund's declaration of trust;

    (c) On the Effective Date, the Terminating Fund will transfer its assets (after reserving sufficient assets to satisfy its estimated liabilities, if any, as of the Effective Date) to the Continuing Fund in exchange for securities of the Continuing Fund having an aggregate net asset value equal to the aggregate value of the assets transferred by the Terminating Fund. The Terminating Fund's securities will be issued at the applicable series net asset value per security of the Continuing Fund determined as of the close of business on the Effective Date; and

    (d) Immediately thereafter, the Terminating Fund will redeem the securities of the Terminating Fund at their applicable series net asset value and pay such redemption amount to the securityholders of the Terminating Fund by transferring securities of an equivalent series of the Continuing Fund to each securityholder of the Terminating Fund in an amount equal to the redemption proceeds realized from the Terminating Fund;

(e) Subsequent to the completion of the Mergers, the Filer will wind up and terminate the Terminating Funds as soon as reasonably practicable, and the Terminating Funds will cease, or apply to cease, to be reporting issuers;

(f) The Filer will cancel any outstanding unit certificates (if applicable) of the Terminating Funds.

34. In respect of the one Terminating Fund that is a Corporate Class, the specific steps the Filer intends to take in order to effect the Merger are as follows:

(a) On the Effective Date, the Filer will re-allocate the assets and liabilities allocated to the Terminating Fund to the Continuing Fund;

(b) On the Effective Date, the Filer will convert the securities of each series of the Terminating Fund for securities of the relevant series of the Continuing Fund having a net asset value thereof, so that securityholders of the Terminating Fund shall become direct securityholders of the Continuing Fund holding the identical series of securities;

(c) Subsequent to the completion of the Merger, the Filer will effectively terminate the Terminating Fund by ceasing to utilize and offer the Terminating Fund; and

(d) The Filer will cancel any outstanding share certificates (if applicable) of the Terminating Fund.

Benefits of the Merger

35. In the opinion of the Filer, the Mergers will be beneficial to securityholders of the Terminating Funds for the following reasons:

(a) The Mergers will result in a more streamlined and simplified product line-up that is easier for investors to understand.

(b) The Mergers will eliminate similar fund offerings, thereby reducing the administrative and regulatory costs of operating the Terminating Funds and the Continuing Funds as separate funds.

(c) Each Continuing Fund, as a result of its greater size, may benefit from its larger profile in the market and better economies of scale.

(d) Except in respect of the Merger of AGF Emerging Markets Balanced Fund into AGF Global Strategic Balanced Fund, each Continuing Fund has either the same or lower risk rating than its corresponding Terminating Fund. Accordingly, in the Filer's view, each Continuing Fund (other than AGF Global Strategic Balanced Fund) has the potential to provide a better risk adjusted return profile than the corresponding Terminating Fund.

(e) With the exception of the MF Series of AGF Tactical Income Fund and all series of AGF Income Focus Fund, securityholders of the other Terminating Funds will receive securities of the Continuing Funds that have a combined management fee and administration fee, if applicable, that is either the same or lower than the combined management fee and administration fee, if applicable, charged in respect of the corresponding series of securities of the applicable Terminating Fund.

(f) With the exception of AGF Tactical Income Fund and AGF Income Focus Fund, securityholders of each other Terminating Fund will receive securities of the corresponding series of the Continuing Fund that have a management expense ratio (**MER**) that is either the same as or lower than the MER of the corresponding Terminating Fund (for the 12 months ended September 30, 2019).

36. For the reasons set forth above, in the opinion of the Filer, it will not be prejudicial to the public interest to grant the Approval Sought.

Decision

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

The decision of the principal regulator under the Legislation is that the Approval Sought is granted, provided that the Filer obtains the prior approval of the securityholders of the Terminating Funds for the proposed Mergers at the Meetings, or any adjournment thereof.

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

2.2 Orders

2.2.1 Paramount Equity Financial Corporation et al.

IN THE MATTER OF
PARAMOUNT EQUITY FINANCIAL CORPORATION,
SILVERFERN SECURED MORTGAGE FUND,
SILVERFERN SECURED MORTGAGE LIMITED PARTNERSHIP,
GTA PRIVATE CAPITAL INCOME FUND,
GTA PRIVATE CAPITAL INCOME LIMITED PARTNERSHIP,
SILVERFERN GP INC.,
PARAMOUNT ALTERNATIVE CAPITAL CORPORATION,
PACC AINSLIE CORPORATION,
PACC COSTIGAN CORPORATION,
PACC CRYSTALLINA CORPORATION,
PACC DACEY CORPORATION,
PACC GOULAIS CORPORATION,
PACC HARRIET CORPORATION,
PACC MAJOR MACK CORPORATION,
PACC MAPLE CORPORATION,
PACC MULCASTER CORPORATION,
PACC REGENT CORPORATION,
PACC SCUGOG CORPORATION,
PACC SECHELT CORPORATION,
PACC SHAVER CORPORATION,
PACC SIMCOE CORPORATION,
PACC THOROLD CORPORATION,
PACC WILSON CORPORATION,
TRILOGY MORTGAGE GROUP INC.,
TRILOGY EQUITIES GROUP LIMITED PARTNERSHIP,
MARC RUTTENBERG,
RONALD BRADLEY BURDON and
MATTHEW LAVERTY

File No. 2019-12

Timothy Moseley, Vice-Chair and Chair of the Panel
Garnet Fenn, Commissioner
Heather Zordel, Commissioner

March 2, 2020

ORDER

WHEREAS on March 2, 2020, the Ontario Securities Commission held a hearing at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider motions brought by Staff of the Commission (**Staff**), seeking leave to amend further the Amended Statement of Allegations in this proceeding, and seeking an adjournment of the hearing on the merits;

ON READING the motion materials filed by Staff, and on hearing the submissions of the representative for Staff, no one appearing for the respondents;

IT IS ORDERED, for reasons to follow, that:

1. the hearing dates of March 5 and 9, 2020, are vacated;
2. Staff's motion to amend the Amended Statement of Allegations shall be heard on March 10, 2020, at 10:00 a.m.; and
3. the hearing on the merits shall commence on March 10, 2020, and shall continue on March 11, 12, 23, 24, 25, 26, 27, and 30, 2020, at 10:00 a.m. on each scheduled day (except for March 23, 2020, on which date the hearing on the merits shall continue commencing at 9:00 a.m.), or on such other dates and times as provided by the Office of the Secretary and agreed to by the parties.

"Timothy Moseley"

"Garnet Fenn"

"Heather Zordel"

2.4 Rulings

2.4.1 E D & F Man Capital Markets Limited and E D & F Man Capital Markets Inc. – s. 38 of the CFA and s. 6.1 of Rule 91-502 Trades in Recognized Options

Headnote

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

Application to the Director for an exemption, pursuant to section 6.1 of OSC Rule 91-502 Trades in Recognized Options (Rule 91-502), exempting the Applicant and its Representatives from the proficiency requirements in section 3.1 of Rule 91-502 for trades in commodity futures options on exchanges located outside Canada.

Statutes Cited

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

Rules Cited

Ontario Securities Commission Rule 91-502 Trades in Recognized Options, ss. 3.1 and 6.1.

February 13, 2020

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

AND

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 91-502
TRADES IN RECOGNIZED OPTIONS
(Rule 91-502)

IN THE MATTER OF
E D & F MAN CAPITAL MARKETS LIMITED

AND

E D & F MAN CAPITAL MARKETS INC.

RULING & EXEMPTION
(Section 38 of the CFA and Section 6.1 of Rule 91-502)

UPON the application by E D & F Man Capital Markets Limited (**MCML**) and E D & F Man Capital Markets Inc. (**MCM Inc**) (collectively, the **Applicants**) to the Ontario Securities Commission (the **Commission**) for

(a) a ruling of the Commission, pursuant to Section 38 of the CFA, that the Applicants are not subject to the dealer registration requirements in the CFA (as defined below) or the trading restrictions in the CFA (as defined below) in connection with trades in Exchange-Traded Futures (as defined below) on Non-Canadian Exchanges (as defined below) where the Applicants are acting as principal or agent in such trades to, from or on behalf of Permitted Clients (as defined below) (the **Dealer Registration Relief**);

(b) a ruling of the Commission, pursuant to section 38 of the CFA, that a Permitted Client is not subject to the dealer registration requirements in the CFA or the trading restrictions in the CFA in connection with trades in

Exchange-Traded Futures on Non-Canadian Exchanges, where an Applicant acts in respect of the trades in Exchange-Traded Futures on behalf of the Permitted Client pursuant to the above ruling (the **Client Registration Relief**); and

(c) a decision of the Director, pursuant to section 6.1 of Rule 91-502, exempting the Applicants and their salespersons, directors, officers and employees (the **Representatives**) from section 3.1 of Rule 91-502 in connection with trades in Exchange-Traded Futures (collectively with the Dealer Registration Relief and the Client Registration Relief, the **Requested Relief**);

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

(i) "**CEA**" means the U.S. *Commodity Exchange Act*;

"**CFTC**" means the U.S. Commodity Futures Trading Commission;

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

"**EEA**" means European Economic Area;

"**EEA Member States**" means Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the U.K.;

"**Exchange Act**" means the U.S. *Securities Exchange Act of 1934*;

"**Exchange-Traded Futures**" means a commodity futures contract or a commodity futures option that trades on one or more organized exchanges located outside of Canada and that is cleared through one or more clearing corporations located outside of Canada;

"**FCA**" means the U.K. Financial Conduct Authority;

"**FCA Handbook**" means the U.K. Financial Conduct Authority's Handbook of rules and guidance;

"**FINRA**" means the Financial Industry Regulatory Authority in the U.S.;

"**Investment Firm**" means an entity authorised and regulated in the EU in order to provide investment services;

"**NFA**" means the National Futures Association in the U.S.;

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

"**Non-Canadian Exchanges**" means exchanges located outside Canada;

"**Permitted Client**" means a client in Ontario that is a "permitted client" as that term is defined in section 1.1. of NI 31-103;

"**SEC**" means the U.S. Securities and Exchange Commission;

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

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

"**U.K.**" means the United Kingdom of Great Britain and Northern Ireland;

"**U.S**." means the United States of America; and

(ii) terms used in this Decision that are defined in the OSA, and not otherwise defined in this Decision or in the CFA, have the same meaning as in the OSA, unless the context otherwise requires.

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

AND UPON the Applicants having represented to the Commission and the Director as follows:

1. MCML is a company incorporated under the laws of England and Wales. Its registered and head office is located at The News Building, 3 London Bridge Street, London, SE1 9SG, U.K.

2. MCML is not a reporting issuer in any jurisdiction of Canada.

3. MCML is a wholly-owned subsidiary of E D & F Man Holdings Ltd and provides execution and clearing services on derivatives exchanges located across the globe but primarily in the U.K., Europe, Asia and the United States.

4. MCML is authorized and regulated by the FCA to provide the following regulated products to eligible counterparties and professional clients:

   (a) Certificates representing certain security

   (b) Commodity Future

   (c) Commodity option and option on commodity future

   (d) Contract for Differences (excluding a spread bet and, a rolling spot forex contract and a binary bet)

   (e) Debenture

   (f) Emissions Allowance

   (g) Future (excluding a commodity future and a rolling spot forex contract)

   (h) Government and public security

   (i) Option (excluding a commodity option and an option on a commodity future)

   (j) Rights to or interests in investments (Contractually Based Investments)

   (k) Rights to or interests in investments (Security)

   (l) Rolling spot forex contract

   (m) Share

   (n) Spread Bet

   (o) Unit

   (p) Warrant

5. MCML is a member of major international securities and commodity futures exchanges and clearing houses, including Currenex MTF, DEFRA, Dubai Gold and Commodities Exchange, EEX, Eurex, Eurex Clearing, Euronext Derivatives, European Commodity Clearing AG (ECC), European Energy Exchange AG (EEX), ICE Clear Europe Limited, ICE Endex, ICE Futures Europe, LCH Clearnet SA, LCH Ltd, LME Clear Limited, London Metal Exchange and London Stock Exchange including Curve Global.

6. MCML has “passported” its U.K. registration into the EEA Member States. In relation to MCML’s futures services, MCML utilizes its EEA passport to the extent that it may provide commodity futures services into other EEA Member States, and currently conducts such commodity futures activities out of its head office in London.

7. MCM Inc is incorporated under the laws of the state of New York in the U.S. Its head office is located at 140 East 45th Street, 10th Floor, New York, NY 10017, U.S.

8. MCM Inc is not a reporting issuer in any jurisdiction of Canada.

9. MCM Inc provides security brokerage services and is also an indirect wholly-owned subsidiary of E D & F Man Holdings Ltd.

10. MCM Inc is a member of major U.S. securities and commodity futures exchanges and clearing houses, including but not limited to the Chicago Board of Trade, Chicago Mercantile Exchange and the New York Mercantile Exchange.

11. MCM Inc is a broker-dealer registered with the SEC, a member of FINRA, a registered Futures Commission Merchant (**FCM**) with the CFTC and a member of the NFA.

12. MCM Inc is relying on the international dealer exemption in section 8.18 of NI 31-103 in British Columbia, Ontario, and Québec. MCM Inc is not registered pursuant to securities or commodity futures legislation in any jurisdiction of Canada.

13. The Applicants provide FCM services, which include commodity clearing and execution services, to various institutional customers.

14. The Applicants are not in default of securities legislation in any jurisdiction in Canada or under the CFA, subject to the matter to which this application relates. The Applicants are in compliance in all material respects with U.S. and U.K. securities and commodity futures laws, as applicable.

15. E D & F MAN Derivative Products Inc., an affiliate of the Applicants, is regulated by the CFTC and the NFA, and E D & F Man Capital Markets MENA Limited is regulated by the NFA.

16. Pursuant to its registrations and memberships, MCML is authorized to handle customer orders and receive and hold customer margin deposits, and otherwise act as an Investment Firm. The rules of the FCA require MCML to maintain adequate capital levels, make and keep specified types of records relating to customer accounts and transactions, and comply with other forms of customer protection rules, including rules respecting: know-your-customer obligations, account-opening requirements, anti-money laundering checks, trading limits, counterparty credit due diligence, delivery of confirmation statements, clearing deposits and initial and maintenance margins. These rules require MCML to treat Permitted Clients materially the same as its MCML'S U.S. and EEA customers with respect to transactions made on exchanges in the U.K. and EEA Member States. In order to protect customers in the event of the insolvency or financial instability of MCML, MCML complies with the Client Asset rules contained in the FCA Handbook, which ensure that cash balances are treated as client money and as such are segregated from MCML's own money. MCML does not accept securities from clients as collateral for the purposes of clearing financial derivatives. Where MCML accepts securities from clients, the securities would be treated as custody and as such, segregated and held separately from MCML's own securities.

    In accordance with FCA rules, MCML treats affiliates as arm's length customers. Money belonging to customers that are affiliates is held alongside money belonging to non-affiliate customers. Affiliates' money is not held separately, but together within the client money pool.

    Client money and securities are custodied exclusively with such banks, trust companies, clearing organizations or other licensed futures brokers and intermediaries as may be approved for such purposes.

    FCA rules specifically require:

    - any banks, trust companies or other licensed futures brokers and intermediaries to acknowledge that client money held is held on behalf of MCML's clients and cannot be set-off against any amount MCML may owe to the bank or Investment Firm;

    - in the case of clearing organizations that are approved Central Counterparties (**QCCPs**), that MCML sends the QCCP such a statement, but the QCCP is not required to acknowledge the statement.

17. Pursuant to its registrations and memberships, MCM Inc is authorized to handle customer orders and receive and hold customer margin deposits, and otherwise act as a futures broker. In the U.S., Rules of the CFTC and NFA require MCM Inc to maintain adequate capital levels, make and keep specified types of records relating to customer accounts and transactions, and comply with other forms of customer protection rules, including rules respecting: know-your-customer obligations, account-opening requirements, suitability requirements, anti-money laundering checks, credit checks, delivery of confirmation statements, clearing deposits and initial and maintenance margins. These rules require MCM Inc to treat Permitted Clients materially the same as its U.S. customers with respect to transactions made on U.S. exchanges. With respect to transactions made on U.S. exchanges, in order to protect customers in the event of the insolvency or financial instability of MCM Inc, MCM Inc is required to ensure that customer securities and monies be separately accounted for, segregated at all times from their own securities and monies (including the securities and monies of their affiliates) and custodied exclusively with such banks, trust companies, clearing organizations or other licensed futures brokers and intermediaries as may be approved for such purposes under the CEA and the rules promulgated by the CFTC thereunder (each, a **MCM Inc Approved Depository**). MCM Inc is further required to obtain acknowledgements from any MCM Inc Approved Depository holding customer funds or securities related to U.S.-based transactions or accounts that such funds and securities are to be separately held on behalf of such customers, with no right of set-off against MCM Inc's obligations or debts.

18. Certain of the Permitted Clients of MCML have requested to trade in Exchange-Traded Futures through MCML and MCML has traded for such Permitted Clients in Exchange Traded Futures in the past, and wishes to continue to do so

upon such Permitted Clients' request. For the period from October 2018 to September 2019, MCML has traded Exchange-Traded Futures for nine clients located in Ontario, three of which were give-up clients.

19. MCML has and wishes to continue to execute and clear trades in Exchange-Traded Futures on behalf of Permitted Clients in Ontario in the same manner that it executes and clears trades on behalf of its U.K. clients and EEA clients, all of which are "Eligible Counterparty" or "Professional Clients" as defined in the FCA Handbook. MCML will follow the same know-your-customer and segregation of assets procedures that it follows in respect of its U.K. clients and EEA clients. Permitted Clients will be afforded the benefits of compliance by MCML with the requirements of the FCA Handbook and the regulations thereunder. Permitted Clients in Ontario will have the same contractual rights against MCML as U.K. clients of MCML.

20. MCML is required under U.K. securities laws to categorize its clients using three categories (who are afforded a descending level of regulatory protection): (1) retail clients; (2) professional clients; and (3) eligible counterparties. Permitted Clients would generally fall into the categories of "professional clients" and "eligible counterparties". The levels of regulatory protection afforded to these categories of clients are substantially similar to those afforded to Permitted Clients. MCML is not permitted to provide investment services to clients that are categorized as retail clients.

21. Certain of the Permitted Clients of MCM Inc. have requested to trade in Exchange-Traded Futures through MCM Inc. and MCM Inc. has traded for such Permitted Clients in Exchange Traded Future in the past, and wishes to continue to do so upon such Permitted Clients' request. For the period from October 2018 to September 2019, MCM Inc. has traded Exchange-Traded Futures for nine clients located in Ontario, six of which were give-up clients.

22. MCM Inc has and wishes to continue to execute and clear trades in Exchange-Traded Futures on behalf of Permitted Clients in Ontario in the same manner that it executes and clears trades on behalf of its U.S. clients, all of which are "Eligible Contract Participants" as defined in the CEA. MCM Inc will follow the same know-your-customer and segregation of assets procedures that it follows in respect of its U.S. clients. Permitted Clients will be afforded the benefits of compliance by MCM Inc with the requirements of the CEA and the regulations thereunder, and the Exchange Act and the regulations thereunder. Permitted Clients in Ontario will have the same contractual rights against MCM Inc as U.S. clients of MCM Inc.

23. The Applicants will not maintain an office, sales force or physical place of business in Ontario.

24. The Applicants will solicit trades in Exchange-Traded Futures in Ontario only from persons who qualify as Permitted Clients.

25. Permitted Clients of the Applicants will only be offered the ability to effect trades in Exchange-Traded Futures on Non-Canadian Exchanges.

26. The Exchange-Traded Futures to be traded by Permitted Clients will include, but will not be limited to, Exchange-Traded Futures for equity index, single stock equity, interest rate, foreign exchange, bond, energy, environmental, agricultural and other commodity products.

27. Permitted Clients of the Applicants will be able to execute Exchange-Traded Futures orders through the Applicants by contacting the Applicant's relevant Account Executive.

28. The Applicants may execute a Permitted Client's order on the relevant Non-Canadian Exchange in accordance with the rules and customary practices of the exchange or engage another broker to assist in the execution of orders. The Applicants will remain responsible for all executions when the Applicants are listed as the executing broker of record on the relevant Non-Canadian Exchange.

29. The Applicants may perform both execution and clearing functions for trades in Exchange-Traded Futures or may direct that a trade executed by it be cleared through a carrying broker if the Applicants are not a clearing member of the Non-Canadian Exchange on which the trade is executed and cleared. Alternatively, the Permitted Client of the Applicants will be able to direct that trades executed by the Applicants be cleared through clearing brokers not affiliated with the Applicants in any way (each a **Non-ED&F Clearing Broker**).

30. If the Applicants perform only the execution of a Permitted Client's Exchange-Traded Futures order and "give-up" the transaction for clearance to a Non-ED&F Clearing Broker, such clearing broker will also be required to comply with the rules of the exchanges of which it is a member and any relevant regulatory requirements, including requirements under the CFA as applicable. Each such Non-ED&F Clearing Broker will represent to the Applicant, in an industry-standard give-up agreement, that it will perform its obligations in accordance with applicable laws, governmental, regulatory, self-regulatory, exchange and clearing house rules and the customs and usages of the exchange or clearing house on which the relevant Permitted Client's Exchange-Traded Futures order will be executed and cleared. The Applicants will not enter into a give-up agreement with any Non-ED&F Clearing Broker located in (i) the U.S. unless such clearing

broker is registered with the CFTC and/or the SEC, as applicable, or (ii) the U.K. unless such clearing broker is authorized by the FCA, as required.

31. As is customary for all trades in Exchange-Traded Futures, a clearing corporation appointed by the exchange or clearing division of the exchange is substituted as a universal counterparty on all trades in Exchange-Traded Futures and Permitted Client orders that are submitted to the exchange in the name of the Non-ED&F Clearing Broker or the Applicants or, on exchanges where the Applicants are not members, in the name of another carrying broker. The Permitted Client of an Applicant is responsible to that Applicant for payment of daily mark-to-market variation margin and/or proper margin to carry open positions and the Applicant, the carrying broker or the Non-ED&F Clearing Broker is in turn responsible to the clearing corporation/division for payment. Note however, that where a Permitted Client of an Applicant is not also a member of the LME, a Client Contract subject to the Rules of the LME will come into effect between that Applicant and the Permitted Client.

32. Permitted Clients that direct the Applicants to give up transactions in Exchange-Traded Futures for clearance and settlement by Non-ED&F Clearing Brokers will execute the give-up agreements described above.

33. Permitted Clients will pay commissions for trades to the Applicants. In the event that a Permitted Client directs the Applicants to give-up a trade to Permitted Client's Non-ED&F Clearing Broker(s), the Permitted Client will be responsible for any fees levied by the Non-ED&F Clearing Broker. Where an Applicants itself directs Permitted Client's orders to, and utilizes the services of, a Non-ED&F Clearing Broker for clearing or execution at its own initiative, that Applicant will generally be responsible for any fees levied by the Non-ED&F Clearing Broker.

34. The trading restrictions in the CFA apply unless, among other things, an Exchange-Traded Future is traded on a recognized or registered commodity futures exchange and the form of the contract is approved by the Director. To date, no Non-Canadian Exchanges have been recognized or registered under the CFA.

35. If the Applicants were registered under the CFA as a "futures commission merchant", it could rely upon certain exemptions from the trading restrictions in the CFA to effect trades in Exchange-Traded Futures to be entered into on certain Non-Canadian Exchanges.

36. Section 3.1 of Rule 91-502 provides that no person shall trade as agent in, or give advice in respect of, a recognized option, as defined in section 1.1 of Rule 91-502, unless he or she has successfully completed the Canadian Options Course (which has been replaced by the Derivatives Fundamentals Course and the Options Licensing Course).

37. All Representatives of MCML who trade futures and options in the U.K. need to have attained and maintain a level of skills, knowledge and expertise to discharge their responsibilities in accordance with the FCA's Training and Competency Handbook. Ordinarily, Representatives who trade futures and options will have passed examinations in U.K. Financial Regulation and Securities and/or Derivatives administered by the Chartered Institute for Securities & Investment (CISI) under its Capital Markets Programme.

38. Under the U.K. Senior Managers & Certification Regime, these Representatives will be classified by MCML as certified individuals. Although these Representatives will not be subject to direct approval by the FCA, MCML must take reasonable care to ensure that a Representative does not perform a certification function without having first been certified as fit and proper to do so. This certification must be renewed on an annual basis.

39. All Representatives of MCM Inc who trade options in the U.S. have passed the National Commodity Futures Examination (Series 3), being the relevant futures and options proficiency examination administered by FINRA.

AND UPON the Commission and Director being satisfied that it would not be prejudicial to the public interest to grant the exemptions requested;

IT IS RULED, pursuant to section 38 of the CFA, that the Applicants are not subject to the dealer registration requirements set out in the CFA or the trading restrictions in the CFA in connection with trades in Exchange-Traded Futures where the Applicants are acting as principal or agent in such trades to, from or on behalf of Permitted Clients provided that:

(a) each client effecting trades in Exchange-Traded Futures is a Permitted Client;

(b) any Non-ED&F Clearing Broker has represented and covenanted to the applicable Applicant that it is appropriately registered or exempt from registration under the CFA;

(c) the Applicants only execute and clear trades in Exchange-Traded Futures for Permitted Clients on Non-Canadian Exchanges;

(d) at the time trading activity is engaged in, the applicable Applicant:

(i) in the case of MCML,

(1) has its head office or principal place of business in the U.K.;

(2) is authorised and regulated by the FCA; and

(3) engages in the business of a futures commission merchant in Exchange-Traded Futures in the U.K.;

(ii) in the case of MCM Inc,

(1) has its head office or principal place of business in the U.S.;

(2) is registered as a FCM with the CFTC;

(3) is a member firm of the NFA; and

(4) engages in the business of a FCM in Exchange-Traded Futures in the U.S.;

(e) the applicable Applicant has provided to the Permitted Client the following disclosure in writing:

(i) a statement that the Applicant is not registered in Ontario to trade in Exchange-Traded Futures as principal or agent;

(ii) a statement that the Applicant's head office or principal place of business is located in London, U.K., in the case of MCML, or 140 East 45th Street, 10th Floor, New York, NY 10017, U..S, in the case of MCM Inc;

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

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

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

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

(g) MCML notifies the Commission of any regulatory action initiated after the date of this ruling in respect of MCML, or any predecessors or specified affiliates of MCML, by completing and filing with the Commission Appendix "B" hereto within ten days of the commencement of such action; provided that MCML may also satisfy this condition by filing with the Commission within ten days of the date of this Decision a notice making reference to and incorporating by reference the disclosure made relating to MCML pursuant to U.S. federal securities laws, and any updates to such disclosure that may be made from time to time, and by providing a copy, in a manner reasonably acceptable to the Director, of any Form BD "Regulatory Action Disclosure Reporting Page" relating to MCML;

(h) MCM Inc notifies the Commission of any regulatory action initiated after the date of this ruling in respect of MCM Inc, or any predecessors or specified affiliates of MCM Inc, by completing and filing with the Commission Appendix "B" hereto within ten days of the commencement of such action; provided that MCM Inc may also satisfy this condition by filing with the Commission within ten days of the date of this Decision a notice making reference to and incorporating by reference the disclosure made by MCM Inc pursuant to U.S. federal securities laws that is identified in the FINRA Broker Check system, and any updates to such disclosure as may be made from time to time, and by providing notification, in a manner reasonably acceptable to the Director, of any filing of a Form BD "Regulatory Action Disclosure Reporting Page";

(i) if the Applicants do not rely on the international dealer exemption by December 31st of each year, each of the Applicants pays a participation fee based on its specified Ontario revenues for its previous financial year in compliance with the requirements of Part 3 and section 6.4 of OSC Rule 13-502 *Fees* as if the Applicants relied on the international dealer exemption;

(j) by December 1st of each year, each Applicant notifies the Commission of its continued reliance on the exemption from the dealer registration requirement granted pursuant to this Decision by filing Form 13-502F4 *Capital Markets Participation Fee Calculation*; and

(k) this Decision will terminate on the earliest of:

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

(ii) six months, or such other transition period as may be provided by law, after the coming into force of any amendment to Ontario commodity futures law (as defined in the CFA) or Ontario securities law (as defined in the OSA) that affects the dealer registration requirements in the CFA or the trading restrictions in the CFA; and

(iii) five years after the date of this Decision.

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

Date: February 13, 2020

"M. Cecilia Williams"
Commissioner
Ontario Securities Commission

"Lawrence P. Haber"
Commissioner
Ontario Securities Commission

IT IS THE DECISION of the Director, pursuant to section 6.1 of Rule 91-502, that section 3.1 of Rule 91-502 does not apply to the Applicants or their Representatives in respect of trades in Exchange-Traded Futures, provided that:

(a) in the case of MCML, MCML and its Representatives maintain their respective authorizations and memberships with the FCA and the NFA which permit them to trade and clear commodity futures options in the U.K., and remain subject to regulation by the FCA; and

(b) in the case of MCM Inc, MCM Inc and its Representatives maintain their respective registrations and memberships with the CFTC and NFA which permit them to trade and clear commodity futures options in the U.S.; and

(c) this Decision will terminate on the earliest of:

i. the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA;

ii. six months, or such other transition period as may be provided by law, after the coming into force of any amendments to Ontario commodity futures law (as defined in the CFA) or Ontario securities law (as defined in the OSA) that affects the dealer registration requirements in the CFA or the trading restrictions in the CFA; and

iii. five years after the date of this Decision.

Date: February 24, 2020

"Elizabeth King"
Deputy Director
Ontario Securities Commission

APPENDIX A
SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE INTERNATIONAL DEALER OR INTERNATIONAL ADVISER EXEMPTED FROM REGISTRATION UNDER THE *COMMODITY FUTURES ACT*, ONTARIO

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

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

3. Jurisdiction of incorporation of the International Firm:

4. Head office address of the International Firm:

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

   Name:

   E-mail address:

   Phone:

   Fax:

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

   ☐ Section 8.18 [*international dealer*]

   ☐ Section 8.26 [*international adviser*]

   ☐ Other [specify]:

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

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

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

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

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

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

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

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

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

Dated: _____

_____

(Signature of the International Firm or authorized signatory)

_____
(Name of signatory)

_____
(Title of signatory)

Acceptance

The undersigned accepts the appointment as Agent for Service of

_____

[Insert name of International Firm] under the terms and conditions of the foregoing Submission to Jurisdiction and Appointment of Agent for Service.

Dated: _____

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

_____
(Name of signatory)

_____
(Title of signatory)

This form, and notice of a change to any information submitted in this form, is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:
https://www.osc.gov.on.ca/filings

APPENDIX B
NOTICE OF REGULATORY ACTION [1]

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

Yes _____ No _____

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

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

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

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

If yes, provide the following information for each action:

Name of entity	
Type of action	
Regulator/organization	
Date of action (yyyy/mm/dd)	Reason for action
Jurisdiction	

[1] Terms defined for the purposes of Form 33-506F6 *Firm Registration* to Ontario Securities Commission Rule 33-506 *(Commodity Futures Act) Registration Information* have the same meaning if used in this Appendix except that any reference to "firm" means the person or company relying on relief from the requirement to register as an adviser or dealer under the *Commodity Futures Act* (Ontario).

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

Yes No

If yes, provide the following information for each investigation:

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

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

Witness

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

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

This form is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:
https://www.osc.gov.on.ca/filings

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.2 Director's Decisions

3.2.1 Arie Papernick

IN THE MATTER OF
THE REGISTRATION OF
ARIE PAPERNICK

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. This settlement agreement (the **Settlement Agreement**) relates to the registration status of Arie Papernick (**Papernick**) as a dealing representative in the category of investment dealer under the *Securities Act*, R.S.O. 1990, c. S.5 (the "Act").

2. As more particularly described in this Settlement Agreement, Papernick failed to demonstrate the requisite integrity of a registered individual when he participated in a course of conduct in which he was aware of the true nature of undisclosed and inappropriate compensation paid to another registered firm (**Firm M**), and when he made misrepresentations under oath about this compensation during a regulatory interview. Staff of the OSC (**Staff**) considers that it is appropriate that his registration be revoked. The parties have agreed to make a joint recommendation to the Director regarding Papernick's registration.

II. AGREED STATEMENT OF FACTS

3. The parties agree to the facts as stated below.

A. The Registrant

4. Papernick has been registered under the Act as follows:

   (a) as a salesperson sponsored by Credifinance Securities Limited, a Toronto Stock Exchange and Investment Dealers Association firm, from February 23, 1995 to January 12, 1996;

   (b) as a salesperson in the category of broker and investment dealer, sponsored by TD Securities Inc., from January 29, 1996 to September 4, 1996;

   (c) as a salesperson in the category of broker and investment dealer, sponsored by Deacon Capital Corporation, from September 5, 1996 to October 28, 1996;

   (d) as a salesperson in the category of broker and investment dealer, sponsored by HSBC Securities (Canada) Inc., from November 4, 1996 to January 21, 2002;

   (e) as a salesperson in the category of broker and investment dealer, sponsored by Canaccord Capital Corp. / Canaccord Genuity Corp. (**Canaccord**), from January 4, 2002 to May 24, 2006;

   (f) as a salesperson in the category of broker and investment dealer, and subsequently as a dealing representative in the category of investment dealer, sponsored by Raymond James Ltd. (**Raymond James**), from May 26, 2006 to March 15, 2010;

   (g) as a dealing representative in the category of investment dealer, sponsored by Secutor Capital Management Corporation (**Secutor**), from March 16, 2010 to July 31, 2018; and

   (h) as a dealing representative in the category of investment dealer, sponsored by Acumen Capital Finance Partners Limited (**Acumen**), from August 1, 2018 to March 1, 2019.

5. Papernick's location of employment throughout his career as a registered individual has been in Toronto, Ontario.

6. Papernick was dismissed for cause by Canaccord on May 24, 2006 for allegedly misusing confidential information. Papernick accepted an employment offer from Raymond James and chose not to contest his dismissal from

Canaccord. From June 6, 2006 to December 4, 2006, Papernick's registration was made subject to voluntary supervision by Raymond James, by agreement with the Investment Dealers Association of Canada.

7. On May 22, 2015, Papernick received a warning letter from the Investment Industry Regulatory Organization of Canada (**IIROC**) for making personal trades in 2011 in a security that was subject to a dealer-restricted period, although IIROC did not take further regulatory action as it noted that Papernick "may have relied on unclear legal advice and the trading activity did not appear to result in significant harm to the marketplace."

B. Papernick's Role in Improper Commission Payments

8. From late 2015 until February 2017 (the **Relevant Time**), Papernick acted as Secutor's dealing representative on a number of corporate finance transactions in which Secutor acted as broker in placements by issuers in the resource sector, and where investment funds managed by another registered firm (**Firm M**) invested in securities of these issuers. Among the investment funds managed by Firm M during the Relevant Time were flow-through prospectus-qualified funds (**FT Funds**). In many of these placements, the FT Funds managed by Firm M were the primary or only purchasers of the securities on offer.

9. During the Relevant Time, Papernick's primary contact at Firm M was JK, an associate of Firm M who held the title of Executive Vice President – Investment Banking. Papernick and JK worked closely together and frequently communicated with each other during the Relevant Time, including by e-mail.

10. Papernick and JK agreed orally to a split of fees on transactions where they worked together, in which Firm M would generally receive 80% of this fee revenue, and Secutor would receive the remaining 20%. Papernick would be paid approximately 50% of the revenue received by Secutor for transactions on which he worked involving Firm M.

11. Some of Firm M's investment funds during the Relevant Time were distributed pursuant to an offering memorandum, and in those cases there was no restriction on the ability of Firm M or its affiliated entities or individuals to collect fees or commissions from the issuer.

12. Generally, once the terms of the transaction were agreed, Papernick would:

    (a) Settle placements, withhold commissions from gross proceeds, and remit the net proceeds to the issuer;

    (b) Prepare "flow of funds" schedule calculating the commission split between Firm M and Secutor on the basis of the oral agreement with JK (namely, 80% to Firm M and 20% to Secutor); and

    (c) Forward the "flow of funds" schedule to both JK and the chief financial officer of Secutor.

13. The prospectuses of the FT Funds specified that neither Firm M nor its associates or affiliates would receive fees or commissions in connection with any transactions in which the FT Funds invested (the **Restriction**). During the Relevant Time, JK was an associate of Firm M.

14. Papernick came to learn of the Restriction in the latter part of 2015.

15. For transactions in which Firm M participated that were subject to the Restriction during the Relevant Time, Secutor received most or all of the fee revenue directly from the issuers, and these issuers' press releases disclosed that Secutor would be receiving finders' fees or similar commissions. Approximately 80% of this revenue was then paid to Firm M. Some of this revenue was prohibited by the Restriction, and therefore should not have been paid. Papernick accepted this arrangement and worked on these transactions with JK, and both were responsible for generating these investment opportunities. Papernick was paid approximately half of the 20% of the fee revenue retained by Secutor for transactions implicated by the Restriction. Papernick's role in transactions subject to the Restriction was the same as set out in paragraph 11 herein.

16. Firm M's management issued invoices to Secutor for "strategic advisory services" for these transactions (the **Advisory Invoices**) pursuant to which Secutor could make payments to Firm M.

17. In the latter half of 2015, Papernick received the first Advisory Invoice from Firm M. Papernick presented the Advisory Invoice to compliance staff at Secutor, who requested several edits. After Papernick communicated these proposed revisions to JK, Firm M reissued the amended Advisory Invoice, and Papernick forwarded it to compliance staff at Secutor. This Advisory Invoice was accepted and paid by Secutor's chief financial officer.

18. The Advisory Invoices were not for *bona fide* strategic advisory services. Instead, they were designed to capture aggregate fee revenue which Firm M was not entitled to because of the Restriction. Because the Advisory Invoices aggregated the fee revenue from a number of issuers, the connection was obscured between the prohibited revenue

and the particular transactions in respect of which the revenue was paid. Secutor paid several Advisory Invoices in 2016.

19. In February 2016, Secutor underwent a financial audit. Secutor's auditor requested that Firm M sign off on certain fee revenue line items, and Papernick sent the request to JK for sign-off. JK refused to sign off on Secutor's audit letter as the letter showed all transactions, including those covered by the Restriction. Papernick indicated to JK in a series of e-mails that Secutor's auditor would likely not accept the amount of the advisory fees, and suggested that JK or someone else with signing authority at Firm M sign off on the audit letter.

20. For the remainder of 2016, Secutor continued to account for transactions on the basis of 80% of the commissions being paid to Firm M, including some transactions subject to the Restriction. Press releases relating to these transactions listed Secutor as receiving finder's fee revenue, even though JK and Papernick assumed that most of the revenue received by Secutor would be directed to Firm M. In an e-mail to an industry executive discussing one of these press releases in December 2016, JK wrote "When you see Secutor in press releases it is [Firm M]."

21. Firm M did not issue Advisory Invoices for transactions in the fourth quarter of 2016 subject to the Restriction (the **Non-Invoiced Fee Revenue**). On a conference call in which Papernick was present, Secutor management and Firm M management agreed that the Non-Invoiced Fee Revenue could not be supported and would not be paid by Secutor. The Non-Invoiced Fee Revenue amounted to approximately $1.6 million in the aggregate.

22. At JK's request, Papernick listed the name of a new corporation (**Firm T**) on "flow of funds" schedules in late 2016 as the entity to which commissions on transactions subject to the Restriction should be allocated. Firm T applied for registration as an exempt market dealer, but withdrew its application and Firm T was never registered. Secutor did not pay any Non-Invoiced Fee Revenue to Firm T.

23. JK advised Papernick that Secutor would be receiving an invoice from another registered dealer (**Firm E**) to invoice Secutor for approximately $786,000, which represented a portion of the Non-Invoiced Fee Revenue (the **Firm E Invoice**). The Firm E Invoice, which was dated December 30, 2016, purported to reflect work carried out by Firm E on transactions from October 2016 to December 2016 involving Firm M and subject to the Restriction. Papernick was not aware whether or not Firm E had performed any work on the transactions subject to the Restriction when he provided the Firm E Invoice to Secutor.

24. Secutor management paid Firm E the balance specified in the Firm E Invoice via cheque dated February 6, 2017. Later in 2017, JK left Firm M and joined Firm E in an unregistered role.

C. Misrepresentations and Material Omissions to OSC and IIROC Staff

25. On January 26, 2018, Papernick participated in a regulatory interview (the **Interview**) jointly conducted by OSC Staff and IIROC Staff. Papernick solemnly affirmed under oath that he would tell the truth at the Interview.

26. At the Interview, Papernick specifically denied any knowledge of the Restriction and specifically denied having had any discussions with anyone at Firm M about whether Firm M was allowed to receive finder's fees or commissions on placements taken by FT Funds in public companies.

27. These statements were false and misleading. Months after the Interview, Staff obtained e-mails between Papernick and JK from 2016 and 2017 in which they repeatedly and explicitly discussed the Restriction. For example, Papernick wrote in one e-mail to JK, "I understand that [Firm M] doesn't receive revenues on prospectus deals," and in another e-mail to JK, he wrote that a Firm M executive would be prepared to invest in an issuer, but that this executive would "rather not because if he did he can't take fees since he also bought in the prospectus."

28. In late December 2016, Papernick prepared and sent to JK a spreadsheet listing over $2.17 million in commissions to be paid to Firm M for a series of offerings during calendar 2016, including a number of offerings subject to the Restriction. JK warned Papernick in an e-mail not to provide one of JK's superiors at Firm M with the spreadsheet as prepared, because it included a record of commissions payable that were prohibited by the Restriction.

29. At the Interview, Papernick was asked a number of questions about the Advisory Invoices. Papernick provided vague descriptions of the origin and nature of the Advisory Invoices that did not include any reference to the true basis for the Advisory Invoices: the aggregate fee revenue prohibited by the Restrictions. As such, Papernick made material omissions when he failed to state facts in his responses to these questions that were necessary to make his responses not misleading.

30. Neither OSC Staff nor IIROC Staff were aware at the time that Papernick had made misrepresentations or material omissions during the Interview. It was not until months after the Interview, when Staff obtained e-mails between Papernick and JK, that it became apparent to Staff that Papernick had misled Staff about his knowledge of the Restriction and his role in Advisory Invoices.

III. ADMISSIONS AND REPRESENTATIONS BY PAPERNICK

31. Papernick admits that he failed to demonstrate the requisite integrity of a registered individual while he participated in transactions on behalf of Secutor while he was aware of the true nature of undisclosed and inappropriate compensation paid to Firm M.

32. Papernick admits that by making misrepresentations and material omissions to Staff during the Interview, he failed to demonstrate the requisite integrity of a registered individual.

33. Papernick admits his awareness that the true nature of the Advisory Invoices was not what was reflected on the face of the documents.

34. Papernick represents that he did not play any role in initiating the Advisory Invoice process. Notwithstanding the true nature of the Advisory Invoices, Firm M did send a detailed engagement letter to Secutor outlining specific advisory services to be provided to Secutor.

35. Papernick represents that once received, he presented all Firm M invoices, including the Advisory Invoices, to Secutor's compliance staff for review and approval. Papernick was not part of Secutor's compliance staff. Papernick represents that he had no authority to issue or pay invoices and had no signing authority at Secutor.

36. Papernick represents that after the initial Advisory Invoice was approved by Secutor, subsequent Advisory Invoices were routinely approved and paid by Secutor management.

37. Papernick represents that there is no evidence of any investors having suffered any losses as a result of his conduct, but admits that issuers in which FT Funds invested indirectly paid more commissions to Firm M, and less to Secutor, in light of the Restriction. Papernick further represents that he did not benefit personally from the issuance of the Advisory Invoices beyond being paid his customary share of approximately half of the 20% of the revenue retained by Secutor in transactions involving Firm M, in cases where Secutor paid the Advisory Invoices.

38. Papernick represents that he informed Secutor management that he would be participating in the Interview. Papernick further represents that he felt considerable pressure from Secutor management to provide answers to OSC and IIROC Staff that would not reveal the true nature of the Advisory Invoices. Papernick represents that he feared losing his job and unpaid commissions if he were to truthfully speak of the Advisory Invoices at the Interview.

39. Papernick represents that he voluntarily resigned from Secutor in July 2018.

40. Papernick has accepted full responsibility for his conduct and has expressed remorse. In attending a meeting with OSC and IIROC Staff to clarify the statements given at his Interview, Papernick represents that he set forth the truth of the matter and offered to assist OSC and IIROC Staff with further issues that may arise in the future related to this matter.

IV. JOINT RECOMMENDATION

41. The parties make the following joint recommendation to the Director regarding Papernick's registration status:

    (a) Papernick's registration shall be revoked pursuant to section 28 of the Act, effective immediately, and Papernick may not apply to reactivate his registration until two years have elapsed from the date of Papernick's resignation from Acumen on March 1, 2019;

    (b) Prior to applying for reactivation of registration, Papernick shall re-take, and successfully complete, the Conduct and Practices Handbook Course offered by the Canadian Securities Institute;

    (c) Prior to applying for reactivation of registration, Papernick shall take, and successfully complete, the Applied Investment Dealer Compliance Course offered by the Canadian Securities Institute; and

    (d) Subject to conditions (a), (b) and (c) being met, Staff will not recommend, either to the Director or to IIROC, that the reactivation of Papernick's registration be refused unless Staff becomes aware after the date of this Settlement Agreement of conduct impugning Papernick's suitability for registration or rendering his registration objectionable, and provided he meets all applicable criteria for registration at the time.

42. The parties submit that their joint recommendation is appropriate for the following reasons:

    (a) Papernick is remorseful for his conduct;

    (b) Papernick has corrected his misrepresentations and material omissions made during the Interview by subsequently providing truthful information to Staff upon request;

(c) Papernick has agreed to co-operate with staff of securities regulatory authorities and self-regulatory organizations, as necessary, in any future proceedings relating to the subject matter referenced in the Agreed Statement of Facts set out herein;

(d) By agreeing to this Settlement Agreement, Papernick has saved Staff and the Director the time and resources that would have been required for an opportunity to be heard (an "OTBH") under s. 31 of the Act to consider a recommendation by Staff that Papernick's registration should be revoked.

43. The parties acknowledge that if the Director does not accept this joint recommendation:

(a) This settlement agreement and all related negotiations between the parties shall be without prejudice.

(b) Papernick will be entitled to an OTBH in accordance with s. 31 of the Act in respect of Staff's recommendation that his registration be revoked by the Director.

"Arie Papernick"
Deputy Director
Compliance and Registrant Regulation
February 18, 2020

"Elizabeth King"
February 19, 2020

I approve the settlement agreement reached by both parties.
"Pat Chaukos"
Deputy Director
February 24, 2020

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Mexivada Mining Corp.	21 November 2012	03 December 2012	03 December 2012	27 February 2020

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Bexar Ventures Inc.	03 February 2020	27 February 2020
Primo Nutraceuticals Inc.	04 December 2019	02 March 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	
EEStor Corporation	29 January 2020	

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Chapter 6

Request for Comments

6.1.1 CSA Notice and Request for Comment – Proposed Amendments to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations and Changes to Companion Policy 31-103CP Registration Requirements, Exemptions and Ongoing Registrant Obligations to Enhance Protection of Older and Vulnerable Clients

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA Notice and Request for Comment

Proposed Amendments to

National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

and Changes to

Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

to Enhance Protection of Older and Vulnerable Clients

March 5, 2020

Introduction

The Canadian Securities Administrators (the **CSA** or **we**) are publishing, for a 90-day comment period, proposed amendments (the **Proposed Amendments**) to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103** or the **Rule**) and Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**31-103CP**, together the **Instrument**). We are proposing amendments to the provisions of the Instrument relating to business operations and client relationships in order to enhance investor protection by addressing issues of financial exploitation and diminished mental capacity of older and vulnerable clients.

The CSA worked together with the Investment Industry Regulatory Organization of Canada (**IIROC**) and the Mutual Fund Dealers Association of Canada (**MFDA**) (together referred to as the self-regulatory organizations or the **SROs**) to develop the Proposed Amendments. The Proposed Amendments would apply to all registered firms, including IIROC Dealer Members and MFDA Members. We encourage all registrants, including SRO members, to provide their comments on the Proposed Amendments. At a later date, the SROs may propose conforming amendments to SRO rules consistent with the CSA Rule.

This notice contains the following annexes:

- Annex A – Proposed Amendments to NI 31-103
- Annex B – Blackline showing changes to NI 31-103
- Annex C – Changes to 31-103CP
- Annex D – Local matters

This notice will also be available on the following websites of CSA jurisdictions:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca
www.fcnb.ca
nssc.novascotia.ca
www.osc.gov.on.ca
www.fcaa.gov.sk.ca
www.mbsecurities.ca

Substance and Purpose

The Proposed Amendments are part of the CSA's initiative to enhance investor protection by addressing issues of financial exploitation and diminished mental capacity of older and vulnerable clients.

Trusted Contact Person

The Proposed Amendments will require registrants to take reasonable steps to obtain the name and contact information of a trusted contact person (**TCP**), as well as the client's written consent to contact the TCP in prescribed circumstances.

The TCP is intended to be a resource for registrants to assist in protecting their clients against possible financial exploitation or if there are concerns about a client's mental capacity. The Proposed Amendments do not prevent registrants from opening and maintaining an account if a client refuses or fails to identify a TCP as long as the registrant takes reasonable steps to obtain the information.

Temporary Holds

In addition, the Proposed Amendments will:

- not prohibit registered firms and registered individuals from placing a temporary hold on the purchase or sale of a security or withdrawal or transfer of cash or securities from a client's account, if the registered firm reasonably believes that either:
    - a vulnerable client is being financially exploited, or
    - with respect to an instruction given by the client, the client does not have the mental capacity to make financial decisions, and
- require registered firms to take certain prescribed steps if they place a temporary hold in the above noted circumstances.

We believe that the Proposed Amendments provide an appropriate balance between a client's autonomy and investor protection, given that registered firms must have a reasonable belief of financial exploitation of a vulnerable client or lack of mental capacity of a client before placing a temporary hold. We also believe that the Proposed Amendments clarify how firms must proceed if they do place a temporary hold in such circumstances, and that these are steps they must take in order to meet their duty to deal fairly, honestly and in good faith with their clients.

For greater certainty, Canadian securities legislation does not otherwise prevent a firm from placing a hold on a client's account that it is legally entitled to place.

We acknowledge that there are other circumstances under which a firm might place a hold on a transaction, withdrawal or transfer. The Proposed Amendments do not address these circumstances.

In addition, we note that the Proposed Amendments are not intended to create an obligation to place a temporary hold; however, we recognize that firms may be legally required to place holds in certain circumstances.

Background

Canadians are living longer than ever before, and older Canadians are increasingly making up a greater proportion of the total population.[1] As investors live longer, there is a greater need for targeted financial advice and strategies associated with aging,[2] as well as the need to be more attuned to the sometimes-subtle changes clients may present as they age.

Registrants can be among the first to notice signs of vulnerability, diminished mental capacity and financial exploitation because of interactions they have with their clients and the knowledge they acquire through the client relationship.

Unfortunately, older Canadians are at a heightened risk of losing money to fraud and abuse. A study commissioned by the CSA in 2017 revealed that Canadians aged 65 or older are the likeliest age group to report being the victims of financial fraud.[3] At the same time, many older Canadians are also at risk of financial abuse. This can take the form of theft, misuse or underuse of funds intended for care and other household expenses, or abuses of a power of attorney or other authority over the older person's decision-making. A 2015 national study on the mistreatment of older Canadians found that 2.6 per cent of Canadians

[1] Recent Canadian census data shows that approximately 5.9 million Canadians are aged 65 or older, representing nearly 17 per cent of Canada's total population. Source: Statistics Canada, "Canada's population estimates: age and sex" (2015).
[2] Households led by Canadians aged 65 and older control approximately $541 billion in non-pension financial assets, representing 39 per cent of total non-pension financial assets held by Canadian households. Source: Statistics Canada, Survey of Financial Security (2016).
[3] Innovative Research Group (commissioned by the CSA), *CSA Investor Index* (2017), at p. 52.

aged 65 or older, representing 244,176 Canadians, reported having been a victim of financial abuse in the 12 months prior to when they were interviewed.[4] This made financial abuse the second most common form of elder abuse in Canada.[5]

Diminished mental capacity also has the potential to endanger the financial security of investors. As the human body ages, it is normal for changes in the brain to take place. However, these changes do not impact everyone in the same way and at the same time. These normal changes in cognition may not have a noticeable effect on one's ability to perform routine financial tasks, such as paying bills, but they can become more obvious when one faces more complex or unfamiliar contexts, such as financial planning or deciding to buy or sell investments.[6] Additionally, the risk of Alzheimer's disease and other forms of dementia increases substantially as individuals get older: while only 7 per cent of Canadians over 65 years of age are affected by dementia, this percentage is 35-40 per cent among Canadians over 85 years of age.[7]

The CSA recognizes that older clients are not a homogenous group and that not all older clients are vulnerable or unable to protect their own interests. The CSA also recognizes that not all vulnerable clients are older clients. Vulnerability can affect a client of any age, take many forms, and can be temporary, sporadic or permanent in nature. Vulnerability can be caused by an illness, impairment, disability or aging process limitation. It is important for firms to recognize vulnerabilities in their clients, because vulnerable clients may be more susceptible to financial exploitation.

Canadian Policy Landscape

Over the past several years, Canadian securities regulators have been focusing on addressing issues of financial exploitation and diminished mental capacity affecting older and vulnerable investors. In March 2018, the Ontario Securities Commission (the **OSC**) published OSC Staff Notice 11-779 – *Seniors Strategy*, which included an action plan to respond to the needs and priorities of Ontario seniors.[8] In June 2018, the Financial and Consumer Services Commission (New Brunswick) released a report on financial exploitation and cognitive impairment, outlining its recommendations as well as results from public feedback on an earlier consultation paper.[9] In early 2017, the Québec government adopted *An Act to combat maltreatment of seniors and other persons of full age in vulnerable situations as a means of combating abuse*[10] and the Autorité des marchés financiers published *Protecting vulnerable clients – A practical guide for the financial services industry* in May 2019.[11]

In June 2019, the CSA published CSA Staff Notice 31-354 *Suggested Practices for Engaging with Older and Vulnerable Clients*, which, among other things, encourages registrants to consider asking their clients to provide TCP information.[12]

Similarly, the SROs have taken measures to address these issues. In 2016, IIROC published IIROC Notice 16-0114 - *Guidance on compliance and supervisory issues when dealing with senior clients*.[13] In October 2019, the MFDA published MFDA Bulletin #0797-P - *Seniors and Vulnerable Clients* which sets out its recommendations in respect of the use of TCPs and the placing of temporary holds on transactions.[14]

The CSA acknowledges that in order to protect older and vulnerable clients, it is important to provide registrants with tools and guidance that they can use to take action against financial exploitation and to address issues arising from a client's diminished mental capacity, while being mindful of the client's autonomy. We believe that the Proposed Amendments are a step towards achieving these goals.

U.S. Policy Landscape

In recent years, the North American Securities Administrators Association[15] and the Financial Industry Regulatory Authority[16] have taken steps to address issues of financial exploitation of older and vulnerable clients. In drafting the Proposed Amendments, CSA staff considered these two regimes and adopted certain elements of these frameworks that were appropriate for the Canadian landscape.

[4] National Initiative for the Care of the Elderly, *Into the Light: National Survey on the Mistreatment of Older Canadians* (2015), at p. 55.
[5] *Ibid*.
[6] FCA, Occasional paper No. 31, *Ageing Population and Financial Services* (2017), at p. 26.
[7] Canada, Senate, *Dementia in Canada: A National Strategy for Dementia-friendly Communities* (Standing Senate Committee on Social Affairs, Science and Technology, 2016), at p. 3.
[8] *Seniors Strategy,* OSC SN 11-779, (2018) 41 OSCB 2268.
[9] Financial and Consumer Services Commission of New Brunswick, *Recommendations and Results of Consultation: Improving Detection, Prevention and Response to Senior Financial Abuse in New Brunswick* (June 2018).
[10] *An Act to combat maltreatment of seniors and other persons of full age in vulnerable situations as a means of combating abuse,* L-6.3, Québec, 2017.
[11] *Protecting vulnerable clients – A practical guide for the financial services industry*, AMF, (2019).
[12] CSA Staff Notice 31-354, *Suggested Practices for Engaging with Older and Vulnerable Clients*(2019) 42 OSCB 5555.
[13] IIROC Notice 16-0114, *Guidance on compliance and supervisory issues when dealing with senior clients* (2016).
[14] MFDA Bulletin #0797-P, *Seniors and Vulnerable Clients*(2019).
[15] NASAA, *NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation*, https://bit.ly/2E4XYt6.
[16] FINRA, *Senior Investors*, https://bit.ly/2Yxn3pS.

Summary of Proposed Amendments

CSA Staff have organized the Proposed Amendments into two topics: 1) Trusted Contact Person and 2) Temporary Holds. Unless otherwise noted, section references in the summary below are to provisions in NI 31-103.

Trusted Contact Person

The CSA proposes to amend section 13.2 [*Know your client*] of NI 31-103 by adding a new paragraph 13.2(2)(e) that would require registrants to take reasonable steps to obtain from the client the name and contact information of a TCP and the written consent of the client to contact the TCP in circumstances set out in the Rule. We also propose to provide guidance in 31-103CP with respect to our expectations for the use of the TCP. This requirement would not apply to a registrant in respect of a client who is not an individual.

In addition, the CSA proposes to amend section 14.2 [*Relationship disclosure information*] of NI 31-103 by adding a new paragraph 14.2(2)(l.1) that would require a registered firm to disclose to a client the circumstances under which the firm might disclose information about the client or the client's account to the TCP.

Temporary Holds

The CSA proposes to add a new section 13.19 [*Conditions for temporary hold*] to NI 31-103 that would:

- not prohibit registered firms and registered individuals from placing a temporary hold on the purchase or sale of a security or withdrawal or transfer of cash or securities from a client's account, if the registered firm reasonably believes that either:
    - a vulnerable client is being financially exploited, or
    - with respect to an instruction given by a client, the client does not have the mental capacity to make financial decisions, and
- require registered firms to take certain prescribed steps if they place a temporary hold in the above noted circumstances.

We also propose to provide guidance in 31-103CP with respect to our expectations for the use of temporary holds.

The Proposed Amendments would add definitions of "financial exploitation", "mental capacity", "temporary hold" and "vulnerable client" to section 1.1 of NI 31-103. The CSA proposes to add guidance to 31-103CP on the signs registrants may observe if a client is being financially exploited or is suffering from diminished mental capacity.

The CSA proposes to amend section 11.5 [*General requirements for records*] of NI 31-103 by adding a new paragraph 11.5(2)(s) to require firms to maintain records to demonstrate compliance with the proposed section 13.19.

The CSA also proposes to amend section 14.2 [*Relationship disclosure information*] of NI 31-103 by adding a new paragraph 14.2(2)(p) that would require a registered firm to provide clients with a general explanation of the circumstances under which the firm or registered individual may place a temporary hold and a description of the notice that will be given.

Questions for Comment

In addition to comments on any aspect of the Proposed Amendments, we invite views on the questions below. Please provide a specific response.

Trusted Contact Person

1. We have proposed that the new paragraph 13.2(2)(e) not apply to a registrant in respect of a client that is not an individual. We acknowledge that some individuals structure their accounts as holding companies, partnerships or trusts for various reasons.

   Should registrants be required to take reasonable steps to obtain the name and contact information of a trusted contact person for the individuals who,

   (i) in the case of a corporation, is a beneficial owner of, or exercises direct or indirect control or direction over, more than 25% of the voting rights attached to the outstanding voting securities of the corporation, or

   (ii) in the case of a partnership or trust, exercises control over the affairs of the partnership or trust?

2. For IIROC Dealer Members exclusively offering order execution only services, please comment on any specific considerations or factors that may impact the appropriateness of the proposed framework in the order execution only service context, particularly the requirement to take reasonable steps to obtain TCP information under new paragraph 13.2(2)(e).

Temporary Holds

3. We have proposed that the new temporary hold requirements apply to holds that are placed if there is a reasonable belief that, with respect to an instruction given by the client, the client does not have the mental capacity to make financial decisions. We have heard from stakeholders that an individual that is suffering from diminished mental capacity is more susceptible to financial exploitation, and, because of their diminished mental capacity, may need to be protected from mishandling or dissipating their own assets. Should the temporary hold requirements apply to holds that are placed where there is a reasonable belief that the client does not have the mental capacity to make financial decisions or should they be limited to cases of financial exploitation of vulnerable clients?

4. We have proposed that the new temporary hold requirements apply to holds that are placed, not only on the withdrawal of cash or securities from an account, but also on the purchase or sale of securities and the transfer of cash or securities to another firm. We have heard from stakeholders that transactions and transfers, in cases of financial exploitation or diminished mental capacity, can be just as harmful to clients as withdrawals. Should the temporary hold requirements apply to holds that are placed on the purchase or sale of securities and the transfer of cash or securities to another firm?

5. We have not proposed a time limit on temporary holds considering the complex nature of issues relating to financial exploitation and diminished mental capacity, and the length of time it takes to engage with third parties such as the police and the relevant public guardian and trustee. Instead of a time limit on the temporary holds, we are proposing to require firms to provide the client with notice of the decision to not terminate the temporary hold, and reasons for that decision, every 30 days. Should we prescribe a time limit on temporary holds? Or is the notice requirement proposed by the CSA sufficient to protect investors?

6. Are the Proposed Amendments regarding temporary holds adequate to address issues of financial exploitation of vulnerable clients or diminished mental capacity, or does more need to be done to ensure these issues are addressed? The CSA will consider next steps based on the input received.

Transition

Subject to the nature of comments we receive, as well as any applicable regulatory requirements, we are proposing that if approved, the Proposed Amendments would come into force at the same time as the Client Focused Reforms relating to know your client.

We invite your comments on this implementation plan.

Local Matters

Annex D includes, where applicable, additional information that is relevant in a local jurisdiction only.

Request for Comments

We welcome your comments on the Proposed Amendments.

Please submit your comments in writing on or before June 3, 2020. If you are not sending your comments by email, please send a CD containing the submissions (in Microsoft Word format).

Address your submission to all of the CSA as follows:

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories

Registrar of Securities, Yukon Territory
Superintendent of Securities, Nunavut

Deliver your comments only to the addresses below. Your comments will be distributed to the other participating CSA members.

The Secretary
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416-593-2318
comments@osc.gov.on.ca

Me Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1
Fax: 514-864-8381
consultation-en-cours@lautorite.qc.ca

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period. All comments received will be posted on the websites of each of the Alberta Securities Commission at www.albertasecurities.com, the Autorité des marchés financiers at www.lautorite.qc.ca and the Ontario Securities Commission at www.osc.gov.on.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Questions

Please refer your questions to any of the following:

Jenna Virk
Senior Legal Counsel, Legal Services
Capital Markets Regulation Division
British Columbia Securities Commission
604-899-6884
jvirk@bcsc.bc.ca

Bonnie Kuhn
Senior Legal Counsel
Market Regulation
Alberta Securities Commission
403-355-3890
bonnie.kuhn@asc.ca

Curtis Brezinski
Compliance Auditor, Capital Markets
Securities Division
Financial and Consumer Affairs Authority of Saskatchewan
306-787-5876
curtis.brezinski@gov.sk.ca

Steve Gingera
Legal Counsel
Manitoba Securities Commission
204-945-5070
Steven.Gingera@gov.mb.ca

Andrea Maggisano
Senior Policy Advisor
Investor Office
Ontario Securities Commission
416-204-8988
amaggisano@osc.gov.on.ca

Namita Balgi
Policy Advisor
Investor Office
Ontario Securities Commission
416-204-8985
nbalgi@osc.gov.on.ca

Martin Picard
Analyste expert à l'encadrement des intermédiaires
Direction de l'encadrement des intermédiaires
Autorité des marchés financiers
514-395-0337 and 1-877-525-0337
martin.picard@lautorite.qc.ca

Deborah Gillis
Senior Legal Counsel/Conseillère juridique
Financial and Consumer Services Commission/Commission des services financiers et des services aux consommateurs
506-643-7112
Deborah.Gillis@fcnb.ca

Chris Pottie
Deputy Director, Registration & Compliance
Nova Scotia Securities Commission
902-424-5393
Chris.Pottie@novascotia.ca

Steven Dowling
Acting Director
Government of Prince Edward Island, Superintendent of Securities
902-368-4551
sddowling@gov.pe.ca

Renée Dyer
Superintendent of Securities
Office of the Superintendent of Securities, Service NL
709-729-4909
ReneeDyer@gov.nl.ca

Jeff Mason
Superintendent of Securities
Department of Justice, Government of Nunavut
867-975-6591
jmason@gov.nu.ca

Jeremy Walsh
Policy Officer, Legal Registries
Office of the Superintendent of Securities,
Northwest Territories
867-767-9260 ext. 82205
Jeremy_Walsh@gov.nt.ca

Rhonda Horte
Securities Officer
Office of the Yukon Superintendent of Securities
867-667-5466
rhonda.horte@gov.yk.ca

ANNEX A

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 31-103
REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS

1. National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations is amended by this Instrument.

2. Section 1.1 is amended by adding the following definitions:

"financial exploitation" means, in respect of an individual, the use, control or deprivation of the individual's financial assets through undue influence or wrongful or unlawful conduct;

"mental capacity" means the ability to understand information or appreciate the foreseeable consequences of a decision or lack of decision;

"temporary hold" means a hold that is placed on the purchase or sale of a security or withdrawal or transfer of cash or securities from a client's account;

"vulnerable client" means a client of a registered firm or a registered individual, who may have an illness, impairment, disability or aging process limitation that places the client at risk of financial exploitation;**.**

3. Subsection 11.5 (2) is amended:

(a) in paragraph (r) by replacing "." with ";", and

(b) by adding the following paragraph:

(s) demonstrate compliance with section 13.19 [*conditions for temporary hold*]**..**

4. Subsection 13.2 (2) is amended by deleting** "and" **at the end of subparagraph (c) (vi), by replacing "." with ",** and**" at the end of paragraph (d), and by adding the following paragraph:

(e) obtain from the client the name and contact information of a trusted contact person, who is an individual of the age of majority or older in the individual's jurisdiction of residence, and the written consent of the client for the registrant to contact the trusted contact person to confirm or make inquiries about any of the following:

(i) possible financial exploitation of the client;

(ii) concerns about the client's mental capacity as it relates to the client's financial decision making or lack of decision making;

(iii) the name and contact information of any of the following:

(A) a legal guardian of the client,

(B) an executor of an estate under which the client is a beneficiary,

(C) a trustee of a trust under which the client is a beneficiary,

(D) any other personal or legal representative of the client;

(iv) the client's current contact information**..**

5. Section 13.2 is amended by adding the following subsection:

(8) Paragraph (2)(e) does not apply to a registrant in respect of a client that is not an individual**..**

6. The Instrument is amended by adding the following division:

Division 8 Temporary holds

13.19 Conditions for temporary hold

(1) A registered firm, or a registered individual whose registration is sponsored by the registered firm, must not place a temporary hold in relation to the financial exploitation of a vulnerable client unless

the firm reasonably believes:

(a) the client is a vulnerable client, and

(b) financial exploitation of the client has occurred, is occurring, has been attempted or will be attempted.

(2) A registered firm, or a registered individual whose registration is sponsored by the registered firm, must not place a temporary hold in relation to the lack of mental capacity of a client unless the firm reasonably believes, with respect to an instruction given by the client, the client does not have the mental capacity to make financial decisions.

(3) If a registered firm, or a registered individual whose registration is sponsored by the registered firm, places a temporary hold in accordance with subsection (1) or (2), the firm must do the following:

(a) document the facts that caused the firm or individual to place and continue the temporary hold;

(b) as soon as possible following the date the firm or individual initially placed the temporary hold, provide notice of the temporary hold and the reasons for the temporary hold to the client;

(c) as soon as possible following the date the firm or individual initially placed the temporary hold and until the hold is terminated, further review the facts that caused the firm or individual to place the temporary hold;

(d) within 30 days of placing the temporary hold, and unless the hold has been previously terminated, within every subsequent 30-day period, take either of the following actions:

(i) terminate the temporary hold;

(ii) provide the client with notice of the firm's decision to not terminate the hold and the reasons for that decision;

(e) ultimately terminate the temporary hold and decide to proceed or not proceed with the purchase or sale of a security or withdrawal or transfer of cash or securities**.**.

7. Subsection 14.2 (2) is amended:

(a) by adding the following paragraph:

(l.1) a description of the circumstances under which a registrant might disclose information about the client or the client's account to a trusted contact person in accordance with paragraph 13.2(2)(e);**,**

(b) in paragraph (o) by replacing "." with ";", and

(c) by adding the following paragraph:

(p) a general explanation of the circumstances under which a registered firm or registered individual may place a temporary hold under section 13.19 [*conditions for temporary hold*] and a description of the notice that will be given to the client, if a temporary hold is placed under that section**.**.

8. This Instrument comes into force on •.

ANNEX B

NATIONAL INSTRUMENT 31-103
REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS

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16.2 [*lapsed*]
16.3 [*lapsed*]
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NATIONAL INSTRUMENT 31-103
REGISTRATION REQUIREMENTS, EXEMPTIONS
AND ONGOING REGISTRANT OBLIGATIONS

Part 1 Interpretation

1.1 Definitions of terms used throughout this Instrument

In this Instrument

"book cost" means the total amount paid to purchase a security, including any transaction charges related to the purchase, adjusted for reinvested distributions, returns of capital and corporate reorganizations;

"Canadian custodian" means any of the following:

(a) a bank listed in Schedule I, II or III of the *Bank Act* (Canada);

(b) a trust company that is incorporated under the laws of Canada or a jurisdiction of Canada and licensed or registered under the laws of Canada or a jurisdiction of Canada, and that has equity, as reported in its most recent audited financial statements, of not less than $10,000,000;

(c) a company that is incorporated under the laws of Canada or a jurisdiction of Canada, and that is an affiliate of a bank or trust company referred to in paragraph (a) or (b), if either of the following applies:

(i) the company has equity, as reported in its most recent audited financial statements, of not less than $10,000,000;

(ii) the bank or trust company has assumed responsibility for all of the custodial obligations of the company for the cash and securities the company holds for a client or investment fund;

(d) an investment dealer that is a member of IIROC and that is permitted under the rules of IIROC, as amended from time to time, to hold the cash and securities of a client or investment fund;

"Canadian financial institution" has the same meaning as in section 1.1 of National Instrument 45-106 *Prospectus Exemptions*;

"connected issuer" has the same meaning as in section 1.1 of National Instrument 33-105 *Underwriting Conflicts*;

"debt security" has the same meaning as in section 1.1 of National Instrument 45-106 *Prospectus Exemptions*;

"designated rating" has the same meaning as in paragraph (b) of the definition of "designated rating" in National Instrument 81-102 *Investment Funds*;

"designated rating organization" has the same meaning as in National Instrument 44-101 *Short Form Prospectus Distributions*;

"DRO affiliate" means an affiliate of a designated rating organization that issues credit ratings in a foreign jurisdiction and that has been designated as such under the terms of the designated rating organization's designation;

"eligible client" means a client of a person or company if any of the following apply:

(a) the client is an individual and was a client of the person or company immediately before becoming resident in the local jurisdiction;

(b) the client is the spouse or a child of a client referred to in paragraph (a);

(c) except in Ontario, the client is a client of the person or company on September 27, 2009 pursuant to the person or company's reliance on an exemption from the registration requirement under Part 5 of Multilateral Instrument 11-101 *Principal Regulator System* on that date;

"exempt market dealer" means a person or company registered in the category of exempt market dealer;

"financial exploitation" means, in respect of an individual, the use, control or deprivation of the individual's financial assets through undue influence or wrongful or unlawful conduct;

"foreign custodian" means any of the following:

(a) an entity that

(i) is incorporated or organized under the laws of a country, or a political subdivision of a country, other than Canada,

(ii) is regulated as a banking institution or trust company by the government, or an agency of the government, of the country under the laws of which it is incorporated or organized, or a political subdivision of that country, and

(iii) has equity, as reported in its most recent audited financial statements, of not less than the equivalent of $100,000,000;

(b) an affiliate of an entity referred to in paragraph (a), (b) or (c) of the definition of "Canadian custodian", or paragraph (a) of this definition, if either of the following applies:

(i) the affiliate has equity, as reported in its most recent audited financial statements, of not less than the equivalent of $100,000,000;

(ii) the entity referred to in paragraph (a), (b) or (c) of the definition of "Canadian custodian", or paragraph (a) of this definition, has assumed responsibility for all of the custodial obligations of the affiliate for the cash and securities the affiliate holds for a client or investment fund;

"IIROC" means the Investment Industry Regulatory Organization of Canada;

"IIROC provision" means a by-law, rule, regulation or policy of IIROC named in Appendix G, as amended from time to time;

"interim period" means a period commencing on the first day of the financial year and ending 9, 6 or 3 months before the end of the financial year;

"investment dealer" means a person or company registered in the category of investment dealer;

"managed account" means an account of a client for which a person or company makes the investment decisions if that person or company has discretion to trade in securities for the account without requiring the client's express consent to a transaction;

"marketplace" has the same meaning as in section 1.1 of National Instrument 21-101 Marketplace Operation;

"mental capacity" means the ability to understand information or appreciate the foreseeable consequences of a decision or lack of decision;

"MFDA" means the Mutual Fund Dealers Association of Canada;

"MFDA provision" means a by-law, rule, regulation or policy of the MFDA named in Appendix H, as amended from time to time;

"mutual fund dealer" means a person or company registered in the category of mutual fund dealer;

"operating charge" means any amount charged to a client by a registered firm in respect of the operation, transfer or termination of a client's account and includes any federal, provincial or territorial sales taxes paid on that amount;

"original cost" means the total amount paid to purchase a security, including any transaction charges related to the purchase;

"permitted client" means any of the following:

(a) a Canadian financial institution or a Schedule III bank;

(b) the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada);

(c) a subsidiary of any person or company referred to in paragraph (a) or (b), if the person or company owns all of the voting securities of the subsidiary, except the voting securities required by law to be owned by directors of the subsidiary;

(d) a person or company registered under the securities legislation of a jurisdiction of Canada as an adviser, investment dealer, mutual fund dealer or exempt market dealer;

(e) a pension fund that is regulated by either the federal Office of the Superintendent of Financial Institutions or a pension commission or similar regulatory authority of a jurisdiction of Canada or a wholly-owned subsidiary of such a pension fund;

(f) an entity organized in a foreign jurisdiction that is analogous to any of the entities referred to in paragraphs (a) to (e);

(g) the Government of Canada or a jurisdiction of Canada, or any Crown corporation, agency or wholly-owned entity of the Government of Canada or a jurisdiction of Canada;

(h) any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or any agency of that government;

(i) a municipality, public board or commission in Canada and a metropolitan community, school board, the Comité de gestion de la taxe scolaire de l'île de Montréal or an intermunicipal management board in Québec;

(j) a trust company or trust corporation registered or authorized to carry on business under the *Trust and Loan Companies Act* (Canada) or under comparable legislation in a jurisdiction of Canada or a foreign jurisdiction, acting on behalf of a managed account managed by the trust company or trust corporation, as the case may be;

(k) a person or company acting on behalf of a managed account managed by the person or company, if the person or company is registered or authorized to carry on business as an adviser or the equivalent under the securities legislation of a jurisdiction of Canada or a foreign jurisdiction;

(l) an investment fund if one or both of the following apply:

(i) the fund is managed by a person or company registered as an investment fund manager under the securities legislation of a jurisdiction of Canada;

(ii) the fund is advised by a person or company authorized to act as an adviser under the securities legislation of a jurisdiction of Canada;

(m) in respect of a dealer, a registered charity under the *Income Tax Act* (Canada) that obtains advice on the securities to be traded from an eligibility adviser, as defined in section 1.1 of National Instrument 45-106 *Prospectus Exemptions*, or an adviser registered under the securities legislation of the jurisdiction of the registered charity;

(n) in respect of an adviser, a registered charity under the *Income Tax Act* (Canada) that is advised by an eligibility adviser, as defined in section 1.1 of National Instrument 45-106 *Prospectus Exemptions*, or an adviser registered under the securities legislation of the jurisdiction of the registered charity;

(o) an individual who beneficially owns financial assets, as defined in section 1.1 of National Instrument 45-106 *Prospectus Exemptions*, having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds $5 million;

(p) a person or company that is entirely owned by an individual or individuals referred to in paragraph (o), who holds the beneficial ownership interest in the person or company directly or through a trust, the trustee of which is a trust company or trust corporation registered or authorized to carry on business under the *Trust and Loan Companies Act* (Canada) or under comparable legislation in a jurisdiction of Canada or a foreign jurisdiction;

(q) a person or company, other than an individual or an investment fund, that has net assets of at least $25 million as shown on its most recently prepared financial statements;

(r) a person or company that distributes securities of its own issue in Canada only to persons or companies referred to in paragraphs (a) to (q);

"portfolio manager" means a person or company registered in the category of portfolio manager;

"principal jurisdiction" means

(a) for a person or company other than an individual, the jurisdiction of Canada in which the person or company's head office is located, and

(b) for an individual, the jurisdiction of Canada in which the individual's working office is located;

"principal regulator" has the same meaning as in section 4A.1 of Multilateral Instrument 11-102 *Passport System*;

"qualified custodian" means a Canadian custodian or a foreign custodian;

"registered firm" means a registered dealer, a registered adviser, or a registered investment fund manager;

"registered individual" means an individual who is registered

(a) in a category that authorizes the individual to act as a dealer or an adviser on behalf of a registered firm,

(b) as ultimate designated person, or

(c) as chief compliance officer;

"related issuer" has the same meaning as in section 1.1 of National Instrument 33-105 *Underwriting Conflicts*;

"restricted dealer" means a person or company registered in the category of restricted dealer;

"restricted portfolio manager" means a person or company registered in the category of restricted portfolio manager;

"Schedule III bank" means an authorized foreign bank named in Schedule III of the *Bank Act* (Canada);

"scholarship plan dealer" means a person or company registered in the category of scholarship plan dealer;

"sponsoring firm" means the firm registered in a jurisdiction of Canada on whose behalf an individual acts as a dealer, an underwriter, an adviser, a chief compliance officer or an ultimate designated person;

"sub-adviser" means an adviser to

(a) a registered adviser, or

(b) a registered dealer acting as a portfolio manager as permitted by section 8.24 [*IIROC members with discretionary authority*];

"subsidiary" has the same meaning as in section 1.1 of National Instrument 45-106 *Prospectus Exemptions*;

"successor credit rating organization" has the same meaning as in National Instrument 44-101 *Short Form Prospectus Distributions;*

"temporary hold" means a hold that is placed on the purchase or sale of a security or withdrawal or transfer of cash or securities from a client's account;

"total percentage return" means the cumulative realized and unrealized capital gains and losses of an investment, plus income from the investment, over a specified period of time, expressed as a percentage;

"trailing commission" means any payment related to a client's ownership of a security that is part of a continuing series of payments to a registered firm or registered individual by any party;

"transaction charge" means any amount charged to a client by a registered firm in respect of a purchase or sale of a security and includes any federal, provincial or territorial sales taxes paid on that amount;

"vulnerable client" means a client of a registered firm or a registered individual, who may have an illness, impairment, disability or aging process limitation that places the client at risk of financial exploitation;

"working office" means the office of the sponsoring firm where an individual does most of his or her business.

1.2 Interpretation of "securities" in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan

(1) Subject to sections 8.2, 8.26 and 14.5.1, in British Columbia, a reference to "securities" in this Instrument includes "exchange contracts", unless the context otherwise requires.

(2) Subject to sections 8.2, 8.26 and 14.5.1, in Alberta, New Brunswick, Nova Scotia and Saskatchewan, a reference to "securities" in this Instrument includes "derivatives", unless the context otherwise requires.

1.3 Information may be given to the principal regulator

(1) [***repealed***]

(2) For the purpose of a requirement in this Instrument to notify or to deliver or submit a document to the regulator or the securities regulatory authority, the person or company may notify or deliver or submit the document to the person or company's principal regulator.

(3) [***repealed***]

(4) Despite subsection (2), for the purpose of the notice and delivery requirements in section 11.9 [*registrant acquiring a registered firm's securities or assets*], if the principal regulator of the registrant and the principal regulator of the firm identified in paragraph 11.9(1)(a) or 11.9(1)(b), if registered in any jurisdiction of Canada, are not the same, the registrant must deliver the written notice to the following:

(a) the registrant's principal regulator; and

(b) the principal regulator of the firm identified in paragraph 11.9(1)(a) or 11.9(1)(b) as applicable, if registered in any jurisdiction of Canada identified in paragraph 11.9(1)(a) or 11.9(1)(b).

(5) Subsection (2) does not apply to

(a) section 8.18 [*international dealer*], and

(b) section 8.26 [*international adviser*].

Part 2 Categories of registration for individuals

2.1 Individual categories

(1) The following are the categories of registration for an individual who is required, under securities legislation, to be registered to act on behalf of a registered firm:

(a) dealing representative;

(b) advising representative;

(c) associate advising representative;

(d) ultimate designated person;

(e) chief compliance officer.

(2) An individual registered in the category of

(a) dealing representative may act as a dealer or an underwriter in respect of a security that the individual's sponsoring firm is permitted to trade or underwrite,

(b) advising representative may act as an adviser in respect of a security that the individual's sponsoring firm is permitted to advise on,

(c) associate advising representative may act as an adviser in respect of a security that the individual's sponsoring firm is permitted to advise on if the advice has been approved under subsection 4.2(1) [*associate advising representatives – pre-approval of advice*],

(d) ultimate designated person must perform the functions set out in section 5.1 [*responsibilities of the ultimate designated person*], and

(e) chief compliance officer must perform the functions set out in section 5.2 [*responsibilities of the chief compliance officer*].

(3) Subsection (1) does not apply in Ontario.

Note: In Ontario, the same categories of registration for individuals as in subsection 2.1(1) are set out under section 25 of the *Securities Act* (Ontario).

2.2 Client mobility exemption – individuals

(1) The registration requirement does not apply to an individual if all of the following apply:

(a) the individual is registered as a dealing, advising or associate advising representative in the individual's principal jurisdiction;

(b) the individual's sponsoring firm is registered in the firm's principal jurisdiction;

(c) the individual does not act as a dealer, underwriter or adviser in the local jurisdiction other than as he or she is permitted to in his or her principal jurisdiction according to the individual's registration in that jurisdiction;

(d) the individual does not act as a dealer, underwriter or adviser in the local jurisdiction other than for 5 or fewer eligible clients;

(e) the individual complies with Part 13 *Dealing with clients – individuals and firms*;

(f) the individual deals fairly, honestly and in good faith in the course of his or her dealings with an eligible client;

(g) before first acting as a dealer or adviser for an eligible client, the individual's sponsoring firm has disclosed to the client that the individual, and if the firm is relying on section 8.30 *Client mobility exemption – firms*, the firm,

(i) is exempt from registration in the local jurisdiction, and

(ii) is not subject to requirements otherwise applicable under local securities legislation.

(2) If an individual relies on the exemption in this section, the individual's sponsoring firm must submit a completed Form 31-103F3 *Use of Mobility Exemption* to the securities regulatory authority of the local jurisdiction as soon as possible after the individual first relies on this section.

2.3 Individuals acting for investment fund managers

The investment fund manager registration requirement does not apply to an individual acting on behalf of a registered investment fund manager.

Part 3 Registration requirements – individuals

Division 1 General proficiency requirements

3.1 Definitions

In this Part

"Branch Manager Proficiency Exam" means the examination prepared and administered by the RESP Dealers Association of Canada and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination;

"Canadian Investment Funds Course Exam" means the examination prepared and administered by the IFSE Institute and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination;

"Canadian Investment Manager designation" means the designation earned through the Canadian investment manager program prepared and administered by CSI Global Education Inc. and so named on the day this Instrument comes into force, and every program that preceded that program, or succeeded that program, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned program;

"Canadian Securities Course Exam" means the examination prepared and administered by CSI Global Education Inc. and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination;

"Chief Compliance Officers Qualifying Exam" means the examination prepared and administered by CSI Global Education Inc. and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination;

"CFA Charter" means the charter earned through the Chartered Financial Analyst program prepared and administered by the CFA Institute and so named on the day this Instrument comes into force, and every program that preceded that program, or succeeded that program, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned program;

"Exempt Market Products Exam" means the examination prepared and administered by the IFSE Institute and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination;

"Investment Funds in Canada Course Exam" means the examination prepared and administered by CSI Global Education Inc. and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination;

"Mutual Fund Dealers Compliance Exam" means the examination prepared and administered by the IFSE Institute and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination;

"New Entrants Course Exam" means the examination prepared and administered by CSI Global Education Inc. and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination;

"PDO Exam" means

(a) the Officers', Partners' and Directors' Exam prepared and administered by the IFSE Institute and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination, or

(b) the Partners, Directors and Senior Officers Course Exam prepared and administered by CSI Global Education Inc. and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination;

"Sales Representative Proficiency Exam" means the examination prepared and administered by the RESP Dealers Association of Canada and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination;

"Series 7 Exam" means the examination prepared and administered by the Financial Industry Regulatory Authority in the United States of America and so named on the day this Instrument comes into force, and every examination that preceded that examination, or succeeded that examination, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned examination.

3.2 U.S. equivalency

In this Part, an individual is not required to have passed the Canadian Securities Course Exam if the individual has passed the Series 7 Exam and the New Entrants Course Exam.

3.3 Time limits on examination requirements

(1) For the purpose of this Part, an individual is deemed to have not passed an examination unless the individual passed the examination not more than 36 months before the date of his or her application for registration.

(2) Subsection (1) does not apply if the individual passed the examination more than 36 months before the date of his or her application and has met one of the following conditions:

(a) the individual was registered in the same category in any jurisdiction of Canada at any time during the 36-month period before the date of his or her application;

(b) the individual has gained 12 months of relevant securities industry experience during the 36-month period before the date of his or her application.

(3) For the purpose of paragraph (2)(a), an individual is not considered to have been registered during any period in which the individual's registration was suspended.

(4) Subsection (1) does not apply to the examination requirements in

(a) section 3.7 [s*cholarship plan dealer – dealing representative*] if the individual was registered in a jurisdiction of Canada as a dealing representative of a scholarship plan dealer on and since September 28, 2009, and

(b) section 3.9 [e*xempt market dealer – dealing representative*] if the individual was registered as a dealing representative of an exempt market dealer in Ontario or Newfoundland and Labrador on and since September 28, 2009.

Division 2 Education and experience requirements

3.4 Proficiency – initial and ongoing

(1) An individual must not perform an activity that requires registration unless the individual has the education, training and experience that a reasonable person would consider necessary to perform the activity competently.

(2) A chief compliance officer must not perform an activity set out in section 5.2 [*responsibilities of the chief compliance officer*] unless the individual has the education, training and experience that a reasonable person would consider necessary to perform the activity competently.

3.5 Mutual fund dealer – dealing representative

A dealing representative of a mutual fund dealer must not act as a dealer in respect of the securities listed in paragraph 7.1(2)(b) unless any of the following apply:

(a) the individual has passed the Canadian Investment Funds Course Exam, the Canadian Securities Course Exam or the Investment Funds in Canada Course Exam;

(b) the individual has met the requirements of section 3.11 [*portfolio manager – advising representative*];

(c) the individual has earned a CFA Charter and has gained 12 months of relevant securities industry experience in the 36-month period before applying for registration;

(d) the individual is exempt from section 3.11 [*portfolio manager – advising representative*] because of subsection 16.10(1) [*proficiency for dealing and advising representatives*].

3.6 Mutual fund dealer – chief compliance officer

A mutual fund dealer must not designate an individual as its chief compliance officer under subsection 11.3(1) [*designating a chief compliance officer*] unless any of the following apply:

(a) the individual has

(i) passed the Canadian Investment Funds Course Exam, the Canadian Securities Course Exam or the Investment Funds in Canada Course Exam,

(ii) passed the PDO Exam, the Mutual Fund Dealers Compliance Exam or the Chief Compliance Officers Qualifying Exam, and

(iii) gained 12 months of relevant securities industry experience in the 36-month period before applying for registration;

(b) the individual has met the requirements of section 3.13 [*portfolio manager – chief compliance officer*];

(c) section 3.13 [*portfolio manager – chief compliance officer*] does not apply in respect of the individual because of subsection 16.9(2) [*registration of chief compliance officers*].

3.7 Scholarship plan dealer – dealing representative

A dealing representative of a scholarship plan dealer must not act as a dealer in respect of the securities listed in paragraph 7.1(2)(c) unless the individual has passed the Sales Representative Proficiency Exam.

3.8 Scholarship plan dealer – chief compliance officer

A scholarship plan dealer must not designate an individual as its chief compliance officer under subsection 11.3(1) [*designating a chief compliance officer*] unless the individual has

(a) passed the Sales Representative Proficiency Exam,

(b) passed the Branch Manager Proficiency Exam,

(c) passed the PDO Exam or the Chief Compliance Officers Qualifying Exam, and

(d) gained 12 months of relevant securities industry experience in the 36-month period before applying for registration.

3.9 Exempt market dealer – dealing representative

A dealing representative of an exempt market dealer must not perform an activity listed in paragraph 7.1(2)(d) unless any of the following apply:

(a) the individual has passed the Canadian Securities Course Exam;

(b) the individual has passed the Exempt Market Products Exam;

(c) the individual has earned a CFA Charter and has gained 12 months of relevant securities industry experience in the 36-month period before applying for registration;

(d) the individual satisfies the conditions set out in section 3.11 [*portfolio manager – advising representative*];

(e) the individual is exempt from section 3.11 [*portfolio manager – advising representative*] because of subsection 16.10(1) [*proficiency for dealing and advising representatives*].

3.10 Exempt market dealer – chief compliance officer

An exempt market dealer must not designate an individual as its chief compliance officer under subsection 11.3(1) [*designating a chief compliance officer*] unless any of the following apply:

(a) the individual has

(i) passed the Exempt Market Products Exam or the Canadian Securities Course Exam,

(ii) passed the PDO Exam or the Chief Compliance Officers Qualifying Exam, and

(iii) gained 12 months of relevant securities industry experience in the 36-month period before applying for registration;

(b) the individual has met the requirements of section 3.13 [*portfolio manager – chief compliance officer*];

(c) section 3.13 [*portfolio manager – chief compliance officer*] does not apply in respect of the individual because of subsection 16.9(2) [*registration of chief compliance officers*].

3.11 Portfolio manager – advising representative

An advising representative of a portfolio manager must not act as an adviser on behalf of the portfolio manager unless any of the following apply:

(a) the individual has earned a CFA Charter and has gained 12 months of relevant investment management experience in the 36-month period before applying for registration;

(b) the individual has received the Canadian Investment Manager designation and has gained 48 months of relevant investment management experience, 12 months of which was gained in the 36-month period before applying for registration.

3.12 Portfolio manager – associate advising representative

An associate advising representative of a portfolio manager must not act as an adviser on behalf of the portfolio manager unless any of the following apply:

(a) the individual has completed Level 1 of the Chartered Financial Analyst program and has gained 24 months of relevant investment management experience;

(b) the individual has received the Canadian Investment Manager designation and has gained 24 months of relevant investment management experience.

3.13 Portfolio manager – chief compliance officer

A portfolio manager must not designate an individual as its chief compliance officer under subsection 11.3(1) [*designating a chief compliance officer*] unless any of the following apply:

(a) the individual has

(i) earned a CFA Charter or a professional designation as a lawyer, Chartered Accountant, Certified General Accountant or Certified Management Accountant in a jurisdiction of Canada, a notary in Québec, or the equivalent in a foreign jurisdiction,

(ii) passed the PDO Exam or the Chief Compliance Officers Qualifying Exam and, unless the individual has earned the CFA Charter, the Canadian Securities Course Exam, and

(iii) either

A) gained 36 months of relevant securities experience while working at an investment dealer, a registered adviser or an investment fund manager, or

B) provided professional services in the securities industry for 36 months and also worked at a registered dealer, a registered adviser or an investment fund manager for 12 months;

(b) the individual has passed the Canadian Securities Course Exam and either the PDO Exam or the Chief Compliance Officers Qualifying Exam and any of the following apply:

(i) the individual has worked at an investment dealer or a registered adviser for 5 years, including for 36 months in a compliance capacity;

(ii) the individual has worked for 5 years at a Canadian financial institution in a compliance capacity relating to portfolio management and also worked at a registered dealer or a registered adviser for 12 months;

(c) the individual has passed either the PDO Exam or the Chief Compliance Officers Qualifying Exam and has met the requirements of section 3.11 [*portfolio manager – advising representative*].

3.14 Investment fund manager – chief compliance officer

An investment fund manager must not designate an individual as its chief compliance officer under subsection 11.3(1) [*designating a chief compliance officer*] unless any of the following apply:

(a) the individual has

(i) earned a CFA Charter or a professional designation as a lawyer, Chartered Accountant, Certified General Accountant or Certified Management Accountant in a jurisdiction of Canada, a notary in Québec, or the equivalent in a foreign jurisdiction,

(ii) passed the PDO Exam or the Chief Compliance Officers Qualifying Exam and, unless the individual has earned the CFA Charter, the Canadian Securities Course Exam, and

(iii) either

A) gained 36 months of relevant securities experience while working at a registered dealer, a registered adviser or an investment fund manager, or

B) provided professional services in the securities industry for 36 months and also worked in a relevant capacity at an investment fund manager for 12 months;

(b) the individual has

(i) passed the Canadian Investment Funds Course Exam, the Canadian Securities Course Exam, or the Investment Funds in Canada Course Exam,

(ii) passed the PDO Exam or the Chief Compliance Officers Qualifying Exam, and

(iii) gained 5 years of relevant securities experience while working at a registered dealer, registered adviser or an investment fund manager, including 36 months in a compliance capacity;

(c) the individual has met the requirements of section 3.13 [*portfolio manager – chief compliance officer*];

(d) section 3.13 [*portfolio manager – chief compliance officer*] does not apply in respect of the individual because of subsection 16.9(2) [*registration of chief compliance officers*].

Division 3 Membership in a self-regulatory organization

3.15 Who must be approved by an SRO before registration

(1) A dealing representative of an investment dealer that is a member of IIROC must be an "approved person" as defined under the rules of IIROC.

(2) Except in Québec, a dealing representative of a mutual fund dealer that is a member of the MFDA must be an "approved person" as defined under the rules of the MFDA.

3.16 Exemptions from certain requirements for SRO-approved persons

(1) The following sections do not apply to a registered individual who is a dealing representative of an investment dealer that is a member of IIROC:

(a) subsection 13.2(3) [*know your client*];

(b) section 13.3 [*suitability determination*];

(c) section 13.13 [*disclosure when recommending the use of borrowed money*].

(1.1) Subsection (1) only applies to a registered individual who is a dealing representative of an investment dealer that is a member of IIROC in respect of a requirement specified in any of paragraphs (1)(a) to (c) if the registered individual complies with the corresponding IIROC provisions that are in effect.

(2) The following sections do not apply to a registered individual who is a dealing representative of a mutual fund dealer that is a member of the MFDA:

(a) section 13.3 [*suitability determination*];

(b) section 13.13 [*disclosure when recommending the use of borrowed money*].

(2.1) Subsection (2) only applies to a registered individual who is a dealing representative of a mutual fund dealer that is a member of the MFDA in respect of a requirement specified in paragraph (2)(a) or (b) if the registered individual complies with the corresponding MFDA provisions that are in effect.

(3) In Québec, the requirements listed in subsection (2) do not apply to a registered individual who is a dealing representative of a mutual fund dealer to the extent equivalent requirements to those listed in subsection (2) are applicable to the registered individual under the regulations in Québec.

Part 4 Restrictions on registered individuals

4.1 Restriction on acting for another registered firm

(1) A firm registered in any jurisdiction of Canada must not permit an individual to act as a dealing, advising or associate advising representative of the registered firm if either of the following apply:

(a) the individual acts as an officer, partner or director of another firm registered in any jurisdiction of Canada that is not an affiliate of the first-mentioned registered firm;

(b) the individual is registered as a dealing, advising or associate advising representative of another firm registered in any jurisdiction of Canada.

(2) Paragraph (1)(b) does not apply in respect of a representative whose registration as a dealing, advising or associate advising representative of more than one registered firm was granted before July 11, 2011.

4.2 Associate advising representatives – pre-approval of advice

(1) An associate advising representative of a registered adviser must not advise on securities unless, before giving the advice, the advice has been approved by an individual designated by the registered firm under subsection (2).

(2) A registered adviser must designate, for an associate advising representative, an advising representative to review the advice of the associate advising representative.

(3) No later than 7 days following the date of a designation under subsection (2), a registered adviser must provide the regulator or, in Québec, the securities regulatory authority with the names of the advising representative and the associate advising representative who are the subject of the designation.

Part 5 Ultimate designated person and chief compliance officer

5.1 Responsibilities of the ultimate designated person

The ultimate designated person of a registered firm must do all of the following:

(a) supervise the activities of the firm that are directed towards ensuring compliance with securities legislation by the firm and each individual acting on the firm's behalf;

(b) promote compliance by the firm, and individuals acting on its behalf, with securities legislation.

5.2 Responsibilities of the chief compliance officer

The chief compliance officer of a registered firm must do all of the following:

(a) establish and maintain policies and procedures for assessing compliance by the firm, and individuals acting on its behalf, with securities legislation;

(b) monitor and assess compliance by the firm, and individuals acting on its behalf, with securities legislation;

(c) report to the ultimate designated person of the firm as soon as possible if the chief compliance officer becomes aware of any circumstances indicating that the firm, or any individual acting on its behalf, may be in non-compliance with securities legislation and any of the following apply:

(i) the non-compliance creates, in the opinion of a reasonable person, a risk of harm to a client;

(ii) the non-compliance creates, in the opinion of a reasonable person, a risk of harm to the capital markets;

(iii) the non-compliance is part of a pattern of non-compliance;

(d) submit an annual report to the firm's board of directors, or individuals acting in a similar capacity for the firm, for the purpose of assessing compliance by the firm, and individuals acting on its behalf, with securities legislation.

Part 6 Suspension and revocation of registration – individuals

6.1 If individual ceases to have authority to act for firm

If a registered individual ceases to have authority to act as a registered individual on behalf of his or her sponsoring firm because of the end of, or a change in, the individual's employment, partnership, or agency relationship with the firm, the individual's registration with the firm is suspended until reinstated or revoked under securities legislation.

6.2 If IIROC approval is revoked or suspended

If IIROC revokes or suspends a registered individual's approval in respect of an investment dealer, the individual's registration as a dealing representative of the investment dealer is suspended until reinstated or revoked under securities legislation.

6.3 If MFDA approval is revoked or suspended

Except in Québec, if the MFDA revokes or suspends a registered individual's approval in respect of a mutual fund dealer, the individual's registration as a dealing representative of the mutual fund dealer is suspended until reinstated or revoked under securities legislation.

6.4 If sponsoring firm is suspended

If a registered firm's registration in a category is suspended, the registration of each registered dealing, advising or associate advising representative acting on behalf of the firm in that category is suspended until reinstated or revoked under securities legislation.

6.5 Dealing and advising activities suspended

If an individual's registration in a category is suspended, the individual must not act as a dealer, an underwriter or an adviser, as the case may be, under that category.

6.6 Revocation of a suspended registration – individual

If a registration of an individual has been suspended under this Part and it has not been reinstated, the registration is revoked on the 2nd anniversary of the suspension.

6.7 Exception for individuals involved in a hearing or proceeding

Despite section 6.6, if a hearing or proceeding concerning a suspended individual is commenced under securities legislation or under the rules of an SRO, the individual's registration remains suspended.

6.8 Application of Part 6 in Ontario

Other than section 6.5 [*dealing and advising activities suspended*], this Part does not apply in Ontario.

Note: In Ontario, measures governing suspension in section 29 of the *Securities Act* (Ontario) are similar to those in Parts 6 and 10.

Part 7 Categories of registration for firms

7.1 Dealer categories

(1) The following are the categories of registration for a person or company that is required, under securities legislation, to be registered as a dealer:

(a) investment dealer;

(b) mutual fund dealer;

(c) scholarship plan dealer;

(d) exempt market dealer;

(e) restricted dealer.

(2) A person or company registered in the category of

(a) investment dealer may act as a dealer or an underwriter in respect of any security,

(b) mutual fund dealer may act as a dealer in respect of any security of

(i) a mutual fund, or

(ii) an investment fund that is a labour-sponsored investment fund corporation or labour-sponsored venture capital corporation under legislation of a jurisdiction of Canada,

(c) scholarship plan dealer may act as a dealer in respect of a security of a scholarship plan, an educational plan or an educational trust,

(d) exempt market dealer may

(i) act as a dealer by trading a security that is distributed under an exemption from the prospectus requirement,

(ii) act as a dealer by trading a security if all of the following apply:

(A) the trade is not a distribution;

(B) an exemption from the prospectus requirement would be available to the seller if the trade were a distribution;

(C) the class of security is not listed, quoted or traded on a marketplace, or

(iii) [***repealed***]

(iv) act as an underwriter in respect of a distribution of securities that is made under an exemption from the prospectus requirement;

(e) restricted dealer may act as a dealer or an underwriter in accordance with the terms, conditions, restrictions or requirements applied to its registration.

(3) [***repealed***]

(4) Subsection (1) does not apply in Ontario.

(5) [***repealed***]

Note: In Ontario, the same categories of registration for firms acting as dealers as in subsection 7.1(1) are set out under subsection 26(2) of the *Securities Act* (Ontario).

7.2 Adviser categories

(1) The following are the categories of registration for a person or company that is required, under securities legislation, to be registered as an adviser:

(a) portfolio manager;

(b) restricted portfolio manager.

(2) A person or company registered in the category of

(a) portfolio manager may act as an adviser in respect of any security, and

(b) restricted portfolio manager may act as an adviser in respect of any security in accordance with the terms, conditions, restrictions or requirements applied to its registration.

(3) Subsection (1) does not apply in Ontario.

Note: In Ontario, the same categories of registration for firms acting as advisers as in subsection 7.2(1) are set out under subsection 26(6) of the *Securities Act* (Ontario).

7.3 Investment fund manager category

The category of registration for a person or company that is required, under securities legislation, to be registered as an investment fund manager is “investment fund manager”.

Part 8 Exemptions from the requirement to register

Division 1 Exemptions from dealer and underwriter registration

8.0.1 General condition to dealer registration requirement exemptions

The exemptions in this Division are not available to a person or company if the person or company is registered in the local jurisdiction and if their category of registration permits the person or company to act as a dealer or trade in a security for which the exemption is provided.

8.1 Interpretation of "trade" in Québec

In this Part, in Québec, "trade" refers to any of the following activities:

(a) the activities described in the definition of "dealer" in section 5 of the *Securities Act* (R.S.Q., c. V-1.1), including the following activities:

(i) the sale or disposition of a security by onerous title, whether the terms of payment are on margin, installment or otherwise, but does not include a transfer or the giving in guarantee of securities in connection with a debt or the purchase of a security, except as provided in paragraph (b);

(ii) participation as a trader in any transaction in a security through the facilities of an exchange or a quotation and trade reporting system;

(iii) the receipt by a registrant of an order to buy or sell a security;

(b) a transfer or the giving in guarantee of securities of an issuer from the holdings of a control person in connection with a debt.

8.2 Definition of "securities" in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan

Despite section 1.2, in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan, a reference to "securities" in this Division excludes "exchange contracts".

8.3 Interpretation – exemption from underwriter registration requirement

In this Division, an exemption from the dealer registration requirement is an exemption from the underwriter registration requirement.

8.4 Person or company not in the business of trading in British Columbia, Manitoba and New Brunswick

(1) In British Columbia and New Brunswick, a person or company is exempt from the dealer registration requirement if the person or company

(a) is not engaged in the business of trading in securities or exchange contracts as a principal or agent, and

(b) does not hold himself, herself or itself out as engaging in the business of trading in securities or exchange contracts as a principal or agent.

(2) In Manitoba, a person or company is exempt from the dealer registration requirement if the person or company

(a) is not engaged in the business of trading in securities as a principal or agent, and

(b) does not hold himself, herself or itself out as engaging in the business of trading in securities as a principal or agent.

8.5 Trades through or to a registered dealer

The dealer registration requirement does not apply to a person or company in respect of a trade in a security if either of the following applies:

(a) the trade is made through a registered dealer, if the dealer is registered in a category that permits the trade unless, in furtherance of the trade, the person or company seeking the exemption solicits or contacts directly any purchaser or prospective purchaser in relation to the trade;

(b) the trade is made to a registered dealer who is purchasing as principal, if the dealer is registered in a category that permits the trade.

8.5.1 Trades through a registered dealer by registered adviser

The dealer registration requirement does not apply to a registered adviser, or an advising representative or associate advising representative acting on behalf of the registered adviser, in respect of trading activities that are incidental to its providing advice to a client, if the trade is made through a dealer registered in a category that permits the trade or a dealer operating under an exemption from the dealer registration requirement.

8.6 Investment fund trades by adviser to managed account

(1) The dealer registration requirement does not apply to a registered adviser, or an adviser that is exempt from registration under section 8.26 [*international adviser*], in respect of a trade in a security of an investment fund if all of the following apply:

(a) the adviser or an affiliate of the adviser acts as the fund's adviser;

(a.1) the adviser or an affiliate of the adviser acts as the fund's investment fund manager;

(b) the trade is to a managed account of a client of the adviser.

(2) The exemption in subsection (1) is not available if the managed account or investment fund was created or is used primarily for the purpose of qualifying for the exemption.

(3) An adviser that relies on subsection (1) must provide written notice to the regulator or, in Québec, the securities regulatory authority that it is relying on the exemption within 10 days of its first use of the exemption.

8.7 Investment fund reinvestment

(1) Subject to subsections (2), (3), (4) and (5), the dealer registration requirement does not apply to an investment fund, or the investment fund manager of the fund, in respect of a trade in a security with a security holder of the investment fund if the trade is permitted by a plan of the investment fund and is in a security of the investment fund's own issue and if any of the following apply:

(a) a dividend or distribution out of earnings, surplus, capital or other sources payable in respect of the investment fund's securities is applied to the purchase of the security that is of the same class or series as the securities to which the dividends or distributions are attributable;

(b) the security holder makes an optional cash payment to purchase the security of the investment fund and both of the following apply:

(i) the security is of the same class or series of securities described in paragraph (a) that trade on a marketplace;

(ii) the aggregate number of securities issued under the optional cash payment does not exceed, in the financial year of the investment fund during which the trade takes place, 2 per cent of the issued and outstanding securities of the class to which the plan relates as at the beginning of the financial year.

(2) The exemption in subsection (1) is not available unless the plan that permits the trade is available to every security holder in Canada to which the dividend or distribution is available.

(3) The exemption in subsection (1) is not available if a sales charge is payable on a trade described in the subsection.

(4) At the time of the trade, if the investment fund is a reporting issuer and in continuous distribution, the investment fund must have set out in the prospectus under which the distribution is made

(a) details of any deferred or contingent sales charge or redemption fee that is payable at the time of the redemption of the security, and

(b) any right that the security holder has to elect to receive cash instead of securities on the payment of a dividend or making of a distribution by the investment fund and instructions on how the right can be exercised.

(5) At the time of the trade, if the investment fund is a reporting issuer and is not in continuous distribution, the investment fund must provide the information required by subsection (4) in its prospectus, annual information form or a material change report.

8.8 Additional investment in investment funds

The dealer registration requirement does not apply to an investment fund, or the investment fund manager of the fund, in respect of a trade in a security of the investment fund's own issue with a security holder of the investment fund if all of the following apply:

(a) the security holder initially acquired securities of the investment fund as principal for an acquisition cost of not less than $150,000 paid in cash at the time of the acquisition;

(b) the trade is in respect of a security of the same class or series as the securities initially acquired, as described in paragraph (a);

(c) the security holder, as at the date of the trade, holds securities of the investment fund and one or both of the following apply:

(i) the acquisition cost of the securities being held was not less than $150,000;

(ii) the net asset value of the securities being held is not less than $150,000.

8.9 Additional investment in investment funds if initial purchase before September 14, 2005

The dealer registration requirement does not apply in respect of a trade by an investment fund in a security of its own issue to a purchaser that initially acquired a security of the same class as principal before September 14, 2005 if all of the following apply:

(a) the security was initially acquired under any of the following provisions:

(i) in Alberta, section 86(e) and paragraph 131(1)(d) of the *Securities Act* (Alberta) as they existed prior to their repeal by sections 9(a) and 13 of the *Securities Amendment Act* (Alberta), 2003 SA c.32 and sections 66.2 and 122.2 of the *Alberta Securities Commission Rules* (General);

(ii) in British Columbia, sections 45(2) (5) and (22), and 74(2) (4) and (19) of the *Securities Act* (British Columbia);

(iii) in Manitoba, section 19(3) and paragraph 58(1)(a) of the *Securities Act* (Manitoba) and section 90 of the *Securities Regulation* MR 491/88R;

(iv) in New Brunswick, section 2.8 of Local Rule 45-501 *Prospectus and Registration Exemptions*;

(v) in Newfoundland and Labrador, paragraphs 36(1)(e) and 73(1)(d) of the *Securities Act* (Newfoundland and Labrador);

(vi) in Nova Scotia, paragraphs 41(1)(e) and 77(1)(d) of the *Securities Act* (Nova Scotia);

(vii) in Northwest Territories, sections 3(c) and (z) of Blanket Order No. 1;

(viii) in Nunavut, sections 3(c) and (z) of Blanket Order No. 1;

(ix) in Ontario, section 35(1)5 and paragraph 72(1)(d) of the *Securities Act* (Ontario) as they existed prior to their repeal by sections 5 and 11 of the *Securities Act* (Ontario) S.O. 2009, c. 18, Sch. 26 and section 2.12 of Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on January 12, 2004;

(x) in Prince Edward Island, paragraph 2(3)(d) of the former *Securities Act* (Prince Edward Island) and Prince Edward Island Local Rule 45-512 *Exempt Distributions - Exemption for Purchase of Mutual Fund Securities*;

(xi) in Québec, former section 51 and subsection 155.1(2) of the *Securities Act* (Québec);

(xii) in Saskatchewan, paragraphs 39(1)(e) and 81(1)(d) of *The Securities Act, 1988* (Saskatchewan);

(b) the trade is for a security of the same class or series as the initial trade;

(c) the security holder, as at the date of the trade, holds securities of the investment fund that have one or both of the following characteristics:

(i) an acquisition cost of not less than the minimum amount prescribed by securities legislation referred to in paragraph (a) under which the initial trade was conducted;

(ii) a net asset value of not less than the minimum amount prescribed by securities legislation referred to in paragraph (a) under which the initial trade was conducted.

8.10 Private investment club

The dealer registration requirement does not apply in respect of a trade in a security of an investment fund if all of the following apply:

(a) the fund has no more than 50 beneficial security holders;

(b) the fund does not seek and has never sought to borrow money from the public;

(c) the fund does not distribute and has never distributed its securities to the public;

(d) the fund does not pay or give any remuneration for investment management or administration advice in respect of trades in securities, except normal brokerage fees;

(e) the fund, for the purpose of financing its operations, requires security holders to make contributions in proportion to the value of the securities held by them.

8.11 Private investment fund – loan and trust pools

(1) The dealer registration requirement does not apply in respect of a trade in a security of an investment fund if all of the following apply:

(a) the fund is administered by a trust company or trust corporation that is registered or authorized by an enactment of Canada or a jurisdiction of Canada to carry on business in Canada or a jurisdiction of Canada;

(b) the fund has no promoter or investment fund manager other than the trust company or trust corporation referred to in paragraph (a);

(c) the fund commingles the money of different estates and trusts for the purpose of facilitating investment.

(2) Despite subsection (1), a trust company or trust corporation registered under the laws of Prince Edward Island that is not registered under the *Trust and Loan Companies Act* (Canada) or under comparable legislation in another jurisdiction of Canada is not a trust company or trust corporation for the purpose of paragraph (1)(a).

8.12 Mortgages

(1) In this section, "syndicated mortgage" means a mortgage in which two or more persons or companies participate, directly or indirectly, as lenders in the debt obligation that is secured by the mortgage.

(2) Subject to subsection (3), the dealer registration requirement does not apply in respect of a trade in a mortgage on real property in a jurisdiction of Canada by a person or company who is registered or licensed, or exempted from registration or licensing, under mortgage brokerage or mortgage dealer legislation of that jurisdiction.

(3) In Alberta, British Columbia, Manitoba, New Brunswick, Québec and Saskatchewan, subsection (2) does not apply in respect of a trade in a syndicated mortgage.

(4) This section does not apply in Ontario.

Note: In Ontario a similar exemption from the dealer registration requirement is provided under subsection 35(4) of the *Securities Act* (Ontario).

8.13 Personal property security legislation

(1) The dealer registration requirement does not apply in respect of a trade to a person or company, other than an individual in a security evidencing indebtedness secured by or under a security agreement, secured in accordance with personal property security legislation of a jurisdiction of Canada that provides for the granting of security in personal property.

(2) This section does not apply in Ontario.

Note: In Ontario a similar exemption from the dealer registration requirement is provided under subsection 35(2) of the *Securities Act* (Ontario).

8.14 Variable insurance contract

(1) In this section

"contract", "group insurance", "insurance company", "life insurance" and "policy" have the respective meanings assigned to them in the legislation referenced opposite the name of the local jurisdiction in Appendix A of National Instrument 45-106 *Prospectus Exemptions*;

"variable insurance contract" means a contract of life insurance under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets.

(2) The dealer registration requirement does not apply in respect of a trade in a variable insurance contract by an insurance company if the variable insurance contract is

(a) a contract of group insurance,

(b) a whole life insurance contract providing for the payment at maturity of an amount not less than 75% of the premium paid up to age 75 years for a benefit payable at maturity,

(c) an arrangement for the investment of policy dividends and policy proceeds in a separate and distinct fund to which contributions are made only from policy dividends and policy proceeds, or

(d) a variable life annuity.

8.15 Schedule III banks and cooperative associations – evidence of deposit

(1) The dealer registration requirement does not apply in respect of a trade in an evidence of deposit issued by a Schedule III bank or an association governed by the *Cooperative Credit Associations Act* (Canada).

(2) This section does not apply in Ontario or Alberta.

Note: In Ontario, subsection 8.15(1) is not required because the security described in the exemption is excluded from the definition of "security" in subsection 1(1) of the *Securities Act* (Ontario).

In Alberta, subsection 8.15(1) is not required because the exemption is provided under subsection 1(ggg)(v)(B) of the *Securities Act* (Alberta).

8.16 Plan administrator

(1) In this section

"consultant" has the same meaning as in section 2.22 of National Instrument 45-106 *Prospectus Exemptions*;

"executive officer" has the same meaning as in section 1.1 of National Instrument 45-106 *Prospectus Exemptions*;

"permitted assign" has the same meaning as in section 2.22 of National Instrument 45-106 *Prospectus Exemptions*;

"plan" means a plan or program established or maintained by an issuer providing for the acquisition of securities of the issuer by employees, executive officers, directors or consultants of the issuer or of a related entity of the issuer;

"plan administrator" means a trustee, custodian, or administrator, acting on behalf of, or for the benefit of, employees, executive officers, directors or consultants of an issuer or of a related entity of an issuer;

"related entity" has the same meaning as in section 2.22 of National Instrument 45-106 *Prospectus Exemptions*.

(2) The dealer registration requirement does not apply in respect of a trade made pursuant to a plan of the issuer in a security of an issuer, or an option to acquire a security of the issuer, made by the issuer, a control person of the issuer, a related entity of the issuer, or a plan administrator of the issuer with any of the following:

(a) the issuer;

(b) a current or former employee, executive officer, director or consultant of the issuer or a related entity of the issuer;

(c) a permitted assign of a person or company referred to in paragraph (b).

(3) The dealer registration requirement does not apply in respect of a trade in a security of an issuer, or an option to acquire a security of the issuer, made by a plan administrator of the issuer if

(a) the trade is pursuant to a plan of the issuer, and

(b) the conditions of one of the following exemptions are satisfied:

(i) except in Alberta and Ontario, section 2.14 or 2.15 of National Instrument 45-102 *Resale of Securities*,

(ii) in Ontario, section 2.7 or 2.8 of Ontario Securities Commission Rule 72-503 *Distributions Outside Canada*,

(iii) in Alberta, section 10 or 11 of Alberta Securities Commission Rule 72-501 *Distributions to Purchasers Outside Alberta*.

8.17 Reinvestment plan

(1) Subject to subsections (3), (4) and (5), the dealer registration requirement does not apply in respect of the following trades by an issuer, or by a trustee, custodian or administrator acting for or on behalf of the issuer, to a security holder of the issuer if the trades are permitted by a plan of the issuer:

(a) a trade in a security of the issuer's own issue if a dividend or distribution out of earnings, surplus, capital or other sources payable in respect of the issuer's securities is applied to the purchase of the security;

(b) subject to subsection (2), a trade in a security of the issuer's own issue if the security holder makes an optional cash payment to purchase the security of the issuer that trades on a marketplace.

(2) The aggregate number of securities issued under the optional cash payment referred to in paragraph (1)(b) must not exceed, in any financial year of the issuer during which the trade takes place, 2% of the issued and outstanding securities of the class to which the plan relates as at the beginning of the financial year.

(3) A plan that permits the trades described in subsection (1) must be available to every security holder in Canada to which the dividend or distribution out of earnings, surplus, capital or other sources is available.

(4) This section is not available in respect of a trade in a security of an investment fund.

(5) Subject to section 8.4 [*transition – reinvestment plan*] of National Instrument 45-106 *Prospectus Exemptions*, if the security traded under a plan described in subsection (1) is of a different class or series than the class or series of the security to which the dividend or distribution is attributable, the issuer or the trustee, custodian or administrator must have provided to each participant that is eligible to receive a security under the plan either a description of the material attributes and characteristics of the security traded under the plan or notice of a source from which the participant can obtain the information without charge.

8.18 International dealer

(1) In this section

"foreign security" means

(a) a security issued by an issuer incorporated, formed or created under the laws of a foreign jurisdiction, or

(b) a security issued by a government of a foreign jurisdiction.

(2) Subject to subsections (3) and (4), the dealer registration requirement does not apply in respect of any of the following:

(a) an activity, other than a sale of a security, that is reasonably necessary to facilitate a distribution of securities that are offered primarily in a foreign jurisdiction;

(b) a trade in a debt security with a permitted client if the debt security

(i) is denominated in a currency other than the Canadian dollar, or

(ii) is or was originally offered primarily in a foreign jurisdiction and a prospectus has not been filed with a Canadian securities regulatory authority for the distribution;

(c) a trade in a debt security that is a foreign security with a permitted client, other than during the security's distribution;

(d) a trade in a foreign security with a permitted client, unless the trade is made during the security's distribution under a prospectus that has been filed with a Canadian securities regulatory authority;

(e) a trade in a foreign security with an investment dealer;

(f) a trade in any security with an investment dealer that is purchasing as principal.

(3) The exemption under subsection (2) is not available to a person or company unless all of the following apply:

(a) the head office or principal place of business of the person or company is in a foreign jurisdiction;

(b) the person or company is registered under the securities legislation of the foreign jurisdiction in which its head office or principal place of business is located in a category of registration that permits it to carry on the activities in that jurisdiction that registration as a dealer would permit it to carry on in the local jurisdiction;

(c) the person or company engages in the business of a dealer in the foreign jurisdiction in which its head office or principal place of business is located;

(d) the person or company is trading as principal or agent for

(i) the issuer of the securities,

(ii) a permitted client, or

(iii) a person or company that is not a resident of Canada;

(e) the person or company has submitted to the securities regulatory authority a completed Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service*.

(4) The exemption under subsection (2) is not available to a person or company in respect of a trade with a permitted client unless one of the following applies:

(a) the permitted client is a person or company registered under the securities legislation of a jurisdiction of Canada as an adviser or dealer;

(b) the person or company has notified the permitted client of all of the following:

(i) the person or company is not registered in the local jurisdiction to make the trade;

(ii) the foreign jurisdiction in which the head office or principal place of business of the person or company is located;

(iii) all or substantially all of the assets of the person or company may be situated outside of Canada;

(iv) there may be difficulty enforcing legal rights against the person or company because of the above;

(v) the name and address of the agent for service of process of the person or company in the local jurisdiction.

(5) A person or company that relied on the exemption in subsection (2) during the 12-month period preceding December 1 of a year must notify the regulator or, in Québec, the securities regulatory authority of that fact by December 1 of that year.

(6) In Ontario, subsection (5) does not apply to a person or company that complies with the filing and fee payment requirements applicable to an unregistered exempt international firm under Ontario Securities Commission Rule 13-502 *Fees*.

(7) The adviser registration requirement does not apply to a person or company that is exempt from the dealer registration requirement under this section if the person or company provides advice to a client and the advice is

(a) in connection with an activity or trade described under subsection (2), and

(b) not in respect of a managed account of the client.

8.19 Self-directed registered education savings plan

(1) In this section

"self-directed RESP" means an educational savings plan registered under the *Income Tax Act* (Canada)

(a) that is structured so that contributions by a subscriber to the plan are deposited directly into an account in the name of the subscriber, and

(b) under which the subscriber maintains control and direction over the plan that enables the subscriber to direct how the assets of the plan are to be held, invested or reinvested subject to compliance with the *Income Tax Act* (Canada).

(2) The dealer registration requirement does not apply in respect of a trade in a self-directed RESP to a subscriber if both of the following apply:

(a) the trade is made by any of the following:

(i) a dealing representative of a mutual fund dealer who is acting on behalf of the mutual fund dealer in respect of securities listed in paragraph 7.1(2)(b);

(ii) a Canadian financial institution;

(iii) in Ontario, a financial intermediary;

(b) the self-directed RESP restricts its investments in securities to securities in which the person or company who trades the self-directed RESP is permitted to trade.

8.20 Exchange contract – Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan

(1) In Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan, the dealer registration requirement does not apply to a person or company in respect of a trade in an exchange contract by the person or company if one of the following applies:

(a) the trade is made through a registered dealer, if the dealer is registered in a category that permits the trade unless, in furtherance of the trade, the person or company seeking the exemption solicits or contacts directly any purchaser or prospective purchaser in relation to the trade;

(b) the trade is made to a registered dealer who is purchasing as principal, if the dealer is registered in a category that permits the trade.

(2) [***repealed***]

(3) [***repealed***]

8.20.1 Exchange contract trades through or to a registered dealer – Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan

In Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan, the dealer registration requirement does not apply to a registered adviser, or an advising representative or associate advising representative acting on behalf of the registered adviser, in respect of trading activities related to exchange contracts that are incidental to its providing advice to a client, if the trade is made through a dealer registered in a category that permits the trade or a dealer operating under an exemption from the dealer registration requirement.

8.21 Specified debt

(1) In this section

“permitted supranational agency” means any of the following:

(a) the African Development Bank, established by the Agreement Establishing the African Development Bank which came into force on September 10, 1964, that Canada became a member of on December 30, 1982;

(b) the Asian Development Bank, established under a resolution adopted by the United Nations Economic and Social Commission for Asia and the Pacific in 1965;

(c) the Caribbean Development Bank, established by the Agreement Establishing the Caribbean Development Bank which came into force on January 26, 1970, as amended, that Canada is a founding member of;

(d) the European Bank for Reconstruction and Development, established by the Agreement Establishing the European Bank for Reconstruction and Development and approved by the *European Bank for Reconstruction and Development Agreement Act* (Canada), that Canada is a founding member of;

(e) the Inter-American Development Bank, established by the Agreement establishing the Inter-American Development Bank which became effective December 30, 1959, as amended from time to time, that Canada is a member of;

(f) the International Bank for Reconstruction and Development, established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods and Related Agreements Act* (Canada);

(g) the International Finance Corporation, established by Articles of Agreement approved by the *Bretton Woods and Related Agreements Act* (Canada).

(2) The dealer registration requirement does not apply in respect of a trade in any of the following:

(a) a debt security issued by or guaranteed by the Government of Canada or the government of a jurisdiction of Canada;

(b) a debt security issued by or guaranteed by a government of a foreign jurisdiction if the debt security has a designated rating from a designated rating organization or its DRO affiliate;

(c) a debt security issued by or guaranteed by a municipal corporation in Canada;

(d) a debt security secured by or payable out of rates or taxes levied under the law of a jurisdiction of Canada on property in the jurisdiction and collectible by or through the municipality in which the property is situated;

(e) a debt security issued by or guaranteed by a Canadian financial institution or a Schedule III bank, other than debt securities that are subordinate in right of payment to deposits held by the issuer or guarantor of those debt securities;

(f) a debt security issued by the Comité de gestion de la taxe scolaire de l'île de Montréal;

(g) a debt security issued by or guaranteed by a permitted supranational agency if the debt securities are payable in the currency of Canada or the United States of America.

(3) Paragraphs (2)(a), (c) and (d) do not apply in Ontario.

Note: In Ontario, exemptions from the dealer registration requirement similar to those in paragraphs 8.21(a), (c) and (d) are provided under paragraph 2 of subsection 35(1) of the *Securities Act* (Ontario).

8.22 Small security holder selling and purchase arrangements

(1) In this section

"exchange" means

(a) TSX Inc.,

(b) TSX Venture Exchange Inc., or

(c) an exchange that

(i) has a policy that is substantially similar to the policy of the TSX Inc., and

(ii) is designated by the securities regulatory authority for the purpose of this section;

"policy" means,

(a) in the case of TSX Inc., sections 638 and 639 [*Odd lot selling and purchase arrangements*] of the TSX Company Manual, as amended from time to time,

(b) in the case of the TSX Venture Exchange Inc., Policy 5.7 *Small Shareholder Selling and Purchase Arrangements*, as amended from time to time, or

(c) in the case of an exchange referred to in paragraph (c) of the definition of "exchange", the rule, policy or other similar instrument of the exchange on small shareholder selling and purchase arrangements.

(2) The dealer registration requirement does not apply in respect of a trade by an issuer or its agent, in securities of the issuer that are listed on an exchange, if all of the following apply:

(a) the trade is an act in furtherance of participation by the holders of the securities in an arrangement that is in accordance with the policy of that exchange;

(b) the issuer and its agent do not provide advice to a security holder about the security holder's participation in the arrangement referred to in paragraph (a), other than a description of the arrangement's operation, procedures for participation in the arrangement, or both;

(c) the trade is made in accordance with the policy of that exchange, without resort to an exemption from, or variation of, the significant subject matter of the policy;

(d) at the time of the trade after giving effect to a purchase under the arrangement, the market value of the maximum number of securities that a security holder is permitted to hold in order to be eligible to participate in the arrangement is not more than $25,000.

(3) For the purposes of paragraph (2)(c), an exemption from, or variation of, the maximum number of securities that a security holder is permitted to hold under a policy in order to be eligible to participate in the arrangement provided for in the policy is not an exemption from, or variation of, the significant subject matter of the policy.

8.22.1 Short-term debt

(1) In this section "short-term debt instrument" means a negotiable promissory note or commercial paper maturing not more than one year from the date of issue.

(2) Except in Ontario, the dealer registration requirement does not apply to any of the following in respect of a trade in a short-term debt instrument with a permitted client:

(a) a bank listed in Schedule I, II or III to the *Bank Act* (Canada);

(b) an association to which the *Cooperative Credit Associations Act* (Canada) applies or a central cooperative credit society for which an order has been made under subsection 473 (1) of that Act;

(c) a loan corporation, trust company, trust corporation, insurance company, treasury branch, credit union, caisse populaire, financial services cooperative or credit union league or federation that is authorized by a statute of Canada or of a jurisdiction in Canada to carry on business in Canada or in any jurisdiction in Canada, as the case may be;

(d) the Business Development Bank of Canada;

(3) The exemption under subsection (2) is not available to a person or company if the short-term debt instrument is convertible or exchangeable into, or accompanied by a right to purchase, another security other than another short-term debt instrument.

Note: In Ontario, an exemption from the dealer registration requirement similar to that in section 8.22.1 is provided under section 35.1 of the *Securities Act* (Ontario).

Division 2 Exemptions from adviser registration

8.22.2 General condition to adviser registration requirement exemptions

The exemptions in this Division are not available to a person or company if the person or company is registered in the local jurisdiction in a category of registration that permits the person or company to act as an adviser in respect of the activities for which the exemption is provided.

8.23 Dealer without discretionary authority

The adviser registration requirement does not apply to a registered dealer, or a dealing representative acting on behalf of the dealer, that provides advice to a client if the advice is

(a) in connection with a trade in a security that the dealer and the representative are permitted to make under his, her or its registration,

(b) provided by the representative, and

(c) not in respect of a managed account of the client.

8.24 IIROC members with discretionary authority

The adviser registration requirement does not apply to a registered dealer, or a dealing representative acting on behalf of the dealer, that acts as an adviser in respect of a client's managed account if the registered dealer is an investment dealer that is a member of IIROC and the advising activities are conducted in accordance with the rules of IIROC.

8.25 Advising generally

(1) For the purposes of subsections (3) and (4), "financial or other interest" includes the following:

(a) ownership, beneficial or otherwise, in the security or in another security issued by the same issuer;

(b) an option in respect of the security or another security issued by the same issuer;

(c) a commission or other compensation received, or expected to be received, from any person or company in connection with the trade in the security;

(d) a financial arrangement regarding the security with any person or company;

(e) a financial arrangement with any underwriter or other person or company who has any interest in the security.

(2) The adviser registration requirement does not apply to a person or company that acts as an adviser if the advice the person or company provides does not purport to be tailored to the needs of the person or company receiving the advice.

(3) If a person or company that is exempt under subsection (2) recommends buying, selling or holding a specified security, a class of securities or the securities of a class of issuers in which any of the following has a financial or other interest, the person or company must disclose the interest concurrently with providing the advice:

(a) the person or company;

(b) any partner, director or officer of the person or company;

(c) any other person or company that would be an insider of the first-mentioned person or company if the first-mentioned person or company were a reporting issuer.

(4) If the financial or other interest of the person or company includes an interest in an option described in paragraph (b) of the definition of "financial or other interest" in subsection (1), the disclosure required by subsection (3) must include a description of the terms of the option.

(5) This section does not apply in Ontario.

Note: In Ontario, measures similar to those in section 8.25 are in section 34 of the *Securities Act* (Ontario).

8.26 International adviser

(1) Despite section 1.2, in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan, a reference to "securities" in this section excludes "exchange contracts".

(2) In this section

"aggregate consolidated gross revenue" does not include the gross revenue of an affiliate of the adviser if the affiliate is registered in a jurisdiction of Canada;

"foreign security" means

(a) a security issued by an issuer incorporated, formed or created under the laws of a foreign jurisdiction, and

(b) a security issued by a government of a foreign jurisdiction;

(3) The adviser registration requirement does not apply to a person or company if either of the following applies:

(a) the person or company provides advice on a foreign security to a permitted client that is not registered under the securities legislation of a jurisdiction of Canada as an adviser or dealer;

(b) the person or company provides advice on a security that is not a foreign security and the advice is incidental to the advice referred to in paragraph (a).

(4) The exemption under subsection (3) is not available unless all of the following apply:

(a) the adviser's head office or principal place of business is in a foreign jurisdiction;

(b) the adviser is registered in a category of registration, or operates under an exemption from registration, under the securities legislation of the foreign jurisdiction in which its head office or principal place of business is located, that permits it to carry on the activities in that jurisdiction that registration as an adviser would permit it to carry on in the local jurisdiction;

(c) the adviser engages in the business of an adviser in the foreign jurisdiction in which its head office or principal place of business is located;

(d) as at the end of its most recently completed financial year, not more than 10% of the aggregate consolidated gross revenue of the adviser, its affiliates and its affiliated partnerships was derived from the portfolio management activities of the adviser, its affiliates and its affiliated partnerships in Canada;

(e) before advising a client, the adviser notifies the client of all of the following:

(i) the adviser is not registered in the local jurisdiction to provide the advice described under subsection (3);

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

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

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

(v) the name and address of the adviser's agent for service of process in the local jurisdiction;

(f) the adviser has submitted to the securities regulatory authority a completed Form 31-103F2 *Submission to jurisdiction and appointment of agent for service*.

(5) A person or company that relied on the exemption in subsection (3) during the 12-month period preceding December 1 of a year must notify the regulator, or, in Québec, the securities regulatory authority of that fact by December 1 of that year.

(6) In Ontario, subsection (5) does not apply to a person or company that complies with the filing and fee payment requirements applicable to an unregistered exempt international firm under Ontario Securities Commission Rule 13-502 *Fees*.

8.26.1 International sub-adviser

(1) The adviser registration requirement does not apply to a sub-adviser if all of the following apply:

(a) the obligations and duties of the sub-adviser are set out in a written agreement with the registered adviser or registered dealer;

(b) the registered adviser or registered dealer has entered into a written agreement with its clients on whose behalf investment advice is or portfolio management services are to be provided, agreeing to be responsible for any loss that arises out of the failure of the sub-adviser

(i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the registrant and each client of the registrant for whose benefit the advice is or portfolio management services are to be provided, or

(ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

(2) The exemption under subsection (1) is not available unless all of the following apply:

(a) the sub-adviser's head office or principal place of business is in a foreign jurisdiction;

(b) the sub-adviser is registered in a category of registration, or operates under an exemption from registration, under the securities legislation of the foreign jurisdiction in which its head office or principal place of business is located, that permits it to carry on the activities in that jurisdiction that registration as an adviser would permit it to carry on in the local jurisdiction;

(c) the sub-adviser engages in the business of an adviser in the foreign jurisdiction in which its head office or principal place of business is located.

Division 3 Exemptions from investment fund manager registration

8.26.2 General condition to investment fund manager registration requirement exemptions

The exemptions in this Division are not available to a person or company if the person or company is registered in the local jurisdiction as an investment fund manager.

8.27 Private investment club

The investment fund manager registration requirement does not apply to a person or company in respect of its acting as an investment fund manager for an investment fund if all of the following apply:

(a) the fund has no more than 50 beneficial security holders;

(b) the fund does not seek and has never sought to borrow money from the public;

(c) the fund does not distribute and has never distributed its securities to the public;

(d) the fund does not pay or give any remuneration for investment management or administration advice in respect of trades in securities, except normal brokerage fees;

(e) the fund, for the purpose of financing its operations, requires security holders to make contributions in proportion to the value of the securities held by them.

8.28 Capital accumulation plan

(1) In this section

"capital accumulation plan" means a tax assisted investment or savings plan, including a defined contribution registered pension plan, a group registered retirement savings plan, a group registered education savings plan, or a deferred profit-sharing plan, that permits a plan member to make investment decisions among two or more investment options offered within the plan, and in Québec and Manitoba, includes a simplified pension plan;

"plan member" means a person that has assets in a capital accumulation plan;

"plan sponsor" means an employer, trustee, trade union or association or a combination of them that establishes a capital accumulation plan, and includes a plan service provider to the extent that the plan sponsor has delegated its responsibilities to the plan service provider; and

"plan service provider" means a person that provides services to a plan sponsor to design, establish, or operate a capital accumulation plan.

(2) The investment fund manager registration requirement does not apply to a plan sponsor or their plan service provider in respect of activities related to a capital accumulation plan.

8.29 Private investment fund – loan and trust pools

(1) The investment fund manager registration requirement does not apply to a trust company or trust corporation that administers an investment fund if all of the following apply:

(a) the trust company or trust corporation is registered or authorized by an enactment of Canada or a jurisdiction of Canada to carry on business in Canada or a jurisdiction of Canada;

(b) the fund has no promoter or investment fund manager other than the trust company or trust corporation;

(c) the fund commingles the money of different estates and trusts for the purpose of facilitating investment.

(2) The exemption in subsection (1) is not available to a trust company or trust corporation registered under the laws of Prince Edward Island unless it is also registered under the *Trust and Loan Companies Act* (Canada) or under comparable legislation in another jurisdiction of Canada.

(3) This section does not apply in Ontario.

Note: In Ontario, section 35.1 of the *Securities Act* (Ontario) provides a general exemption from the registration requirement for trust companies, trust corporations and other specified financial institutions.

Division 4 Mobility exemption – firms

8.30 Client mobility exemption – firms

The dealer registration requirement and the adviser registration requirement do not apply to a person or company if all of the following apply:

(a) the person or company is registered as a dealer or adviser in its principal jurisdiction;

(b) the person or company does not act as a dealer, underwriter or adviser in the local jurisdiction other than as it is permitted to in its principal jurisdiction according to its registration;

(c) the person or company does not act as a dealer, underwriter or adviser in the local jurisdiction other than in respect of 10 or fewer eligible clients;

(d) the person or company complies with Parts 13 *Dealing with clients – individuals and firms* and 14 *Handling client accounts – firms*;

(e) the person or company deals fairly, honestly and in good faith in the course of its dealings with an eligible client.

Part 9 Membership in a self-regulatory organization

9.1 IIROC membership for investment dealers

An investment dealer must not act as a dealer unless the investment dealer is a “dealer member”, as defined under the rules of IIROC.

9.2 MFDA membership for mutual fund dealers

Except in Québec, a mutual fund dealer must not act as a dealer unless the mutual fund dealer is a “member”, as defined under the rules of the MFDA.

9.3 Exemptions from certain requirements for IIROC members

(1) Unless it is also registered as an investment fund manager, an investment dealer that is a member of IIROC is exempt from the following requirements:

(a) section 12.1 [*capital requirements*];

(b) section 12.2 [*subordination agreement*];

(c) section 12.3 [*insurance – dealer*];

(d) section 12.6 [*global bonding or insurance*];

(e) section 12.7 [*notifying the regulator of a change, claim or cancellation*];

(f) section 12.10 [*annual financial statements*];

(g) section 12.11 [*interim financial information*];

(h) section 12.12 [*delivering financial information – dealer*];

(i) subsection 13.2(3) [*know your client*];

(j) section 13.3 [*suitability determination*];

(j.1) section 13.3.1 [*waivers*];

(k) section 13.12 [r*estriction on borrowing from, or lending to, clients*];

(l) section 13.13 [*disclosure when recommending the use of borrowed money*];

(l.1) section 13.15 [*handling complaints*];

(m) subsections 14.2(2) to (6) [*relationship disclosure information*];

(m.1) section 14.2.1 [*pre-trade disclosure of charges*];

(m.2) section 14.5.2 [*restriction on self-custody and qualified custodian requirement*];

(m.3) section 14.5.3 [*cash and securities held by a qualified custodian*];

(n) section 14.6 [*client and investment fund assets held by a registered firm in trust*];

(n.1) section 14.6.1 [*custodial provisions relating to certain margin or security interests*];

(n.2) section 14.6.2 [*custodial provisions relating to short sales*];

(o) [*repealed*];

(p) [*repealed*];

(p.1) section 14.11.1 [*determining market value*];

(q) section 14.12 [*content and delivery of trade confirmation*];

(r) section 14.14 [*account statements*];

(s) section 14.14.1 [*additional statements*];

(t) section 14.14.2 [*security position cost information*];

(u) section 14.17 [*report on charges and other compensation*];

(v) section 14.18 [*investment performance report*];

(w) section 14.19 [*content of investment performance report*];

(x) section 14.20 [*delivery of report on charges and other compensation and investment performance report*].

(1.1) Subsection (1) only applies to a registered firm in respect of a requirement specified in any of paragraphs (1)(a) to (x) if the registered firm complies with the corresponding IIROC provisions that are in effect.

(2) If an investment dealer is a member of IIROC and is registered as an investment fund manager, the firm is exempt from the following requirements:

(a) section 12.3 [*insurance – dealer*];

(b) section 12.6 [*global bonding or insurance*];

(c) section 12.12 [*delivering financial information – dealer*];

(d) subsection 13.2(3) [*know your client*];

(e) section 13.3 [*suitability determination*];

(e.1) section 13.3.1 [*waivers*];

(f) section 13.12 [r*estriction on borrowing from, or lending to, clients*];

(g) section 13.13 [*disclosure when recommending the use of borrowed money*];

(h) section 13.15 [*handling complaints*];

(i) subsections 14.2(2) to (6) [*relationship disclosure information*];

(i.1) section 14.2.1 [*pre-trade disclosure of charges*];

(i.2) section 14.5.2 [*restriction on self-custody and qualified custodian requirement*];

(i.3) section 14.5.3 [*cash and securities held by a qualified custodian*];

(j) section 14.6 [*client and investment fund assets held by a registered firm in trust*];

(j.1) section 14.6.1 [*custodial provisions relating to certain margin or security interests*];

(j.2) section 14.6.2 [*custodial provisions relating to short sales*];

(k) [*repealed*];

(l) [*repealed*];

(l.1) section 14.11.1 [*determining market value*];

(m) section 14.12 [*content and delivery of trade confirmation*];

(n) section 14.17 [*report on charges and other compensation*];

(o) section 14.18 [*investment performance report*];

(p) section 14.19 [*content of investment performance report*];

(q) section 14.20 [*delivery of report on charges and other compensation and investment performance report*].

(2.1) Subsection (2) only applies to a registered firm in respect of a requirement specified in any of paragraphs (2)(a) to (q) if the registered firm complies with the corresponding IIROC provisions that are in effect.

(3) [***repealed***]

(4) [***repealed***]

(5) [***repealed***]

(6) [***repealed***]

9.4 Exemptions from certain requirements for MFDA members

(1) Unless it is also registered as an exempt market dealer, a scholarship plan dealer or an investment fund manager, a mutual fund dealer that is a member of the MFDA is exempt from the following requirements:

(a) section 12.1 [*capital requirements*];

(b) section 12.2 [*subordination agreement*];

(c) section 12.3 [*insurance – dealer*];

(d) section 12.6 [*global bonding or insurance*];

(e) section 12.7 [*notifying the regulator of a change, claim or cancellation*];

(f) section 12.10 [*annual financial statements*];

(g) section 12.11 [*interim financial information*];

(h) section 12.12 [*delivering financial information – dealer*];

(i) section 13.3 [*suitability determination*];

(i.1) section 13.3.1 [*waivers*];

(j) section 13.12 [r*estriction on borrowing from, or lending to, clients*];

(k) section 13.13 [*disclosure when recommending the use of borrowed money*];

(l) section 13.15 [*handling complaints*];

(m) subsections 14.2(2), (3) and (5.1) [*relationship disclosure information*];

(m.1) section 14.2.1 [*pre-trade disclosure of charges*];

(m.2) section 14.5.2 [*restriction on self-custody and qualified custodian requirement*];

(m.3) section 14.5.3 [*cash and securities held by a qualified custodian*];

(n) section 14.6 [*client and investment fund assets held by a registered firm in trust*];

(n.1) section 14.6.1 [*custodial provisions relating to certain margin or security interests*];

(n.2) section 14.6.2 [*custodial provisions relating to short sales*];

(o) [*repealed*];

(p) [*repealed*];

(p.1) section 14.11.1 [*determining market value*];

(q) section 14.12 [*content and delivery of trade confirmation*];

(r) section 14.14 [*account statements*];

(s) section 14.14.1 [*additional statements*];

(t) section 14.14.2 [*security position cost information*];

(u) section 14.17 [*report on charges and other compensation*];

(v) section 14.18 [*investment performance report*];

(w) section 14.19 [*content of investment performance report*];

(x) section 14.20 [*delivery of report on charges and other compensation and investment performance report*].

(1.1) Subsection (1) only applies to a registered firm in respect of a requirement specified in any of paragraphs (1)(a) to (x) if the registered firm complies with the corresponding MFDA provisions that are in effect.

(1.2) Paragraphs (a) to (g), paragraphs (i) to (m) and paragraphs (p.1) to (x) of subsection (1) do not apply in Québec, to the extent equivalent requirements to those listed in these subparagraphs are applicable to the mutual fund dealer under the regulations in Québec.

(1.3) In Québec, paragraphs (g.2), (g.3), (h), (h.1) and (h.2) of subsection (2) only applies to a registered firm in respect of a requirement specified in any of these paragraphs if the registered firm complies with the corresponding MFDA provisions that are in effect.

(2) If a registered firm is a mutual fund dealer that is a member of the MFDA and is registered as an exempt market dealer, scholarship plan dealer or investment fund manager, the firm is exempt from the following requirements:

(a) section 12.3 [*insurance – dealer*];

(b) section 12.6 [*global bonding or insurance*];

(c) section 13.3 [*suitability determination*];

(c.1) section 13.3.1 [*waivers*];

(d) section 13.12 [r*estriction on borrowing from, or lending to, clients*];

(e) section 13.13 [*disclosure when recommending the use of borrowed money*];

(f) section 13.15 [*handling complaints*];

(g) subsections 14.2(2), (3) and (5.1) [*relationship disclosure information*];

(g.1) section 14.2.1 [*pre-trade disclosure of charges*];

(g.2) section 14.5.2 [*restriction on self-custody and qualified custodian requirement*];

(g.3) section 14.5.3 [*cash and securities held by a qualified custodian*];

(h) section 14.6 [*client and investment fund assets held by a registered firm in trust*];

(h.1) section 14.6.1 [*custodial provisions relating to certain margin or security interests*];

(h.2) section 14.6.2 [*custodial provisions relating to short sales*];

(i) [*repealed*];

(j) [*repealed*];

(j.1) section 14.11.1 [*determining market value*];

(k) section 14.12 [*content and delivery of trade confirmation*];

(l) section 14.17 [*report on charges and other compensation*];

(m) section 14.18 [*investment performance report*];

(n) section 14.19 [*content of investment performance report*];

(o) section 14.20 [*delivery of report on charges and other compensation and investment performance report*].

(2.1) Subsection (2) only applies to a registered firm in respect of a requirement specified in any of paragraphs (2)(a) to (o) if the registered firm complies with the corresponding MFDA provisions that are in effect.

Part 10 Suspension and revocation of registration – firms

Division 1 When a firm's registration is suspended

10.1 Failure to pay fees

(1) In this section, "annual fees" means

(a) in Alberta, the fees required under section 5 of ASC Rule 13-501 *Fees*,

(b) in British Columbia, the annual fees required under section 22 of the Securities Regulation, B.C. Reg. 196/97,

(c) in Manitoba, the fees required under paragraph 1.(2)(a) of the *Manitoba Fee Regulation*, M.R 491\88R,

(d) in New Brunswick, the fees required under section 2.2 (c) of Local Rule 11-501 *Fees*,

(e) in Newfoundland and Labrador, the fees required under section 143 of the *Securities Act*,

(f) in Nova Scotia, the fees required under Part XIV of the Regulations,

(g) in Northwest Territories, the fees required under sections 1(c) and 1(e) of the Securities Fee regulations, R-066-2008;

(h) in Nunavut, the fees required under section 1(a) of the Schedule to R-003-2003 to the Securities Fee regulation, R.R.N.W.T. 1990, c.20,

(i) in Prince Edward Island, the fees required under section 175 of the *Securities Act* R.S.P.E.I., Cap. S-3.1,

(j) in Québec, the fees required under section 271.5 of the Québec Securities Regulation,

(k) in Saskatchewan, the annual registration fees required under section 176 of The Securities Regulations (Saskatchewan), and

(l) in Yukon, the fees required under O.I.C. 2009\66, pursuant to section 168 of the *Securities Act*.

(2) If a registered firm has not paid the annual fees by the 30th day after the date the annual fees were due, the registration of the firm is suspended until reinstated or revoked under securities legislation.

10.2 If IIROC membership is revoked or suspended

If IIROC revokes or suspends a registered firm's membership, the firm's registration in the category of investment dealer is suspended until reinstated or revoked under securities legislation.

10.3 If MFDA membership is revoked or suspended

Except in Québec, if the MFDA revokes or suspends a registered firm's membership, the firm's registration in the category of mutual fund dealer is suspended until reinstated or revoked under securities legislation.

10.4 Activities not permitted while a firm's registration is suspended

If a registered firm's registration in a category is suspended, the firm must not act as a dealer, an underwriter, an adviser, or an investment fund manager, as the case may be, under that category.

Division 2 Revoking a firm's registration

10.5 Revocation of a suspended registration – firm

If a registration has been suspended under this Part and it has not been reinstated, the registration is revoked on the 2nd anniversary of the suspension.

10.6 Exception for firms involved in a hearing or proceeding

Despite section 10.5, if a hearing or proceeding concerning a suspended registrant is commenced under securities legislation or under the rules of an SRO, the registrant's registration remains suspended.

10.7 Application of Part 10 in Ontario

Other than section 10.4 [*activities not permitted while a firm's registration is suspended*], this Part does not apply in Ontario.

Note: In Ontario, measures governing suspension in section 29 of the *Securities Act* (Ontario) are similar to those in Parts 6 and 10.

Part 11 Internal controls and systems

Division 1 Compliance

11.1 Compliance system and training

(1) A registered firm must establish, maintain and apply policies and procedures that establish a system of controls and supervision sufficient to

(a) provide reasonable assurance that the firm and each individual acting on its behalf complies with securities legislation, and

(b) manage the risks associated with its business in accordance with prudent business practices.

(2) A registered firm must provide training to its registered individuals on compliance with securities legislation including, without limitation, the obligations under sections 13.2, 13.2.1, 13.3, 13.4 and 13.4.1.

11.2 Designating an ultimate designated person

(1) A registered firm must designate an individual who is registered under securities legislation in the category of ultimate designated person to perform the functions described in section 5.1 [*responsibilities of the ultimate designated person*].

(2) A registered firm must designate an individual under subsection (1) who is one of the following:

(a) the chief executive officer of the registered firm or, if the firm does not have a chief executive officer, an individual acting in a capacity similar to a chief executive officer;

(b) the sole proprietor of the registered firm;

(c) the officer in charge of a division of the registered firm, if the activity that requires the firm to register occurs only within the division and the firm has significant other business activities.

(3) If an individual who is registered as a registered firm's ultimate designated person ceases to meet any of the conditions listed in subsection (2), the registered firm must designate another individual to act as its ultimate designated person.

11.3 Designating a chief compliance officer

(1) A registered firm must designate an individual who is registered under securities legislation in the category of chief compliance officer to perform the functions described in section 5.2 [*responsibilities of the chief compliance officer*].

(2) A registered firm must not designate an individual to act as the firm's chief compliance officer unless the individual has satisfied the applicable conditions in Part 3 *Registration requirements – individuals* and the individual is one of the following:

(a) an officer or partner of the registered firm;

(b) the sole proprietor of the registered firm.

(3) If an individual who is registered as a registered firm's chief compliance officer ceases to meet any of the conditions listed in subsection (2), the registered firm must designate another individual to act as its chief compliance officer.

11.4 Providing access to the board of directors

A registered firm must permit its ultimate designated person and its chief compliance officer to directly access the firm's board of directors, or individuals acting in a similar capacity for the firm, at such times as the ultimate designated person or the chief compliance officer may consider necessary or advisable in view of his or her responsibilities.

Division 2 Books and records

11.5 General requirements for records

(1) A registered firm must maintain records to

(a) accurately record its business activities, financial affairs, and client transactions, and

(b) demonstrate the extent of the firm's compliance with applicable requirements of securities legislation.

(2) The records required under subsection (1) include, but are not limited to, records that do the following:

(a) permit timely creation and audit of financial statements and other financial information required to be filed or delivered to the securities regulatory authority;

(b) permit determination of the registered firm's capital position;

(c) demonstrate compliance with the registered firm's capital and insurance requirements;

(d) demonstrate compliance with internal control procedures;

(e) demonstrate compliance with the firm's policies and procedures;

(f) permit the identification and segregation of client cash, securities, and other property;

(g) identify all transactions conducted on behalf of the registered firm and each of its clients, including the parties to the transaction and the terms of the purchase or sale;

(h) provide an audit trail for

(i) client instructions and orders, and

(ii) each trade transmitted or executed for a client or by the registered firm on its own behalf;

(i) permit the generation of account activity reports for clients;

(j) provide securities pricing as may be required by securities legislation;

(k) document the opening of client accounts, including any agreements with clients;

(l) demonstrate compliance with sections 13.2 [*know your client*], 13.2.1 [*know your product*] and 13.3 [*suitability determination*];

(m) demonstrate compliance with complaint-handling requirements;

(n) document correspondence with clients;

(o) document compliance, training and supervision actions taken by the firm;

(p) demonstrate compliance with Part 13, Division 2 [c*onflicts of interest*];

(q) document

(i) the firm's sales practices, compensation arrangements and incentive practices, and

(ii) other compensation arrangements and incentive practices from which the firm or its registered individuals, or any affiliate or associate of that firm, benefit;

(r) demonstrate compliance with section 13.18 [*misleading communications*]~~.~~;

(s) demonstrate compliance with section 13.19 [*conditions for temporary hold*].

11.6 Form, accessibility and retention of records

(1) A registered firm must keep a record that it is required to keep under securities legislation

(a) for 7 years from the date the record is created,

(b) in a safe location and in a durable form, and

(c) in a manner that permits it to be provided to the regulator or, in Québec, the securities regulatory authority in a reasonable period of time.

(2) A record required to be provided to the regulator or, in Québec, the securities regulatory authority must be provided in a format that is capable of being read by the regulator or the securities regulatory authority.

(3) Paragraph (1)(c) does not apply in Ontario.

Note: In Ontario, how quickly a registered firm is required to provide information to the regulator is addressed in subsection 19(3) of the *Securities Act* (Ontario).

Division 3 Certain business transactions

11.7 Tied settling of securities transactions

A registered firm must not require a person or company to settle that person's or company's transaction with the registered firm through that person's or company's account at a Canadian financial institution as a condition, or on terms that would appear to a reasonable person to be a condition, of supplying a product or service, unless this method of settlement would be, to a reasonable person, necessary to provide the specific product or service that the person or company has requested.

11.8 Tied selling

A dealer, adviser or investment fund manager must not require another person or company

(a) to buy, sell or hold a security as a condition, or on terms that would appear to a reasonable person to be a condition, of supplying or continuing to supply a product or service, or

(b) to buy, sell or use a product or service as a condition, or on terms that would appear to a reasonable person to be a condition, of buying or selling a security.

11.9 Registrant acquiring a registered firm's securities or assets

(1) A registrant must give the regulator or, in Québec, the securities regulatory authority written notice in accordance with subsection (2) if it proposes to acquire any of the following:

(a) for the first time, direct or indirect ownership, beneficial or otherwise, of 10% or more of the voting securities or other securities convertible into voting securities of

(i) a firm registered in any jurisdiction of Canada or any foreign jurisdiction, or

(ii) a person or company of which a firm registered in any jurisdiction of Canada or any foreign jurisdiction is a subsidiary;

(b) all or a substantial part of the assets of a firm registered in any jurisdiction of Canada or any foreign jurisdiction.

(2) The notice required under subsection (1) must be delivered to the regulator or, in Québec, the securities regulatory authority at least 30 days before the proposed acquisition and must include all relevant facts regarding the acquisition sufficient to enable the regulator or the securities regulatory authority to determine if the acquisition is

(a) likely to give rise to a conflict of interest,

(b) likely to hinder the registered firm in complying with securities legislation,

(c) inconsistent with an adequate level of investor protection, or

(d) otherwise prejudicial to the public interest.

(3) [***repealed***]

(4) Except in Ontario and British Columbia, if, within 30 days of the receipt of a notice under subsection (1), the regulator or, in Québec, the securities regulatory authority notifies the registrant making the acquisition that the regulator or, in Québec, the securities regulatory authority objects to the acquisition, the acquisition must not occur until the regulator or the securities regulatory authority approves it.

(5) In Ontario, if, within 30 days of the receipt of a notice under subparagraph (1)(a)(i) or paragraph (1)(b), the regulator notifies the registrant making the acquisition that the regulator objects to the acquisition, the acquisition must not occur until the regulator approves it.

(6) Following receipt of a notice of objection under subsection (4) or (5), the person or company who submitted the notice under subsection (1) may request an opportunity to be heard on the matter by the regulator or, in Québec, the securities regulatory authority objecting to the acquisition.

11.10 Registered firm whose securities are acquired

(1) A registered firm must give the regulator or, in Québec, the securities regulatory authority written notice in accordance with subsection (2) if it knows or has reason to believe that any person or company, alone or in combination with any other person or company, is about to acquire, or has acquired, for the first time, direct or indirect ownership, beneficial or otherwise, of 10% or more of the voting securities or other securities convertible into voting securities of any of the following:

(a) the registered firm;

(b) a person or company of which the registered firm is a subsidiary.

(2) The notice required under subsection (1) must,

(a) be delivered to the regulator or, in Québec, the securities regulatory authority as soon as possible,

(b) include the name of each person or company involved in the acquisition, and

(c) include all facts that to the best of the registered firm's knowledge after reasonable inquiry regarding the acquisition are sufficient to enable the regulator or the securities regulatory authority to determine if the acquisition is

(i) likely to give rise to a conflict of interest,

(ii) likely to hinder the registered firm in complying with securities legislation,

(iii) inconsistent with an adequate level of investor protection, or

(iv) otherwise prejudicial to the public interest.

(3) [***repealed***]

(4) This section does not apply if notice of the acquisition was provided under section 11.9 [*registrant acquiring a registered firm's securities or assets*].

(5) Except in British Columbia and Ontario, if, within 30 days of the receipt of a notice under subsection (1), the regulator or the securities regulatory authority notifies the person or company making the acquisition that the regulator or, in Québec, the securities regulatory authority objects to the acquisition, the acquisition must not occur until the regulator or the securities regulatory authority approves it.

(6) In Ontario, if, within 30 days of the receipt of a notice under paragraph (1)(a), the regulator notifies the person or company making the acquisition that the regulator objects to the acquisition, the acquisition must not occur until the regulator approves it.

(7) Following receipt of a notice of objection under subsection (5) or (6), the person or company proposing to make the acquisition may request an opportunity to be heard on the matter by the regulator or, in Québec, the securities regulatory authority objecting to the acquisition.

Part 12 Financial condition

Division 1 Working capital

12.1 Capital requirements

(1) If, at any time, the excess working capital of a registered firm, as calculated in accordance with Form 31-103F1 *Calculation of Excess Working Capital*, is less than zero, the registered firm must notify the regulator or, in Québec, the securities regulatory authority as soon as possible.

(2) The excess working capital of a registered firm, as calculated in accordance with Form 31-103F1 *Calculation of Excess Working Capital*, must not be less than zero for 2 consecutive days.

(3) For the purpose of completing Form 31-103F1 *Calculation of Excess Working Capital*, the minimum capital is

(a) $25,000, for a registered adviser that is not also a registered dealer or a registered investment fund manager,

(b) $50,000, for a registered dealer that is not also a registered investment fund manager, and

(c) $100,000, for a registered investment fund manager.

(4) Paragraph (3)(c) does not apply to a registered investment fund manager that is exempt from the dealer registration requirement under section 8.6 [*investment fund trades by adviser to managed account*] in respect of all investment funds for which it acts as adviser.

(5) This section does not apply to an investment dealer that is a member of IIROC and is registered as an investment fund manager if all of the following apply:

(a) the firm has a minimum capital of not less than $100,000 as calculated in accordance with IIROC Form 1 *Joint Regulatory Financial Questionnaire and Report*;

(b) the firm notifies the regulator or, in Québec, the securities regulatory authority as soon as possible if, at any time, the firm's risk adjusted capital, as calculated in accordance with IIROC Form 1 *Joint Regulatory Financial Questionnaire and Report* is less than zero;

(c) the risk adjusted capital of the firm, as calculated in accordance with IIROC Form 1 *Joint Regulatory Financial Questionnaire and Report*, is not less than zero for 2 consecutive days.

(6) This section does not apply to a mutual fund dealer that is a member of the MFDA if it is also registered as an exempt market dealer, a scholarship plan dealer or an investment fund manager and if all of the following apply:

(a) the firm has a minimum capital, as calculated in accordance with MFDA Form 1 *MFDA Financial Questionnaire and Report*, of not less than

(i) $50,000, if the firm is registered as an exempt market dealer or scholarship plan dealer,

(ii) $100,000, if the firm is registered as an investment fund manager;

(b) the firm notifies the regulator or, in Québec, the securities regulatory authority as soon as possible if, at any time, the firm's risk adjusted capital, as calculated in accordance with MFDA Form 1 *MFDA Financial Questionnaire and Report* is less than zero;

(c) the risk adjusted capital of the firm, as calculated in accordance with MFDA Form 1 *MFDA Financial Questionnaire and Report*, is not less than zero for 2 consecutive days.

12.2 Subordination agreement

(1) If a registered firm has entered into a subordination agreement in the form set out in Appendix B, it may exclude the amount of non-current related party debt subordinated under that agreement from the calculation of its excess working capital on Form 31-103F1 *Calculation of Excess Working Capital*.

(2) The registered firm must deliver an executed copy of the subordination agreement referred to subsection (1) to the regulator or, in Québec, the securities regulatory authority on the earliest of the following dates:

(a) 10 days after the date on which the subordination agreement is executed;

(b) the date on which the amount of the subordinated debt is excluded from the registered firm's non-current related party debt as calculated on Form 31-103F1 *Calculation of Excess Working Capital.*

(3) The registered firm must notify the regulator or, in Québec, the securities regulatory authority 10 days before it

(a) repays the loan or any part of the loan, or

(b) terminates the agreement.

Division 2 Insurance

12.3 Insurance – dealer

(1) A registered dealer must maintain bonding or insurance

(a) that contains the clauses set out in Appendix A [*bonding and insurance clauses*], and

(b) that provides for a double aggregate limit or a full reinstatement of coverage.

(2) A registered dealer must maintain bonding or insurance in respect of each clause set out in Appendix A in the highest of the following amounts for each clause:

(a) $50,000 per employee, agent and dealing representative or $200,000, whichever is less;

(b) one per cent of the total client assets that the dealer holds or has access to, as calculated using the dealer's most recent financial records, or $25,000,000, whichever is less;

(c) one per cent of the dealer's total assets, as calculated using the dealer's most recent financial records, or $25,000,000, whichever is less;

(d) the amount determined to be appropriate by a resolution of the dealer's board of directors, or individuals acting in a similar capacity for the firm.

(3) In Québec, this section does not apply to a scholarship plan dealer or a mutual fund dealer registered only in Québec.

12.4 Insurance – adviser

(1) A registered adviser must maintain bonding or insurance

(a) that contains the clauses set out in Appendix A [*bonding and insurance clauses*], and

(b) that provides for a double aggregate limit or a full reinstatement of coverage.

(2) A registered adviser that does not hold or have access to client assets must maintain bonding or insurance in respect of each clause set out in Appendix A in the amount of $50,000 for each clause.

(3) A registered adviser that holds or has access to client assets must maintain bonding or insurance in respect of each clause set out in Appendix A in the highest of the following amounts for each clause:

(a) one per cent of assets under management that the adviser holds or has access to, as calculated using the adviser's most recent financial records, or $25,000,000, whichever is less;

(b) one per cent of the adviser's total assets, as calculated using the adviser's most recent financial records, or $25,000,000, whichever is less;

(c) $200,000;

(d) the amount determined to be appropriate by a resolution of the adviser's board of directors or individuals acting in a similar capacity for the firm.

12.5 Insurance – investment fund manager

(1) A registered investment fund manager must maintain bonding or insurance

(a) that contains the clauses set out in Appendix A [*bonding and insurance clauses*], and

(b) that provides for a double aggregate limit or a full reinstatement of coverage.

(2) A registered investment fund manager must maintain bonding or insurance in respect of each clause set out in Appendix A in the highest of the following amounts for each clause:

(a) one per cent of assets under management, as calculated using the investment fund manager's most recent financial records, or $25,000,000, whichever is less;

(b) one per cent of the investment fund manager's total assets, as calculated using the investment fund manager's most recent financial records, or $25,000,000, whichever is less;

(c) $200,000;

(d) the amount determined to be appropriate by a resolution of the investment fund manager's board of directors or individuals acting in a similar capacity for the firm.

12.6 Global bonding or insurance

A registered firm must not maintain bonding or insurance under this Division that benefits, or names as an insured, another person or company unless the bond provides, without regard to the claims, experience or any other factor referable to that other person or company, the following:

(a) the registered firm has the right to claim directly against the insurer in respect of losses, and any payment or satisfaction of those losses must be made directly to the registered firm;

(b) the individual or aggregate limits under the policy must only be affected by claims made by or on behalf of

(i) the registered firm, or

(ii) a subsidiary of the registered firm whose financial results are consolidated with those of the registered firm.

12.7 Notifying the regulator or the securities regulatory authority of a change, claim or cancellation

A registered firm must, as soon as possible, notify the regulator or, in Québec, the securities regulatory authority in writing of any change in, claim made under, or cancellation of any insurance policy required under this Division.

Division 3 Audits

12.8 Direction by the regulator or the securities regulatory authority to conduct an audit or review

A registered firm must direct its auditor in writing to conduct any audit or review required by the regulator or, in Québec, the securities regulatory authority during its registration and must deliver a copy of the direction to the regulator or the securities regulatory authority

(a) with its application for registration, and

(b) no later than the 10th day after the registered firm changes its auditor.

12.9 Co-operating with the auditor

A registrant must not withhold, destroy or conceal any information or documents or otherwise fail to cooperate with a reasonable request made by an auditor of the registered firm in the course of an audit.

Division 4 Financial reporting

12.10 Annual financial statements

(1) Annual financial statements delivered to the regulator or, in Québec, the securities regulatory authority under this Division for financial years beginning on or after January 1, 2011 must include the following:

(a) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows, each prepared for the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, if any;

(b) a statement of financial position, signed by at least one director of the registered firm, as at the end of the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, if any;

(c) notes to the financial statements.

(2) The annual financial statements delivered to the regulator or, in Québec, the securities regulatory authority under this Division must be audited.

12.11 Interim financial information

(1) Interim financial information delivered to the regulator or, in Québec, the securities regulatory authority under this Division for interim periods relating to financial years beginning on or after January 1, 2011 may be limited to the following:

(a) a statement of comprehensive income for the 3-month period ending on the last day of the interim period and for the same period of the immediately preceding financial year, if any;

(b) a statement of financial position, signed by at least one director of the registered firm, as at the end of the interim period and as at the end of the same interim period of the immediately preceding financial year, if any.

(2) The interim financial information delivered to the regulator or, in Québec, the securities regulatory authority under this Division must be prepared using the same accounting principles that the registered firm uses to prepare its annual financial statements.

12.12 Delivering financial information – dealer

(1) A registered dealer must deliver the following to the regulator or, in Québec, the securities regulatory authority no later than the 90th day after the end of its financial year:

(a) its annual financial statements for the financial year;

(b) a completed Form 31-103F1 *Calculation of Excess Working Capital*, showing the calculation of the dealer's excess working capital as at the end of the financial year and as at the end of the immediately preceding financial year, if any.

(2) A registered dealer must deliver the following to the regulator or, in Québec, the securities regulatory authority no later than the 30th day after the end of the first, second and third interim period of its financial year:

(a) its interim financial information for the interim period;

(b) a completed Form 31-103F1 *Calculation of Excess Working Capital*, showing the calculation of the dealer's excess working capital as at the end of the interim period and as at the end of the immediately preceding interim period, if any.

(2.1) If a registered firm is a mutual fund dealer that is a member of the MFDA and is registered as an exempt market dealer or scholarship plan dealer, the firm is exempt from paragraphs (1)(b) and (2)(b) if all of the following apply:

(a) the firm has a minimum capital of not less than $50,000 as calculated in accordance with MFDA Form 1 *MFDA Financial Questionnaire and Report*;

(b) the firm delivers to the regulator or, in Québec, the securities regulatory authority a completed MFDA Form 1 *MFDA Financial Questionnaire and Report*, no later than the 90th day after the end of its financial year, that shows the calculation of the firm's risk adjusted capital as at the end of the financial year and as at the end of the immediately preceding financial year, if any;

(c) the firm delivers to the regulator or, in Québec, the securities regulatory authority a completed MFDA Form 1 *MFDA Financial Questionnaire and Report*, no later than the 30th day after the end of the first, second and third interim period of its financial year, that shows the calculation of the firm's risk adjusted capital as at the end of the interim period and as at the end of the immediately preceding month, if any.

(3) Subsection (2) does not apply to an exempt market dealer unless it is also registered in another category, other than the portfolio manager or restricted portfolio manager category.

(4) Despite paragraph (1)(b), in Québec, a firm registered only in that jurisdiction and only in the category of mutual fund dealer may deliver to the securities regulatory authority, no later than the 90th day after the end of its financial year, the *Monthly Report on Net Free Capital* provided in Appendix I of the *Regulation respecting the trust accounts and financial resources of securities firms*, as that Appendix read on September 27, 2009, that shows the calculation of the firm's net free capital as at the end of its financial year and as at the end of the immediately preceding financial year, if any.

(5) Despite paragraph (2)(b), in Québec, a firm registered only in that jurisdiction and only in the category of mutual fund dealer may deliver to the securities regulatory authority, no later than the 30th day after the end of the first, second and third interim period of its financial year, the *Monthly Report on Net Free Capital* provided in Appendix I of the *Regulation respecting the trust accounts and financial resources of securities firms*, as that Appendix read on September 27, 2009, that shows the calculation of the firm's net free capital as at the end of the interim period and as at the end of the immediately preceding interim period, if any.

12.13 Delivering financial information – adviser

A registered adviser must deliver the following to the regulator or, in Québec, the securities regulatory authority no later than the 90th day after the end of its financial year:

(a) its annual financial statements for the financial year;

(b) a completed Form 31-103F1 *Calculation of Excess Working Capital*, showing the calculation of the adviser's excess working capital as at the end of the financial year and as at the end of the immediately preceding financial year, if any.

12.14 Delivering financial information – investment fund manager

(1) A registered investment fund manager must deliver the following to the regulator or, in Québec, the securities regulatory authority no later than the 90th day after the end of its financial year:

(a) its annual financial statements for the financial year;

(b) a completed Form 31-103F1 *Calculation of Excess Working Capital*, showing the calculation of the investment fund manager's excess working capital as at the end of the financial year and as at the end of the immediately preceding financial year, if any;

(c) a completed Form 31-103F4 *Net Asset Value Adjustments* if any net asset value adjustment has been made in respect of an investment fund managed by the investment fund manager during the financial year.

(2) A registered investment fund manager must deliver the following to the regulator or, in Québec, the securities regulatory authority no later than the 30th day after the end of the first, second and third interim period of its financial year:

(a) its interim financial information for the interim period;

(b) a completed Form 31-103F1 *Calculation of Excess Working Capital*, showing the calculation of the investment fund manager's excess working capital as at the end of the interim period and as at the end of the immediately preceding interim period, if any;

(c) a completed Form 31-103F4 *Net Asset Value Adjustments* if any net asset value adjustment has been made in respect of an investment fund managed by the investment fund manager during the interim period.

(3) [***repealed***]

(4) If a registered firm is an investment dealer that is a member of IIROC and is registered as an investment fund manager, the firm is exempt from paragraphs (1)(b) and (2)(b) if

(a) the firm has a minimum capital of not less than $100,000, as calculated in accordance with IIROC Form 1 *Joint Regulatory Financial Questionnaire and Report*;

(b) the firm delivers to the regulator or, in Québec, the securities regulatory authority a completed IIROC Form 1 *Joint Regulatory Financial Questionnaire and Report*, no later than the 90th day after the end of its financial year, that shows the calculation of the firm's risk adjusted capital as at the end of the financial year and as at the end of the immediately preceding financial year, if any, and

(c) the firm delivers to the regulator or, in Québec, the securities regulatory authority a completed IIROC Form 1 *Joint Regulatory Financial Questionnaire and Report*, no later than the 30th day after the end of the first, second and third interim period of its financial year, that shows the calculation of the firm's risk adjusted capital as at the end of the interim period and as at the end of the immediately preceding month, if any.

(5) If a registered firm is a mutual fund dealer that is a member of the MFDA and is registered as an investment fund manager, the firm is exempt from paragraphs (1)(b) and (2)(b) if

(a) the firm has a minimum capital of not less than $100,000, as calculated in accordance with MFDA Form 1 *MFDA Financial Questionnaire and Report*,

(b) the firm delivers to the regulator or, in Québec, the securities regulatory authority a completed MFDA Form 1 *MFDA Financial Questionnaire and Report*, no later than the 90th day after the end of its financial year, that shows the calculation of the firm's risk adjusted capital as at the end of the financial year and as at the end of the immediately preceding financial year, if any, and

(c) the firm delivers to the regulator or, in Québec, the securities regulatory authority a completed MFDA Form 1 *MFDA Financial Questionnaire and Report*, no later than the 30th day after the end of the first, second and third interim period of its financial year, that shows the calculation of the firm's risk adjusted capital as at the end of the interim period and as at the end of the immediately preceding month, if any.

12.15 [**lapsed**]

Part 13 Dealing with clients – individuals and firms

Division 1 Know your client, know your product and suitability determination

13.1 Investment fund managers exempt from this Division

This Division does not apply to an investment fund manager in respect of its activities as an investment fund manager.

13.2 Know your client

(1) For the purpose of paragraph (2)(b) in Ontario, Nova Scotia and New Brunswick, "insider" has the meaning ascribed to that term in the *Securities Act* except that "reporting issuer", as it appears in the definition of "insider", is to be read as "reporting issuer or any other issuer whose securities are publicly traded".

(2) A registrant must take reasonable steps to

(a) establish the identity of a client and, if the registrant has cause for concern, make reasonable inquiries as to the reputation of the client,

(b) establish whether the client is an insider of a reporting issuer or any other issuer whose securities are publicly traded,

(c) ensure that it has sufficient information regarding all of the following to enable it to meet its obligations under section 13.3 [*suitability determination*] or, if applicable, the suitability requirement imposed by an SRO:

(i) the client's personal circumstances;

(ii) the client's financial circumstances;

(iii) the client's investment needs and objectives;

(iv) the client's investment knowledge;

(v) the client's risk profile;

(vi) the client's investment time horizon,~~and~~

(d) establish the creditworthiness of the client if the registered firm is financing the client's acquisition of a security~~.~~, and

(e) obtain from the client the name and contact information of a trusted contact person, who is an individual of the age of majority or older in the individual's jurisdiction of residence, and the written consent of the client for the registrant to contact the trusted contact person to confirm or make inquiries about any of the following:

(i) possible financial exploitation of the client;

(ii) concerns about the client's mental capacity as it relates to the client's financial decision making or lack of decision making;

(iii) the name and contact information of any of the following:

(A) a legal guardian of the client,

(B) an executor of an estate under which the client is a beneficiary,

(C) a trustee of a trust under which the client is a beneficiary,

(D) any other personal or legal representative of the client;

(iv) the client's current contact information.

(3) For the purpose of establishing the identity of a client that is a corporation, partnership or trust, the registrant must establish the following:

(a) the nature of the client's business;

(b) the identity of any individual who,

(i) in the case of a corporation, is a beneficial owner of, or exercises direct or indirect control or direction over, more than 25% of the voting rights attached to the outstanding voting securities of the corporation, or

(ii) in the case of a partnership or trust, exercises control over the affairs of the partnership or trust.

(3.1) Within a reasonable time after receiving the information, a registrant must take reasonable steps to have a client confirm the accuracy of the information collected under subsection (2).

(4) A registrant must take reasonable steps to keep current the information required under this section, including updating the information within a reasonable time after the registrant becomes aware of a significant change in the client's information required under this section.

(4.1) A registrant must review the information collected under paragraph (2)(c)

(a) for managed accounts, no less frequently than once every 12 months,

(b) if the registrant is an exempt market dealer, within 12 months before making a trade for, or recommending a trade to, the client, and

(c) in any other case, no less frequently than once every 36 months.

(5) This section does not apply if the client is a registered firm, a Canadian financial institution or a Schedule III bank.

(6) Paragraph (2)(b) does not apply to a registrant in respect of a client for which the registrant only trades securities referred to in paragraphs 7.1(2)(b) and (2)(c).

(7) Paragraph (2)(c) and subsection (4.1) do not apply to a registered dealer in respect of a client if the registered dealer purchases or sells securities for the client only as directed by a registered adviser acting for the client.

(8) Paragraph (2)(e) does not apply to a registrant in respect of a client that is not an individual.

13.2.1 Know your product

(1) A registered firm must not make securities available to clients unless the firm has taken reasonable steps to:

(a) assess the relevant aspects of the securities, including the securities' structure, features, risks, initial and ongoing costs and the impact of those costs,

(b) approve the securities to be made available to clients, and

(c) monitor the securities for significant changes.

(2) A registered individual must not purchase or sell securities for, or recommend securities to, a client unless the registered individual takes steps to understand the securities, including the securities' structure, features, risks, initial and ongoing costs and the impact of those costs.

(2.1) For purposes of subsection (2), the steps required to understand the security are those that are reasonable to enable the registered individual to meet their obligations under section 13.3 [*suitability determination*].

(3) A registered individual must not purchase securities for, or recommend securities to, a client unless the securities have been approved by the firm to be made available to clients.

(4) This section does not apply to a registered dealer in respect of a security if it purchases or sells the security for a client only as directed by a registered adviser acting for the client.

13.3 Suitability determination

(1) Before a registrant opens an account for a client, purchases, sells, deposits, exchanges or transfers securities for a client's account, takes any other investment action for a client, makes a recommendation or exercises discretion to take any such action, the registrant must determine, on a reasonable basis, that the action satisfies the following criteria:

(a) the action is suitable for the client, based on the following factors:

(i) the client's information collected in accordance with section 13.2 [*know your client*];

(ii) the registrant's assessment or understanding of the security consistent with section 13.2.1 [*know your product*];

(iii) the impact of the action on the client's account, including the concentration of securities within the account and the liquidity of those securities;

(iv) the potential and actual impact of costs on the client's return on investment;

(v) a reasonable range of alternative actions available to the registrant through the registered firm, at the time the determination is made;

(b) the action puts the client's interest first.

(2) A registrant must review a client's account and the securities in the client's account to determine whether the criteria in subsection (1) are met, and take reasonable steps, within a reasonable time, after any of the following events:

(a) a registered individual is designated as responsible for the client's account;

(b) the registrant becomes aware of a change in a security in the client's account that could result in the security or account not satisfying subsection (1);

(c) the registrant becomes aware of a change in the client's information collected in accordance with subsection 13.2(2) that could result in a security or the client's account not satisfying subsection (1);

(d) the registrant reviews the client's information in accordance with subsection 13.2(4.1).

(2.1) Despite subsection (1), if a registrant receives an instruction from a client to take an action that, if taken, does not satisfy subsection (1), the registrant may carry out the client's instruction if the registrant has

(a) informed the client of the basis for the determination that the action will not satisfy subsection (1),

(b) recommended to the client an alternative action that satisfies subsection (1), and

(c) received recorded confirmation of the client's instruction to proceed with the action despite the determination referred to in paragraph (a).

(3) This section does not apply if the client is a registered firm, a Canadian financial institution or a Schedule III bank.

(4) This section does not apply to a registered dealer in respect of a client if it purchases or sells securities for the client only as directed by a registered adviser acting for the client.

13.3.1 Waivers

(1) Paragraph 13.2(2)(c), subsection 13.2(4.1), and section 13.3 do not apply to a registrant in respect of a permitted client if

(a) the client is not an individual, and

(b) the client has requested, in writing, that the registrant not make suitability determinations for the client's account.

(2) Paragraph 13.2(2)(c), subsection 13.2(4.1), and section 13.3 do not apply to a registrant in respect of a permitted client if

(a) the client is an individual,

(b) the client has requested, in writing, that the registrant not make suitability determinations for the client's account, and

(c) the client's account is not a managed account.

Division 2 Conflicts of interest

13.4 Identifying, addressing and disclosing material conflicts of interest – registered firm

(1) A registered firm must take reasonable steps to identify existing material conflicts of interest, and material conflicts of interest that are reasonably foreseeable,

(a) between the firm and the client, and

(b) between each individual acting on the firm's behalf and the client.

(2) A registered firm must address all material conflicts of interest between a client and itself, including each individual acting on its behalf, in the best interest of the client.

(3) A registered firm must avoid any material conflict of interest between a client and the firm, including each individual acting on its behalf, if the conflict is not, or cannot be, otherwise addressed in the best interest of the client.

(4) A registered firm must disclose in writing all material conflicts of interest identified under subsection (1) to a client whose interests are affected by the conflicts of interest if a reasonable client would expect to be informed of those conflicts of interest.

(5) Without limiting subsection (4), the information required to be delivered to a client under that subsection must include a description of each of the following:

(a) the nature and extent of the conflict of interest;

(b) the potential impact on and risk that the conflict of interest could pose to the client;

(c) how the conflict of interest has been, or will be, addressed.

(6) The disclosure required under subsection (4) must be presented in a manner that, to a reasonable person, is prominent, specific and written in plain language.

(7) A registered firm must disclose a conflict of interest to a client under subsection (4)

(a) before opening an account for the client if the conflict has been identified at that time, or

(b) in a timely manner, upon identification of a conflict that must be disclosed under subsection (4) that has not previously been disclosed to the client.

(8) For greater certainty, a registrant does not satisfy subsection (2) or subsection 13.4.1(3) solely by providing disclosure to the client.

13.4.1 Identifying, reporting and addressing material conflicts of interest – registered individual

(1) A registered individual must take reasonable steps to identify existing material conflicts of interest, and material conflicts of interest that are reasonably foreseeable, between the registered individual and the client.

(2) If a registered individual identifies a material conflict of interest under subsection (1), the registered individual must promptly report that conflict of interest to the registered individual's sponsoring firm.

(3) A registered individual must address all material conflicts of interest between the client and the individual in the best interest of the client.

(4) A registered individual must avoid any material conflict of interest between a client and the registered individual if the conflict is not, or cannot be, otherwise addressed in the best interest of the client.

(5) A registered individual must not engage in any trading or advising activity in connection with a material conflict of interest identified by the registered individual under subsection (1) unless

(a) the conflict has been addressed in the best interest of the client, and

(b) the registered individual's sponsoring firm has given the registered individual its consent to proceed with the activity.

13.4.2 Investment fund managers

Sections 13.4 and 13.4.1 do not apply to an investment fund manager in respect of an investment fund that is subject to National Instrument 81-107 *Independent Review Committee for Investment Funds*.

13.5 Restrictions on certain managed account transactions

(1) In this section, "responsible person" means, for a registered adviser,

(a) the adviser,

(b) a partner, director or officer of the adviser, and

(c) each of the following who has access to, or participates in formulating, an investment decision made on behalf of a client of the adviser or advice to be given to a client of the adviser:

(i) an employee or agent of the adviser;

(ii) an affiliate of the adviser;

(iii) partner, director, officer, employee or agent of an affiliate of the adviser.

(2) A registered adviser must not knowingly cause an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to do any of the following:

(a) purchase a security of an issuer in which a responsible person, or an associate of a responsible person is a partner, officer or director unless

(i) this fact is disclosed to the client, and

(ii) the written consent of the client to the purchase is obtained before the purchase;

(b) purchase or sell a security from or to the investment portfolio of any of the following:

(i) a responsible person;

(ii) an associate of a responsible person;

(iii) an investment fund for which a responsible person acts as an adviser;

(c) provide a guarantee or loan to a responsible person or an associate of a responsible person.

13.6 Disclosure when recommending related or connected securities

A registered firm must not make a recommendation in any medium of communication to buy, sell or hold a security issued by the registered firm, a security of a related issuer or, during the security's distribution, a security of a connected issuer of the registered firm, unless any of the following apply:

(a) the firm discloses, in the same medium of communication, the nature and extent of the relationship or connection between the firm and the issuer;

(b) the recommendation is in respect of a security of a mutual fund, a scholarship plan, an educational plan or an educational trust that is an affiliate of, or is managed by an affiliate of, the registered firm and the names of the registered firm and the fund, plan or trust, as the case may be, are sufficiently similar to indicate that they are affiliated.

Division 3 Referral arrangements

13.7 Definitions – referral arrangements

In this Division,

"client" includes a prospective client;

"referral arrangement" means any arrangement in which a registrant agrees to provide or receive a referral fee to or from another person or company;

"referral fee" means any benefit provided for the referral of a client to or from a registrant.

13.8 Permitted referral arrangements

A registered firm, or a registered individual whose registration is sponsored by the registered firm, must not participate in a referral arrangement with another person or company unless

(a) before a client is referred by or to the registrant, the terms of the referral arrangement are set out in a written agreement between the registered firm and the person or company,

(b) the registered firm records all referral fees, and

(c) the registered firm ensures that the information prescribed by subsection 13.10(1) [*disclosing referral arrangements to clients*] is provided to the client in writing before the party receiving the referral either opens an account for the client or provides services to the client.

13.9 Verifying the qualifications of the person or company receiving the referral

A registered firm, or a registered individual whose registration is sponsored by the registered firm, must not refer a client to another person or company unless the firm first takes reasonable steps to satisfy itself that the person or company has the appropriate qualifications to provide the services, and if applicable, is registered to provide those services.

13.10 Disclosing referral arrangements to clients

(1) The written disclosure of the referral arrangement required by paragraph 13.8(c) [*permitted referral arrangements*] must include the following:

(a) the name of each party to the agreement referred to in paragraph 13.8(a);

(b) the purpose and material terms of the agreement, including the nature of the services to be provided by each party;

(c) any conflicts of interest resulting from the relationship between the parties to the agreement and from any other element of the referral arrangement;

(d) the method of calculating the referral fee and, to the extent possible, the amount of the fee;

(e) the category of registration of each registrant that is a party to the agreement with a description of the activities that the registrant is authorized to engage in under that category and, giving consideration to the nature of the referral, the activities that the registrant is not permitted to engage in;

(f) if a referral is made to a registrant, a statement that all activity requiring registration resulting from the referral arrangement will be provided by the registrant receiving the referral;

(g) any other information that a reasonable client would consider important in evaluating the referral arrangement.

(2) If there is a change to the information set out in subsection (1), the registrant must ensure that written disclosure of that change is provided to each client affected by the change as soon as possible and no later than the 30th day before the date on which a referral fee is next paid or received.

13.11 [***lapsed***]

Division 4 *Borrowing and lending*

13.12 Restriction on borrowing from, or lending to, clients

(1) A registrant must not lend money, extend credit or provide margin to a client unless any of the following apply:

(a) in the case of a loan, the registrant is an investment fund manager, and the money is loaned on a short-term basis to an investment fund it manages, if the loan is for the purpose of funding redemptions of the investment fund's securities or paying expenses incurred by the investment fund in the normal course of its business;

(b) in the case of a registrant that is a registered firm, the client is

(i) a registered individual sponsored by the firm,

(ii) a permitted individual, as defined in National Instrument 33-109 *Registration Information*, of the firm, or

(iii) a director, officer, or employee of the firm;

(c) in the case of a registrant that is a registered individual, both of the following apply:

(i) the client and the registered individual are related to each other for the purposes of the *Income Tax Act* (Canada);

(ii) the registered individual has obtained the written approval of the registered individual's sponsoring firm to lend the money, extend the credit or provide the margin.

(2) A registered individual must not borrow money, securities or other assets or accept a guarantee in relation to borrowed money, securities or any other assets, from a client, unless either or both of the following apply:

(a) the client is a financial institution whose business includes lending money to the public, and the loan to the registered individual is in the normal course of the financial institution's business;

(b) both of the following apply:

(i) the client and the registered individual are related to each other for the purposes of the *Income Tax Act* (Canada);

(ii) the registered individual has obtained the written approval of the individual's sponsoring firm to borrow the money, securities or other assets or accept the guarantee.

13.13 Disclosure when recommending the use of borrowed money

(1) If a registrant recommends that a client should use borrowed money to finance any part of a purchase of a security, the registrant must, before the purchase, provide the client with a written statement that is substantially similar to the following:

"Using borrowed money to finance the purchase of securities involves greater risk than a purchase using cash resources only. If you borrow money to purchase securities, your responsibility to repay the loan and pay interest as required by its terms remains the same even if the value of the securities purchased declines."

(2) Subsection (1) does not apply if one of the following applies:

(a) the registrant has provided the client with the statement described under subsection (1) no earlier than the 180th day before the date of the proposed purchase;

(b) [***repealed***]

(c) the client is a permitted client.

Division 5 Complaints

13.14 Application of this Division

(1) This Division does not apply to an investment fund manager in respect of its activities as an investment fund manager.

(2) In Québec, a registered firm is deemed to comply with this Division if it complies with sections 168.1.1 to 168.1.3 of the *Securities Act* (Québec).

13.15 Handling complaints

A registered firm must document and, in a manner that a reasonable investor would consider fair and effective, respond to each complaint made to the registered firm about any product or service offered by the firm or a representative of the firm.

13.16 Dispute resolution service

(1) In this section,

"complaint" means a complaint that

(a) relates to a trading or advising activity of a registered firm or a representative of the firm, and

(b) is received by the firm within 6 years of the day when the client first knew or reasonably ought to have known of an act or omission that is a cause of or contributed to the complaint;

"OBSI" means the Ombudsman for Banking Services and Investments.

(2) If a registered firm receives a complaint from a client, the firm must, as soon as possible, provide the client with a written acknowledgement of the complaint that includes the following:

(a) a description of the firm's obligations under this section;

(b) the steps that the client must take in order for an independent dispute resolution or mediation service to be made available to the client under subsection (4);

(c) the name of the independent dispute resolution or mediation service that will be made available to the client under subsection (4) and contact information for the service.

(3) If a registered firm decides to reject a complaint or to make an offer to resolve a complaint, the firm must, as soon as possible, provide the client with written notice of the decision and include the information referred to in subsection (2).

(4) A registered firm must as soon as possible ensure that an independent dispute resolution or mediation service is made available to a client at the firm's expense with respect to a complaint if either of the following apply:

(a) after 90 days of the firm's receipt of the complaint, the firm has not given the client written notice of a decision under subsection (3), and the client has notified the independent dispute resolution or mediation service specified under paragraph (2)(c) that the client wishes to have the complaint considered by the service;

(b) within 180 days of the client's receipt of written notice of the firm's decision under subsection (3), the client has notified the independent dispute resolution or mediation service specified under paragraph (2)(c) that the client wishes to have the complaint considered by the service.

(5) Subsection (4) does not apply unless the client agrees that any amount the client will claim for the purpose of the independent dispute resolution or mediation service's consideration of the complaint will be no greater than $350,000.

(6) For the purposes of the requirement to make available an independent dispute resolution or mediation service under subsection (4), a registered firm must take reasonable steps to ensure that OBSI will be the service that is made available to the client.

(7) Subsection (6) does not apply in Québec.

(8) This section does not apply in respect of a complaint made by a permitted client that is not an individual.

Division 6 – Registered sub-advisers

13.17 Exemption from certain requirements for registered sub-advisers

(1) A registered sub-adviser is exempt from the following in respect of its activities as a sub-adviser:

(a) division 2 [*conflicts of interest*] of Part 13, except section 13.5 [*restrictions on certain managed account transactions*] and section 13.6 [*disclosure when recommending related or connected securities*];

(b) division 3 [*referral arrangements*] of Part 13;

(c) division 5 [*complaints*] of Part 13;

(d) section 14.3 [*disclosure to clients about the fair allocation of investment opportunities*];

(e) section 14.5 [*notice to clients by non-resident registrants*];

(f) section 14.14 [*account statements*];

(g) section 14.14.1 [*additional statements*];

(h) section 14.14.2 [*security position cost information*];

(i) section 14.17 [*report on charges and other compensation*];

(j) section 14.18 [*investment performance report*].

(2) The exemption under subsection (1) is not available unless all of the following apply:

(a) the obligations and duties of the registered sub-adviser are set out in a written agreement with the sub-adviser's registered adviser or registered dealer;

(b) the registered adviser or registered dealer has entered into a written agreement with its clients on whose behalf investment advice is or portfolio management services are to be provided agreeing to be responsible for any loss that arises out of the failure of the registered sub-adviser

(i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the registrant and each client of the registrant for whose benefit the advice is or portfolio management services are to be provided, or

(ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

Division 7 Misleading communications

13.18 Misleading communications

(1) Registered individuals must not hold themselves out, and a registered firm must not hold itself or its registered individuals out, in a manner that could reasonably be expected to deceive or mislead any person or company as to any of the following matters:

(a) the proficiency, experience, qualifications or category of registration of the registrant;

(b) the nature of the person's relationship, or potential relationship, with the registrant;

(c) the products or services provided, or to be provided, by the registrant.

(2) For greater certainty, and without limiting subsection (1), a registered individual who interacts with clients must not use any of the following:

(a) if based partly or entirely on that registered individual's sales activity or revenue generation, a title, designation, award, or recognition;

(b) a corporate officer title, unless their sponsoring firm has appointed that registered individual to that corporate office pursuant to applicable corporate law;

(c) if the individual's sponsoring firm has not approved the use by that registered individual of a title or designation, that title or designation.

Division 8 Temporary holds

13.19 Conditions for temporary hold

(1) A registered firm, or a registered individual whose registration is sponsored by the registered firm, must not place a temporary hold in relation to the financial exploitation of a vulnerable client unless the firm reasonably believes:

(a) the client is a vulnerable client, and

(b) financial exploitation of the client has occurred, is occurring, has been attempted or will be attempted.

(2) A registered firm, or a registered individual whose registration is sponsored by the registered firm, must not place a temporary hold in relation to the lack of mental capacity of a client unless the firm reasonably believes, with respect to an instruction given by the client, the client does not have the mental capacity to make financial decisions.

(3) If a registered firm, or a registered individual whose registration is sponsored by the registered firm, places a temporary hold in accordance with subsection (1) or (2), the firm must do the following:

(a) document the facts that caused the firm or individual to place and continue the temporary hold;

(b) as soon as possible following the date the firm or individual initially placed the temporary hold, provide notice of the temporary hold and the reasons for the temporary hold to the client;

(c) as soon as possible following the date the firm or individual initially placed the temporary hold and until the hold is terminated, further review the facts that caused the firm or individual to place the temporary hold;

(d) within 30 days of placing the temporary hold, and unless the hold has been previously terminated, within every subsequent 30-day period, take either of the following actions:

(i) terminate the temporary hold;

(ii) provide the client with notice of the firm's decision to not terminate the hold and the reasons for that decision;

(e) ultimately terminate the temporary hold and decide to proceed or not proceed with the purchase or sale of a security or withdrawal or transfer of cash or securities.

Part 14 Handling client accounts – firms

Division 1 Investment fund managers

14.1 Application of this Part to investment fund managers

Other than sections 14.1.1, 14.5.1, 14.5.2, 14.5.3, 14.6, 14.6.1 and 14.6.2, subsection 14.12(5) and section 14.15, this Part does not apply to an investment fund manager in respect of its activities as an investment fund manager.

14.1.1 Duty to provide information – investment fund managers

A registered investment fund manager of an investment fund must, within a reasonable period of time, provide a registered dealer or a registered adviser that has a client that owns securities of the investment fund with the information that is required by

the dealer or adviser in order for the dealer or adviser to comply with paragraph 14.12(1)(c), subsections 14.14(4) and (5), 14.14.1(2) and 14.14.2(1) and paragraph 14.17(1)(h).

Division 2 Disclosure to clients

14.2 Relationship disclosure information

(0.1) In this section, "proprietary product" means a security of an issuer if one or more of the following apply:

(a) the issuer of the security is a connected issuer of the registered firm;

(b) the issuer of the security is a related issuer of the registered firm;

(c) the registered firm or an affiliate of the registered firm is the investment fund manager or portfolio manager of the issuer of the security.

(1) A registered firm must deliver to a client all information that a reasonable investor would consider important about the client's relationship with the registrant.

(2) Without limiting subsection (1), the information delivered to a client under that subsection must include the following:

(a) a description of the nature or type of the client's account;

(a.1) in the case of a registered firm that holds the client's assets, or directs or arranges which custodian will hold the client's assets, disclosure of the location where, and a general description of the manner in which, the client's assets are held, and a description of the risks and benefits to the client arising from the assets being held at that location and in that manner;

(a.2) in the case of a registered firm that has access to the client's assets

(i) disclosure of the location where, and a general description of the manner in which, the client's assets are held, and a description of the risks and benefits to the client arising from the assets being held in that location and in that manner, and

(ii) a description of the manner in which the client's assets are accessible by the registered firm, and a description of the risks and benefits to the client arising from having access to the assets in that manner;

(b) a general description of the products and services the registered firm will offer to the client, including

(i) a description of the restrictions on the client's ability to liquidate or resell a security, and

(ii) a statement of the investment fund management expense fees or other ongoing fees the client may incur in connection with a security or service the registered firm provides;

(b.1) a general description of any limits on the products and services the registered firm will offer to the client, including

(i) whether the firm will primarily or exclusively offer proprietary products to the client, and

(ii) whether there will be other limits on the availability of products or services;

(c) a general description of the types of risks that a client should consider when making an investment decision;

(d) a description of the risks to a client of using borrowed money to finance a purchase of a security;

(e) a description of the conflicts of interest that the registered firm is required to disclose to a client under securities legislation;

(f) disclosure of the operating charges the client might be required to pay related to the client's account;

(g) a general description of the types of transaction charges the client might be required to pay;

(h) a general description of any benefits received, or expected to be received, by the registrant, from a person or company other than the registrant's client, in connection with the client's purchase or ownership of a security through the registrant;

(i) a description of the content and frequency of reporting for each account or portfolio of a client;

(j) disclosure of the firm's obligations if a client has a complaint contemplated under section 13.16 [*dispute resolution service*] and the steps that the client must take in order for an independent dispute resolution or mediation service to be made available to the client at the firm's expense;

(k) a statement that the registered firm must determine that any investment action it takes, recommends or decides on, for the client is suitable for the client and puts the client's interest first;

(l) the information the registered firm has collected about the client under section 13.2 [*know your client*];

(l.1) a description of the circumstances under which a registrant might disclose information about the client or the client's account to a trusted contact person in accordance with paragraph 13.2(2)(e);

(m) a general explanation of how investment performance benchmarks might be used to assess the performance of a client's investments and any options for benchmark information that might be made available to clients by the registered firm;

(n) if the registered firm is a scholarship plan dealer, an explanation of any terms of the scholarship plan offered to the client by the registered firm that, if those terms are not met by the client or the client's designated beneficiary under the plan, might cause the client or the designated beneficiary to suffer a loss of contributions, earnings or government contributions in the plan;

(o) a general explanation of the potential impact on a client's investment returns from each of the fees described in subparagraph (b)(ii) and the charges described in paragraphs (f) and (g), including the effect of compounding over time.;

(p) a general explanation of the circumstances under which a registered firm or registered individual may place a temporary hold under section 13.19 [*conditions for temporary hold]* and a description of the notice that will be given to the client, if a temporary hold is placed under that section.

(3) A registered firm must deliver the information in subsection (1), if applicable, and subsection (2) to the client in writing, except that the information in paragraph (2)(b) may be provided orally or in writing, before the firm first

(a) purchases or sells a security for the client, or

(b) advises the client to purchase, sell or hold a security.

(4) If there is a significant change in respect of the information delivered to a client under subsections (1) or (2), the registered firm must take reasonable steps to notify the client of the change in a timely manner and, if possible, before the firm next

(a) purchases or sells a security for the client; or

(b) advises the client to purchase, sell or hold a security.

(5) [***repealed***]

(5.1) A registered firm must not impose any new operating charge in respect of an account of a client, or increase the amount of any operating charge in respect of an account of a client, unless written notice of the new or increased operating charge is provided to the client at least 60 days before the date on which the imposition or increase becomes effective.

(6) This section does not apply to a registered firm in respect of a permitted client that is not an individual.

(7) Except for subsections (5.1), (6) and (8), this section does not apply to a registered dealer in respect of a client for whom the dealer purchases or sells securities only as directed by a registered adviser acting for the client.

(8) A registered dealer referred to in subsection (7) must deliver the information required under paragraphs (2)(a) and (e) to (j) to the client in writing, and the information in paragraph (2)(b) orally or in writing, before the dealer first purchases or sells a security for the client.

14.2.1 Pre-trade disclosure of charges

(1) Before a registered firm accepts an instruction from a client to purchase or sell a security in an account other than a managed account, the firm must disclose to the client

(a) the charges the client will be required to pay in respect of the purchase or sale, or a reasonable estimate if the actual amount of the charges is not known to the firm at the time of disclosure,

(b) in the case of a purchase to which deferred charges apply, that the client might be required to pay a deferred sales charge on the subsequent sale of the security and the fee schedule that will apply,

(c) whether the firm will receive trailing commissions in respect of the security, and

(d) whether there are any investment fund management expense fees or other ongoing fees that the client may incur in connection with the security.

(2) This section does not apply to a registered firm in respect of a permitted client that is not an individual.

(3) This section does not apply to a dealer in respect of a client for whom the dealer purchases or sells securities only as directed by a registered adviser acting for the client

14.3 Disclosure to clients about the fair allocation of investment opportunities

A registered adviser must deliver to a client a summary of the policies required under section 11.1 [*compliance system*] that provide reasonable assurance that the firm and each individual acting on its behalf complies with section 14.10 [*allocating investment opportunities fairly*] and that summary must be delivered

(a) when the adviser opens an account for the client, and

(b) if there is a significant change to the summary last delivered to the client, in a timely manner and, if possible, before the firm next

(i) purchases or sells a security for the client, or

(ii) advises the client to purchase, sell or hold a security.

14.4 When the firm has a relationship with a financial institution

(1) If a registered firm opens a client account to trade in securities, in an office or branch of a Canadian financial institution or a Schedule III bank, the registered firm must give the client a written notice stating that it is a separate legal entity from the Canadian financial institution or Schedule III bank and, unless otherwise advised by the registrant, securities purchased from or through the registrant

(a) are not insured by a government deposit insurer,

(b) are not guaranteed by the Canadian financial institution or Schedule III bank, and

(c) may fluctuate in value.

(2) A registered firm that is subject to subsection (1) must receive a written confirmation from the client that the client has read and understood the notice before the registered firm

(a) purchases or sells a security for the client, or

(b) advises the client to purchase, sell or hold a security.

(3) This section does not apply to a registered firm if the client is a permitted client.

14.5 Notice to clients by non-resident registrants

(1) A registered firm whose head office is not located in the local jurisdiction must provide a client in the local jurisdiction with a statement in writing disclosing the following:

(a) the firm is not resident in the local jurisdiction;

(b) the jurisdiction in Canada or the foreign jurisdiction in which the head office or the principal place of business of the firm is located;

(c) all or substantially all of the assets of the firm may be situated outside the local jurisdiction;

(d) there may be difficulty enforcing legal rights against the firm because of the above;

(e) the name and address of the agent for service of process of the firm in the local jurisdiction.

(2) This section does not apply to a registered firm whose head office is in Canada if the firm is registered in the local jurisdiction.

Division 3 Client assets and investment fund assets

14.5.1 Definition of "securities" in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan

Despite section 1.2, in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan, a reference to "securities" in this Division excludes "exchange contracts".

14.5.2 Restriction on self-custody and qualified custodian requirement

(1) A registered firm must not be a custodian or sub-custodian for a client of the firm or for an investment fund in respect of the client's or investment fund's cash or securities unless the registered firm

(a) is a Canadian custodian under paragraph (a), (b) or (d) of the definition of "Canadian custodian", and

(b) has established and maintains a system of controls and supervision that a reasonable person would conclude is sufficient to manage the risks to the client or investment fund associated with the custody of the client's or investment fund's cash or securities.

(2) A registered firm must ensure that any custodian for a client of the firm or for an investment fund managed by the firm in respect of the client's or investment fund's cash or securities is a Canadian custodian if the firm

(a) directs or arranges which custodian will hold the cash or securities of the client or investment fund, or

(b) holds or has access to the cash or securities of the client or investment fund.

(3) Despite the requirement to use a Canadian custodian in subsection (2), a foreign custodian may be a custodian of the cash or securities of the client or investment fund if a reasonable person would conclude, considering all of the relevant circumstances, including, for greater certainty, the nature of the regulation and the sufficiency of the equity of the foreign custodian, that using the foreign custodian is more beneficial to the client or investment fund than using a Canadian custodian.

(4) Despite the requirement to use a Canadian custodian in subsection (2), a Canadian financial institution may be a custodian of the cash of the client or investment fund.

(5) For the purposes of subsections (2) and (3), the registered firm must ensure that the qualified custodian is functionally independent of the registered firm unless

(a) the qualified custodian is a Canadian custodian under paragraph (a), (b) or (d) of the definition of "Canadian custodian", and

(b) the registered firm ensures that the qualified custodian has established and maintains a system of controls and supervision that a reasonable person would conclude is sufficient to manage the risks to the client or investment fund associated with the custody of the client's or investment fund's cash or securities.

(6) For the purpose of subsection (4), the registered firm must ensure that the Canadian financial institution is functionally independent of the registered firm.

(7) This section does not apply to a registered firm in respect of any of the following:

(a) an investment fund that is subject to National Instrument 81-102 *Investment Funds*;

(b) an investment fund that is subject to National Instrument 41-101 *General Prospectus Requirements*;

(c) a security that is recorded on the books of the security's issuer, or the transfer agent of the security's issuer, only in the name of the client or investment fund;

(d) cash or securities of a permitted client, if the permitted client

(i) is not an individual or an investment fund, and

(ii) has acknowledged in writing that the permitted client is aware that the requirements in this section that would otherwise apply to the registered firm do not apply;

(e) customer collateral subject to custodial requirements under National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions*;

(f) a security that evidences a debt obligation secured by a mortgage registered or published against the title of real estate if

(i) the mortgage is registered or published in the name of the client or investment fund as mortgagee, or

(ii) in the case of a syndicated mortgage, the mortgage is registered or published in the name of either of the following as mortgagee:

(A) a person or company that is registered or licensed under mortgage brokerage, mortgage administrators or mortgage dealer legislation of a jurisdiction of Canada if that mortgage is held in trust for the client or investment fund, as applicable;

(B) each investor that is a mortgagee in respect of that mortgage.

14.5.3 Cash and Securities held by a qualified custodian

A registered firm that is subject to subsection 14.5.2(2), (3) or (4) must take reasonable steps to ensure that cash and securities of a client or an investment fund,

(a) except as provided in paragraphs (b) and (c), are held by the qualified custodian or, in respect of cash, the Canadian financial institution using an account number or other designation in the records of the qualified custodian or the Canadian financial institution, as applicable, sufficient to show that the beneficial ownership of the cash or securities of the client or investment fund is vested in that client or investment fund,

(b) in the case of cash held in an account in the name of the registered firm, is held separate and apart from the registered firm's own property and held by the qualified custodian, or the Canadian financial institution, in a designated trust account in trust for clients or investment funds, or

(c) in the case of cash or securities held for the purpose of bulk trading, are held in the name of the registered firm in trust for its clients or investment funds if the cash or securities are transferred to the client's or investment fund's account held by that client's or investment fund's qualified custodian or, in respect of cash, Canadian financial institution as soon as possible following a trade.

14.6 Client and investment fund assets held by a registered firm in trust

(1) If a registered firm holds client assets or investment fund assets other than cash or securities, or if a registered firm holds cash or securities of a client or an investment fund as permitted by section 14.5.2, the registered firm must hold the assets

(a) separate and apart from its own property,

(b) in trust for the client or investment fund, and

(c) in the case of cash, in a designated trust account with a Canadian custodian or Canadian financial institution.

(2) Despite paragraph (1)(c), a foreign custodian may be a custodian for the cash of the client or investment fund if a reasonable person would conclude, considering all of the relevant circumstances, including, for greater certainty, the nature of the regulation and the sufficiency of the equity of the foreign custodian, that using the foreign custodian is more beneficial to the client or investment fund than using a Canadian custodian or a Canadian financial institution.

14.6.1 Custodial provisions relating to certain margin or security interests

(1) In this section,

"cleared specified derivative", "clearing corporation option", "futures exchange", "option on futures", "specified derivative" and "standardized future" have the same meaning as in section 1.1 of National Instrument 81-102 *Investment Funds*;

"regulated clearing agency" has the same meaning as in subsection 1(1) of National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives*.

(2) Subsection 14.5.2(2) does not apply to a registered firm in respect of cash or securities of a client or investment fund deposited with a member of a regulated clearing agency or a dealer as margin for transactions outside of Canada involving clearing corporation options, options on futures, standardized futures or cleared specified derivatives if

(a) the member or dealer is a member of a regulated clearing agency, futures exchange or stock exchange, and, as a result in any case, is subject to a regulatory audit,

(b) the member or dealer has a net worth, determined from its most recent audited financial statements, in excess of $50 million, and

(c) a reasonable person would conclude that using the member or dealer is more beneficial to the client or investment fund than using a Canadian custodian.

(3) Subsection 14.5.2(2) does not apply to a registered firm in respect of cash or securities of a client or investment fund deposited with the client's or investment fund's counterparty over which the client or investment fund has granted a security interest in connection with a particular specified derivatives transaction.

(4) The registered firm must take reasonable steps to ensure that any agreement by which cash or securities of a client or investment fund are deposited in accordance with subsection (2) or (3) requires the person or company holding the cash or securities to ensure that its records show that the client or investment fund is the beneficial owner of the cash or securities.

14.6.2 Custodial provisions relating to short sales

Subsection 14.5.2(2) does not apply to a registered firm in respect of cash or securities of a client or investment fund deposited as security in connection with a short sale of securities with a dealer outside of Canada if

(a) the dealer is a member of a stock exchange and is subject to a regulatory audit,

(b) the dealer has a net worth, determined from its most recent audited financial statements, in excess of $50 million, and

(c) a reasonable person would conclude that using the dealer is more beneficial to the client or investment fund than using a Canadian custodian.

14.7 [*repealed*]

14.8 [*repealed*]

14.9 [*repealed*]

Division 4 Client accounts

14.10 Allocating investment opportunities fairly

A registered adviser must ensure fairness in allocating investment opportunities among its clients.

14.11 Selling or assigning client accounts

If a registered firm proposes to sell or assign a client's account in whole or in part to another registrant, the registered firm must, prior to the sale or assignment, give a written explanation of the proposal to the client and inform the client of the client's right to close the client's account.

Division 5 Reporting to clients

14.11.1 Determining market value

(1) For the purposes of this Division, the market value of a security

(a) that is issued by an investment fund which is not listed on an exchange must be determined by reference to the net asset value provided by the investment fund manager of the fund on the relevant date,

(b) in any other case, is the amount that the registered firm reasonably believes to be the market value of the security

(i) after referring to a price quotation on a marketplace, if one is published for the security, using the last bid price in the case of a long security and the last ask price in the case of a short security, as shown on a consolidated pricing list or exchange quotation sheet as of the close of business on the relevant date or the last trading day before the relevant date, and after making any adjustments considered by the registered firm to be necessary to accurately reflect the market value,

(ii) if no reliable price for the security is quoted on a marketplace, after referring to a published market report or inter-dealer quotation sheet, on the relevant date or the last trading day before the relevant date, and after making any adjustments considered by the registered firm to be necessary to accurately reflect the market value,

(iii) if the market value for the security cannot be reasonably determined in accordance with subparagraph (i) or (ii), after applying the policy of the registered firm for determining market value, which must include procedures to assess the reliability of valuation inputs and assumptions and provide for

(A) the use of inputs that are observable, and

(B) the use of unobservable inputs and assumptions, if observable inputs are not reasonably available.

(2) If a registered firm determines the market value of a security in accordance with subparagraph (1)(b)(iii), when it refers to the market value in a statement under section 14.14 [*account statements*], 14.14.1 [*additional statements*], 14.14.2 [*security position cost information*], 14.15 [*security holder statements*] or 14.16 [*scholarship plan dealer statements*], the registered firm must include the following notification or a notification that is substantially similar:

"There is no active market for this security so we have estimated its market value."

(3) If a registered firm reasonably believes that it cannot determine the market value of a security in accordance with subsection (1), the market value of the security must be reported in a statement delivered under section 14.14 [*account statements*], 14.14.1 [*additional statements*], 14.14.2 [*security position cost information*], 14.15 [*security holder statements*] or 14.16 [*scholarship plan dealer statements*] as not determinable, and the market value of the security must be excluded from the total market value referred to in paragraphs 14.14(5)(e), 14.14.1(2)(e) and 14.14.2(5)(c).

14.12 Content and delivery of trade confirmation

(1) A registered dealer that has acted on behalf of a client in connection with a purchase or sale of a security must promptly deliver to the client or, if the client consents in writing, to a registered adviser acting for the client, a written confirmation of the transaction, setting out the following:

(a) the quantity and description of the security purchased or sold;

(b) the price per security paid or received by the client;

(b.1) in the case of a purchase of a debt security, the security's annual yield;

(c) the amount of each transaction charge, deferred sales charge or other charge in respect of the transaction, and the total amount of all charges in respect of the transaction;

(c.1) in the case of a purchase or sale of a debt security, either of the following:

(i) the total amount of any mark-up or mark-down, commission or other service charges the registered dealer applied to the transaction;

(ii) the total amount of any commission charged to the client by the registered dealer and, if the dealer applied a mark-up or mark-down or any service charge other than a commission, the following notification or a notification that is substantially similar:

"*Dealer firm remuneration has been added to the price of this security (in the case of a purchase) or deducted from the price of this security (in the case of a sale). This amount was in addition to any commission this trade confirmation shows was charged to you.*";

(d) whether the registered dealer acted as principal or agent;

(e) the date and the name of the marketplace, if any, on which the transaction took place, or if applicable, a statement that the transaction took place on more than one marketplace or over more than one day;

(f) the name of the dealing representative, if any, involved in the transaction;

(g) the settlement date of the transaction;

(h) if applicable, that the security is a security issued by the registered dealer, a security issued by a related issuer of the registered dealer or, if the transaction occurred during the security's distribution, a security issued by a connected issuer of the registered dealer.

(2) If a transaction under subsection (1) involved more than one transaction or if the transaction took place on more than one marketplace the information referred to in subsection (1) may be set out in the aggregate if the confirmation also contains a statement that additional details concerning the transaction will be provided to the client upon request and without additional charge.

(3) Paragraph (1)(h) does not apply if all of the following apply:

(a) the security is a security of a mutual fund that is established and managed by the registered dealer or by an affiliate of the registered dealer, in its capacity as investment fund manager of the mutual fund;

(b) the names of the dealer and the mutual fund are sufficiently similar to indicate that they are affiliated or related.

(4) For the purpose of paragraph (1)(f), a dealing representative may be identified by means of a code or symbol if the confirmation also contains a statement that the name of the dealing representative will be provided to the client on request of the client.

(5) A registered investment fund manager that has executed a redemption order received directly from a security holder must promptly deliver to the security holder a written confirmation of the redemption, setting out the following:

(a) the quantity and description of the security redeemed;

(b) the price per security received by the client;

(c) the commission, sales charge, service charge and any other amount charged in respect of the redemption;

(d) the settlement date of the redemption.

(6) Subsection 14.12 (5) does not apply to trades in a security of an investment fund made in reliance on section 8.6 [*investment fund trades by adviser to managed account*].

(7) In Newfoundland and Labrador, Ontario and Saskatchewan, a registered dealer that complies with the requirements of this section in respect of a purchase or sale of a security is not subject to any of subsections 37(1), (2) or (3) of the *Securities Act* (Newfoundland and Labrador), subsection 36(1) of the *Securities Act* (Ontario) and subsection 42(1) of *The Securities Act, 1988* (Saskatchewan).

14.13 Confirmations for certain automatic plans

The requirement under section 14.12 [*content and delivery of trade confirmation*] to deliver a confirmation promptly does not apply to a registered dealer in respect of a transaction if all of the following apply:

(a) the client gave the dealer prior written notice that the transaction is made pursuant to the client's participation in an automatic payment plan, including a dividend reinvestment plan, or an automatic withdrawal plan in which a transaction is made at least monthly;

(b) the registered dealer delivered a confirmation as required under section 14.12 [*content and delivery of trade confirmation*] for the first transaction made under the plan after receiving the notice referred to in paragraph (a);

(c) the transaction is in a security of a mutual fund, scholarship plan, educational plan or educational trust.

(d) [***repealed***]

14.14 Account statements

(1) A registered dealer must deliver to a client a statement that includes the information referred to in subsections (4) and (5)

(a) at least once every 3 months, or

(b) if the client has requested to receive statements on a monthly basis, for each one-month period.

(2) A registered dealer must deliver to a client a statement that includes the information referred to in subsections (4) and (5) after the end of any month in which a transaction was effected in securities held by the dealer in the client's account, other than a transaction made under an automatic withdrawal plan or an automatic payment plan, including a dividend reinvestment plan.

(2.1) Paragraph 1(b) and subsection (2) do not apply to a mutual fund dealer in connection with its activities as a dealer in respect of the securities listed in paragraph 7.1(2)(b) [*dealer categories*].

(3) A registered adviser must deliver to a client a statement that includes the information referred to in subsections (4) and (5) at least once every 3 months, except that if the client has requested to receive statements on a monthly basis, the adviser must deliver a statement to the client for each one-month period.

(3.1) [***repealed***]

(4) If a registered dealer or registered adviser made a transaction for a client during the period covered by a statement delivered under subsection (1), (2) or (3), the statement must include the following:

(a) the date of the transaction;

(b) whether the transaction was a purchase, sale or transfer;

(c) the name of the security;

(d) the number of securities purchased, sold or transferred;

(e) the price per security if the transaction was a purchase or sale;

(f) the total value of the transaction if it was a purchase or sale.

(5) If a registered dealer or registered adviser holds securities owned by a client in an account of the client, a statement delivered under subsection (1), (2) or (3) must indicate that the securities are held for the client by the registered firm and must include the following information about the client's account determined as at the end of the period for which the statement is made:

(a) the name and quantity of each security in the account;

(b) the market value of each security in the account and, if applicable, the notification in subsection 14.11.1(2) [*determining market value*];

(c) the total market value of each security position in the account;

(d) any cash balance in the account;

(e) the total market value of all cash and securities in the account;

(f) whether the account is eligible for coverage under an investor protection fund approved or recognized by the securities regulatory authority and, if it is, the name of the investor protection fund;

(g) which securities in the account might be subject to a deferred sales charge if they are sold.

(6) [***repealed***]

(7) For the purposes of this section, a security is considered to be held by a registered firm for a client if

(a) the firm is the registered owner of the security as nominee on behalf of the client, or

(b) the firm has physical possession of a certificate evidencing ownership of the security.

14.14.1 Additional statements

(1) A registered dealer or registered adviser must deliver a statement that includes the information referred to in subsection (2) to a client if any of the following apply in respect of a security owned by the client that is held or controlled by a party other than the dealer or adviser:

(a) the dealer or adviser has trading authority over the security or the client's account in which the security is held or was transacted;

(b) the dealer or adviser receives continuing payments related to the client's ownership of the security from the issuer of the security, the investment fund manager of the issuer or any other party;

(c) the security is issued by a scholarship plan, a mutual fund or an investment fund that is a labour-sponsored investment fund corporation, or labour-sponsored venture capital corporation, under legislation of a jurisdiction of Canada and the dealer or adviser is the dealer or adviser of record for the client on the records of the issuer of the security or the records of the issuer's investment fund manager.

(2) A statement delivered under subsection (1) must include the following in respect of the securities or the account referred to in subsection (1), determined as at the end of the period for which the statement is made:

(a) the name and quantity of each security;

(b) the market value of each security and, if applicable, the notification in subsection 14.11.1(2) [*determining market value*];

(c) the total market value of each security position;

(d) any cash balance in the account;

(e) the total market value of all of the cash and securities;

(f) disclosure in respect of the party that holds or controls each security and a description of the way it is held;

(g) whether the securities are, or the account is, eligible for coverage under an investor protection fund approved or recognized by the securities regulatory authority;

(h) which of the securities might be subject to a deferred sales charge if they are sold.

(2.1) Paragraph (2)(g) does not apply if the party referred to in paragraph (2)(f) is required under section 14.14, or under an IIROC provision or MFDA provision, to deliver a statement to the client in respect of the securities or the account referred to in subsection (1) of this section.

(3) If subsection (1) applies to a registered dealer or a registered adviser, the dealer or adviser must deliver a statement that includes the information in subsection (2) to a client at least once every 3 months, except that if a client has requested to receive statements on a monthly basis, the adviser must deliver a statement to the client every month.

(4) If subsection (1) applies to a registered dealer or a registered adviser that is also required to deliver a statement to a client under subsection 14.14(1) or (3), a statement delivered under subsection (1) must be delivered to the client in one of the following ways:

(a) combined with a statement delivered to the client under subsection 14.14(1) or (3) for the period ending on the same date;

(b) as a separate document accompanying a statement delivered to the client under subsection 14.14(1) or (3) for the period ending on the same date;

(c) as a separate document delivered within 10 days after the statement delivered to the client under subsection 14.14(1) or (3) for the period ending on the same date.

(5) For the purposes of this section, a security is considered to be held for a client by a party other than the registered firm if any of the following apply:

(a) the other party is the registered owner of the security as nominee on behalf of the client;

(b) ownership of the security is recorded on the books of its issuer in the client's name;

(c) the other party has physical possession of a certificate evidencing ownership of the security;

(d) the client has physical possession of a certificate evidencing ownership of the security.

(6) This section does not apply to a registered firm in respect of a permitted client that is not an individual.

14.14.2 Security position cost information

(1) If a registered dealer or registered adviser is required to deliver a statement to a client that includes information required under subsection 14.14(5) [*account statements*] or 14.14.1(2) [*additional statements*], the dealer or adviser must deliver the information referred to in subsection (2) to a client at least once every 3 months.

(2) The information delivered under subsection (1) must disclose the following:

(a) for each security position, in the statement, opened on or after July 15, 2015, presented on an average cost per unit or share basis or an aggregate basis,

(i) the cost of the security position, determined as at the end of the period for which the information referred to in subsection 14.14(5) or 14.14.1(2) is provided, or

(ii) if the security position was transferred from another registered firm, the information referred to in subparagraph (i) or the market value of the security position as at the date of the transfer of the security position;

(b) for each security position, in the statement, opened before July 15, 2015, presented on an average cost per unit or share basis or an aggregate basis,

(i) the cost of the security position, determined as at the end of the period for which the information referred to in subsection 14.14(5) or 14.14.1(2) is provided, or

(ii) the market value of the security position on

(A) December 31, 2015, or

(B) a date that is earlier than December 31, 2015 if the registered firm reasonably believes accurate, recorded historical position cost information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date;

(c) the total cost of all of the security positions in the statement, determined in accordance with paragraphs (a) and (b);

(d) for each security position for which the registered firm reasonably believes it cannot determine the cost in accordance with paragraphs (a) and (b), disclosure of that fact in the statement.

(2.1) If a registered firm reports one or more security positions of a client using the market value determined as at the date referred to in subparagraph (2)(a)(ii) or (2)(b)(ii), the firm must disclose in the statement that it is providing the market value of the security position as at the relevant date, instead of the cost of the security position.

(3) The cost of security positions required to be disclosed under subsection (2) must be either the book cost or the original cost and must be accompanied by the definition of "book cost" in section 1.1 [*definitions of terms used throughout this Instrument*] or the definition of "original cost" in section 1.1, as applicable.

(4) The information delivered under subsection (1) must be delivered to the client in one of the following ways:

(a) combined with a statement delivered to the client that includes the information required under subsection 14.14(5) or 14.14.1(2) for the period ending on the same date;

(b) in a separate document accompanying a statement delivered to the client that includes information required under subsection 14.14(5) or 14.14.1(2) for the period ending on the same date;

(c) in a separate document delivered within 10 days after a statement delivered to the client that includes information required under subsection 14.14(5) or 14.14.1(2) for the period ending on the same date.

(5) If the information under subsection (1) is delivered to the client in a separate document in accordance with paragraph (4)(c), the separate document must also include the following:

(a) the market value of each security in the statement and, if applicable, the notification in subsection 14.11.1(2) [*determining market value*];

(b) the total market value of each security position in the statement;

(c) the total market value of all cash and securities in the statement.

(6) This section does not apply to a registered firm in respect of a permitted client that is not an individual.

14.15 Security holder statements

If there is no dealer or adviser of record for a security holder on the records of a registered investment fund manager, the investment fund manager must deliver to the security holder at least once every 12 months a statement that includes the following:

(a) the information required under subsection 14.14(4) [*account statements*] for each transaction that the registered investment fund manager made for the security holder during the period;

(b) the information required under subsection 14.14.1(2) [*additional statements*] for the securities of the security holder that are on the records of the registered investment fund manager;

(c) the information required under section 14.14.2 [*security position cost information*].

14.16 Scholarship plan dealer statements

Sections 14.14 [*account statements*], 14.14.1 [*additional statements*] and 14.14.2 [*security position cost information*] do not apply to a scholarship plan dealer if both of the following apply:

(a) the scholarship plan dealer is not registered in another dealer or adviser category;

(b) the scholarship plan dealer delivers to a client a statement at least once every 12 months that provides the information required under subsections 14.14(4) and 14.14.1(2).

14.17 Report on charges and other compensation

(1) For each 12-month period, a registered firm must deliver to a client a report on charges and other compensation containing the following information, except that the first report delivered after a client has opened an account may cover a period of less than 12 months:

(a) the registered firm's current operating charges which might be applicable to the client's account;

(b) the total amount of each type of operating charge related to the client's account paid by the client during the period covered by the report, and the total amount of those charges;

(c) the total amount of each type of transaction charge related to the purchase or sale of securities paid by the client during the period covered by the report, and the total amount of those charges;

(d) the total amount of the operating charges reported under paragraph (b) and the transaction charges reported under paragraph (c);

(e) if the registered firm purchased or sold debt securities for the client during the period covered by the report, either of the following:

(i) the total amount of any mark-ups, mark-downs, commissions or other service charges the firm applied on the purchases or sales of debt securities;

(ii) the total amount of any commissions charged to the client by the firm on the purchases or sales of debt securities and, if the firm applied mark-ups, mark-downs or any service charges other than commissions on the purchases or sales of debt securities, the following notification or a notification that is substantially similar:

"*For debt securities purchased or sold for you during the period covered by this report, dealer firm remuneration was added to the price you paid (in the case of a purchase) or deducted from the price you received (in the case of a sale). This amount was in addition to any commissions you were charged.*";

(f) if the registered firm is a scholarship plan dealer, the unpaid amount of any enrolment fee or other charge that is payable by the client;

(g) the total amount of each type of payment, other than a trailing commission, that is made to the registered firm or any of its registered individuals by a securities issuer or another registrant in relation to registerable services to the client during the period covered by the report, accompanied by an explanation of each type of payment;

(h) if the registered firm received trailing commissions related to securities owned by the client during the period covered by the report, the following notification or a notification that is substantially similar:

"*We received $[amount] in trailing commissions in respect of securities you owned during the 12-month period covered by this report.*

Investment funds pay investment fund managers a fee for managing their funds. The managers pay us ongoing trailing commissions for the services and advice we provide you. The amount of the trailing commission depends on the sales charge option you chose when you purchased the fund. You are not directly charged the trailing commission or the management fee. But, these fees affect you because they reduce the amount of the fund's return to you. Information about management fees and other charges to your investment funds is included in the prospectus or fund facts document for each fund."

(2) For the purposes of this section, the information in respect of securities of a client required to be reported under subsection 14.14(5) [*account statements*] must be delivered in a separate report on charges and other compensation for each of the client's accounts.

(3) For the purposes of this section, the information in respect of securities of a client required to be reported under subsection 14.14.1(1) [*additional statements*] must be delivered in a report on charges and other compensation for the client's account through which the securities were transacted.

(4) Subsections (2) and (3) do not apply if the registered firm provides a report on charges and other compensation that consolidates, into a single report, the required information for more than one of a client's accounts and any securities of the client required to be reported under subsection 14.14(5) or 14.14.1(1) and if the following apply:

(a) the client has consented in writing to the form of disclosure referred to in this subsection;

(b) the consolidated report specifies the accounts and securities with respect to which information is required to be reported under subsection 14.14.1(1) [*additional statements*].

(5) This section does not apply to a registered firm in respect of a permitted client that is not an individual.

14.18 Investment performance report

(1) A registered firm must deliver an investment performance report to a client every 12 months, except that the first report delivered after a registered firm first makes a trade for a client may be sent within 24 months after that trade.

(2) For the purposes of this section, the information in respect of securities of a client required to be reported under subsection 14.14(5) [*account statements*] must be delivered in a separate report for each of the client's accounts.

(3) For the purposes of this section, the information in respect of securities of a client required to be reported under subsection 14.14.1(1) [*additional statements*] must be delivered in the report for each of the client's accounts through which the securities were transacted.

(4) Subsections (2) and (3) do not apply if the registered firm provides a report that consolidates, into a single report, the required information for more than one of a client's accounts and any securities of the client required to be reported under subsection 14.14(5) or 14.14.1(1) and if the following apply:

(a) the client has consented in writing to the form of disclosure referred to in this subsection;

(b) the consolidated report specifies the accounts and securities with respect to which information is required to be reported under subsection 14.14.1(1) [*additional statements*].

(5) This section does not apply to

(a) a client's account that has existed for less than a 12-month period;

(b) a registered dealer in respect of a client's account in which the dealer executes trades only as directed by a registered adviser acting for the client; and

(c) a registered firm in respect of a permitted client that is not an individual.

(6) Despite subsection (1), a registered firm is not required to deliver a report to a client for a 12-month period referred to in that subsection if the firm reasonably believes

(a) there are no securities of the client with respect to which information is required to be reported under subsection 14.14(5) [*account statements*] or subsection 14.14.1(1) [*additional statements*], or

(b) no market value can be determined for any securities of the client in respect to which information is required to be reported under subsection 14.14(5) or 14.14.1(1).

14.19 Content of investment performance report

(1) An investment performance report required to be delivered under section 14.18 by a registered firm must include all of the following in respect of the securities referred to in a statement in respect of which subsection 14.14(1), (2) or (3) [*account statements*] or 14.14.1(1) [*additional statements*] apply:

(a) the market value of all cash and securities in the client's account as at the beginning of the 12-month period covered by the investment performance report;

(b) the market value of all cash and securities in the client's account as at the end of the 12-month period covered by the investment performance report;

(c) the market value of all deposits and transfers of cash and securities into the client's account, and the market value of all withdrawals and transfers of cash and securities out of the account, in the 12-month period covered by the investment performance report;

(d) the market values determined under subsection (1.1);

(e) **[*repealed*]**

(f) the annual change in the market value of the client's account for the 12-month period covered by the investment performance report, determined using the following formula

A – B – C + D

where

A = the market value of all cash and securities in the account as at the end of the 12-month period covered by the investment performance report;

B = the market value of all cash and securities in the account at the beginning of that 12-month period;

C = the market value of all deposits and transfers of cash and securities into the account in that 12-month period; and

D = the market value of all withdrawals and transfers of cash and securities out of the account in that 12-month period;

(g) subject to subsection (1.2), the cumulative change in the market value of the account since the account was opened, determined using the following formula

A – E + F

where

A = the market value of all cash and securities in the account as at the end of the 12-month period covered by the investment performance report;

E = the market value of all deposits and transfers of cash and securities into the account since account opening; and

F = the market value of all withdrawals and transfers of cash and securities out of the account since account opening;

(h) **[*repealed*]**

(i) the amount of the annualized total percentage return for the client's account calculated net of charges, using a money-weighted rate of return calculation method generally accepted in the securities industry;

(j) the definition of "total percentage return" in section 1.1 and a notification indicating the following:

(i) that the total percentage return in the investment performance report was calculated net of charges;

(ii) the calculation method used;

(iii) a general explanation in plain language of what the calculation method takes into account.

(1.1) For the purposes of paragraph (1)(d), the investment performance report must include the following, as applicable:

(a) if the client's account was opened on or after July 15, 2015, the market value of all deposits and transfers of cash and securities into the client's account, and the market value of all withdrawals and transfers of cash and securities out of the account, since opening the account;

(b) if the client's account was opened before July 15, 2015, and the firm has not delivered an investment performance report for the 12-month period ending December 31, 2016,

(i) the market value of all cash and securities in the client's account as at

(A) July 15, 2015, or

(B) a date that is earlier than July 15, 2015 if the registered firm reasonably believes accurate, recorded historical market value information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date, and

(ii) the market value of all deposits and transfers of cash and securities into the account, and the market value of all withdrawals and transfers of cash and securities out of the account, since the date referred to in clause (i)(A) or (B), as applicable;

(c) if the client's account was opened before July 15, 2015, and the firm delivered an investment performance report for the 12-month period ending December 31, 2016,

(i) the market value of all cash and securities in the client's account as at

(A) January 1, 2016, or

(B) a date that is earlier than January 1, 2016 if the registered firm reasonably believes accurate, recorded historical market value information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date, and

(ii) the market value of all deposits and transfers of cash and securities into the account, and the market value of all withdrawals and transfers of cash and securities out of the account, since the date referred to in clause (i)(A)or (B), as applicable.

(1.2) Paragraph (1)(g) does not apply if the client's account was opened before July 15, 2015 and the registered firm includes in the investment performance report the cumulative change in the market value of the account determined using the following formula, instead of the formula in paragraph (g):

$$A - G - H + I$$

where

A = the market value of all cash and securities in the account as at the end of the 12-month period covered by the investment performance report;

G = the market value of all cash and securities in the account determined as follows:

(a) if the firm has not delivered an investment performance report for the 12-month period ending December 31, 2016, the market value of all cash and securities in the client's account as at

(i) July 15, 2015, or

(ii) a date that is earlier than July 15, 2015 if the registered firm reasonably believes accurate, recorded historical market value information is available for the client's

account, and it would not be misleading to the client to provide that information as at the earlier date,

(b) if the firm has delivered an investment performance report for the 12-month period ending December 31, 2016, the market value of all cash and securities in the client's account as at

(i) January 1, 2016, or

(ii) a date that is earlier than January 1, 2016 if the registered firm reasonably believes accurate, recorded historical market value information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date;

H = the market value of all deposits and transfers of cash and securities into the account since the date used for the purposes of the definition of "G"; and

I = the market value of all withdrawals and transfers of cash and securities out of the account since the date used for the purposes of the definition of "G".

(2) The information delivered for the purposes of paragraph (1)(i) must be provided for each of the following periods:

(a) the 12-month period covered by the investment performance report;

(b) the 3-year period preceding the end of the 12-month period covered by the report;

(c) the 5-year period preceding the end of the 12-month period covered by the report;

(d) the 10-year period preceding the end of the 12-month period covered by the report;

(e) subject to subsection (3.1), the period since the client's account was opened if the account has been open for more than one year before the date of the report or, if the account was opened before July 15, 2015, the period since

(i) July 15, 2015, or

(ii) a date that is earlier than July 15, 2015 if the registered firm reasonably believes accurate, recorded annualized total percentage return information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date.

(3) Despite subsection (2), if any portion of a period referred to in paragraph (2)(b), (c) or (d) was before July 15, 2015, the registered firm is not required to report the annualized total percentage return for that period.

(3.1) Paragraph (2)(e) does not apply to a registered firm that delivered an investment performance report for the 12-month period ending December 31, 2016 if the firm provides, in the report, the annualized total percentage return information referred to in that paragraph for the period since

(a) January 1, 2016, or

(b) a date that is earlier than January 1, 2016 if the registered firm reasonably believes accurate, recorded annualized total percentage return information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date.

(4) Despite subsection (1), the information a scholarship plan dealer is required to deliver under section 14.18 [*investment performance report*] in respect of each scholarship plan in which a client has invested through the scholarship plan dealer is the following:

(a) the total amount that the client has invested in the plan as at the date of the investment performance report;

(b) the total amount that would be returned to the client if, as at the date of the investment performance report, the client ceased to make prescribed payments into the plan;

(c) a reasonable projection of future payments that the plan might pay to the client's designated beneficiary under the plan, or to the client, at the maturity of the client's investment in the plan;

(d) a summary of any terms of the plan that, if not met by the client or the client's designated beneficiary under the plan, might cause the client or the designated beneficiary to suffer a loss of contributions, earnings or government contributions in the plan.

(5) The information delivered under section 14.18 [*investment performance report*] must be presented using text, tables and charts, and must be accompanied by notes in the investment performance report explaining

(a) the content of the report and how a client can use the information to assess the performance of the client's investments; and

(b) the changing value of the client's investments as reflected in the information in the report.

(6) If a registered firm delivers information required under this section in a report to a client for a period of less than one year, the firm must not calculate the disclosed information on an annualized basis.

(7) If the registered firm reasonably believes the market value cannot be determined for a security position, the market value must be assigned a value of zero in the calculation of the information delivered under subsection 14.18(1) and the fact that its market value could not be determined must be disclosed to the client.

14.20 Delivery of report on charges and other compensation and investment performance report

(1) A report under section 14.17 [*report on charges and other compensation*] and a report under section 14.18 [*investment performance report*] must include information for the same 12-month period and the reports must be delivered together in one of the following ways:

(a) combined with a statement delivered to the client that includes information required under subsection 14.14(1), (2) or (3) [*account statements*], subsection 14.14.1(2) [*additional statements*] or section 14.16 [*scholarship plan dealer statements*];

(b) accompanying a statement delivered to the client that includes information required under subsection 14.14(1), (2) or (3) [*account statements*], subsection 14.14.1(2) [*additional statements*] or section 14.16 [*scholarship plan dealer statements*];

(c) within 10 days after a statement delivered to the client that includes information required under subsection 14.14(1),(2) or (3) [*account statements*], subsection 14.14.1(2) [*additional statements*] or section 14.16 [*scholarship plan dealer statements*].

(2) Subsection (1) does not apply in respect of the first report under section 14.17 [*report on charges and other compensation*] and the first report under section 14.18 [*investment performance report*] for a client.

Part 15 Granting an exemption

15.1 Who can grant an exemption

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

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

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

Part 16 Transition

16.1 [***lapsed***]

16.2 [***lapsed***]

16.3 [***lapsed***]

16.4 [***lapsed***]

16.5 [***lapsed***]

16.6 [***lapsed***]

16.7 [***lapsed***]

16.8 [***lapsed***]

16.9 Registration of chief compliance officers

(1) [***lapsed***]

(2) If an individual applies to be registered as the chief compliance officer of a registered firm within 3 months after this Instrument comes into force and the individual was identified on the National Registration Database as the firm's compliance officer in a jurisdiction of Canada on the date this Instrument came into force, the following sections do not apply in respect of the individual so long as he or she remains registered as the firm's chief compliance officer:

(a) section 3.6 [*mutual fund dealer – chief compliance officer*], if the registered firm is a mutual fund dealer;

(b) section 3.8 [*scholarship plan dealer – chief compliance officer*], if the registered firm is a scholarship plan dealer;

(c) section 3.10 [*exempt market dealer – chief compliance officer*], if the registered firm is an exempt market dealer;

(d) section 3.13 [*portfolio manager – chief compliance officer*], if the registered firm is a portfolio manager.

(3) **[*lapsed*]**

(4) **[*lapsed*]**

16.10 Proficiency for dealing and advising representatives

If an individual is registered in a jurisdiction of Canada as a dealing or advising representative in a category referred to in a section of Division 2 [*education and experience requirements*] of Part 3 on the day this Instrument comes into force, that section does not apply to the individual so long as the individual remains registered in the category.

16.11 [***lapsed***]

16.12 Continuation of existing discretionary relief

A person or company that was entitled to rely on an exemption, waiver or approval granted to it by a regulator or securities regulatory authority relating to a requirement under securities legislation or securities directions existing immediately before this Instrument came into force is exempt from any substantially similar provision of this Instrument to the same extent and on the same conditions, if any, as contained in the exemption, waiver or approval.

16.13 [***lapsed***]

16.14 [***lapsed***]

16.15 [***lapsed***]

16.16 [***lapsed***]

16.17 [***lapsed***]

16.18 [***lapsed***]

16.19 [***lapsed***]

16.20 [***lapsed***]

Part 17 When this Instrument comes into force

17.1 Effective date

(1) Except in Ontario, this Instrument comes into force on September 28, 2009.

(2) In Ontario, this Instrument comes into force on the later of the following:

(a) September 28, 2009;

(b) the day on which sections 4, 5 and subsections 20(1) to (11) of Schedule 26 of the *Budget Measures Act, 2009* are proclaimed in force.

FORM 31-103F1 CALCULATION OF EXCESS WORKING CAPITAL

Firm Name

Capital Calculation

(as at _____ with comparative figures as at _____)

	Component	Current period	Prior period
1.	Current assets		
2.	Less current assets not readily convertible into cash (e.g., prepaid expenses)		
3.	Adjusted current assets Line 1 minus line 2 =		
4.	Current liabilities		
5.	Add 100% of non-current related party debt unless the firm and the lender have executed a subordination agreement in the form set out in Appendix B of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and the firm has delivered a copy of the agreement to the regulator or, in Québec, the securities regulatory authority. See section 12.2 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations.*		
6.	Adjusted current liabilities Line 4 plus line 5 =		
7.	Adjusted working capital Line 3 minus line 6 =		
8.	Less minimum capital		
9.	Less market risk		
10.	Less any deductible under the bonding or insurance policy required under Part 12 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* or, in Québec, for a firm registered only in that jurisdiction and solely in the category of mutual fund dealer, less the deductible under the liability insurance required under section 193 of the Québec Securities Regulation		
11.	Less Guarantees		
12.	Less unresolved differences		
13.	**Excess working capital**		

Notes:

Form 31-103F1 *Calculation of Excess Working Capital* must be prepared using the accounting principles that you use to prepare your financial statements in accordance with National Instrument 52-107 *Acceptable Accounting Principles and Auditing*

Standards. Section 12.1 of Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* provides further guidance in respect of these accounting principles.

Line 5. Related-party debt – Refer to the CICA Handbook for the definition of "related party" for publicly accountable enterprises. The firm is required to deliver a copy of the executed subordination agreement to the regulator or, in Québec, the securities regulatory authority on the earlier of a) 10 days after the date the agreement is executed or b) the date an amount subordinated by the agreement is excluded from its calculation of excess working capital on Form 31-103F1 *Calculation of Excess Working Capital*. **The firm must notify the regulator or, in Québec, the securities regulatory authority, 10 days before it repays the loan (in whole or in part), or terminates the subordination agreement.** See section 12.2 of National Instrument 31-103 *Registration Requirements Exemptions and Ongoing Registrant Obligations*.

Line 8. Minimum Capital – The amount on this line must be not less than (a) $25,000 for an adviser and (b) $50,000 for a dealer. For an investment fund manager, the amount must be not less than $100,000 unless subsection 12.1(4) of National Instrument 31-103 *Registration Requirements Exemptions and Ongoing Registrant Obligations* applies.

Line 9. Market Risk – The amount on this line must be calculated according to the instructions set out in Schedule 1 to Form 31-103F1 *Calculation of Excess Working Capital*. A schedule supporting the calculation of any amounts included in Line 9 as market risk should be provided to the regulator or, in Québec, the securities regulatory authority in conjunction with the submission of Form 31-103F1 *Calculation of Excess Working Capital*.

Line 11. Guarantees – If the registered firm is guaranteeing the liability of another party, the total amount of the guarantee must be included in the capital calculation. If the amount of a guarantee is included in the firm's statement of financial position as a current liability and is reflected in line 4, do not include the amount of the guarantee on line 11.

Line 12. Unresolved differences – Any unresolved differences that could result in a loss from either firm or client assets must be included in the capital calculation. The examples below provide guidance as to how to calculate unresolved differences:

(i) If there is an unresolved difference relating to client securities, the amount to be reported on Line 12 will be equal to the fair value of the client securities that are short, plus the applicable margin rate for those securities.

(ii) If there is an unresolved difference relating to the registrant's investments, the amount to be reported on Line 12 will be equal to the fair value of the investments (securities) that are short.

(iii) If there is an unresolved difference relating to cash, the amount to be reported on Line 12 will be equal to the amount of the shortfall in cash.

Please refer to section 12.1 of Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* for further guidance on how to prepare and file Form 31-103F1 *Calculation of Excess Working Capital*.

Management Certification

Registered Firm Name: _____

We have examined the attached capital calculation and certify that the firm is in compliance with the capital requirements as at

_____.

Name and Title	**Signature**	**Date**
1. _____	_____	_____
_____		
2. _____	_____	_____
_____		

Schedule 1 of Form 31-103F1 Calculation of Excess Working Capital

(calculating line 9 [market risk])

For purposes of completing this form:

(1) "Fair value" means the value of a security determined in accordance with Canadian GAAP applicable to publicly accountable enterprises.

(2) For each security whose value is included in line 1, Current Assets, multiply the fair value of the security by the margin rate for that security set out below. Add up the resulting amounts for all of the securities you hold. The total is the "market risk" to be entered on line 9.

(a) Bonds, Debentures, Treasury Bills and Notes

(i) Bonds, debentures, treasury bills and other securities of or guaranteed by the Government of Canada, of the United Kingdom, of the United States of America or of any other national foreign government (provided those foreign government securities have a current credit rating described in subparagraph (i.1)) maturing (or called for redemption):

within 1 year:	1% of fair value multiplied by the fraction determined by dividing the number of days to maturing by 365
over 1 year to 3 years:	1 % of fair value
over 3 years to 7 years:	2% of fair value
over 7 years to 11 years:	4% of fair value
over 11 years:	4% of fair value

(i.1) A credit rating from a designated rating organization listed below, from a DRO affiliate of an organization listed below, from a designated rating organization that is a successor credit rating organization of an organization listed below or from a DRO affiliate of such successor credit rating organization, that is the same as one of the following corresponding rating categories or that is the same as a category that replaces one of the following corresponding rating categories:

Designated Rating Organization	Long Term Debt	Short Term Debt
DBRS Limited	AAA	R-1(high)
Fitch Ratings, Inc.	AAA	F1+
Moody's Canada Inc.	Aaa	Prime-1
S&P Global Ratings Canada	AAA	A-1+

(ii) Bonds, debentures, treasury bills and other securities of or guaranteed by any jurisdiction of Canada and obligations of the International Bank for Reconstruction and Development, maturing (or called for redemption):

within 1 year:	2% of fair value multiplied by the fraction determined by dividing the number of days to maturity by 365
over 1 year to 3 years:	3 % of fair value
over 3 years to 7 years:	4% of fair value
over 7 years to 11 years:	5% of fair value
over 11 years:	5% of fair value

(iii) Bonds, debentures or notes (not in default) of or guaranteed by any municipal corporation in Canada or the United Kingdom maturing:

within 1 year:	3% of fair value multiplied by the fraction determined by dividing the number of days to maturity by 365
over 1 year to 3 years:	5 % of fair value
over 3 years to 7 years:	5% of fair value
over 7 years to 11 years:	5% of fair value
over 11 years:	5% of fair value

(iv) Other non-commercial bonds and debentures~~,~~ (not in default): 10% of fair value

(v) Commercial and corporate bonds, debentures and notes (not in default) and non-negotiable and non-transferable trust company and mortgage loan company obligations registered in the registered firm's name maturing:

within 1 year:	3% of fair value
over 1 year to 3 years:	6 % of fair value
over 3 years to 7 years:	7% of fair value
over 7 years to 11 years:	10% of fair value
over 11 years:	10% of fair value

(b) Bank Paper

Deposit certificates, promissory notes or debentures issued by a Canadian chartered bank (and of Canadian chartered bank acceptances) maturing:

within 1 year:	2% of fair value multiplied by the fraction determined by dividing the number of days to maturity by 365
over 1 year:	apply rates for commercial and corporate bonds, debentures and notes

(c) Acceptable foreign bank paper

Deposit certificates, promissory notes or debentures issued by a foreign bank, readily negotiable and transferable and maturing:

within 1 year:	2% of fair value multiplied by the fraction determined by dividing the number of days to maturity by 365
over 1 year:	apply rates for commercial and corporate bonds, debentures and notes

"Acceptable Foreign Bank Paper" consists of deposit certificates or promissory notes issued by a bank other than a Canadian chartered bank with a net worth (i.e., capital plus reserves) of not less than $200,000,000.

(d) Mutual Funds

Securities of mutual funds qualified by prospectus for sale in any jurisdiction of Canada:

(i) 5% of the net asset value per security as determined in accordance with National Instrument 81-106 *Investment Fund Continuous Disclosure*, where the fund is a money market mutual fund as defined in National Instrument 81-102 *Investment Funds*; or

(ii) the margin rate determined on the same basis as for listed stocks multiplied by the net asset value per security of the fund as determined in accordance with National Instrument 81-106 *Investment Fund Continuous Disclosure*.

Securities of mutual funds qualified by prospectus for sale in the United States of America: 5% of the net asset value per security if the fund is registered as an investment company under the *Investment Company Act of 1940*, as amended from time to time, and complies with Rule 2a-7 thereof.

(e) Stocks

In this paragraph, "securities" includes rights and warrants and does not include bonds and debentures.

(i) On securities including investment fund securities, rights and warrants, listed on any exchange in Canada or the United States of America:

Long Positions – Margin Required

Securities selling at $2.00 or more – 50% of fair value

Securities selling at $1.75 to $1.99 – 60% of fair value

Securities selling at $1.50 to $1.74 – 80% of fair value

Securities selling under $1.50 – 100% of fair value

Short Positions – Credit Required

Securities selling at $2.00 or more – 150% of fair value

Securities selling at $1.50 to $1.99 – $3.00 per share

Securities selling at $0.25 to $1.49 – 200% of fair value

Securities selling at less than $0.25 – fair value plus $0.25 per share

(ii) For positions in securities that are constituent securities on a major broadly-based index of one of the following exchanges, 50% of the fair value:

(a) Australian Stock Exchange Limited

(b) Bolsa de Madrid

(c) Borsa Italiana

(d) Copenhagen Stock Exchange

(e) Euronext Amsterdam

(f) Euronext Brussels

(g) Euronext Paris S.A.

(h) Frankfurt Stock Exchange

(i) London Stock Exchange

(j) New Zealand Exchange Limited

(k) Stockholm Stock Exchange

(l) SIX Swiss Exchange

(m) The Stock Exchange of Hong Kong Limited

(n) Tokyo Stock Exchange

(f) Mortgages

(i) For a firm registered in any jurisdiction of Canada except Ontario:

(a) Insured mortgages (not in default): 6% of fair value

(b) Mortgages which are not insured (not in default): 12% of fair value.

(ii) For a firm registered in Ontario:

(a) Mortgages insured under the *National Housing Act* (Canada) (not in default): 6% of fair value

(b) Conventional first mortgages (not in default): 12% of fair value.

If you are registered in Ontario regardless of whether you are also registered in another jurisdiction of Canada, you will need to apply the margin rates set forth in (ii) above.

(g) For all other securities – 100% of fair value.

FORM 31-103F2 SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE

(sections 8.18 [international dealer] and 8.26 [international adviser])

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

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

3. Jurisdiction of incorporation of the International Firm:

4. Head office address of the International Firm:

5. The name, e-mail address, phone number and fax number of the International Firm's chief compliance officer.

   Name:

   E-mail address:

   Phone:

   Fax:

6. Section of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* the International Firm is relying on:

   ☐ Section 8.18 [*international dealer*]

   ☐ Section 8.26 [*international adviser*]

   ☐ Other

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

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

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

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

11. Until 6 years after the International Firm ceases to rely on section 8.18 [*international dealer*] or section 8.26 [*international adviser*], the International Firm must submit to the securities regulatory authority

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

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

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

Dated: _____

_____
(Signature of the International Firm or authorized signatory)

_____
(Name and Title of authorized signatory)

Acceptance

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

Dated: _____

_____
(Signature of Agent for Service or authorized signatory)

_____
(Name and Title of authorized signatory)

FORM 31-103F3 USE OF MOBILITY EXEMPTION

(section 2.2 [client mobility exemption – individuals])

This is to notify the securities regulatory authority that the individual named in paragraph 1 is relying on the exemption in section 2.2 [*client mobility exemption – individuals*] of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

1. Individual information

Name of individual: _____

NRD number of individual: _____

The individual is relying on the client mobility exemption in each of the following jurisdictions of Canada:

_____

_____

2. Firm information

Name of the individual's sponsoring firm:_____

NRD number of firm:_____

Dated: _____

_____
(Signature of an authorized signatory of the individual's sponsoring firm)

_____
(Name and title of authorized signatory)

FORM 31-103F4 NET ASSET VALUE ADJUSTMENTS

(Section 12.14 [*delivering financial information – investment fund manager*])

This is to notify the regulator or, in Québec, the securities regulatory authority, of a net asset value (NAV) adjustment made in respect of an investment fund managed by the investment fund manager in accordance with paragraph 12.14(1)(c) or paragraph 12.14(2)(c). All of the information requested should be provided on a fund by fund basis. Please attach a schedule if necessary.

1. Name of the investment fund manager:

2. Name of each of the investment funds for which a NAV adjustment occurred:

3. Date(s) the NAV error occurred:

4. Date the NAV error was discovered:

5. Date of the NAV adjustment:

6. Original total NAV on the date the NAV error first occurred:

7. Original NAV per unit on each date(s) the NAV error occurred:

8. Revised NAV per unit on each date(s) the NAV error occurred:

9. NAV error as percentage (%) of the original NAV on each date(s) the NAV error occurred:

10. Total dollar amount of the NAV adjustment:

11. Effect (if any) of the NAV adjustment per unit or share:

12. Total amount reimbursed to security holders, or any corrections made to purchase and redemption transactions affecting the security holders of each investment fund affected, if any:

13. Date of the NAV reimbursement or correction to security holder transactions, if any:

14. Total amount reimbursed to investment fund, if any:

15. Date of the reimbursement to investment fund, if any:

16. Description of the cause of the NAV error:

17. Was the NAV error discovered by the investment fund manager?

    Yes ☐ No ☐

18. If No, who discovered the NAV error?

19. Was the NAV adjustment a result of a material error under the investment fund manager's policies and procedures? :

    Yes ☐ No ☐

20. Have the investment fund manager's policies and procedures been changed following the NAV adjustment?

    Yes ☐ No ☐

21. If Yes, describe the changes:

22. If No, explain why not:

23. Has the NAV adjustment been communicated to security holders of each of the investment funds affected?

Yes ☐ No ☐

24. If Yes, describe the communications:

Notes:

Line 2. NAV adjustment – Refers to the correction made to make the investment fund's NAV accurate.

Line 3. NAV error – Refers to the error discovered on the Original NAV. Please refer to Section 12.14 of *Companion Policy 31-103CP Registration Requirements, Exemptions and Ongoing Registrant Obligations* for guidance on NAV error and causes of NAV errors.

Line 3. Date(s) the NAV error occurred – Means the date of the NAV error first occurred and the subsequent dates of the NAV error.

Line 8. Revised NAV per unit – Refers to the NAV per unit calculated after taking into account the NAV error.

Line 9. NAV error as a percentage (%) of the original NAV – Refers to the following calculation:

(Revised NAV / Original NAV) – 1 x 100

APPENDIX A – BONDING AND INSURANCE CLAUSES

(section 12.3 [insurance – dealer], section 12.4 [insurance – adviser] and section 12.5 [insurance – investment fund manager])

Clause	Name of Clause	Details
A	Fidelity	This clause insures against any loss through dishonest or fraudulent act of employees.
B	On Premises	This clause insures against any loss of money and securities or other property through robbery, burglary, theft, hold-up, or other fraudulent means, mysterious disappearance, damage or destruction while within any of the insured's offices, the offices of any banking institution or clearing house or within any recognized place of safe-deposit.
C	In Transit	This clause insures against any loss of money and securities or other property through robbery, burglary, theft, hold-up, misplacement, mysterious disappearance, damage or destruction, while in transit in the custody of any employee or any person acting as messenger except while in the mail or with a carrier for hire other than an armoured motor vehicle company.
D	Forgery or Alterations	This clause insures against any loss through forgery or alteration of any cheques, drafts, promissory notes or other written orders or directions to pay sums in money, excluding securities.
E	Securities	This clause insures against any loss through having purchased or acquired, sold or delivered, or extended any credit or acted upon securities or other written instruments which prove to have been forged, counterfeited, raised or altered, or lost or stolen, or through having guaranteed in writing or witnessed any signatures upon any transfers, assignments or other documents or written instruments.

APPENDIX B – SUBORDINATION AGREEMENT

(Line 5 of Form 31-103F1 Calculation of excess working capital)

SUBORDINATION AGREEMENT

THIS AGREEMENT is made as of the ____ day of _____, 20___

BETWEEN:

[insert name]

(the "**Lender**")

AND

[insert name]

(the "**Registered Firm**", which term shall include all successors and assigns of the Registered Firm)

(collectively, the "**Parties**")

This Agreement is entered into by the Parties under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("**NI 31-103**") in connection with a loan made on the ____day of _____, 20__ by the Lender to the Registered Firm in the amount of $ _____(the "**Loan**") for the purpose of allowing the Registered Firm to carry on its business.

For good and valuable consideration, the Parties agree as follows:

1. Subordination

The repayment of the loan and all amounts owed thereunder are subordinate to the claims of the other creditors of the Registered Firm.

2. Dissolution, winding-up, liquidation, insolvency or bankruptcy of the Registered Firm

In the event of the dissolution, winding-up, liquidation, insolvency or bankruptcy of the Registered Firm:

(a) the creditors of the Registered Firm shall be paid their existing claims in full in priority to the claims of the Lender;

(b) the Lender shall not be entitled to make any claim upon any property belonging or having belonged to the Registered Firm, including asserting the right to receive any payment in respect to the Loan, before the existing claims of the other creditors of the Registered Firm have been settled.

3. Terms and conditions of the Loan

During the term of this Agreement:

(a) interest can be paid at the agreed upon rate and time, provided that the payment of such interest does not result in a capital deficiency under NI 31-103;

(b) any loan or advance or posting of security for a loan or advance by the Registered Firm to the Lender, shall be deemed to be a payment on account of the Loan.

4. Notice to the Securities Regulatory Authority

The Registered Firm must notify the Securities Regulatory Authority 10 days before the full or partial repayment of the loan. Further documentation may be requested by the Securities Regulatory Authority after receiving the notice from the Registered Firm.

5. Termination of this Agreement

This Agreement may only be terminated by the Lender once the notice required pursuant to Section 4 of this Agreement is received by the Securities Regulatory Authority.

The Parties have executed and delivered this Agreement as of the date set out above.

[Registered Firm]

_____
Authorized signatory

_____
Authorized signatory

[Lender]

_____
Authorized signatory

_____
Authorized signatory

APPENDIX C

[*lapsed*]

APPENDIX D

[*lapsed*]

APPENDIX E

[*lapsed*]

APPENDIX F

[*lapsed*]

APPENDIX G – EXEMPTIONS FROM CERTAIN REQUIREMENTS FOR IIROC MEMBERS

(Section 9.3 [*exemptions from certain requirements for IIROC members*])

NI 31-103 Provision	IIROC Provision
section 12.1 [*capital requirements*]	1. Dealer Member Rule 17.1; and 2. Form 1
section 12.2 [*subordination agreement*]	1. Dealer Member Rule 5.2; and 2. Dealer Member Rule 5.2A
section 12.3 [*insurance – dealer*]	1. Dealer Member Rule 17.5 2. Dealer Member Rule 400.2 [*Financial Institution Bond*]; 3. Dealer Member Rule 400.4 [*Amounts Required*]; and 4. Dealer Member Rule 400.5 [*Provisos with respect to Dealer Member Rules 400.2, 400.3 and 400.4*]
section 12.6 [*global bonding or insurance*]	1. Dealer Member Rule 400.7 [*Global Financial Institution Bonds*]
section 12.7 [*notifying the regulator of a change, claim or cancellation*]	1. Dealer Member Rule 17.6; 2. Dealer Member Rule 400.3 [*Notice of Termination*]; and 3. Dealer Member Rule 400.3B [*Termination or Cancellation*]
section 12.10 [*annual financial statements*]	1. Dealer Member Rule 16.2 [*Dealer Member Filing Requirements*]; and 2. Form 1
section 12.11 [*interim financial information*]	1. Dealer Member Rule 16.2 [*Dealer Member Filing Requirements*]; and 2. Form 1
section 12.12 [*delivering financial information – dealer*]	1. Dealer Member Rule 16.2 [*Dealer Member Filing Requirements*]
subsection 13.2(3) [*know your client*]	1. Dealer Member Rule 1300.1(a)-(n) [*Identity and Creditworthiness*]; 2. Dealer Member Rule 1300.2; 3. Dealer Member Rule 2500, Part II [*Opening New Accounts*]; 4. Dealer Member Rule 2700, Part II [*New Account Documentation and Approval*]; and 5. Form 2 *New Client Application Form*
section 13.3 [*suitability determination*]	1. Dealer Member Rule 1300.1(o) [*Business Conduct*]; 2. Dealer Member Rule 1300.1(p) [*Suitability determination required when accepting order*]; 3. Dealer Member Rule 1300.1(q) [*Suitability determination required when recommendation provided*]; 4. Dealer Member Rule 1300.1(r) [*Suitability determination required for account positions held when certain events occur*]; 5. Dealer Member Rule 1300.1(s) [*Suitability of investments in client accounts*]; 6. Dealer Member Rule 1300.1(t) – (v) [*Exemptions from the suitability assessment requirements*]; 7. Dealer Member Rule 1300.1(w) [*Corporation approval*]; 8. Dealer Member Rule 2700, Part I [*Customer Suitability*]; and 9. Dealer Member Rule 3200 [*Minimum requirements for Dealer Members seeking approval under Rule 1300.1(t) to offer an order-execution only service*]

section 13.3.1 [*waivers*]	1. Dealer Member Rule 1300.1(o) [*Business Conduct*]; 2. Dealer Member Rule 1300.1(p) [*Suitability determination required when accepting order*]; 3. Dealer Member Rule 1300.1(q) [*Suitability determination required when recommendation provided*]; 4. Dealer Member Rule 1300.1(r) [*Suitability determination required for account positions held when certain events occur*]; 5. Dealer Member Rule 1300.1(s) [*Suitability of investments in client accounts*]; 6. Dealer Member Rule 1300.1(t) – (v) [*Exemptions from the suitability assessment requirements*]; 7. Dealer Member Rule 1300.1(w) [*Corporation approval*]; 8. Dealer Member Rule 2700, Part I [*Customer Suitability*]; and 9. Dealer Member Rule 3200 [*Minimum requirements for Dealer Members seeking approval under Rule 1300.1(t) to offer an order-execution only service*]
section 13.12 [*restriction on borrowing from, or lending to, clients*]	1. Dealer Member Rule 17.11; and 2. Dealer Member Rule 100 [*Margin Requirements*]
section 13.13 [*disclosure when recommending the use of borrowed money*]	1. Dealer Member Rule 29.26
section 13.15 [*handling complaints*]	1. Dealer Member Rule 2500, Part VIII [*Client Complaints*]; and 2. Dealer Member Rule 2500B [*Client Complaint Handling*]
subsection 14.2(2) [*relationship disclosure information*]	1. Dealer Member Rule 3500.5 [*Content of relationship disclosure*]
subsection 14.2(3) [*relationship disclosure information*]	1. Dealer Member Rule 3500.4 [*Format of relationship disclosure*]
subsection 14.2(4) [*relationship disclosure information*]	1. Dealer Member Rule 3500.1 [*Objective of relationship disclosure requirements*]
subsection 14.2(5.1) [*relationship disclosure information*]	1. Dealer Member Rule 29.8
subsection 14.2(6) [*relationship disclosure information*]	1. Dealer Member Rule 3500.1 [*Objective of relationship disclosure requirements*]
section 14.2.1 [*pre-trade disclosure of charges*]	1. Dealer Member Rule 29.9
section 14.5.2 [*restriction on self-custody and qualified custodian requirement*]	1. Dealer Member Rule 17.2A [*Establishment and maintenance of adequate internal controls in accordance with Dealer Member Rule 2600*]; 2. Dealer Member Rules 17.3, 17.3A, 17.3B and 2000 [*Segregation Requirements*]; 3. Dealer Member Rule 2600 – Internal Control Policy Statement 4 [*Segregation of Clients' Securities*]; 4. Dealer Member Rule 2600 - Internal Control Policy Statement 5 [*Safekeeping of Clients' Securities*]; 5. Dealer Member Rule 2600 - Internal Control Policy Statement 6 [*Safeguarding of Securities and Cash*]; and 6. Definition of "acceptable securities locations", General Notes and Definitions to Form 1
section 14.5.3 [*cash and securities held by a qualified custodian*]	1. Dealer Member Rule 200 [*Minimum Records*]
section 14.6 [*client and investment fund assets held by a registered firm in trust*]	1. Dealer Member Rule 17.3

section 14.6.1 [*custodial provisions relating to certain margin or security interests*]	1. Dealer Member Rules 17.2, 17.2A, 17.3, 17.3A, 17.3B, 17.11 and 2000 [*Segregation Requirements*]; 2. Dealer Member Rule 100 [*Margin Requirements*]; 3. Dealer Member Rule 2200 [*Cash and Securities Loan Transactions*]; 4. Dealer Member Rule 2600 – Internal Control Policy Statement 4 [*Segregation of Clients' Securities*]; 5. Dealer Member Rule 2600 - Internal Control Policy Statement 5 [*Safekeeping of Clients' Securities*]; 6. Dealer Member Rule 2600 - Internal Control Policy Statement 6 [*Safeguarding of Securities and Cash*]; and 7. Definitions of "acceptable counterparties", "acceptable institutions", "acceptable securities locations", "regulated entities", General Notes and Definitions to Form 1
section 14.6.2 [*custodial provisions relating to short sales*]	1. Dealer Member Rule 100 [*Margin Requirements*]; 2. Dealer Member Rule 2200 [*Cash and Securities Loan Transactions*]; 3. Dealer Member Rule 2600 – Internal Control Policy Statement 6 [*Safeguarding of Securities and Cash*]; and 4. Definitions of "acceptable counterparties", "acceptable institutions", "acceptable securities locations", "regulated entities", General Notes and Definitions to Form 1
section 14.11.1 [*determining market value*]	1. Dealer Member Rule 200.1(c); and 2. Definition (g) of the General Notes and Definitions to Form 1
section 14.12 [*content and delivery of trade confirmation*]	1. Dealer Member Rule 200.2(l) [*Trade confirmations*]
section 14.14 [*account statements*]	1. Dealer Member Rule 200.2(d) [*Client account statements*]; and 2. "Guide to Interpretation of Rule 200.2", Item (d)
section 14.14.1 [*additional statements*]	1. Dealer Member Rule 200.2(e) [*Report on client positions held outside of the Dealer Member*]; 2. Dealer Member Rule 200.4 [*Timing of sending documents to clients*]; and 3. "Guide to Interpretation of Rule 200.2", Item (e)
section 14.14.2 [*security position cost information*]	1. Dealer Member Rule 200.1(a); 2. Dealer Member Rule 200.1(b); 3. Dealer Member Rule 200.1(e); 4. Dealer Member Rule 200.2(d)(ii)(F) and (H); and 5. Dealer Member Rule 200.2(e)(ii)(C) and (E)
section 14.17 [*report on charges and other compensation*]	1. Dealer Member Rule 200.2(g) [*Fee/ charge report*]; and 2. "Guide to Interpretation of Rule 200.2", Item (g)
section 14.18 [*investment performance report*]	1. Dealer Member Rule 200.2(f) [*Performance report*]; and 2. "Guide to Interpretation of Rule 200.2", Item (f)
section 14.19 [*content of investment performance report*]	1. Dealer Member Rule 200.2(f) [*Performance report*]; and 2. "Guide to Interpretation of Rule 200.2", Item (f)
section 14.20 [*delivery of report on charges and other compensation and investment performance report*]	1. Dealer Member Rule 200.4 [*Timing of the sending of documents to clients*]

APPENDIX H – EXEMPTIONS FROM CERTAIN REQUIREMENTS FOR MFDA MEMBERS

(Section 9.4 [*exemptions from certain requirements for MFDA members*])

NI 31-103 Provision	MFDA Provision
section 12.1 [*capital requirements*]	1. Rule 3.1.1 [*Minimum Levels*]; 2. Rule 3.1.2 [*Notice*]; 3. Rule 3.2.2 [*Member Capital*]; 4. Form 1; and 5. Policy No. 4 [*Internal Control Policy Statements – Policy Statement 2: Capital Adequacy*]
section 12.2 [*subordination agreement*]	1. Form 1, Statement F [*Statement of Changes in Subordinated Loans*]; and 2. Membership Application Package – Schedule I (Subordinated Loan Agreement)
section 12.3 [*insurance – dealer*]	1. Rule 4.1 [*Financial Institution Bond*]; 2. Rule 4.4 [*Amounts Required*]; 3. Rule 4.5 [*Provisos*]; 4. Rule 4.6 [*Qualified Carriers*]; and 5. Policy No. 4 [*Internal Control Policy Statements – Policy Statement 3: Insurance*]
section 12.6 [*global bonding or insurance*]	1. Rule 4.7 [*Global Financial Institution Bonds*]
section 12.7 [*notifying the regulator of a change, claim or cancellation*]	1. Rule 4.2 [*Notice of Termination*]; and 2. Rule 4.3 [*Termination or Cancellation*]
section 12.10 [*annual financial statements*]	1. Rule 3.5.1 [*Monthly and Annual*]; 2. Rule 3.5.2 [*Combined Financial Statements*]; and 3. Form 1
section 12.11 [*interim financial information*]	1. Rule 3.5.1 [*Monthly and Annual*]; 2. Rule 3.5.2 [*Combined Financial Statements*]; and 3. Form 1
section 12.12 [*delivering financial information – dealer*]	1. Rule 3.5.1 [*Monthly and Annual*]
section 13.3 [*suitability determination*]	1. Rule 2.2.1 [*"Know-Your-Client"*]; and 2. Policy No. 2 [*Minimum Standards for Account Supervision*]
section 13.3.1 [*waivers*]	1. Rule 2.2.1 [*"Know-Your-Client"*]; and 2. Policy No. 2 [*Minimum Standards for Account Supervision*]
section 13.12 [*restriction on borrowing from, or lending to, clients*]	1. Rule 3.2.1 [*Client Lending and Margin*]; and 2. Rule 3.2.3 [*Advancing Mutual Fund Redemption Proceeds*]
section 13.13 [*disclosure when recommending the use of borrowed money*]	1. Rule 2.6 [*Borrowing for Securities Purchases*]
section 13.15 [*handling complaints*]	1. Rule 2.11 [*Complaints*]; 2. Policy No. 3 [*Complaint Handling, Supervisory Investigations and Internal Discipline*]; and 3. Policy No. 6 [*Information Reporting Requirements*]

subsections 14.2(2), (3) and (5.1) [*relationship disclosure information*]	1. Rule 2.2.5 [*Relationship Disclosure*]; and 2. Rule 2.4.3 [*Operating Charges*]
section 14.2.1 [*pre-trade disclosure of charges*]	1. Rule 2.4.4 [*Transaction Fees or Charges*]
section 14.5.2 [*restriction on self-custody and qualified custodian requirement*]	1. Rule 3.3.1 [*General*]; 2. Rule 3.3.2 [*Cash*]; 3. Rule 3.3.3 [*Securities*]; and 4. Policy No. 4 [*Internal Control Policy Statements – Policy Statement 4: Cash and Securities, and Policy Statement 5: Segregation of Clients' Securities*]
section 14.5.3 [*cash and securities held by a qualified custodian*]	1. Policy No. 4 [*Internal Control Policy Statements – Policy Statement 4: Cash and Securities, and Policy Statement 5: Segregation of Clients' Securities*]
section 14.6 [*client and investment fund assets held by a registered firm in trust*]	1. Rule 3.3.1 [*General*]; 2. Rule 3.3.2 [*Cash*]; 3. Rule 3.3.3 [*Securities*]; and 4. Policy No. 4 [*Internal Control Policy Statements – Policy Statement 4: Cash and Securities, and Policy Statement 5: Segregation of Clients' Securities*]
section 14.6.1 [*custodial provisions relating to certain margin or security interests*]	1. Rule 3.2.1 [*Client Lending and Margin*]
section 14.6.2 [*custodial provisions relating to short sales*]	1. Rule 3.2.1 [*Client Lending and Margin*]
section 14.11.1 [*determining market value*]	1. Rule 5.3(1)(f) [*definition of "market value*"]; and 2. Definitions to Form 1 [*definition of "market value of a security"*]
section 14.12 [*content and delivery of trade confirmation*]	1. Rule 5.4.1 [*Delivery of Confirmations*]; 2. Rule 5.4.2 [*Automatic Plans*]; and 3. Rule 5.4.3 [*Content*]
section 14.14 [*account statements*]	1. Rule 5.3.1 [*Delivery of Account Statement*]; and 2. Rule 5.3.2 [*Content of Account Statement*]
section 14.14.1 [*additional statements*]	1. Rule 5.3.1 [*Delivery of Account Statement*]; and 2. Rule 5.3.2 [*Content of Account Statement*]
section 14.14.2 [*security position cost information*]	1. Rule 5.3(1)(a) [*definition of "book cost*"]; 2. Rule 5.3(1)(c) [*definition of "cost*"]; and 3. Rule 5.3.2(c) [*Content of Account Statement – Market Value and Cost Reporting*]
section 14.17 [*report on charges and other compensation*]	1. Rule 5.3.3 [*Report on Charges and Other Compensation*]
section 14.18 [*investment performance report*]	1. Rule 5.3.4 [*Performance Report*]; and 2. Policy No. 7 *Performance Reporting*
section 14.19 [*content of investment performance report*]	1. Rule 5.3.4 [*Performance Report*]; and 2. Policy No. 7 *Performance Reporting*
section 14.20 [*delivery of report on charges and other compensation and investment performance report*]	1. Rule 5.3.5 [*Delivery of Report on Charges and Other Compensation and Performance Report*]

ANNEX C

PROPOSED CHANGES TO
COMPANION POLICY 31-103CP
REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS

1. Companion Policy 31-103CP Registration Requirements, Exemptions and Ongoing Registrant Obligations is changed by this Document.

2. Section 1.2 is changed by adding the following at the end of the section:

Definitions related to vulnerable clients

Appendix G provides guidance on the terms "financial exploitation", "mental capacity", "temporary hold" and "vulnerable client"**.**

3. Section 13.2 is changed by adding the following:

"Identifying a trusted contact person of a client

Appendix G sets out how we interpret the requirements under paragraph 13.2(2)(e) and section 13.19 relating to the trusted contact person and temporary hold requirements. It also provides general commentary and guidance surrounding issues of financial exploitation of vulnerable clients and decline in clients' mental capacity.**" *immediately after the sentence "***This exemption does not change an insider's reporting and conduct responsibilities.***".***

4. Part 13 is changed by adding the following at the end of the part:

Division 8 Temporary holds

13.19 Conditions for temporary hold

Appendix G sets out how we interpret the requirements under paragraph 13.2(2)(e) and section 13.19 relating to the trusted contact person and temporary holds. It also provides general commentary and guidance surrounding issues of financial exploitation of vulnerable clients and decline in clients' mental capacity**.**

5. The Document is changed by adding the following appendix:

Appendix G - Part 13 - Assisting Vulnerable Clients

This appendix sets out how we interpret the requirements under paragraph 13.2(2)(e) and section 13.19 relating to the trusted contact person and temporary holds. This appendix also provides general commentary and guidance surrounding issues of financial exploitation of vulnerable clients and decline in clients' mental capacity.

1. Definitions

Financial exploitation

Financial exploitation of vulnerable clients may be committed by any person or company; however, it is often committed by an individual who is close to the vulnerable client, such as a family member, good friend, neighbour or trusted individual such as an attorney under a power of attorney (POA), service provider or caregiver. Warning signs that a client could be subject to financial exploitation include:

- unexplained or sudden withdrawals from accounts or account closures,
- unexplained changes in the risk profile of an account from low risk or capital preservation to high risk,
- sudden reluctance to discuss financial matters,
- being accompanied to meetings by new or unknown caregivers, friends or family members, or having difficulty communicating directly with the client without the interaction of others,
- sudden or unusual requests to change ownership of assets (for example, requesting that investments be transferred to a joint account held by family members, friends or caregivers),
- sudden or unexplained changes to legal or financial documents, such as POAs and wills, or account beneficiaries,

- an attorney under a POA providing instructions that seem inconsistent with the client's pattern of instructions to the firm,
- unusual anxiety when meeting or speaking to a firm employee (in-person or over the phone),
- unusual difficulty with, or lack of response to, communications or meeting requests,
- limited knowledge about their financial investments or circumstances when the client would have been customarily well informed in this area,
- increasing isolation from family or friends, or
- signs of physical neglect or abuse.

Mental capacity

Registered individuals can be in a unique position to notice the first warning signs of a decline in a client's mental capacity. These signs may arise subtly and over time. Examples of warning signs include:

- memory loss, such as forgetting previously given instructions or repeating questions,
- increased difficulty completing forms or understanding disclosure documents,
- increased difficulty understanding important aspects of investment accounts,
- confusion or unfamiliarity with previously understood basic financial terms and concepts,
- reduced ability to solve everyday math problems,
- exhibiting unfamiliarity with surroundings or social settings or missing appointments,
- difficulty communicating,
- changes in personality, or
- increased passivity, anxiety, aggression or other changes in mood, or an uncharacteristically unkempt appearance.

Vulnerable client

Vulnerable clients are those clients that may be at risk of being financially exploited because of an illness, impairment, disability or aging process limitation. Registered firms and individuals should recognize that not all older clients are vulnerable or unable to protect their own interests. Vulnerability can affect a client of any age, take many forms, and can be temporary, sporadic or permanent in nature. It is important to recognize vulnerabilities in clients because vulnerable clients may be more susceptible to financial exploitation.

2. Trusted contact person

Purpose of the trusted contact person

Paragraph 13.2(2)(e) requires registrants to take reasonable steps to obtain the name and contact information for a trusted contact person or "TCP" with whom they may communicate in specific circumstances in accordance with the client's written consent. This requirement only applies with respect to clients who are individuals.

A TCP is intended to be a resource for a registrant to assist in protecting a client's financial interests or assets when responding to possible circumstances of financial exploitation or concerns about declining mental capacity. A client may name more than one TCP on their account. The registrant may rely on confirmation from the client that the TCP is the age of majority or older in the individual's jurisdiction of residence. A TCP does not replace or assume the role of a client-designated attorney under a POA. Nor does a TCP have the authority to transact on the client's account or to make any other decision on behalf of the client by virtue of being named a TCP. A client-designated attorney under a POA can also be named as a TCP, but clients should be encouraged to select a different individual, who is not involved in making financial decisions with respect to the client's account. A TCP should not be the client's dealing representative or advising representative.

Obtaining trusted contact person information and consent

There is no prescribed form for obtaining TCP information. Registrants may wish to develop a separate form or incorporate the information into an existing form such as an account application. The form might include:

- an overview of the circumstances under which the registrant may contact the TCP,
- space to document information about the TCP, including the TCP's name, mailing address, telephone number, email address and nature of the relationship to the client,
- a signature box to document a client's consent to contact the TCP,
- a statement that confirms a client's right to withdraw consent to contact the TCP, and
- a description of how to change a TCP.

Understanding the nature of the relationship between the client and the TCP may provide insight into the support network that the client has so that the registrant can assess whether it is appropriate to contact the TCP. Also, demonstrating that the registrant has knowledge of the relationship between the client and the TCP may alleviate concerns the TCP may have about speaking to the registrant about the client.

Registrants are not prevented from opening and maintaining a client account if the client refuses or fails to identify a TCP; however, they must still take reasonable steps to obtain the information. Examples of reasonable steps include explaining to the client the purpose of a TCP, providing the client with the disclosure required by paragraph 14.2(2)(l.1), asking the client to provide the name and contact information of a TCP, and obtaining the client's written consent to allow the registrant to contact the TCP in the circumstances set out in paragraph 13.2(2)(e). If a client refuses to provide the name and contact information for a TCP, the registrant may make further inquiries about the reasons for the refusal. Registrants are reminded that they are required to maintain records which demonstrate compliance with section 13.2 [*know your client*], document correspondence with clients, and document compliance and supervision actions taken under paragraphs 11.5(2)(l), (n) and (o).

Contacting the trusted contact person and other parties

When concerns about financial exploitation or decline in mental capacity arise, registrants should speak with the client about concerns they have with the client's account or wellbeing before contacting others, including the TCP.

Although there is no requirement to notify a TCP that they have been named by a client, registrants should encourage their clients to notify a TCP that they have been named and explain that the TCP will only be contacted in the circumstances set out in paragraph 13.2(2)(e).

If consent has been obtained, a registrant might contact a TCP if they notice signs of financial exploitation or if the client exhibits signs of diminished mental capacity which they believe may affect the client's ability to make financial decisions. An overview of signs of financial exploitation and diminished mental capacity are discussed in section 1 of this appendix. If the TCP is suspected of being involved in the financial exploitation of the client, the TCP should not be contacted and consideration should be given as to whether there are other more appropriate resources from which to seek assistance. A registrant might also contact the TCP to confirm the client's contact information if the registrant is unsuccessful in contacting the client after repeated attempts and where failure to contact the client would be unusual. A registrant may also ask the TCP to confirm the name and contact information of a legal guardian, executor, trustee or any other personal or legal representative such as an attorney under a POA.

When contacting a TCP, registrants should be mindful of privacy obligations under relevant privacy legislation and client agreements relating to the collection, use and disclosure of personal information.

Notwithstanding that the client has named a TCP, a registrant may also contact an attorney under a POA, government organizations, departments or individuals including police, or the public guardian and trustee with which they might otherwise consult in instances where the registrant suspects financial exploitation or has concerns with diminished mental capacity.

Policies and procedures

We expect registered firms to have written policies and procedures that address:

- how to collect and document TCP information and keep this information up-to-date,

- how to obtain the written consent of the client to contact the TCP, and document any restrictions on contacting the TCP and what type of information can be shared, and
- how to document discussions with a client's TCP.

3. Temporary Holds

General principles

Registered firms and individuals can be in a unique position to notice signs of financial exploitation, vulnerability and declining mental capacity in clients because of the interactions they have with them, and the knowledge they acquire through the client relationship. Yet, many firms and individuals express concerns about acting to protect their clients, particularly by placing temporary holds, fearing regulatory repercussion. The intent of section 13.19 is to clarify that if registered firms have a reasonable belief that their vulnerable clients are being financially exploited or that their clients lack mental capacity, there is nothing in Canadian securities legislation that prevents registered firms and individuals from placing a temporary hold that they are otherwise legally entitled to place. Section 13.19 also prescribes requirements on how temporary holds in these circumstances must be placed. We acknowledge that there may be other circumstances under which a registered firm and its registered individuals may want to place a hold on an account. Section 13.19 and this guidance do not address these circumstances.

When placing temporary holds in accordance with section 13.19, registered firms and their registered individuals must act in a manner that is consistent with their obligation to deal fairly, honestly and in good faith with their clients. Registered firms and their registered individuals must not use a temporary hold for inappropriate reasons, for example, to delay a disbursement for fear of losing a client.

We do not expect registered firms and their registered individuals to be the final arbiter in matters of vulnerability, financial exploitation or mental capacity, but rather, believe that they may want to place temporary holds in these circumstances so that they can take steps to protect their clients.

We note that before a temporary hold is placed, the registered firm itself must reasonably believe that either a vulnerable client is being financially exploited or a client who has given the firm an instruction does not have the mental capacity to make financial decisions. We expect that decisions to place temporary holds be made by the CCO or authorized and qualified supervisory, compliance or legal staff.

A temporary hold contemplated under section 13.19 is not intended as a hold on the entire client account, but rather as a temporary hold over a specific purchase or sale of a security or withdrawal or transfer of cash or securities from a client's account. Transactions unrelated to the financial exploitation or lack of mental capacity should not be subject to the temporary hold. Each purchase or sale of a security or withdrawal or transfer of cash or securities should be reviewed separately. If the transaction, withdrawal or transfer involves the entire assets in the account, it may be reasonable to place a temporary hold on the entire account but continue to permit legitimate disbursements, such as for the payment of regular expenses.

A temporary hold contemplated under section 13.19 is not intended to be available where a registered firm or its registered individuals have decided not to accept a client order or instruction that does not, in their view, meet the criteria for a suitability determination. In this circumstance, the registered firm and registered individuals must comply with the requirements set out in subsection 13.3(2.1).

A client may provide an instruction to take an action which would not, in the registered firm's or registered individual's view, meet the criteria for suitability determination and which may otherwise be considered a poor financial decision, but these facts alone do not necessarily mean that the client is being financially exploited or lacks mental capacity.

Conditions for temporary hold

Section 13.19 contains the steps that registered firms must take if they place a temporary hold. These steps, when taken in good faith, are consistent with the obligation to deal fairly, honestly and in good faith with the client.

We expect registered firms to have written policies and procedures that:

- set out detailed warning signs of financial exploitation or lack of mental capacity;
- clearly delineate firm and individual responsibilities for addressing concerns of financial exploitation and lack of mental capacity, such as:
    - who at the firm is authorized to place and terminate temporary holds, for example, the CCO or authorized and qualified supervisory, compliance or legal staff;

- who at the firm is responsible for supervising client accounts when a temporary hold is in place;

- set out the steps to take once a concern regarding financial exploitation or lack of mental capacity has been identified, such as:
  - escalating the concern;
  - proceeding or not proceeding with the instructions;
- establish lines of communication within the firm to ensure proper reporting; and
- outline when suspected abuse of a POA should be escalated to the appropriate external authorities, for example the public guardian and trustee or local law enforcement pursuant to section 331 of the *Criminal Code*.

Having written policies and procedures will show that firms have a system in place to address concerns that may result in a temporary hold. Additionally, it may assist in demonstrating that the registered firm or registered individual were acting fairly, honestly and in good faith in placing the temporary hold in accordance with their policies and procedures and the requirements under section 13.19.

Under paragraph 13.19(3)(a), when documenting the facts that caused the registered firm and its registered individuals to place and continue the temporary hold, reference should be made to the signs of financial exploitation or declining mental capacity that were observed. As the signs of financial exploitation and declining mental capacity often appear over a period of time, it is important to document signs and interactions with the client, the client's representatives, family or other individuals which led to the temporary hold.

Under paragraph 13.19(3)(b), the registered firm must, as soon as possible, provide notice of the temporary hold to the client. While firms often opt to send written notice, there may be some circumstances where they may also want to attempt to contact the client verbally. If a client is being financially exploited, the person perpetrating the exploitation may be withholding the client's mail. Additionally, if a client is experiencing a decline in mental capacity, they may not be reviewing their mail on a regular basis.

While there is no requirement that firms contact a TCP prior to or when a temporary hold is placed, they may wish to contact a TCP at this point if they have not already done so. The firm may want to contact the TCP for a number of reasons as outlined in the guidance in section 2 of this appendix. However, before contacting the TCP, they should assess whether there is a risk that the TCP is perpetrating the exploitation. If the firm suspects that the TCP is involved in the financial exploitation, a notification to the TCP may have detrimental effects on the client.

Firms should also assess their contractual and statutory privacy obligations before contacting the TCP, other individuals or organizations with the intent of sharing or obtaining personal information regarding a client.

Under paragraph 13.19(3)(c), once a registered firm or a registered individual places a temporary hold, the firm must, as soon as possible, further review the facts that caused them to place the temporary hold. The review may prompt the registered firm or registered individual to review account activity or contact other parties who could provide assistance to the client, such as an attorney under a POA, a TCP, or if necessary, outside organizations such as the police or public guardian and trustee (in accordance with privacy laws and other applicable legislation). Before contacting another party, the firm should assess whether there may be a risk that the other party is financially exploiting the vulnerable client.

Paragraph 13.19(3)(d) requires the firm to notify the client of its decision to continue or terminate the temporary hold every 30 days. If the firm decides to continue the temporary hold, it must also provide the client with the reasons for its decision. Firms should be as transparent as possible with their clients about the reasons for placing the temporary hold, and be mindful of their obligation to deal fairly, honestly and in good faith with their clients. We expect that, while the temporary hold is in place, the registered firm is continuing its review of the facts that led to the hold. This may entail following up with relevant third parties, such as the police or a public guardian and trustee, who may be conducting their own review.

If the registered firm no longer has a reasonable belief that financial exploitation of a vulnerable client has occurred, is occurring, has been attempted or will be attempted or no longer has a reasonable belief that their client does not have the mental capacity to make financial decisions, the temporary hold must end. If ending the temporary hold results in an investment action, a suitability determination will be required. A firm may also decide to end the temporary hold for other reasons, such as if it decides to accept the client instructions with respect to the transaction, withdrawal or transfer, or alternatively, decides not to accept the client's instructions..

6. These changes become effective on •.

ANNEX D

LOCAL MATTERS

ONTARIO SECURITIES COMMISSION

1. Qualitative and Quantitative Analysis of the Anticipated Costs of the Proposed Amendments

1.1 Overview of the number of registered firms and registered individuals impacted by the Proposed Amendments

Our analysis applies to registered firms in Ontario that would be subject to the Proposed Amendments. As of June 2019, there were 556 registered firms in Ontario in one or more of the categories of portfolio manager, exempt market dealer, scholarship plan dealer, mutual fund dealer and/or investment dealer. Table 1 below shows the number of registered firms by firm size.

Table 1: Number of Ontario registered firms by firm size

Firm Size	Number of Firms	Share of Total (%)
Large	170	31
Medium	151	27
Small	235	42
Total	**556**	**100**

Source: OSC analysis of data retrieved from the National Registration Database (NRD) in June 2019, the OSC's 2018 Risk Assessment Questionnaire, and IIROC and MFDA regulatory data.

We further estimate that the number of registered individuals in Ontario who would be subject to the Proposed Amendments is 40,112 (see Table 2).

Table 2: Number of Registered Individuals in Ontario*

Individual Registration Categories	Number of Individuals	Share of Total (%)
Advising representatives	2,000	5
Dealing representatives	38,112	95
Total	**40,112**	**100**

*Only includes estimated number of unique registered individuals who would be subject to the Proposed Amendments and are registered to carry out activities in Ontario, and whose firm would be subject to the Proposed Amendments.

Source: OSC analysis of NRD data (June 2019).

1.2 Overview of assumptions and variables considered in cost estimates

Our cost estimates are supported by several assumptions. We assume that firms will incur costs in the following areas: updating relevant policies and procedures, updating know your client (**KYC**) forms and relationship disclosure information (**RDI**) documents, modifying existing IT systems, updating internal training programs, conducting employee training and collecting TCP information. Firms that place temporary holds will also incur costs related to this activity.

We further assume that each of the above-noted areas will give rise to different costs, as measured in dollars and hours. These differences are a function of the following factors: firm size, whether the proposed amendment is a net new requirement, and whether firms use internal or external resources to undertake the necessary work required to comply with the Proposed Amendments. We assume that large-sized firms in all registration categories and medium-sized firms in the investment dealer and mutual fund dealer registration categories are undertaking the work in-house.[1] Medium- and small-sized firms in the remaining registration categories are assumed to engage third-party vendors to provide support in undertaking the required work.[2]

We assume that firms can implement the Proposed Amendments by modifying their existing policies and procedures, KYC forms and RDI documents, IT systems and training programs.

[1] This assumption is informed by our analysis of the OSC's 2018 Risk Assessment Questionnaire.
[2] *Ibid.*

We caution that firm and registered individual costs are not comparable as the unit of measurement differs. In our analysis, the ratio of firm to registered individuals is approximately 1:72. For this reason, the cost estimates pertaining to registered individuals, when compared to the firm level estimates, will appear significantly higher.

1.3 Approach to estimating costs

Cost estimates are calculated using an hourly wage rate multiplied by the number of hours required for a task. We account for the fact that staff in different occupations (such as legal, compliance and software programmers/system analysts) may be involved in each activity. Thus, the average cost for different activities will depend on the proportion of time spent by staff in these occupations. Hourly wage rates are based on information found in published fee surveys and compensation guides and are subject to certain adjustments (e.g., application of local market adjustments).[3]

In order to calculate the cost per registered individual, we calculated the average number of clients per individual using client data collected from: (1) the OSC's 2018 Risk Assessment Questionnaire for portfolio managers and exempt market dealers, and (2) the 2018-2022 MFDA Strategic Plan for mutual fund dealers. The client data for portfolio managers and exempt market dealers includes both individual and institutional clients as the breakdown between the two was not available. The mutual fund dealer client data was only available on a *per household* basis. We have assumed each household to be one client.

1.4 Presentation of costs

The firm level cost estimates are aggregated totals by firm size. We have taken this approach in our estimates as segmenting firms by firm size produces groupings of firms that are the most similar with respect to the factors that drive costs. Costs are presented in hours and dollars. Dollar costs are rounded to the nearest hundred.

Two types of cost estimates are provided – one-time implementation costs associated with implementing the Proposed Amendments and ongoing costs associated with complying with the Proposed Amendments.

1.5 Analysis of Costs

The Proposed Amendments impose new requirements on registered firms and codify certain suggested practices set out in the existing CSA and SRO guidance. If implemented, the new requirements will result in firms having to:

- update their relevant policies and procedures,
- update their KYC forms and RDI documents,
- modify their existing IT systems,
- update their internal training programs,
- train their employees,
- take reasonable steps to collect TCP information from their clients, and
- take certain steps if they place a temporary hold.

We anticipate that this will impose one-time implementation costs as firms implement the new requirements and certain incremental ongoing costs.

Some firms are already collecting TCP information and placing holds in response to evolving best practices and the CSA and SRO guidance (as discussed in the accompanying Notice) that has been published on the topic in the past few years. As such, the actual costs associated with implementing the Proposed Amendments may be lower than the estimated costs for these firms.

1.6 Estimated Implementation Costs

I. Estimated Implementation Costs for Policies and Procedures, KYC Forms, RDI Documents, IT System Changes and Training Programs

We have estimated that, for purposes of implementing the Proposed Amendments, it would take firms, on average, 21 hours to conduct the following activities: update their relevant policies and procedures, update their KYC forms and RDI documents, modify their existing IT systems and update their internal training programs.

[3] We used the following sources to develop our estimated hourly wage rates: Canadian Lawyer's 2018 Legal Fees Survey, Hays Salary Checker, Glassdoor, Indeed and Statistics Canada's Labour Force Survey.

Based on this estimate, we have calculated that the weighted average cost[4] *per firm* to conduct these activities would be $1,700 for a large-sized firm, $2,300 for a medium-sized firm and $2,600 for a small-sized firm. We have calculated the total cost of conducting these activities for all firms to be $1,258,300 ($293,700 for large-sized firms, $354,600 for medium-sized firms and $610,000 for small-sized firms).

II. Estimated Implementation Costs for Registered Individuals Training

We have estimated that it would take, on average, 30 minutes to train each registered individual on the Proposed Amendments. Based on this estimate, we have calculated that the weighted average cost[5] to train *each registered individual* would be $15 and the total cost to train *all registered individuals* would be $604,800.

III. Estimated Implementation Cost to Collect TCP Information

We have estimated that it would take, on average, 1 minute and 20 seconds to collect TCP information *per client*[6].[7] Based on this estimate, we have calculated that the weighted average cost[8] to collect TCP information for *each registered individual* would be $90 and the total cost to collect TCP information for *all registered individuals* would be $2,579,100.[9]

IV. Estimated Cost of Placing and Maintaining a Temporary Hold

We have estimated that it would take, on average, 6.5 hours[10] for a firm to place and maintain a temporary hold. Based on this estimate, we have calculated that the weighted average cost[11] to place and maintain one temporary hold would be $430.

1.7 Estimated Ongoing Costs

I. Estimated Ongoing Costs for Training New Registered Individuals

To calculate ongoing costs to train registered individuals, we have assumed that training will be required only for new individuals that have joined the firm in that year. Similar to the initial implementation costs associated with training, we have estimated that it would take, on average, 30 minutes to train each new registered individual on the Proposed Amendments. Based on this estimate, we have calculated that the weighted average cost[12] to train *each registered individual* would be $15 and the total cost to train *all registered individuals* would be $124,800.

2. Qualitative and Quantitative Analysis of the Anticipated Benefits of the Proposed Amendments

We expect registrants to benefit from the Proposed Amendments because, if implemented, the Proposed Amendments will provide them with well-defined regulatory tools to help them protect their vulnerable clients from financial exploitation and to address issues arising from a client's lack of mental capacity. The Proposed Amendments will also provide firms with the clarity they are seeking on the steps to follow if they place a temporary hold in these specific circumstances.

We expect investors will benefit from the Proposed Amendments because, if implemented, registrants will be able to better protect them from losses associated with financial exploitation and issues arising from diminished mental capacity.

2.1 Overview of Assumptions and Variables considered in benefit estimates

Our benefit estimates are supported by several assumptions. We assume that the percentage of clients that will experience diminished mental capacity are proportionate to the prevalence of diseases that negatively affect mental capacity. We also assume that the number of vulnerable clients that will experience financial exploitation is a subset of the clients that experience health issues or natural aging that increases their vulnerability. Due to data limitations, we did not assume that vulnerable clients are more likely than the average population to experience financial exploitation. We assume that firms will be able to identify when clients are being financial exploited or lacking mental capacity and will place temporary holds to protect their clients. We assume that placing temporary holds is the primary mechanism for protecting clients from financial exploitation and issues arising from a client's diminished mental capacity and the existence of a TCP augments this mechanism by providing information that will increase the likelihood that a firm places a temporary hold. Due to the natural uncertainty in: (1) the amount

[4] The average cost was weighted to account for differences in the number of firms in each registration category.
[5] The average cost was weighted to account for differences in the number of registered individuals in each registration category.
[6] We have obtained the estimated time of 1 minute and 20 seconds from a study being conducted by the OSC's Investor Office with BE Works.
[7] The quantification of cost to collect TCP information assumes that a registered individual is collecting TCP information from each of their clients at the same time that they are updating the client's existing KYC information.
[8] *Supra* note 5.
[9] The weighted average cost and total cost only accounts for individuals registered with portfolio managers, exempt market dealers and mutual fund dealers. Information on the number of clients of scholarship plan dealers and investment dealers was not available.
[10] In order to estimate the number of hours required for a registered firm to place and maintain a temporary hold, we have relied on data derived from staff's consultations with a small number of firms who have representatives on OSC advisory committees.
[11] *Supra* note 4.
[12] *Supra* note 5.

of assets that would be protected by the Proposed Amendments, and (2) the ability of firms to effectively detect financial exploitation or diminished mental capacity and place temporary holds, we have provided a high and low estimate for our benefit calculations. We have used conservative assumptions, when possible, to avoid overstating the benefits of the Proposed Amendments.

2.2 Approach to estimating benefits

Benefit estimates were calculated by determining the amount of assets that would be protected by the Proposed Amendments and the ability of firms to effectively detect financial exploitation or diminished mental capacity and place temporary holds. We have provided a high and low estimate for our calculations. These estimates rely on different data sets. For the low estimate, we used data from Statistics Canada Survey of Financial Stability 2016 and for the high estimate, we used data from the Investor Economics Household Balance Sheet. We started with the total number of assets that are held by retail investors and then estimated the prevalence of mental incapacity and the probability of financial exploitation among vulnerable investors.

To estimate the number of investors who may experience mental incapacity when making financial decisions, we used prevalence data from the Canadian Chronic Disease Surveillance System for diseases that can cause mental incapacity. Data was only available for dementia, Alzheimer's disease, stroke, Parkinson's disease and multiple sclerosis. For vulnerability, we used the same data and added additional diseases, such as cancer, that increase vulnerability. We estimated the prevalence of these diseases across 10-year age groups ranging from 25 to 65. These estimates were then used to derive the total amount of assets being held by vulnerable investors in each age group. We could not quantify all types of vulnerable investors due to data limitations and uncertainty around the prevalence of short-term conditions that lead to mental incapacity or vulnerability such as those caused by pharmaceutical interactions. As a result, this is a conservative estimate of the benefits. We only focused on the direct impact on an individual's investments to calculate benefits. We did not consider other costs that would be incurred on individuals and society beyond losing investments, for example increased reliance on social services and increased healthcare costs.

We then derived estimates of the frequency that someone with mental incapacity makes financial decisions and the amount of assets that may be at risk due to these decisions. We also estimated the likelihood of financial exploitation among vulnerable investors using data from the 2017 CSA Investor Index Survey. We validated our estimates using The New York State Cost of Financial Exploitation Study. These estimates were applied to the total amount of assets affected by mental incapacity and at risk of financial exploitation due to vulnerability. These totals are estimates of the total assets that the Proposed Amendments are intended to protect. From these total values, we consulted with a small number of firms who have representatives on OSC advisory committees to derive estimates of the effectiveness of the Proposed Amendments in protecting these assets.

We made assumptions about the frequency that firms would be able to detect financial exploitation and diminished mental capacity. We also assumed that firms would not have sufficient evidence to place holds in every suspected case of financial exploitation or diminished mental capacity.

The Proposed Amendments require that firms must have a reasonable belief of financial exploitation of a vulnerable client or lack of mental capacity of a client in order to place a temporary hold. We assumed that firms will be better able to place holds for clients who have named a TCP because the firm will likely have more information on which to rely when placing a hold. We conducted an experiment to determine the likelihood that individuals will appoint a TCP and used this as an estimate. We assumed that firms will be more likely to place holds for individuals with a TCP. The estimated benefits outlined below only represent the incremental benefits of holds placed due to the additional information obtained through TCPs.

2.3 Presentation of Benefits

The benefit estimates are aggregated totals for vulnerable investors in Ontario. Benefits are presented in dollars and rounded to the nearest hundred thousand.

Provided below are the estimated benefits of: (1) placing temporary holds, (2) using TCP information, and (3) both using TCP information and placing temporary holds.

2.4 Estimated Benefits

I. Estimated Benefit of Placing Temporary Holds

The estimated benefit to vulnerable investors in Ontario of placing temporary holds if there is a reasonable belief of financial exploitation is between $97.2 million and $128.8 million. The estimated benefit to investors in Ontario of placing temporary holds if there is a reasonable belief of lack of mental capacity is between $75.8 million and $104.9 million. The total estimated benefit of placing temporary holds is between $173.1 million and $233.7 million.

II. Estimated Benefit of Using TCP Information

The estimated benefit to investors in Ontario of using available TCP information if there is a reasonable belief of financial

exploitation is between $9.1 million and $12.1 million. The estimated benefit to investors in Ontario of using available TCP information if there is a reasonable belief of lack of mental capacity is between $7.1 million and $9.8 million. The total estimated benefit of using available TCP information is between $16.2 million and $21.9 million.

III. Estimated Total Benefit of Proposed Amendments

The estimated total benefit to investors in Ontario of using available TCP information and placing a temporary hold if there is a reasonable belief of financial exploitation of a vulnerable investor is between $106.3 million and $140.8 million. The estimated total benefit to investors in Ontario of using available TCP information and placing a temporary hold if there is a reasonable belief of lack of mental capacity is between $82.9 million and $114.8 million. The combined benefit of the Proposed Amendments is estimated at between $189.3 million and $255.6 million.

3. Rule-Making Authority

Rule-making authority for the Proposed Amendments is in paragraph 2 of subsection 143(1) of the *Securities Act* (Ontario).

4. Alternatives Considered

An alternative to the Proposed Amendments included publishing staff guidance. Staff guidance, alone, was determined not to be a sufficient response to address issues of financial exploitation and diminished mental capacity of older and vulnerable clients.

5. Reliance on Unpublished Studies

In publishing the Proposed Amendments, we have not relied on any significant unpublished study, report or other written materials.

6.1.2 Proposed National Instrument 45-110 Start-up Crowdfunding Registration and Prospectus Exemptions – Notice and Request for Comment

CSA Notice and Request for Comment

Proposed National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*

February 27, 2020

Introduction

We, the Canadian Securities Administrators (the **CSA** or **we**), are publishing the following for a 90-day comment period expiring on May 27, 2020:

- Proposed National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (the **Instrument**);
- Proposed *Start-up Crowdfunding Guide for Businesses* (the **Guide for Businesses**);
- Proposed *Start-up Crowdfunding Guide for Funding Portals* (the **Guide for Funding Portals**).

Collectively, the Guide for Businesses and the Guide for Funding Portals are referred to as the **Guides** in this Notice.

We are also proposing consequential amendments to National Instrument 45-102 *Resale of Securities* and National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* (the **consequential amendments**).

We are issuing this Notice to solicit comments on the Instrument, the consequential amendments and the Guides. We welcome all comments on this publication and have also included specific questions in the Comments section.

This Notice is also available on the following websites of CSA jurisdictions:

www.lautorite.qc.ca
www.bcsc.bc.ca
www.albertasecurities.com
www.osc.gov.on.ca
nssc.novascotia.ca
fcaa.gov.sk.ca
www.fcnb.ca
www.mbsecurities.ca

Background

Securities crowdfunding is an emerging way for businesses, particularly start-ups and early stage issuers, to raise capital. With securities crowdfunding, a business raises funds through the Internet by issuing securities (such as shares or debt instruments) to many people. This form of financing is intended to provide an alternative source of capital to non-reporting issuers at an earlier stage of development.

On May 14, 2015, the securities regulatory authorities of British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick and Nova Scotia adopted substantially harmonized registration and prospectus exemptions that allow start-ups and early stage issuers to raise capital in these jurisdictions under a tailored framework for securities crowdfunding. On October 2, 2019, the securities regulatory authority of Alberta adopted a substantially harmonized registration and prospectus exemption (the securities regulatory authorities in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick and Nova Scotia collectively being the **blanket order jurisdictions**). The blanket order jurisdictions implemented the registration and prospectus exemptions by way of local blanket orders, as amended from time to time[1] (the **start-up crowdfunding blanket orders**).

Since the adoption of the start-up crowdfunding blanket orders and as of December 31, 2019:

- 11 funding portals have relied on the registration exemption under the start-up crowdfunding blanket orders in order to establish platforms;

[1] For example, please refer to Multilateral CSA Notice 45-317 *Amendments to Start-up Crowdfunding Registration and Prospectus Exemptions* and Multilateral CSA Notice 45-319 *Amendments to Start-up Crowdfunding Registration and Prospectus Exemptions.*

- 1 registered dealer has facilitated start-up crowdfunding distributions;
- A total of 70 distributions have been completed in reliance on the prospectus exemption under the start-up crowdfunding blanket orders by 62 different issuers;
- The aggregate proceeds of all distributions made under the start-up crowdfunding blanket orders is $3,470,754 ($4,709,919 including the amounts raised with other prospectus exemptions as part of the same crowdfunding offering);
- The average investment amount per investor for distributions made in reliance of the start-up crowdfunding blanket orders is $734.

In addition to the start-up crowdfunding blanket orders, two other securities crowdfunding regimes were adopted by CSA jurisdictions:

- Multilateral Instrument 45-108 *Crowdfunding* (**MI 45-108**) came into force on January 25, 2016 in Saskatchewan, Manitoba, Ontario, Québec, New Brunswick and Nova Scotia. Alberta adopted MI 45-108 on February 22, 2017. To date, no funding portal has registered as a restricted dealer under MI 45-108 and there has been no use of the regime.
- Alberta Securities Commission Rule 45-517 *Prospectus Exemption for Start-up Businesses* (ASC Rule 45-517) came into force on July 19, 2016. ASC Rule 45-517 is similar to the start-up crowdfunding blanket orders but does not provide an exemption from the registration requirement and does not require the use of a funding portal. As of December 31, 2019, there has been limited use of ASC Rule 45-517, with 6 distributions raising in aggregate $130,650.

In addition, a number of firms registered as exempt market dealers and restricted dealers have launched online funding portals that facilitate crowdfunding through existing prospectus exemptions such as the offering memorandum and accredited investor exemptions under National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**).

We have heard from market participants that a harmonized regulatory framework tailored for securities crowdfunding available across Canada would foster the use of securities crowdfunding as an alternative for start-ups and early stage issuers to raise capital.

Substance and Purpose of the Instrument

The CSA have proposed the Instrument to improve the harmonization of the regulatory framework for securities crowdfunding by start-ups and early stage issuers.

Although the Instrument shares key features with the start-up crowdfunding blanket orders, we have made targeted amendments to improve the effectiveness of crowdfunding as a capital raising tool for start-ups and early stage issuers, while maintaining adequate investor protection. In the blanket order jurisdictions, the Instrument will replace the start-up crowdfunding blanket orders.

A comparative chart of the key differences between the Instrument and the start-up crowdfunding blanket orders is provided in Annex A.

Summary of the Instrument

The Instrument provides:

- an exemption from the prospectus requirement (the **start-up crowdfunding prospectus exemption**) that allows a non-reporting issuer to distribute eligible securities through an online funding portal; and
- an exemption from the dealer registration requirement (the **start-up crowdfunding registration exemption**) for funding portals that facilitate online distributions by issuers relying on the start-up crowdfunding prospectus exemption.

Start-up crowdfunding prospectus exemption

The start-up crowdfunding prospectus exemption is available to issuers that meet a number of conditions, including:

- the distribution of, and payment for, the security is facilitated through a funding portal that is relying on the start-up crowdfunding registration exemption or operated by an exempt market dealer or investment dealer;

- the aggregate gross proceeds raised by the issuer group[2] during the 12-months before the closing of the start-up crowdfunding distribution does not exceed $1,000,000;
- each purchaser invests no more than $2,500 or, if the purchaser has obtained advice from a registered dealer that such investment is suitable for the purchaser, $5,000;
- the issuer prepares an offering document disclosing information about the business and the start-up crowdfunding distribution and makes it available to each purchaser through the funding portal's platform;
- the closing of the start-up crowdfunding distribution does not occur unless the issuer raises the minimum offering amount stated in the offering document within the 90-day period after the date the offering document is made available on the funding portal's platform; and
- the issuer provides the purchaser with a two-day contractual right to withdraw from an agreement to purchase the security by delivering a notice to the funding portal.

The issuer is not required to provide financial statements to investors in connection with a start-up crowdfunding distribution. No continuous disclosure requirements are tied to the start-up crowdfunding prospectus exemption.

The prospectus exemption is not available if the issuer intends to use the proceeds of the distribution to invest in, merge with, amalgamate with, or acquire an unspecified business. Investors in issuers that propose raising capital for these purposes are better protected in regimes other than start-up crowdfunding, such as the TSX Venture Exchange capital pool company program.

Start-up crowdfunding registration exemption

The start-up crowdfunding registration exemption is available to funding portals that meet a number of conditions, including:

- at least 30 days prior to the first date the funding portal facilitates a start-up crowdfunding distribution in a jurisdiction, the funding portal delivers to the securities regulatory authority or regulator in each jurisdiction a completed Form 45-110F3 *Funding Portal Information* and, for each principal of the funding portal, a completed Form 45-110F4 *Portal Individual Information*;
- the funding portal or any of its principals must not be, or have been, the subject of certain proceedings in the last 10 years as specified in the Instrument, including claims related to fraud, theft, breach of trust, illegal distributions, or allegations of similar conduct;
- the funding portal holds each purchaser's assets separate and apart from the funding portal's own property, in trust for the purchaser, and in the case of cash, in a designated trust account at a Canadian financial institution;
- the funding portal provides the necessary disclosures (such as the issuer's offering document and any amendments) and obtains the necessary risk acknowledgement from purchasers under the Instrument in connection with a distribution of eligible securities;
- the funding portal is not registered under securities legislation; and
- the funding portal does not:
    - provide advice to a purchaser about the merits of the investment or otherwise recommend or represent that an eligible security is suitable, or
    - receive a commission, fee or other similar payment from a purchaser under a start-up crowdfunding distribution.

A funding portal cannot rely on the start-up crowdfunding registration exemption if it is insolvent. A funding portal relying on the start-up crowdfunding registration exemption must deliver to the securities regulatory authority or regulator in each jurisdiction a completed Form 45 110F5 *Annual Working Capital Certification* within 10 days of each calendar year-end. As part of its obligation to deliver a completed Form 45 110F5 *Annual Working Capital Certification*, the funding portal must certify that it has sufficient working capital to continue its operations for at least the next 12 months. If the funding portal becomes insolvent or

[2] The issuer group means, in respect of an issuer, any of the issuer, an affiliate of the issuer, an issuer that is engaged in a common enterprise with the issuer or with an affiliate of the issuer, and an issuer whose business is founded or organized by a person or company who founded or organized the issuer.

discontinues operations, it must promptly notify the securities regulatory authority or the regulator, and any purchasers for which it holds assets, of the process the funding portal will use to return the assets to these purchasers.

Under the Instrument, a firm registered in the category of exempt market dealer or investment dealer may operate a funding portal that facilitates the distribution of securities under the start-up crowdfunding prospectus exemption provided that it meets the requirements set out in the Instrument.

Guide for Businesses and Guide for Funding Portals

The purpose of the Guides is to assist funding portals and issuers in understanding the requirements under the Instrument.

The Guide for Businesses provides information in a plain-language, Q&A format that issuers should consider when conducting a start-up crowdfunding distribution.

The Guide for Funding Portals provides information that businesses that intend to conduct funding portal activities should consider, including considerations applicable to funding portals relying on the start-up crowdfunding registration exemption and those operated by registered dealers.

We expect the Guides to be published as a CSA staff notice with the final Instrument.

Extension of the Start-up Crowdfunding Blanket Orders

The start-up crowdfunding blanket orders are scheduled to expire on May 13, 2020. The blanket order jurisdictions are publishing an amendment to their local blanket order concurrently with this Notice so that the blanket orders will remain available until the Instrument is available, if adopted.

Local Matters

An annex is being published in each local jurisdiction that is making related changes to local securities laws, including local notices or other policy instruments in that jurisdiction. It also includes any additional information that is relevant to that jurisdiction only.

Publication

The Instrument, the consequential amendments and the Guides are published together with this Notice.

Comments

In addition to your comments on all aspects of the Instrument, the Guides and the consequential amendments, the CSA also seek specific feedback on the following questions:

1. We are considering repealing MI 45-108 because there has been no use of this regime. We also note that the adoption of the Instrument may reduce the need for market participants to rely on MI 45-108. Do you think MI 45-108 should be maintained? If so, please explain why.

2. We recognize the need to provide a balance in the Instrument between investor protection and streamlined, light-touch requirements for capital raising in the spirit of crowdfunding.

   The Instrument contemplates individual investment limits of $2,500 for each purchaser and $5,000 for each purchaser, if the purchaser has obtained advice from a registered dealer that such investment is suitable for the purchaser. We recognize there may be need for greater flexibility in capital raising and continue to consider whether to increase the individual investment limit to one or more of the following:

   a. $5,000 for each purchaser;

   b. $10,000 for each purchaser, if the purchaser has obtained advice from a registered dealer that such investment is suitable for the purchaser; and

   c. a number in between those currently in the Instrument, and those mentioned above.

   What would be an appropriate individual investment limit? Please explain and identify the investor protections you think support that amount.

3. Additionally, the Instrument contemplates a limit on aggregate proceeds raised by the issuer group during the 12-month period of $1,000,000. We recognize there may be need for greater flexibility in capital raising and continue to consider whether to increase the offering limit to one of the following:

a. $1,500,000; or

b. a number in between $1,000,000 and $1,500,000.

What would be an appropriate offering limit? Please explain and identify the investor protections you think support that amount.

4. Under the Instrument, issuers, and in some jurisdictions, the directors and executives signing the offering document will be subject to statutory liability if the offering document provided to the investor contains a misrepresentation. The purpose of statutory liability is to make recovery of damages easier for investors in the event of a misrepresentation in the offering document. We have heard that some issuers view statutory liability as potentially increasing the regulatory burden of using the start-up crowdfunding prospectus exemption. We also recognize that claims of misrepresentation by a purchaser may be unlikely given the low investment limits under the Instrument. Overall, we think that any added regulatory burden is balanced against the additional capital raising opportunities provided by the Instrument.

   Do you think that statutory liability for misrepresentation in the offering document will deter start-ups and early stage issuers from raising capital using the Instrument? Is any deterrent justified when it appears unlikely that claims for misrepresentations will be made?

5. The definition of "eligible securities" is limited to:

   - common shares,
   - non-convertible preference shares,
   - securities, such as warrants, subscription receipts and simple agreements for future equity (or SAFEs), convertible into common shares or non-convertible preference shares,
   - non-convertible debt securities linked to a fixed or floating interest rate, and
   - units of a limited partnership.

   The definition of "eligible security" was intended to reflect the type of securities a start-up or early stage issuers would likely be selling and to ensure that the exemption was not used to sell more complex securities, such as asset-backed securities and structured products. Are there other types of securities that it would be appropriate to include in the definition of "eligible security" (e.g. trust units, co-operatives member shares or other)? If so, what other type of securities and why?

Please provide your comments in writing by **May 27, 2020**.

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of a summary of the written comments received during the comment period. In addition, all comments received will be posted on the websites of each of the Alberta Securities Commission at www.albertasecurities.com, the Autorité des marchés financiers at www.lautorite.qc.ca and the Ontario Securities Commission at www.osc.gov.on.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Thank you in advance for your comments.

Please address your comments to each of the following:

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Services Commission (New Brunswick)
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Nova Scotia Securities Commission
Nunavut Securities Office
Ontario Securities Commission
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Yukon Superintendent of Securities
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

Please send your comments **only** to the following addresses. Your comments will be forwarded to the remaining jurisdictions:

Me Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1
Fax: 514 864-8381
consultation-en-cours@lautorite.qc.ca

The Secretary
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416 593-2318
comments@osc.gov.on.ca

Contents of Annexes

This notice contains the following annexes:

- Annex A – Key differences between the registration and prospectus exemptions under Proposed National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* and the Start-up Crowdfunding Registration and Prospectus Blanket Orders
- Annex B – Local Matters (Ontario only)
- Annex C – Proposed National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*
- Annex D – Proposed Form 45-110F1 *Offering Document*
- Annex E – Proposed Form 45-110F2 *Risk Acknowledgement*
- Annex F – Proposed Form 45-110F3 *Funding Portal Information*
- Annex G – Proposed Form 45-110F4 *Portal Individual Information*
- Annex H – Proposed Form 45-110F5 *Annual Working Capital Certification*
- Annex I – CSA Staff Notice 45-XXX *Guidance for using the start-up crowdfunding registration and prospectus exemptions*
- Annex J – Proposed Amendments to National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*
- Annex K – Proposed Amendments to National Instrument 45-102 *Resale of Securities*

Questions

Please refer your questions to any of:

Elliott Mak
Senior Legal Counsel, Corporate Finance
British Columbia Securities Commission
604 899-6501
emak@bcsc.bc.ca

James Leong
Senior Legal Counsel, Capital Markets Regulation
British Columbia Securities Commission
604 899-6681
jleong@bcsc.bc.ca

Navdeep Gill
Manager, Legal, Market Regulation
Alberta Securities Commission
403 355-9043
Navdeep.Gill@asc.ca

Denise Weeres
Director, New Economy
Alberta Securities Commission
403 297-2930
denise.weeres@asc.ca

Gillian Findlay
Senior Legal Counsel, Corporate Finance
Alberta Securities Commission
403 297-3302
gillian.findlay@asc.ca

Mikale White
Legal Counsel
Financial and Consumer Affairs Authority of Saskatchewan
306 798-3381
mikale.white@gov.sk.ca

Chris Besko
Director, General Counsel
The Manitoba Securities Commission
204 945-2561
Chris.Besko@gov.mb.ca

Sarah Hill
Legal Counsel
The Manitoba Securities Commission
204 945-0605
Sarah.Hill@gov.mb.ca

Jo-Anne Matear
Manager, Corporate Finance
Ontario Securities Commission
416 593-2323
Toll free: 1 877 785-1555
jmatear@osc.gov.on.ca

Erin O'Donovan
Senior Legal Counsel, Corporate Finance
Ontario Securities Commission
416 204-8973
Toll free: 1 877 785-1555
eodonovan@osc.gov.on.ca

Faustina Otchere
Legal Counsel, Compliance and Registrant Regulation
Ontario Securities Commission
416 596-4255
Toll free: 1 877 785-1555
fotchere@osc.gov.on.ca

Adrian Molder
Legal Counsel, Corporate Finance
Ontario Securities Commission
416 593-2389
Toll free: 1 877 785-1555
amolder@osc.gov.on.ca

Gabriel Perras
Analyst
Autorité des marchés financiers
514 395-0337, extension 4388
Toll-free: 1 877 525-0337
gabriel.perras@lautorite.qc.ca

Jason Alcorn
Senior Legal Counsel and Special Advisor to the Executive Director
Financial and Consumer Services Commission (New Brunswick)
506 643-7857
Toll free: 1 866 933-2222
jason.alcorn@fcnb.ca

Abel Lazarus
Director, Corporate Finance
Nova Scotia Securities Commission
902 424-6859
abel.lazarus@novascotia.ca

Peter Lamey
Legal Analyst, Corporate Finance
Nova Scotia Securities Commission
902 424-7630
peter.lamey@novascotia.ca

ANNEX A

Key differences between the registration and prospectus exemptions under Proposed National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* and the Start-up Crowdfunding Blanket Orders

Key theme	Start-up crowdfunding blanket orders	Instrument
Maximum aggregate proceeds that can be raised by the issuer group under the prospectus exemption	$250,000 per distribution, up to two times in a calendar year.	$1,000,000 during the 12 months before the closing of the offering.
Maximum investment amount per person per distribution under the prospectus exemption	• $1,500; or • in British Columbia, Alberta and Saskatchewan, $5,000, provided that the purchaser has obtained advice from a registered dealer that such investment is suitable for the purchaser	• $2,500; or • $5,000, provided that the purchaser has obtained advice from a registered dealer that such investment is suitable for the purchaser
Confirmation by the regulator before a funding portal starts to facilitate distributions	The funding portal cannot facilitate distributions until the regulator confirms in writing receipt of: • a duly completed funding portal information form; • a duly completed individual information form for each principal of the funding portal; and • such other documents and information as may be requested by the regulator.	The funding portal must deliver the required forms at least 30 days before facilitating distributions. There is no requirement for the regulator's written confirmation. However, a funding portal may not rely on the start-up crowdfunding registration exemption if, within 30 days of receiving the funding portal information form, the regulator has notified the funding portal, it or any of its principals has been notified by the regulator that its process and procedure for handling of purchasers' funds does not satisfy the conditions of the Instrument.
Bad actor disqualification	Not applicable.	A funding portal cannot rely on the start-up crowdfunding registration exemption if it or any of its principals is or has been the subject of certain proceedings in the last 10 years related to a claim based in whole or in part on various conduct such fraud, theft, breach of trust, or allegations of similar conduct.
Funding portals financial resources certification	Not applicable.	On an annual basis, the funding portal must certify that it has sufficient working capital to continue its operations for at least the next 12 months by delivering a completed funding portal information form or Form 45-110F5 *Annual Working Capital Certification.*
Liability in the event the offering document contains misrepresentations	There is no statutory liability under securities law. The blanket orders do not require the issuer to provide contractual rights to purchasers. Purchasers may have rights under common law or civil law.	The issuer is subject to statutory liability similar to the offering memorandum exemption under section 2.9 of NI 45-106.
Investment in an unspecified business	No restrictions.	The start-up crowdfunding prospectus exemption is not available to issuers who intend to use the proceeds of the distribution to invest in, merge with or acquire an unspecified business.

Report of exempt distribution form	Except in British Columbia, issuers must use Form 5 – *Start-up Crowdfunding – Report of Exempt Distribution*. In British Columbia, issuers must use Form 45-106F1 *Report of Exempt Distribution.*	Issuers must use Form 45-106F1 *Report of Exempt Distribution.*
Expiry date	The orders were initially set to expire on May 13, 2020. The start-up crowdfunding blanket orders will be extended to remain available until the Instrument is available, if adopted.	The Instrument has no expiry date.

ANNEX B

LOCAL MATTERS

ONTARIO SECURITIES COMMISSION

1. Introduction

The CSA are publishing for comment a draft national harmonized crowdfunding rule (the **Proposed Instrument**) that provides:

- an exemption from the prospectus requirement that allows a non-reporting issuer to distribute eligible securities through an online funding portal; and
- an exemption from the dealer registration requirement for funding portals that facilitate online distributions by issuers relying on the start-up crowdfunding prospectus exemption.

Please refer to the main body of the CSA Notice.

2. Local Amendments

In addition to the Proposed Instrument and the consequential amendments set out in annexes to the CSA Notice, the Ontario Securities Commission (the **OSC** or the **Commission**) is also publishing for comment:

- proposed amendments to OSC Rule 11-501 *Electronic Delivery of Documents to the Ontario Securities Commission* (attached as Schedule B1 to this Annex);
- proposed amendments to OSC Rule 13-502 *Fees* (attached as Schedule B2 to this Annex);
- proposed amendments to OSC Rule 45-501 *Ontario Prospectus and Registration Exemptions* (attached as Schedule B3 to this Annex); and
- proposed changes to Companion Policy 45-501CP *Ontario Prospectus and Registration Exemptions* (attached as Schedule B4 to this Annex)

(collectively, the **Local Amendments**).

3. Overview

In Ontario, an issuer that wishes to raise capital in the exempt market through the issuance and sale of its securities has the option to rely on any of the prospectus exemptions under Ontario securities laws. To rely on a prospectus exemption, the issuer must comply with the requirements of the exemption. Beyond the private issuer exemption and the family, friends, and business associates exemption, the exemptions that are available for distributions to retail investors are the offering memorandum exemption (the **OM Exemption**) and the crowdfunding prospectus exemption in Multilateral Instrument 45-108 *Crowdfunding* (**MI 45-108**). Under MI 45-108, the issuer must offer its securities through a funding portal that is registered under Ontario securities legislation. Additionally, under both exemptions, an issuer is required to provide detailed disclosure concerning the issuer and the offering and must provide ongoing financial disclosure concerning the issuer.

Another significant drawback to an issuer relying on the crowding exemption in MI 45-108 is that it is not available nationally. Currently, crowdfunding is available in Canada under the following regimes, none of which are nationally harmonized:

(i) **Start-up crowdfunding** – Local crowdfunding blanket orders provide registration and prospectus exemptions that allow start-ups and early stage issuers to raise capital in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick and Nova Scotia (the **start-up crowdfunding blanket orders**). As set out in the main body of the CSA Notice, there has been some use of the start-up crowdfunding blanket orders.

(ii) **Crowdfunding under MI 45-108** – MI 45-108 provides a prospectus exemption and a registration regime that allows start-ups and early stage issuers to raise capital in Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick and Nova Scotia. To date, no offerings have been completed in reliance on the prospectus exemption and no funding portal has registered as a restricted dealer under MI 45-108.

(iii) **Crowdfunding under ASC Rule 45-517** – Alberta Securities Commission Rule 45-517 *Prospectus Exemption for Start-up Businesses* (**ASC Rule 45-517**) provides a prospectus exemption that is similar to the start-up crowdfunding blanket orders except that it does not require the use of a funding portal and does not provide a registration exemption. As set out in the main body of the CSA Notice, there has been very modest use of ASC Rule 45-517.

Market participants and other stakeholders have advocated for a harmonized regulatory framework for securities crowdfunding available across Canada to encourage the use of securities crowdfunding and provide an alternative method for start-ups and early stage issuers to raise capital.

Investor protection is not expected to be compromised because the Proposed Instrument balances most of the expected risk of investing in small businesses in the exempt market with appropriate protections for investors and is not significantly different from the start-up crowdfunding blanket orders.

The Proposed Instrument provides an option for start-ups and early stage issuers to raise capital. The Commission is of the view that the regulatory costs associated with the Proposed Instrument on issuers that choose to take advantage of the prospectus exemption, on intermediaries that choose to operate a funding portal (whether pursuant to a registration exemption or as a registrant) and on retail investors that wish to participate in a securities crowdfunding offering are outweighed by the benefits of the Proposed Instrument to these stakeholders.

4. Affected Stakeholders

a. Non-reporting Issuers

Under the Proposed Instrument, only non-reporting issuers that have their head office in Canada will have the option to access a new capital raising prospectus exemption. This exemption will allow these issuers to raise up to $1,000,000 each year from retail investors within prescribed investment limits.

Issuers at this level of financing are expected to be small businesses, some of which will be seeking start-up or early stage financing or accessing Canada's capital markets for the first time. Small businesses that employ under 100 people represent 97.9% (or 1.15 million) of all Canadian businesses and approximately 36% of them (or approximately 417,000) are based in Ontario.[1] Based on a 2011 Industry Canada survey, less than 10% of small and medium-sized businesses (SMEs) financed their start-ups from external sources that did not include personal finances or financing from financial institutions, suppliers, government or close family and friends.[2] We expect that a small proportion of Ontario-based small businesses that are seeking external financing will access the capital markets.

Issuers may choose to rely on the prospectus exemption in the Proposed Instrument because they find it too expensive to rely on existing prospectus exemptions. Some issuers may have previously relied on other prospectus exemptions and exhausted their financing from family, close personal friends and close personal business associates or reached the 50-investor limit allowed under the private issuer prospectus exemption. Some issuers may seek additional funding beyond traditional sources (personal and credit financing) or they may lack sufficient collateral or revenue to secure loans from financial institutions and alternative online lenders. Many of these issuers may also operate businesses that are not within the expertise and scope of most angel investors and venture capital funds. Lastly, these businesses also may not be suited to secure financing through pre-orders of products or services on reward-based crowdfunding platforms such as Kickstarter or Indiegogo.

It is difficult to estimate the total number of issuers that will be affected by the Proposed Instrument given the unique circumstances (financing needs, capital structure and financial risk) of each issuer. This challenge is further complicated by the number of financing sources (internal and external) that may be available to each issuer. However, at a minimum, we expect issuers that have relied on the existing start-up crowdfunding exemptions in other jurisdictions to benefit from the Proposed Instrument being introduced in Ontario. Based on filings of Form 45-106F1 *Report of Exempt Distribution* (**Form 45-106F1**), 56 issuers have raised a total of $3.45 million under the start-up crowdfunding blanket orders as of November 1, 2019.

A subset of Canadian issuers that have previously relied on the OM Exemption to raise capital in Ontario (**OM Issuers**) may also consider the Proposed Instrument as an alternative to raising up to $1 million from retail investors at a potentially lower cost. Based on filings of Form 45-106F1 in Ontario, we identified 58 issuers that each raised $1 million or less annually under the OM Exemption from investors that individually purchased $2,500 or less in securities.[3] We also considered an alternative scenario, OM Issuers that raised up to $1 million from a subset of their investors that purchased $2,500 or less in securities.[4]

[1] See Innovation, Science and Economic Development Canada, Key Small Business Statistics, January 2019. Industry Canada defines small businesses as employer firms with between 1 and 99 employees and SMEs as firms with between 1 and 499 employees.
[2] See Industry Canada, Financing Statistics, Special Edition: Key Small Business Statistics, November 2013.
[3] OSC analysis, based on distributions from January 2017 to August 2019. These OM Issuers may have concurrently raised additional amounts under other prospectus exemptions (e.g. the AI Exemption).
[4] Under this scenario, the OM Issuer may have raised a total of more than $1 million annually, however, only those issuers with investors that purchased $2,500 or less in securities would be included in the estimate.

Under this second scenario, we estimated an additional 44 OM Issuers, for a total of 102 OM Issuers, that could have raised capital within the prescribed aggregate annual offering and investment limits of the Proposed Instrument. In aggregate over the period analyzed, these 102 OM Issuers could have raised up to approximately $5.4 million under the offering and investment thresholds set out in the Proposed Instrument.

b. Exempt Funding Portals

Businesses that wish to operate an exempt funding portal in Ontario will also benefit from the Proposed Instrument. This includes: (i) new entrants that have not operated an exempt funding portal before, and (ii) exempt funding portals that are already operating platforms in those jurisdictions that have adopted the start-up crowdfunding blanket orders. Currently, there are 10 exempt funding portals that relied on the registration exemption under the start-up crowdfunding blanket orders outside of Ontario. However, only 5 of these 10 exempt funding portals have facilitated capital raising by issuers.

c. Registered Funding Portals

Funding portals that are registered as investment dealers or exempt market dealers in Ontario will also benefit from the Proposed Instrument. An aggregate of 22 funding portals have been registered under the exempt market dealer or restricted dealer categories in Canada. Of these, 15 funding portals are registered as exempt market dealers in Ontario and 2 are registered as restricted dealers.[5] Issuers on the 15 funding portals registered as exempt market dealers in Ontario, which are currently limited to offering securities under the start-up crowdfunding blanket orders or offering in Ontario under the accredited investor exemption (**AI Exemption**) or OM Exemption, will be able to offer their securities in Ontario under the Proposed Instrument. As of November 2019, only one registered funding portal in Canada has facilitated crowdfunding distributions under the start-up crowdfunding blanket orders. The remainder may have facilitated crowdfunding offerings under the AI Exemption or OM Exemption.

d. Other Registered Intermediaries

Registered intermediaries that do not operate a funding portal but are in the business of facilitating small business capital raising may be affected by the Proposed Instrument. They will be impacted by increased competition for issuers looking to raise small amounts of capital or may decide to expand their operations to include an exempt or registered funding portal.

e. Investors

The Proposed Instrument will largely impact retail investors who are currently not able to participate in the majority of exempt market offerings that are conducted under the AI Exemption because they do not meet the minimum income or financial assets requirements under that exemption. Retail investors that are not directly related to an issuer or are considered to be members of the public are only able to participate in the OM Exemption. These retail investors, along with other investors who have not previously participated in prospectus exempt offerings, will be able to invest in issuers seeking capital under the Proposed Instrument.

5. Anticipated Costs and Benefits of the Proposed Instrument

The following section analyzes the anticipated costs and benefits to the affected stakeholders mentioned above. Data limitations and the opaque nature of the exempt market present challenges to quantifying all the costs and benefits of the Proposed Instrument. More importantly, the Proposed Instrument provides an additional option to issuers seeking to raise external financing from capital markets. Therefore, much of the anticipated costs outside of regulatory and compliance-related costs are assumed to be at the discretion of the affected stakeholders and are not discussed here.

a. Non-reporting Issuers

Search Cost Savings

The Proposed Instrument is intended to provide an alternative source of financing for non-reporting issuers, especially start-ups and early stage issuers. Issuers accessing capital market financing for the first time will need to conduct their own due diligence or seek appropriate legal or professional advice to navigate the prospectus exemptions that are available and most appropriate for their needs and circumstances.

As indicated above there are three crowdfunding regimes available in Canada, but none are nationally harmonized. We have heard that, in comparison to the existing complexity resulting from these different regimes, the introduction of a nationally harmonized crowdfunding regime will result in savings of between $5,000 to $20,000 in legal fees per deal for issuers.[6]

[5] Funding portal information updated as of November, 2019.

[6] In its submission to the OSC dated March 1, 2019, the National Crowdfunding & FinTech Association of Canada stated: “The differences among or within the exemptions seem to us not cost-effective for the risks they are presumably intended to mitigate. These also impose high

Since the Proposed Instrument does not currently contemplate the repeal of crowdfunding under MI 45-108, we expect issuers may still incur minimal search cost when contemplating both options. However, we note there have been no offerings made under MI 45-108 and the CSA are considering repealing it.

Other Anticipated Benefits

The key benefit of the Proposed Instrument for non-reporting issuers is access to an additional potential funding source at a lower cost than existing capital market options. If this additional funding option proves to be popular among issuers, it should (theoretically) increase competition over time among funding sources and potentially lead to lower funding costs to issuers and more efficient allocation of capital.

Initial Compliance Costs

Issuers choosing to rely on the prospectus exemption in the Proposed Instrument will be responsible for the costs associated with preparing and filing Form 45-110F1 *Offering Document* (**Form 45-110F1** or the **Offering Document**) and Form 45-106F1 for each offering. There will also be an initial one-time cost associated with learning and meeting the specific requirements under the Proposed Instrument. We anticipate that the time spent understanding the requirements of the Proposed Instrument will be minimal. The costs associated with preparing the Form 45-110F1 for each offering will be the most significant component of the issuer's compliance costs. Issuers are not expected to incur any other on-going compliance costs since there are no continuous disclosure requirements associated with the Proposed Instrument.

Form 45-110F1 *Offering Document*

The information that is required to be disclosed in the Offering Document includes general information about the issuer and its business, information concerning the directors and officers of the issuer, and information concerning the crowdfunding offering and the anticipated use of funds for the offering. We expect issuers that have already accessed external financing or even bank financing to have most of this information already available and should therefore incur minimal administrative costs in preparing the Offering Document. Furthermore, these costs will reduce over time across multiple offerings because issuers can leverage previous offering materials and limit their time to updating relevant sections or providing new information.

Although issuers could prepare the Offering Document themselves, we anticipate that many issuers will rely on the services of legal professionals to prepare the Offering Document. This is especially the case because the Proposed Instrument contemplates statutory liability for issuers if the Offering Document contains a misrepresentation. Legal costs will vary depending on the complexity of the issuer's business, its size and the level of assistance the issuer needs. Assuming that most issuers that will rely on the prospectus exemption in the Proposed Instrument will be start-ups and early stage issuers, we do not expect legal professionals to charge significant fees to prepare or review the Offering Document. Over time and if activity increases, it is expected that third-party service providers and even the portals themselves may offer additional services to assist issuers in preparing the Offering Document and associated materials at more competitive prices than legal professionals.

There is no requirement for financial statements to be provided in connection with the Offering Document. Therefore, we do not anticipate that issuers will require assistance from accounting professionals unless they obtain assistance at their own discretion. Issuers may also decide at their discretion to seek assistance from experienced valuation experts in setting an appropriate offering price or ensure that the economic terms of the offering and rights attached to the securities are properly disclosed. Again, these would be discretionary costs to the issuer since they are not specifically mandated by the Proposed Instrument.

In 2015, the U.S. Securities and Exchange Commission (**SEC**) estimated that the cost of preparing an offering document (SEC Form C) associated with their Regulation Crowdfunding rule[7] will range from between $2,500 (USD) to $20,000 (USD) depending on the size of the offering.[8] Similar to the crowdfunding exemption under MI 45-108 and the OM Exemption, the information requirements under the SEC's Regulation Crowdfunding rule are more extensive than those required under the Proposed Instrument. The SEC Form C also requires certain financial information about the issuer and more detailed information regarding the issuer's capital structure. Therefore, we anticipate that the cost to prepare the Offering Document will be within a similar range if not lower than the estimated ranges provided in the SEC's analysis.

demands on start-ups. On costs, the NCFA estimates (based on anecdotal evidence from its members) that a lack of harmonisation and the resulting complexity adds $5,000 - $20,000 in legal fees alone per deal."

[7] See rules governing the offer and sale of securities under new Section 4(a)(6) of the *Securities Act of 1933* (Regulation Crowdfunding).

[8] See SEC Release No. 33-9974, Crowdfunding Final Rule. October 30, 2015.

Figure 1- Excerpt of SEC Cost Estimates for Form C

(in U.S. dollars)	Offerings of $100,000 or less	Offerings of more than $100,000, but not more than $500,000	Offerings of more than $500,000
Costs per issuer for preparation and filing of Form C for each offering and related compliance costs	2,500	$2,500 - $5,000	$5,000 - $20,000

Source: SEC, Release Nos 33-9974, Crowdfunding Final Rule. Oct. 30, 2015.

Form 45-106F1 *Report of Exempt Distribution*

Issuers will also have administrative costs associated the preparation of Form 45-106F1. The information that is required in this form relates to the issuer, the funding portal and the offering. While the form is simple enough to complete, we anticipate that some issuers may rely on legal counsel to prepare this form with assistance from the funding portal.

Based on previous OSC analysis conducted with the release of the amended Form 45-106F1, it should take no longer than 45 to 60 minutes to complete the form. These estimates were based on a manual entry of the Schedule 1 portion of the form which requires information on each distribution made to each purchaser. Therefore, the higher the number of purchasers, the longer the expected time spent. However, issuers relying on the Proposed Instrument are not expected to complete this information manually. They should be able to readily obtain the necessary purchaser information for Schedule 1 in a machine generated format from the funding portal facilitating the crowdfunding distribution. While there is no direct fee associated with the filing of the Offering Document, there will be a nominal filing fee of $500 for each Form 45-106F1 that is filed with the OSC.

b. Exempt Funding Portals

Increased Business Opportunities

Currently, all funding portals operating in Ontario must be registered. Therefore, the Proposed Instrument, which provides a registration exemption, represents an additional business opportunity for the 10 non-registered portals that operate outside of Ontario pursuant to the start-up crowdfunding blanket orders. These exempt funding portals will now be able to access Ontario investors and facilitate crowdfunding nationally.

The nationally harmonized aspect of the Proposed Instrument may also incentivize new entrants and potentially attract experienced operators of non-securities-based online portals such as those that provide online lending or donation/reward-based platforms. The NCFA's 2016 report indicated that, based on a survey of Canadian online platforms, the majority (74%) operated a donation/reward crowdfunding model and about 8% operating a lending platform.[9] There is also the possibility that experienced foreign-based platforms of securities and non-securities crowdfunding models may decide to establish a Canadian exempt funding portal to facilitate capital raising under the Proposed Instrument.

Initial Compliance Costs

Funding portals that are currently operating in other jurisdictions under the start-up crowdfunding blanket orders are expected to incur minimal costs associated with the Proposed Instrument because the requirements are very similar.

New entrants that want to operate an exempt funding portal in Ontario will initially incur one-time costs associated with learning about the specific requirements for exempt funding portals, building the required processes and training staff to comply with the requirements of the Proposed Instrument. New entrants will also incur a one-time compliance cost in connection with preparing Form 45-110F3 *Funding Portal Information* (**Form 45-110F3**) and Form 45-110F4 *Portal Individual Information* (**Form 45-110F4**) for each of the principals of the funding portal.

Form 45-110F3 *Funding Portal Information*

Form 45-110F3 requires an exempt funding portal to disclose information concerning the funding portal such as its structure and proposed business, whether it is or has been the subject of a criminal or civil proceeding involving fraud or theft, and its process for handling investor funds in a designated trust account with a Canadian financial institution. Form 45-110F3 must be certified to be true and complete by the funding portal. The information required by Form 45-110F3 should be readily available to a funding portal conducting its business.

[9] See National Crowdfunding Association of Canada (NCFA), 2016 Alternative Finance - Crowdfunding in Canada. The NCFA report states that the survey was conducted in Q4 2015 and was sent to 80 funding portals in Canada across all business models, of which 51 responded.

Form 45-110F4 *Portal Individual Information*

Each principal of a funding portal must disclose in a Form 45-110F4 personal information concerning the individual, including whether the individual has been the subject of a criminal or civil proceeding involving fraud or theft. Form 45-110F4 must be certified by the individual to be true and complete. The information required by Form 45-110F4 should be readily available to the principals of the funding portal.

We consider the initial time spent learning the requirements of the Proposed Instrument, building a platform and setting up these systems to be a cost of conducting business as a funding portal. Most of the compliance costs on funding portals will be associated with preparing the Form 45-110F3 and Forms 45-110F4. Funding portals that are currently operating in other jurisdictions under the start-up crowdfunding blanket orders will incur lower costs to complete these forms since they have completed substantially similar forms under the start-up crowdfunding blanket orders.

Ongoing Compliance Costs

Both new exempt funding portals and exempt funding portals that are already operating under a start-up crowdfunding blanket order will be required to complete and file a Form 45-110F5 *Annual Working Capital Certification* (**Form 45-110F5**) certifying that the funding portal has sufficient working capital to continue operations for at least the next 12 months. We believe that the form does not require the funding portal to do anything beyond that which it should already be doing when operating a funding portal business. Both new and existing exempt funding portals will also periodically incur costs in connection updating the information in Form 45-110F3 and Form 45-110F4. The information required to update the Form 45-110F3 and Form 45-110F4, respectively, should be readily available to a funding portal conducting its business and to its principals.

An exempt funding portal operating in Ontario will be considered an "unregistered capital markets participant" and be required to pay an annual participation fee to the OSC.[10] The required participation fee is a graduated fee based on the participant's revenues for the year. For example, an exempt funding portal with annual revenues under $250,000 will pay a fee of $835 and an exempt funding portal with annual revenues from $250,000 to under $500,000 will pay a fee of $1,085. The exempt funding portal will also be required to file a completed Form 13-502F4 *Capital Markets Participation Fee Calculation* (**Form 13-502F4**) showing the information required to calculate the participation fee.

There will be no cost to exempt funding portals for filing the Form 45-110F3, Form 45-110F4 or Form 45-110F5 with the OSC.

A recent report by the Cambridge Centre for Alternative Finance indicated that registered online platforms in Canada dedicated approximately 9% of their budget towards authorization/regulatory scoping, and 17% for ongoing compliance costs.[11] While this survey covered all types of crowdfunding portals, both securities and non-securities-based, it provides a general sense of the regulatory and ongoing compliance costs incurred by funding portals.

c. Registered Funding Portals

The Proposed Instrument will also provide a business opportunity for funding portals that are registered as an investment dealer or an exempt market dealer in Ontario. In addition to facilitating securities offerings over their platform in reliance on the AI Exemption and OM Exemption, these registered funding portals will be able to facilitate securities offerings under the Proposed Instrument. We expect that the initial costs to these registered funding portals associated with learning and understanding how to conduct a crowdfunding offering and setting up business systems to conduct a crowdfunding offering under the Proposed Instrument will be minimal. Registered funding portals are not required under the Proposed Instrument to complete a (i) Form 45-110F3, (ii) Form 45-110F4 for each principal of the funding portal, or (iii) Form 45-110F5. Funding portals registered in Ontario are already required to pay participation fees and file Form 13-502F4.

d. Investors

High Risk Investments

As set out above, retail investors will have the opportunity to invest in small Canadian businesses and start-ups under the Proposed Instrument. By their very nature, investments in start-up crowdfunding offerings are highly risky and are illiquid. Investors making such investments have few opportunities to sell their investment and may lose the money they paid for their investment. The lack of liquidity or market for the securities also inhibits price discovery (i.e. the ability to determine whether the issuer has over-valued its securities).

[10] Please see the consultation question in section 6 below.

[11] The report indicates that 68% of Canadian businesses they surveyed indicated they were authorised by their regulator while 32% indicated that no specific regulatory authorization was required for their operations. See Cambridge Centre for Alternative Finance, Reaching New Heights, the 3rd Americas alternative Finance industry Report, December 2018.

Investor Protection Requirements

The increased risk to retail investors is balanced by the investor protection requirements of the Proposed Instrument. For example, the Proposed Instrument requires that purchasers be provided a contractual right to withdraw from an agreement to purchase a security within 2 days of agreeing to purchase the security or being notified of an amendment to the Offering Document. Further, in order to address asymmetrical information between investors and issuers, issuers are required to prepare an Offering Document for posting on the funding portal. Under the *Securities Act* (Ontario) (the Act), purchasers may be entitled to damages against an issuer or require the issuer to unwind the purchase if the Offering Document contains a misrepresentation. The Proposed Instrument also contains individual investment limits for purchasers of $5,000, if the purchaser has received suitability advice from a registered dealer that the investment is suitable to the purchaser and $2,500 in all other cases. Furthermore, the aggregate amount that can be raised by issuers is $1,000,000 per year. These provide limits on the amount that individual investors and investors as a group can potentially lose in a crowdfunding offering.

In addition to the investor protection requirements of the Proposed Instrument noted above, the requirement that the crowdfunding offering be completed through an exempt funding portal or a registered funding portal also helps to protect investors. In both cases, funding portals are required to hold funds being raised under a crowdfunding offering and not release the funds to the issuer until the offering has closed and purchasers' contractual rights of withdrawal have expired. Apart from the requirements of the Proposed Instrument, funding portals will also have an incentive to protect their reputation by carefully vetting the issuers on their platform.

e. Conclusion

Although, there will be costs associated with an issuer relying on the prospectus exemption in the Proposed Instrument as set out above, an issuer is not required to rely on the Proposed Instrument. The Proposed Instrument is a new securities-based financing alternative for non-reporting issuers. Similarly, the harmonized crowdfunding regime under the Proposed Instrument offers a business opportunity to (i) new businesses that want to operate an exempt funding portal, (ii) exempt funding portals operating under the start-up crowdfunding blanket orders, and (iii) registered portals offering securities of issuers relying on other prospectus exemptions. The risks to retail investors that participate in securities crowdfunding under the Proposed Instrument are reduced by the individual investment limits, the annual distribution limits, the disclosure in the Offering Document and the funding portal acting as intermediary in the crowdfunding offering.

6. Comments

In addition to your comments on all aspects of the Proposed Instrument and the Local Amendments, the OSC seeks specific feedback on the following:

(i) Fees payable by entities relying on exemptions in the rule

Issuers that wish to rely on the prospectus exemption in the rule in Ontario will be required to pay an activity fee for the filing of Form 45-106F1 *Report of Exempt Distribution* (**Form 45-106F1**) (generally $500 per filing). Unregistered entities that wish to operate a funding portal in reliance on the dealer registration exemption in the rule in Ontario will be required to pay an annual participation fee based on the firm's Ontario revenues for the year (generally expected to be $835 per year for most funding portals).

As explained in the Companion Policy to OSC Rule 13-502 *Fees*, activity fees are charged for the filing of certain documents with the Commission based on the average cost to the Commission of reviewing such documents. Participation fees are charged to cover the Commission's costs not easily attributable to specific regulatory activities. In the case of registered firms or unregistered capital markets participants, the participation fee is based on the firm's revenues attributable to its capital markets activity in Ontario.

We have included these fees to be consistent with other prospectus exemptions that require the filing of a Form 45-106F1 and to treat registered and unregistered entities that operate funding portals in a consistent manner. The participation fee payable by funding portals is also intended to cover the costs of the Commission conducting background checks on persons and companies filing Form 45-110F3 *Funding Portal Information* and Form 45-110F4 *Portal Individual Information*.

In view of the purpose of the rule to improve the effectiveness of crowdfunding as a capital raising tool for start-ups and early stage issuers, while maintaining adequate investor protection, are there other considerations we should consider, in addition to consistency of treatment among market participants?

7. Rule-making Authority

In Ontario, the following provisions of the Act provide the Commission with authority to make the Proposed Amendments:

- Paragraph 8 of subsection 143(1) of the Act authorizes the Commission to make rules that prescribe exemptions from the requirement to be registered under the Act;
- Clause iii of paragraph 10 of subsection 143(1) authorizes the Commission to make rules designating a person or company for the purpose of the definition of "market participant" and paragraph 10 of subsection 143(10) of the Act authorizes the Commission to make rules that prescribe requirements in respect of the books, records and other documents required to be kept by market participants;
- Paragraph 20 of subsection 143(1) of the Act authorizes the Commission to make rules that prescribe exemptions from the prospectus requirement in the Act;
- Paragraph 49 of subsection 143(1) of the Act authorizes the Commission to make rules to permit or require methods of filing or delivery of documents to or by issuers; and
- Paragraph 55 of subsection 143(1) of the Act authorizes the Commission to make rules that specify exemptions and circumstances that shall be subject to section 130.1 of the Act.

8. Alternatives Considered

An alternative considered was to maintain the *status quo*, which would mean that there will continue to be no harmonized crowdfunding regime in Canada. The Commission is of the view that maintaining the *status quo* denies an alternative source of capital to non-reporting issuers that are at early stage of development, denies a business opportunity to exempt funding portals and registered funding portals that wish to facilitate start-up crowdfunding offerings and generally denies crowdfunding investment opportunities to retail investors. The Commission is also of the view that the opportunities associated with a national harmonized start-up crowdfunding outweigh any associated regulatory costs.

9. Reliance on unpublished studies

The Commission is not relying on any significant unpublished study, report or other written material in proposing the Proposed Instrument.

SCHEDULE B1

PROPOSED AMENDMENTS TO ONTARIO SECURITIES COMMISSION
RULE 11-501 *ELECTRONIC DELIVERY OF DOCUMENTS TO THE ONTARIO SECURITIES COMMISSION*

1. ***Ontario Securities Commission Rule 11-501 Electronic Delivery of Documents to the Ontario Securities Commission is amended by this Instrument.***

2. ***Appendix A is amended by inserting the following rows into the table immediately following the row "45-108F1":***

45-110F1	Form 45-110F1 *Offering Document*
45-110F3	Form 45-110F3 *Funding Portal Information*
45-110F4	Form 45-110F4 *Portal Individual Information*
45-110F5	Form 45-110F5 *Annual Working Capital Certification*

3. This Instrument comes into force on [***date***].

SCHEDULE B2

PROPOSED AMENDMENTS TO
ONTARIO SECURITIES COMMISSION RULE 13-502 *FEES*

1. ***Ontario Securities Commission Rule 13-502 Fees is amended by this Instrument.***

2. ***The definition of "unregistered capital markets participant" in section 1.1 is replaced by the following*:**

"unregistered capital markets participant" means

(a) an unregistered investment fund manager;

(b) an unregistered exempt international firm; or

(c) a funding portal relying on the exemption in section 3 of National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*.

3. This Instrument comes into force on [***date***].

SCHEDULE B3

PROPOSED AMENDMENTS TO ONTARIO SECURITIES COMMISSION RULE 45-501 *ONTARIO PROSPECTUS AND REGISTRATION EXEMPTIONS*

1. ***Ontario Securities Commission Rule 45-501 Ontario Prospectus and Registration Exemptions is amended by this Instrument.***

2. ***Section 5.1 is amended by deleting "***and***" at the end of paragraph (f.1), and by adding the following paragraph:***

   (f.2) section 5 of National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*, and

3. ***The following subsection is added after subsection 5.2(1):***

   (1.1) For the purposes of section 130.1 of the Act, the method of furnishing or delivering an offering document under Multilateral Instrument 45-108 *Crowdfunding* or National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* to a prospective purchaser includes making the offering document available to the prospective purchaser through a funding portal, as defined in the respective instruments.

4. ***Subsection 5.4(2) is replaced by the following:***

   (2) The requirement in subsection (1) does not apply to an offering memorandum prepared and filed with the Commission in accordance with section 2.9 of NI 45-106, Multilateral Instrument 45-108 *Crowdfunding,* or National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*.

5. This Instrument comes into force on [***date***].

SCHEDULE B4

PROPOSED CHANGES TO COMPANION POLICY 45-501CP TO ONTARIO SECURITIES COMMISSION RULE 45-501 *ONTARIO PROSPECTUS AND REGISTRATION EXEMPTIONS*

1. ***Companion Policy 45-501CP – to Ontario Securities Commission Rule 45-501 Ontario Prospectus and Registration Exemptions is changed by this Instrument.***

2. ***Subsection 5.3(1) is replaced by the following:***

   5.3 Right of action for damages and right of rescission – (1) Part 5 of the Rule provides for the application of the rights referred to in section 130.1 of the Act if an offering memorandum is delivered to a prospective purchaser in connection with a distribution made in reliance on a prospectus exemption listed in section 5.1 of the Rule.

   The rights apply when the offering memorandum is delivered mandatorily in connection with a distribution made in reliance on a prospectus exemption listed in paragraphs (d.1), (f.1), (f.2) or (g) of section 5.1 of the Rule, or voluntarily in connection with a distribution made in reliance on a prospectus exemption listed in paragraphs 5.1(a), (b), (b.1), (d), (e) or (f) of the Rule.

3. ***Subsection 5.4(1) is replaced by the following:***

   5.4 Content of offering memorandum – (1) Other than in the case of an offering memorandum delivered in connection with a distribution made in reliance on a prospectus exemption listed in paragraphs 5.1(d.1), (f.1), (f.2) or (g) of the Rule, and subject to subsection (2), Ontario securities legislation does not prescribe the content of an offering memorandum. The decision relating to the appropriate disclosure in an offering memorandum rests with the issuer, the selling security holder and their advisors.

4. ***Subsection 5.5(1) is changed as follows:***

   5.5 Review of offering memorandum – (1) Staff may review an offering memorandum filed in connection with a distribution made in reliance on

   - the exemption in section 2.9 of NI 45-106 [*Offering memorandum*],
   - the exemption in section 5 of Multilateral Instrument 45-108 *Crowdfunding*, or
   - the exemption in section 5 of National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*.

   They may also review an offering memorandum if it is delivered in connection with a distribution made in reliance on another exemption referred to in Part 5 of the Rule. When Staff reviews an offering memorandum, they review its form and content for the purpose of determining whether the issuer has complied with the requirements, conditions and restrictions of the exemption relied on for the distribution.

5. These changes become effective on ***[date]***.

ANNEX C

PROPOSED NATIONAL INSTRUMENT 45-110
START-UP CROWDFUNDING REGISTRATION AND PROSPECTUS EXEMPTIONS

PART 1

DEFINITIONS AND INTERPRETATION

Definitions

1. **(1)** In this Instrument

"affiliate" means, in respect of an issuer, another issuer if (a) one of the issuers is the subsidiary of the other, or (b) each of the issuers is controlled by the same person or company;

"crowdfunding distribution" means a distribution under the exemption from the prospectus requirement in this Instrument;

"eligible security" means any of the following:

(a) a common share;

(b) a non-convertible preference share;

(c) a security convertible into a security referred to in paragraph (a) or (b);

(d) a non-convertible debt security linked to a fixed or floating interest rate;

(e) a unit of a limited partnership;

"exempt market dealer" means a person or company registered in the category of exempt market dealer;

"founder" means a person or company who,

(a) in respect of an issuer or a funding portal, acting alone, in conjunction, or in concert with one or more persons or companies, directly or indirectly, takes the initiative in founding, organizing or substantially reorganizing the business of the issuer or funding portal, as applicable, and

(b) in respect of an issuer, at the time of the distribution or trade, is actively involved in the business of the issuer;

"funding portal" means a person or company that facilitates or proposes to facilitate a crowdfunding distribution through a web-based or application-based platform;

"investment dealer" means a person or company registered in the category of investment dealer;

"issuer group" means, in respect of an issuer, any of the following:

(a) the issuer;

(b) an affiliate of the issuer;

(c) any other issuer if either of the following conditions is satisfied:

(i) it is engaged in a common enterprise with the issuer or with an affiliate of the issuer;

(ii) its business is founded or organized by a person or company who founded or organized the issuer;

"minimum offering amount" means, with respect to a crowdfunding distribution, the minimum amount disclosed in an issuer's completed Form 45-110F1 *Offering Document*;

"principal" means, with respect to a funding portal or an issuer, a founder, director, officer or control person;

"subsidiary" means an issuer that is controlled directly or indirectly by another issuer and includes a subsidiary of that subsidiary.

(2) For the purpose of this Instrument, a person (first person) is considered to control another person (second person) if

(a) the first person beneficially owns or directly or indirectly exercises control or direction over securities of the second person carrying votes which, if exercised, would entitle the first person to elect a majority of the directors of the second person, unless that first person holds the voting securities only to secure an obligation,

(b) the second person is a partnership, other than a limited partnership, and the first person holds more than 50% of the interests of the partnership, or

(c) the second person is a limited partnership and the general partner of the limited partnership is the first person.

Special Rules – Alberta, British Columbia, Ontario, Québec and Saskatchewan

2. (1) In Alberta, a completed Form 45-110F1 *Offering Document* relied on under this Instrument is designated to be an offering memorandum under securities legislation.

(2) In British Columbia, a completed Form 45-110F1 *Offering Document* required to be made available to a purchaser under the exemption from the prospectus requirement in this Instrument is a prescribed disclosure document for purposes of section 132.1 of the *Securities Act* (British Columbia).

(3) In Ontario, an issuer that distributes securities in reliance on the exemption in section 5 is prescribed as a market participant under the *Securities Act* (Ontario).

(4) In Saskatchewan, a completed Form 45-110F1 *Offering Document* relied on under this Instrument is an offering memorandum under securities legislation.

(5) In Québec,

(a) a completed Form 45-110F1 *Offering Document* and a completed Form 45-110F2 *Risk Acknowledgement* made available to purchasers in accordance with this Instrument must be drawn up in French only or in French and English;

(b) a funding portal that has relied on the exemption in section 3 is a market participant determined by regulation for the purpose of section 151.1.1 of the *Securities Act* (chapter V-1.1); and

(c) a completed Form 45-110F1 *Offering Document* and materials that are made available to purchasers in accordance with this Instrument are documents authorized by the Autorité des marchés financiers for use in lieu of a prospectus.

PART 2

EXEMPTION FROM THE DEALER REGISTRATION REQUIREMENT

Exemption from dealer registration requirement

3. (1) A funding portal is exempt from the dealer registration requirement if the following apply:

(a) the funding portal is not registered under securities legislation in any jurisdiction of Canada;

(b) the funding portal does not advise a purchaser about the merits of an investment or recommend or represent that an eligible security is a suitable investment for the purchaser;

(c) the funding portal does not receive a commission, fee or other similar payment from a purchaser;

(d) the funding portal only facilitates or proposes to facilitate crowdfunding distributions;

(e) at least 30 days before the first date the funding portal facilitates a crowdfunding distribution, the funding portal delivered to the securities regulatory authority or regulator all of the following documents:

(i) a completed Form 45-110F3 *Funding Portal Information* for the funding portal certified by an authorized individual of the funding portal;

(ii) a completed Form 45-110F4 *Portal Individual Information* for each principal of the funding portal that contains a certification signed by that principal;

(f) the funding portal has its head office in Canada;

(g) the funding portal has policies and procedures reasonably designed to prevent a person or company from accessing its platform unless the person or company acknowledges that the person or company is accessing a platform of a funding portal that:

(i) is not a registered dealer under securities legislation in any jurisdiction of Canada, and

(ii) will not, and is not authorized to, provide advice about

(A) the suitability of any security for investment by the person or company, or

(B) the merits of any investment;

(h) the following is disclosed on the funding portal's platform:

(i) a statement that the funding portal is not registered in any capacity under securities legislation in any jurisdiction of Canada and is relying on the exemption in this Instrument from the dealer registration requirement;

(ii) a statement that the funding portal will hold each purchaser's assets

(A) separate and apart from the funding portal's own property,

(B) in trust for the purchaser, and

(C) in the case of cash, in a designated trust account at a Canadian financial institution; and

(iii) the policies and procedures that the funding portal will follow for notifying each purchaser if the funding portal becomes insolvent or discontinues operations, and how the funding portal will return the assets to the purchaser;

(i) the funding portal holds each purchaser's assets

(i) separate and apart from the funding portal's own property,

(ii) in trust for the purchaser, and

(iii) in the case of cash, in a designated trust account at a Canadian financial institution;

(j) the funding portal has policies and procedures for handling funds, in relation to a crowdfunding distribution, sufficient to provide reasonable assurance that the funding portal will comply with the conditions at paragraph 3(1)(i);

(k) the funding portal does not close a crowdfunding distribution on its platform unless the funding portal receives, through the funding portal's platform, payment for the distribution of each eligible security from the purchaser of such security;

(l) when an issuer provides the funding portal with its completed Form 45-110F1 *Offering Document* and a Form 45-110F2 *Risk Acknowledgement*, the funding portal has policies and procedures reasonably designed to make these documents available to each purchaser through its platform;

(m) the funding portal has policies and procedures to prevent a purchaser from subscribing to a crowdfunding distribution unless the purchaser first completes the Form 45-110F2 *Risk Acknowledgement* and confirms that the purchaser has read and understands the issuer's completed Form 45-110F1 *Offering Document;*

(n) the funding portal has policies and procedures for promptly notifying each purchaser of an issuer's crowdfunding distribution of

(i) any amendment to that issuer's completed Form 45-110F1 *Offering Document*, and

(ii) the purchaser's right to withdraw from the agreement to purchase the security by delivering a notice to the funding portal under paragraph 5(1)(j);

(o) the funding portal has policies and procedures to return all funds to a purchaser within five business days of receiving a withdrawal notification under paragraph 0(1)(j) from the purchaser;

(p) if an issuer has not raised the minimum offering amount by the 90th day after the issuer's completed Form 45-110F1 *Offering Document* is first made available on the funding portal's platform, or if an issuer notifies the funding portal that it is withdrawing its crowdfunding distribution, then no later than five business days after such occurrence, the funding portal

(i) notifies the issuer, and each purchaser of that issuer's crowdfunding distribution, that funds have been returned or are in the process of being returned, and

(ii) takes reasonable steps to return, or cause to be returned, all funds to each purchaser of that issuer's crowdfunding distribution;

(q) if each two-day period in paragraph 5(1)(j) has elapsed, then the funding portal

(i) releases, or causes to be released, all funds due to the issuer at the closing of the distribution, and

(ii) no later than fifteen days after the closing of the distribution

(A) notifies each purchaser that the funds have been released to the issuer, and

(B) provides the issuer with all information required to comply with the issuer's obligations in paragraph 5(2)(b);

(r) neither the funding portal, nor any of its principals, is or has been the subject of an order, judgment, decree, sanction, or administrative penalty imposed by, or has entered into a settlement agreement with, a government agency, administrative agency, self-regulatory organization, civil court, or administrative court in the last 10 years related to a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct;

(s) neither the funding portal, nor any of its principals, is or has been a principal of an entity that is or has been subject to an order, judgment, decree, sanction, administrative penalty or a settlement agreement described in paragraph 3(1)(r);

(t) the funding portal has policies and procedures to promptly notify the securities regulatory authority or the regulator, and any purchasers for which it holds assets, of the process the funding portal will use to return the assets to these purchasers, in the event that the funding portal becomes insolvent or discontinues operations; and

(u) the funding portal is not insolvent.

(2) A funding portal relying on the exemption in subsection 3(1) must:

(a) maintain, for a period of eight years from the date a record is created, books and records at its head office that accurately record its financial affairs and client transactions, and demonstrate the extent of the funding portal's compliance with this Instrument;

(b) notify the securities regulatory authority or regulator of each change to the information previously submitted in a document referred to in paragraph 3(1)(e) by delivering an amendment to the document no later than 30 days after the change;

(c) take reasonable steps to confirm that the majority of the directors of the funding portal ordinarily reside in Canada;

(d) disclose on its platform, for each principal of the funding portal, the full legal name, municipality and jurisdiction of residence, business mailing and email address and business telephone number of each principal of the funding portal;

(e) take reasonable steps to confirm that the head office of an issuer is in Canada before allowing that issuer to post a crowdfunding distribution on the funding portal's platform;

(f) not allow a person or company to access the funding portal's platform unless the person or company acknowledges that the person or company is accessing a platform of a funding portal that:

(i) is not a registered dealer under securities legislation in any jurisdiction of Canada, and

(ii) will not, and is not authorized to, provide advice about

(A) the suitability of any security for investment by the person or company, or

(B) the merits of any investment;

(g) not close a crowdfunding distribution on its platform unless the funding portal has made the applicable Form 45-110F1 *Offering Document* and Form 45-110F2 *Risk Acknowledgement* available to each purchaser through the funding portal's platform;

(h) not close a crowdfunding distribution on its platform unless each purchaser completes the Form 45-110F2 *Risk Acknowledgement* and confirms that the purchaser has read and understands the issuer's completed Form 45-110F1 *Offering Document*;

(i) upon receiving notice from an issuer that the issuer has amended its completed Form 45-110F1 *Offering Document*, promptly notify each purchaser of that issuer's crowdfunding distribution of

(i) the amendment; and

(ii) the purchaser's right to withdraw from the agreement to purchase the security by delivering a notice to the funding portal under paragraph 5(1)(j);

(j) return all funds to a purchaser within five business days of receiving a withdrawal notification under paragraph 5(1)(j) from that purchaser;

(k) deliver to the securities regulatory authority or regulator a completed Form 45-110F5 *Annual Working Capital Certification* within 10 days of the calendar year-end; and

(l) upon becoming insolvent or discontinuing operations, promptly notify the securities regulatory authority or the regulator, and any purchasers for which it holds assets, of the process the funding portal will use to return the assets to these purchasers.

PART 3

REGISTERED PORTALS

4. (1) If an investment dealer or exempt market dealer operates a funding portal, the dealer must:

(a) not close a crowdfunding distribution on its platform unless the dealer receives, through the funding portal's platform, payment for the distribution of each eligible security from the purchaser of such security;

(b) take reasonable steps to confirm that the head office of an issuer is in Canada before allowing that issuer to post a crowdfunding distribution on the funding portal's platform;

(c) not close a crowdfunding distribution on its platform unless the funding portal has made the applicable Form 45-110F1 *Offering Document* and Form 45-110F2 *Risk Acknowledgement* available to each purchaser through the funding portal's platform;

(d) not close a crowdfunding distribution on its platform unless each purchaser completes the Form 45-110F2 *Risk Acknowledgement* and confirms that the purchaser has read and understands the issuer's completed Form 45-110F1 *Offering Document*;

(e) upon receiving notice from an issuer that the issuer has amended its completed Form 45-110F1 *Offering Document*, promptly notify each purchaser of that issuer's crowdfunding distribution of

(i) the amendment, and

(ii) the purchaser's right to withdraw from the agreement to purchase the security by delivering a notice to the funding portal not later than midnight on the 2nd business day after the funding portal provides notice of the amendment;

(f) return all funds to a purchaser within five business days of receiving a withdrawal notification under paragraph 5(1)(j) from that purchaser;

(g) upon an issuer not raising the minimum offering amount by the 90th day after the issuer's completed Form 45-110F1 *Offering Document* is first made available on the funding portal's platform, or an issuer notifying the funding portal that it is withdrawing its crowdfunding distribution, no later than five business days after such occurrence

(i) notify the issuer, and each purchaser of that issuer's crowdfunding distribution, that funds have been returned or are in the process of being returned, and

(ii) take reasonable steps to return, or cause to be returned, all funds to each purchaser of that issuer's crowdfunding distribution;

(h) after each two-day period in paragraph 5(1)(j) has elapsed

(i) release, or cause to be released, all funds due to the issuer at the closing of the distribution, and

(ii) no later than fifteen days after the closing of the distribution

(A) notify each purchaser that the funds have been released to the issuer, and

(B) provide the issuer with all information required to comply with the issuer's obligations in paragraph 5(2)(b); and

(i) not allow a person or company to access the funding portal's platform, unless the person or company has acknowledged that the person or company is accessing a platform that

(i) is operated by an investment dealer or an exempt market dealer, as applicable, and

(ii) will provide advice about the suitability of the eligible security.

PART 4

EXEMPTION FROM PROSPECTUS REQUIREMENT FOR ISSUERS

Exemption from prospectus requirement for issuers

5. (1) An issuer is exempt from the prospectus requirement in respect of a crowdfunding distribution if the following apply:

(a) the distribution of and payment for the security is facilitated through a funding portal that is

(i) relying on the exemption set out in subsection 3(1), or

(ii) operated by an exempt market dealer or investment dealer;

(b) the purchaser purchases the security as principal;

(c) the issuer is not a reporting issuer in any jurisdiction of Canada or the equivalent in any foreign jurisdiction;

(d) the issuer is not an investment fund;

(e) the issuer has its head office in Canada;

(f) the security distributed is an eligible security of the issuer's own issue;

(g) the aggregate gross proceeds raised by the issuer group in reliance on this section during the 12-month period before the closing of the crowdfunding distribution does not exceed $1 000 000;

(h) the issuer has completed a Form 45-110F1 *Offering Document* and provided it to the funding portal;

(i) the crowdfunding distribution ends no later than the 90th day after the date the issuer's completed Form 45-110F1 *Offering Document* is made available on the funding portal's platform;

(j) the issuer includes in the subscription agreement a term that the purchaser may withdraw from the agreement to purchase the security by delivering a notice of withdrawal to the funding portal not later than midnight on the 2nd business day after:

(i) the day on which the purchaser enters into the agreement, and

(ii) the day on which the funding portal notifies the purchaser of an amendment to the issuer's completed Form 45-110F1 *Offering Document*;

(k) the issuer's completed Form 45-110F1 *Offering Document* discloses how the issuer intends to use the funds raised and the minimum offering amount required to close the crowdfunding distribution;

(l) the issuer does not close the crowdfunding distribution until the issuer has raised the minimum offering amount stated in the issuer's completed Form 45-110F1 *Offering Document* either through subscriptions to the crowdfunding distribution or any concurrent distribution under one or more other exemptions from the prospectus requirement provided the funds are unconditionally available to the issuer;

(m) no concurrent crowdfunding distribution is made by any member of the issuer group for the same purposes as described in the issuer's completed Form 45-110F1 *Offering Document*;

(n) no commission, fee or similar payment is paid by the issuer to the issuer group, or any principal, employee or agent of a member of the issuer group with respect to the crowdfunding distribution;

(o) no principal of the issuer group is a principal of the funding portal;

(p) the issuer does not distribute to any one purchaser securities valued at more than

(i) subject to subparagraph (ii), $2 500 or

(ii) if the purchaser has obtained advice from a registered dealer that the investment is suitable for the purchaser, $5 000; and

(q) the issuer does not intend to use the proceeds of the crowdfunding distribution to invest in, merge with, amalgamate with or acquire a business, or to purchase securities of one or more other issuers, that is not identified in the issuer's completed Form 45-110F1 *Offering Document.*

(2) An issuer relying on subsection 5(1) must

(a) if the issuer becomes aware that its completed Form 45-110F1 *Offering Document* is not accurate, promptly

(i) advise the funding portal that the issuer's Form 45-110F1 is not accurate,

(ii) amend the Form 45-110F1 so that it is no longer inaccurate, and

(iii) provide the amended Form 45-110F1 to the funding portal;

(b) within 30 days after the closing of the crowdfunding distribution, deliver to each purchaser

(i) a confirmation setting out the following:

(A) the date of subscription and the closing of the crowdfunding distribution;

(B) the quantity and description of the eligible security purchased;

(C) the price per eligible security paid by the purchaser;

(D) the total commissions, fees and any similar payments paid by the issuer to the funding portal in respect of the crowdfunding distribution; and

(ii) a copy of the issuer's completed Form 45-110F1 *Offering Document*.

Filing of distribution materials

6. An issuer that distributes a security under this Instrument must file both of the following documents no later than the 30th day after the closing of the crowdfunding distribution:

(a) the completed Form 45-110F1 *Offering Document*;

(b) a report of exempt distribution in accordance with Form 45-106F1 *Report of Exempt Distribution* of National Instrument 45-106 *Prospectus Exemptions*.

PART 5

EXEMPTION

Exemption

7. (1) Subject to subsection (2), the securities regulatory authority or regulator may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

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

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

PART 6

COMING INTO FORCE

Coming into force

8. (1) This Instrument comes into force on ●.

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

ANNEX D

PROPOSED FORM 45-110F1
OFFERING DOCUMENT

GENERAL INSTRUCTIONS:

(1) This offering document is to be provided to your funding portal, which must make it available on its online platform. This offering document must not contain a misrepresentation. A misrepresentation means an untrue statement of material fact or an omission to state a material fact that is required to be stated, or necessary to prevent a statement that is made from being false or misleading in the circumstances in which it was made. If the information contained in this offering document is no longer accurate and contains a misrepresentation, you must immediately notify the funding portal, amend the offering document and provide the new version to the funding portal.

(2) An issuer relying on the start-up crowdfunding prospectus exemption must file this offering document, and all amendments to it, in the jurisdictions where the issuer has made a crowdfunding distribution, as well as in the province or territory where the issuer's head office is located.

The offering document is required to be filed no later than the 30th day after the closing of the distribution.

(3) This offering document must be completed and certified by an authorized individual on behalf of the issuer.

(4) Draft this offering document so that it is easy to read and understand. Be concise and use clear, plain language. Avoid technical terms.

(5) Conform as closely as possible to the format set out in this form. Address the items in the order set out below. No variation of headings, numbering or information set out in the form is allowed and all are to be displayed as shown.

Item 1: RISKS OF INVESTING

1.1 Include the following statement, in bold type:

"**No securities regulatory authority or regulator has assessed, reviewed or approved the merits of these securities or reviewed this offering document. Any representation to the contrary is an offence. This is a risky investment.**"

1.2 Include the following statement, in bold type, if the issuer provides forward-looking statements:

"**The forecasts and predictions of an early-stage business are difficult to objectively analyze or confirm. Forward-looking statements represent the opinion of the issuer only and may not prove to be reasonable.**"

Item 2: THE ISSUER

2.1 Provide the following information for the issuer:

(a) Full legal name as it appears in the issuer's articles of incorporation, limited partnership agreement or other organizing documents, as the case may be,

(b) Head office address,

(c) Telephone,

(d) Email address, and

(e) Website URL.

Instructions: The head office is generally where the people managing the issuer, including the CEO, maintain their offices. This may be the same as, or different from, the registered office address, depending on the legal structure of the issuer. The address of the head office should be a physical address and not a post office (P.O.) box.

2.2 Provide the following information for a contact person of the issuer who is able to answer questions from purchasers and the securities regulatory authority or regulator:

(a) Full legal name (first name, middle name and last name),

(b) Position held with the issuer,

(c) Business address,

(d) Business telephone, and

(e) Email address.

Item 3: ISSUER'S BUSINESS

3.1 Describe the issuer's business. Provide details about the issuer's industry and operations. Provide enough details for an investor to clearly understand what the issuer does or intends to do.

Instructions:

(1) Consider the following:

- *Does or will the issuer build, design or develop something? Sell something produced by others? Provide a service? What makes the issuer's business special and different from other competitors in the industry?*
- *What milestones has the issuer already reached and hopes to achieve in the next couple years? E.g., Complete testing? Find a manufacturer? Commence a marketing campaign? Buy inventory? What is the proposed timeline for achieving each of the milestones?*
- *What are the major hurdles that the issuer expects to face in achieving its milestones?*
- *How are the funds raised from this financing expected to help the issuer advance its business and achieve one or more of the milestones?*
- *Has the issuer entered any contracts that are important to its business?*
- *Has the issuer conducted any operations yet?*
- *Where does the issuer see its business in three, five and ten years?*
- *What are the issuer's future plans and hopes for its business and how does it plan to get there?*
- *What is the issuer's management experience in running a business or in the same industry?*
- *Does the issuer have business premises from which it can operate its business?*
- *How many employees does the issuer have? Need?*

(2) An issuer describing its business must not refer to a measure of financial performance, financial position or cash flow in the offering document unless (i) the issuer has made financial statements available for the most recently completed financial year, and (ii) the measure referred to in the offering document is an amount presented in the financial statements or is reconciled to an amount presented in the financial statements.

3.2 Describe the legal structure of the issuer and indicate the jurisdiction where the issuer is incorporated or organized.

Instructions: Indicate whether the issuer is a corporation, a limited partnership, a general partnership or other. Also, indicate the province, territory or state where the issuer is incorporated or organized.

3.3 Indicate where the issuer's articles of incorporation, limited partnership agreement, shareholder agreement or similar document are available for purchasers to review.

Instruction: You may provide online access to these documents for investors.

3.4 Indicate which statement(s) best describe the issuer's operations (select all that apply):

☐ Has never conducted operations,

☐ Is in the development stage,

☐ Is currently conducting operations,

3.5 Indicate whether the issuer has financial statements available. If yes, include the following statement, in bold type:

"**Information for purchasers: If you receive financial statements from an issuer conducting a crowdfunding distribution, you should know that those financial statements have not been provided to or reviewed by a securities regulatory authority or regulator. They are not part of this offering document. You should also consider seeking advice of an accountant or an independent financial adviser about the information in the financial statements.**"

Instructions:

(1) Any financial statements made available in connection with the start-up crowdfunding distribution must be prepared in accordance with Canadian GAAP. These financial statements must present the issuer's results of operations for its most recently completed financial year.

(2) If an auditor has issued an auditor's report on the financial statements, they must be included with the financial statements. If the financial statements were not audited, the issuer must label the financial statements as unaudited.

3.6 Describe the number and type of securities of the issuer outstanding as at the date of the offering document. If there are securities outstanding other than the eligible securities being offered, please describe those securities.

Item 4: MANAGEMENT

4.1 Provide the information in the following table for each founder, director, officer and control person of the issuer:

Full legal name, municipality of residence and position at issuer	Principal occupation for the last five years	Expertise, education, and experience that is relevant to the issuer's business	Number and type of securities of the issuer owned	Date securities were acquired and price paid for the securities	Percentage of the issuer's securities held as of the date of this offering document

4.2 Provide the name of the person involved and details on the time, nature and the outcome of the proceedings for each of the persons listed in item 4.1 and the issuer who, as the case may be:

(a) has ever, pled guilty to or been found guilty of:

(i) a summary conviction or indictable offence under the *Criminal Code* (R.S.C., 1985, c. C-46) of Canada,

(ii) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction,

(iii) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein, or

(iv) an offence under the criminal legislation of any other foreign jurisdiction,

(b) is or has been the subject of an order (cease trade or otherwise), judgment, decree, sanction, or administrative penalty imposed by, or has entered into a settlement agreement with, a government agency, administrative agency, self-regulatory organization, civil court, or administrative court of Canada or a foreign jurisdiction in the last ten years related to:

(i) the person's involvement in any securities, insurance or banking activity, or

(ii) a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct,

(c) is or has been the subject of an order, judgment, decree, sanction or administrative penalty imposed by a discipline committee, professional order or administrative court of Canada or a foreign jurisdiction in the last ten years related to any professional misconduct,

(d) is or has ever been the subject of a bankruptcy or insolvency proceeding,

(e) is a director, officer, founder or control person of an entity that is or has been subject to a proceeding described in paragraphs (a), (b), (c) or (d) above.

Instructions: A quasi-criminal offence includes offences under the Income Tax Act (R.S.C. 1985, c. 1 (5th Suppl.)), the Immigration and Refugee Protection Act (R.S.C., 2001, c. 27) or the tax, immigration, drugs, firearms, money laundering or securities legislation of any province or territory of Canada or foreign jurisdiction.

Item 5: CROWDFUNDING DISTRIBUTION

5.1 Provide the name of the funding portal the issuer is using to conduct its crowdfunding distribution. If the issuer is using a funding portal that is operated by a registered dealer, it must also provide the name of the registered dealer.

Instruction: The offering document can only be posted on one funding portal.

5.2 Indicate all the jurisdictions (Canadian provinces and territories) where the issuer intends to raise funds and make this offering document available.

☐ Alberta	☐ Newfoundland and Labrador	☐ Ontario
☐ British Columbia	☐ Northwest Territories	☐ Prince Edward Island
☐ Manitoba	☐ Nova Scotia	☐ Québec
☐ New Brunswick	☐ Nunavut	☐ Saskatchewan
		☐ Yukon

5.3 Provide the following information with respect to the crowdfunding distribution:

(a) the date before which the issuer must have raised the minimum offering amount for the closing of the distribution (no later than 90 days after the date this offering document is first made available on the funding portal); and

(b) the date(s) and description of any amendment(s) made to this offering document, if any.

Instruction: An amendment to the offering document cannot modify the date in (a).

5.4 Indicate the type of eligible securities offered.

☐ Common shares

☐ Non-convertible preference shares

☐ Securities convertible into common shares

☐ Securities convertible into non-convertible preference shares

☐ Non-convertible debt linked to a fixed interest rate

☐ Non-convertible debt linked to a floating interest rate

☐ Limited partnership units

5.5 The securities offered have the following rights, restrictions and conditions:

☐ Voting rights

☐ Dividends or interests (describe any right to receive dividends or interest)

☐ Rights on dissolution

☐ Conversion rights (describe what each security is convertible into)

☐ Tag-along rights

☐ Drag-along rights

- ☐ Pre-emptive rights
- ☐ Other (describe the rights).

Instructions: This information is usually found in the organizing documents referred to in item 3.3.

5.6 Provide a brief summary of any other material restrictions or conditions that attach to the eligible securities being offered, such as tag-along, drag along or pre-emptive rights.

Instructions: The restrictions and conditions to be described here are generally found in by-laws, shareholder's agreements or limited partnership agreements.

5.7 In a table, provide the following information:

	Total amount ($)	Total number of securities issuable
Minimum offering amount		
Maximum offering amount		
Price per security		

5.8 Indicate the minimum investment amount per purchaser, or if the issuer has not set a minimum investment amount, state that.

5.9 Include the following statement, in bold type:

"Note: The minimum offering amount stated in this offering document may be satisfied with funds that are unconditionally available to [insert name of issuer] that are raised using other prospectus exemptions."

Item 6: USE OF FUNDS

6.1 Provide the following information on the funds previously raised by the issuer:

(a) The amount of funds previously raised;

(b) How the issuer raised those funds;

(c) If the funds were raised by issuing securities, the prospectus exemption that the issuer relied on to issue those securities; and

(d) How the issuer used those funds.

If the issuer has not previously raised funds, state this fact.

6.2 Using the following table, provide a detailed breakdown of how the issuer will use the funds from this crowdfunding distribution. If any of the funds will be paid directly or indirectly to a founder, director, officer or control person of the issuer, disclose in a note to the table the name of the person, the relationship to the issuer and the amount. If more than 10% of the available funds will be used by the issuer to pay debt and the issuer incurred the debt within the two preceding financial years, describe why the debt was incurred.

Description of intended use of funds listed in order of priority	Assuming minimum offering amount	Assuming maximum offering amount

Item 7: PREVIOUS CROWDFUNDING DISTRIBUTIONS

7.1 For each crowdfunding distribution in which the issuer group and each founder, director, officer and control person of the issuer group have been involved in the past five years, provide the information below:

(a) the full legal name of the issuer that made the distribution,

(b) the name of the funding portal, and

(c) whether the distribution successfully closed, was withdrawn by the issuer or did not close because the minimum offering amount was not reached and the date on which any of these occurred.

Instruction: Provide the information for all previous crowdfunding distributions involving the issuer group and each founder, director, officer and control person of the issuer group, even if the previous crowdfunding distribution was made by an issuer that is not part of the issuer group.

Item 8: COMPENSATION PAID TO FUNDING PORTAL

Provide a description of each commission, fee and any other amounts expected to be paid by the issuer to the funding portal for this crowdfunding distribution and the estimated amount to be paid. If a commission is being paid, indicate the percentage that the commission will represent of the gross proceeds of the offering assuming both the minimum and maximum offering amount.

Item 9: RISK FACTORS

9.1 Describe in order of importance, starting with the most important, the risk factors material to the issuer that a reasonable investor would consider important in deciding whether to buy the issuer's securities.

9.2 If the securities being distributed are to pay interest, dividends or distributions and the issuer does not have the financial resources to make such payments, (other than from the sale of securities) state in bold type:

"We do not currently have the financial resources to pay [interest, dividends or distributions] to investors. There is no assurance that we will ever have the financial resources to do so."

Item 10: REPORTING OBLIGATIONS

10.1 Describe the nature and frequency of any disclosure of information the issuer intends to provide to purchasers after the closing of the distribution and explain how purchasers can access this information.

10.2 If the issuer is required by corporate legislation, its constating documents (e.g., articles of incorporation or by-laws) or otherwise to provide either or both of annual financial statements or an information circular/proxy statements to its security holders, state that fact.

10.3 If the issuer is aware, after making due inquiries, of any existing voting trust agreement among certain shareholders of the issuer, provide the information below:

(a) the number of shareholders party to the agreement,

(b) the percentage of voting shares of the issuer subject to the agreement,

(c) the name of the person acting as a trustee,

(d) whether the trustee has been granted any additional powers, and

(e) whether the agreement is limited to a specified period of time.

Item 11: RESALE RESTRICTIONS

11.1 Include the following statement, in bold type:

"**The securities you are purchasing are subject to a resale restriction. You may never be able to resell the securities.**"

Item 12: PURCHASERS' RIGHTS

12.1 Include the following statement, in bold type:

"Rights of Action in the Event of a Misrepresentation

If there is a misrepresentation in this offering document, you have a right to sue:

(a) [name of issuer or other term used to refer to issuer] to cancel your agreement to buy these securities, or

(b) for damages against [name of issuer or other term used to refer to issuer] and may, in certain jurisdictions, have the statutory right to sue other persons.

This right to sue is available to you whether or not you relied on the misrepresentation. However, there are various defenses available to the persons or companies that you have a right to sue. In particular, they have a defense if you knew of the misrepresentation when you purchased the securities.

If you intend to rely on the rights described in (a) or (b) above, you must do so within strict time limitations.

Two-day cancellation right

You can cancel your agreement to purchase these securities. To do so, you must send a notice to the funding portal not later than midnight on the second business day after you enter into the agreement. If there is an amendment to this offering document, you can cancel your agreement to purchase these securities by sending a notice to the funding portal not later than midnight on the second business day after the funding portal provides you notice of the amendment."

Item 13: DATE AND CERTIFICATE

13.1 Include the following statement, in bold type:

"**This offering memorandum does not contain a misrepresentation.**"

13.2 Provide the signature, date of the signature, name and position of the authorized individual certifying this offering document.

13.3 If this offering document is signed electronically, include the following statement, in bold type:

"**I acknowledge that I am signing this offering document electronically and agree that this is the legal equivalent of my handwritten signature.**"

ANNEX E

PROPOSED FORM 45-110F2
RISK ACKNOWLEDGEMENT

Issuer Name:

Type of Eligible Security offered:

WARNING!
BUYER BEWARE: This investment is risky.
Don't invest unless you can afford to lose all the money you pay for this investment.

	Yes	No
1. Risk acknowledgment		
Risk of loss – Do you understand that this is a risky investment and that you may lose all the money you pay for this investment?	☐	☐
No income – Do you understand that you may not earn any income, such as dividends or interest, on this investment?	☐	☐
Liquidity risk – Do you understand that you may never be able to sell this investment?	☐	☐
Lack of information – Do you understand that you may not be provided with any ongoing information about the issuer and/or this investment?	☐	☐
2. No approval and no advice *[Instructions: Delete "no advice" if the funding portal is operated by a registered dealer.]*		
No approval – Do you understand that this investment has not been reviewed or approved in any way by a securities regulator?	☐	☐
No advice – Do you understand that you will not receive advice about your investment? *[Instructions: Delete if the funding portal is operated by a registered dealer.]*	☐	☐
3. Limited legal rights		
Limited legal rights – Do you understand that you will not have the same rights as if you purchased under a prospectus or through a stock exchange? If you want to know more, you may need to seek professional legal advice.	☐	☐
4. Purchaser's acknowledgement		
Investment risks – Have you read this form and do you understand the risks of making this investment?	☐	☐
Offering document – Has an offering document relating to this investment been made available to you on the funding portal?	☐	☐
The offering document contains important information about this investment. If you have not read the offering document or if you do not understand the information in it, you should not invest. You should retain a copy of the offering document for your records. Have you read and do you understand the information in the offering document?	☐	☐
First and last name:		
Electronic signature: By clicking the [I confirm] button, I acknowledge that I am signing this form electronically and agree that this is the legal equivalent of my handwritten signature. I will not at any time in the future claim that my electronic signature is not legally binding. The date of my electronic signature is the same as my acknowledgement.		

5. Additional information
▪ **You have two days to cancel your purchase by sending a notice to the funding portal at:** *[Instructions: Provide email address where purchasers can send their notice. Describe any other manner for purchasers to cancel their purchase.]* ▪ **If you want more information about your local securities regulation, go to www.securities-administrators.ca. Securities regulators do not provide advice on investment.** ▪ **To check if the funding portal is operated by a registered dealer, go to www.aretheyregistered.ca.** *[Instructions: Delete if the funding portal is not operated by a registered dealer.]*

ANNEX F

PROPOSED FORM 45-110F3
FUNDING PORTAL INFORMATION

GENERAL INSTRUCTIONS:

Complete and deliver this form with any attachments and all corresponding Forms 45-110F4 Portal Individual Information to the securities regulatory authority or regulator of each of the jurisdictions where the funding portal facilitates or intends to facilitate a crowdfunding distribution.

For information on how to submit the form and other information relevant to funding portals, please refer to the Start-up Crowdfunding Guide for Funding Portals available on the website of the securities regulatory authority or regulator of the jurisdictions.

FUNDING PORTAL INFORMATION

1. Provide the following information regarding the funding portal:

   (a) Full legal name of the funding portal as it appears on the funding portal's organizing documents;

   (b) Name that the funding portal will be operating under;

   (c) Website URL;

   (d) Telephone;

   (e) E-mail address;

   (f) Head office address;

   (g) Jurisdiction where the head office is located (check).

☐ Alberta	☐ Newfoundland and Labrador	☐ Ontario
☐ British Columbia	☐ Northwest Territories	☐ Prince Edward Island
☐ Manitoba	☐ Nova Scotia	☐ Québec
☐ New Brunswick	☐ Nunavut	☐ Saskatchewan
		☐ Yukon

2. Provide the following information regarding the contact person for the funding portal:

   (a) Full legal name (first name, middle name and last name);

   (b) Business address;

   (c) Telephone;

   (d) E-mail address.

3. Provide the following information regarding each founder, director, officer and control person of the funding portal. If necessary, use an attachment signed and dated by the authorized individual certifying this form. Please refer to the *Start-up Crowdfunding Guide for Funding Portals* available on the website of the securities regulatory authority or regulator of the jurisdictions for the meaning of "founder", "director", "officer" and "control person".

   (a) Full legal name (first name, middle name and last name);

   (b) Position(s) held.

4. Indicate each jurisdiction where the funding portal is delivering this form. The funding portal must deliver this form in each jurisdiction where it facilitates or intends to facilitate crowdfunding distributions.

☐ Alberta	☐ Newfoundland and Labrador	☐ Ontario
☐ British Columbia		☐ Prince Edward Island
☐ Manitoba	☐ Northwest Territories	☐ Québec
☐ New Brunswick	☐ Nova Scotia	☐ Saskatchewan
	☐ Nunavut	☐ Yukon

5. Provide the date the funding portal expects to begin to facilitate crowdfunding distributions in the jurisdictions named in item 4 above.

6. If the funding portal is already relying on National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* in any jurisdiction, provide the name(s) of the jurisdiction(s) and the date the Funding Portal Information Form was delivered to the securities regulatory authority or regulator.

LEGAL STRUCTURE AND CONSTATING DOCUMENTS

7. Indicate the legal structure of the funding portal.

☐ Sole proprietorship

☐ Partnership

☐ Limited partnership (Provide the name of the general partner)

☐ Corporation

☐ Other (Specify)

8. Attach the funding portal's organizing documents, for example, the funding portal's articles and certificate of incorporation, any articles of amendments, partnership agreement or declaration of trust. If the funding portal is a sole proprietorship, provide a copy of the registration of trade name. The attachment must be signed and dated by the authorized individual certifying this form.

9. Attach a chart showing the funding portal's structure and ownership. At a minimum, include all parents, affiliates and subsidiaries. Include the name of the person or company, and class, type, amount and voting percentage of ownership of the firm's securities. The attachment must be signed and dated by the authorized individual certifying this form.

BUSINESS ACTIVITIES

10. Provide a description of following:

(a) the proposed business activities of the funding portal;

(b) the marketing strategy of the funding portal;

(c) the target issuers, including their sectors;

(d) the key risks you identify in operating your funding portal.

CRIMINAL DISCLOSURE

11. Has the funding portal ever been found guilty, pleaded no contest to, or been granted an absolute or conditional discharge from:

(a) a summary conviction or indictable offence under the *Criminal Code* (R.S.C., 1985, c. C-46) (Canada),

(b) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction,

(c) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein, or

(d) an offence under the criminal legislation of any other foreign jurisdiction.

Yes ☐ No ☐

If yes, provide complete details in an attachment signed and dated by the authorized individual certifying this form, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. Consider all time periods.

Instructions: A quasi-criminal offence includes offences under the Income Tax Act (R.S.C. 1985, c. 1 (5th Suppl.)), the Immigration and Refugee Protection Act (R.S.C., 2001, c. 27) or the tax, immigration, drugs, firearms, money laundering or securities legislation of any province or territory of Canada or foreign jurisdiction.

12. Are there any outstanding or stayed charges against the funding portal alleging a criminal offence that was committed?

Yes ☐ No ☐

If yes, provide complete details in an attachment signed and dated by the authorized individual certifying this form, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. Consider all time periods.

CIVIL DISCLOSURE

13. Has the funding portal been the subject of an order (cease trade or otherwise), judgment, decree, sanction, or administrative penalty imposed by, or has entered into a settlement agreement with, a government agency, administrative agency, self-regulatory organization, civil court, or administrative court of Canada or a foreign jurisdiction in the last 10 years related to a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct in Canada or a foreign jurisdiction related to its involvement in any type of securities, derivatives, insurance or banking activity.

Yes ☐ No ☐

If yes, provide complete details in an attachment signed and dated by the authorized individual certifying this form, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. Consider all time periods.

14. Are there currently any outstanding civil actions alleging fraud, theft, deceit, misrepresentation, or similar misconduct against the funding portal?

Yes ☐ No ☐

If yes, provide complete details in an attachment signed and dated by the authorized individual certifying this form, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. Consider all time periods.

PROCESS AND PROCEDURE FOR HANDLING OF FUNDS

15. Provide details and attach in an attachment that is signed and dated by the authorized individual certifying this form the relevant documents on the process and procedure for handling all funds in relation to the crowdfunding distribution in a designated trust account at a Canadian financial institution, including:

(a) the name of the Canadian financial institution the funding portal will use with the designated trust account number;

(b) the names of the signatories on this account and their role with the funding portal;

(c) details of how the funds held in this account will be separate and apart from the funding portal's own property;

(d) a copy of the trust agreement, or details surrounding the establishment of this account. If the funding portal does not have a trust agreement or an account, please explain;

(e) details regarding how funds will flow:

i. from purchasers to the funding portal's account;

ii. from the funding portal's account to the issuer in the event that the crowdfunding distribution closes; and

iii. from the funding portal's account back to the purchasers in the event that the crowdfunding distribution does not close or the purchaser has exercised their right of withdrawal.

COLLECTION AND USE OF INFORMATION

The information required under this form is collected, used and disclosed by the securities regulatory authority or, where applicable, regulator of the jurisdictions under the authority granted in securities legislation for the purposes of the administration and enforcement of the securities legislation.

By submitting this form, the funding portal:

- acknowledges that the securities regulatory authority or regulator may collect personal information about the individuals referred to in this form or information about the funding portal,
- confirms that the individuals referred to in this form have been notified that their personal information is disclosed on this form, the legal reason for doing so, how it will be used and who to contact for more information, and
- consents to the posting on the website of the securities regulatory authority or regulator of:
  - i. the name that the funding portal will be operating under,
  - ii. the website address for the funding portal, and
  - iii. the funding portal's reliance on a dealer registration exemption.

If you have any questions about the collection and use of this information, contact the securities regulatory authority or regulator in any jurisdiction in which this form is delivered. Contact information is listed at the end of this form.

CERTIFICATION

By signing this form, the funding portal:

- undertakes to comply with all of the applicable conditions set out in National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*;
- certifies that its platform is complete, ready for viewing in a test environment and designed to comply with the applicable conditions set out in National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*;
- certifies that it has sufficient financial resources to continue its operations for at least the next 12 months; and
- acknowledges that the securities regulatory authority or regulator of a jurisdiction may access the books and records relating to the carrying on of its activities and may conduct a compliance review.

On behalf of the funding portal, I certify that the statements made in this form including any attachments are true and complete.

IT IS AN OFFENCE TO MAKE A MISREPRESENTATION IN THIS FORM

Full legal name of funding portal: _____

Signature of the chief executive officer, chief financial officer or functional equivalent: _____ Date: _____

Print name of individual: _____

Position held: _____

Telephone: _____

E-mail: _____

Contact information:

Alberta The Alberta Securities Commission Suite 600, 250-5th Street SW Calgary, Alberta T2P 0R4 Telephone: 403-297-6454 E-mail: registration@asc.ca www.asc.ca	**Nova Scotia** Nova Scotia Securities Commission Suite 400, 5251 Duke Street Halifax, Nova Scotia B3J 1P3 Telephone: 902-424-7768 Toll free in Nova Scotia: 1-855-424-2499 E-mail: nssc.crowdfunding@novascotia.ca nssc.novascotia.ca
British Columbia British Columbia Securities Commission P.O. Box 10142, Pacific Centre 701 West Georgia Street Vancouver, British Columbia V7Y 1L2 Telephone: 604-899-6854 Toll free in Canada: 1-800-373-6393 E-mail: portal@bcsc.bc.ca www.bcsc.bc.ca	**Ontario** Ontario Securities Commission 20 Queen Street West, 22nd Floor Toronto, Ontario M5H 3S8 Toll free: 1-877-785-1555 E-mail: inquiries@osc.gov.on.ca www.osc.ca OSC Electronic Filing Portal https://eforms1.osc.gov.on.ca/e-filings/generic/form.do?token=ec7a3cb6-d86d-419d-9c11-f1febe403cb6
Manitoba The Manitoba Securities Commission 500 - 400 St Mary Avenue Winnipeg, Manitoba R3C 4K5 Telephone: 204-945-2548 Toll free in Manitoba: 1-800-655-2548 E-mail: exemptions.msc@gov.mb.ca www.mbsecurities.ca	**Québec** Autorité des marchés financiers Direction de l'encadrement des intermédiaires 800, rue du Square-Victoria, 4th floor P.O. Box 246, Tour de la Bourse Montréal, Québec H4Z 1G3 Telephone: 514-395-0337 Toll free in Québec: 1-877-525-0337 E-mail: financement-participatif@lautorite.qc.ca www.lautorite.qc.ca
New Brunswick Financial and Consumer Services Commission 85 Charlotte Street, Suite 300 Saint John, New Brunswick E2L 2J2 Toll free: 1-866-933-2222 E-mail: emf-md@fcnb.ca www.fcnb.ca	**Saskatchewan** Financial and Consumer Affairs Authority of Saskatchewan Securities Division Suite 601 – 1919 Saskatchewan Drive Regina, Saskatchewan S4P 4H2 Telephone: 306-787-5645 E-mail: registrationfcaa@gov.sk.ca www.fcaa.gov.sk.ca

ANNEX G

PROPOSED FORM 45-110F4
PORTAL INDIVIDUAL INFORMATION

GENERAL INSTRUCTIONS:

Complete and deliver this form with any attachments and the corresponding Form 45-110F3 Funding Portal Information to the securities regulatory authority or regulator of each jurisdiction where the funding portal facilitates or intends to facilitate a crowdfunding distribution.

The information provided on this form should be specific to the individual certifying this form.

For information on how to submit the form and other relevant information, please refer to the Start-up Crowdfunding Guide for Funding Portals available on the website of the securities regulatory authority or regulator of the jurisdictions.

FUNDING PORTAL INFORMATION

1. Provide the full legal name of the funding portal as it appears on the funding portal's organizing documents.

2. Provide the name that the funding portal will be operating under.

3. Indicate the position(s) you hold with the funding portal.

INDIVIDUAL INFORMATION

4. Full legal name:

First name Middle name(s) Last name

5. Are you currently, or have you ever been, known by any name(s) other than your full legal name stated above, for example nicknames or names due to marriage?

Yes ☐ No ☐

If yes, provide details.

6. Telephone and e-mail address:

Residential:	( )		Mobile:	( )	
Business:	( )		E-mail:	( )	

7. Provide all residential addresses for the past five years starting with your current residential address.

Number, street, city, province, territory or state, country and postal/ZIP code	From		To	
	MM	YYYY	MM	YYYY

8. If you are not a resident of Canada, you must have one address for service of process in Canada and provide the following information:

Name of agent for service:	
Name of contact person:	
Address for service:	
Telephone:	

9. Date and place of birth:

Date of birth			Place of birth		
MM	DD	YYYY	City	Province/Territory/State	Country

10. Country of citizenship: _____

11. Are you currently or have you ever been registered or licensed in any capacity with any Canadian securities regulatory authority or regulator, or with any other professional or regulatory entity?

Yes ☐ No ☐

If yes, provide your licence/ registration type, name of the entity, and the start date and ending date, if applicable:

_____

12. Have you ever been dismissed for cause by an employer from a position following allegations that you:

(a) violated any statutes, regulations, rules or standards of conduct;

(b) failed to appropriately supervise compliance with any statutes, regulations, rules or standards of conduct; or

(c) committed fraud or the wrongful taking of property, including theft?

Yes ☐ No ☐

If yes, provide complete details in an attachment signed and dated by the authorized individual certifying this form, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. Consider all time periods.

CRIMINAL DISCLOSURE

13. Have you ever been found guilty, pleaded no contest to, or been granted an absolute or conditional discharge from:

(a) a summary conviction or indictable offence under the *Criminal Code* (R.S.C., 1985, c. C-46) (Canada),

(b) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction,

(c) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein, or

(d) an offence under the criminal legislation of any other foreign jurisdiction.

Yes ☐ No ☐

If yes, provide complete details in an attachment signed and dated by the authorized individual certifying this form, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. Consider all time periods.

Instructions: A quasi-criminal offence includes offences under the Income Tax Act (R.S.C. 1985, c. 1 (5th Suppl.)), the Immigration and Refugee Protection Act (R.S.C., 2001, c. 27) or the tax, immigration, drugs, firearms, money laundering or securities legislation of any province or territory of Canada or foreign jurisdiction.

14. Are there any outstanding or stayed charges against you alleging a criminal offence that was committed?

Yes ☐ No ☐

If yes, provide complete details in an attachment signed and dated by the authorized individual certifying this form, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. Consider all time periods.

15. To the best of your knowledge, are there any outstanding or stayed charges against any entity of which you were, at the time the criminal offence was alleged to have taken place, a founder, director, officer or control person?

Yes ☐ No ☐

If yes, provide complete details in an attachment signed and dated by the authorized individual certifying this form, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. Consider all time periods.

16. To the best of your knowledge, has any entity, when you were a founder, director, officer or control person, ever been found guilty, pleaded no contest to or been granted an absolute or conditional discharge from a criminal offence that was committed?

Yes ☐ No ☐

If yes, provide complete details in an attachment signed and dated by the authorized individual certifying this form, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. Consider all time periods.

CIVIL DISCLOSURE

17. Have you or an entity of which you are or were a founder, director, officer or control person been the subject of an order (cease trade or otherwise), judgment, decree, sanction, or administrative penalty imposed by, or entered into a settlement agreement with, a government agency, administrative agency, self-regulatory organization, civil court, or administrative court of Canada or a foreign jurisdiction in the last 10 years related to a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct in Canada or a foreign jurisdiction related to your involvement in any type of securities, derivatives, insurance or banking activity.

Yes ☐ No ☐

If yes, provide complete details in an attachment signed and dated by the authorized individual certifying this form, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. Consider all time periods.

18. Are there currently any outstanding civil actions alleging fraud, theft, deceit, misrepresentation, or similar misconduct against you or an entity of which you are or were a founder, director, officer or control person?

Yes ☐ No ☐

If yes, provide complete details in an attachment signed and dated by the authorized individual certifying this form, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. Consider all time periods.

COLLECTION AND USE OF PERSONAL INFORMATION

The personal information required under this form is collected, used and disclosed by the securities regulatory authority or, where applicable, regulator of the jurisdictions under the authority granted in securities legislation for the purposes of the administration and enforcement of the securities legislation.

By submitting this form, you consent to the collection, use and disclosure of this personal information by the securities regulatory authority or regulator of each jurisdiction and any police records, records from other government or non-governmental regulators

or self-regulatory organizations, credit records and employment records about you that the securities regulatory authority or regulator may need to determine the completeness of the information submitted in this form and compliance with the conditions of the start-up crowdfunding registration and prospectus exemptions. The securities regulatory authority or regulator may contact government and private bodies or agencies, individuals, corporations and other organizations for information about you.

If you have any questions about the collection and use of this information, contact the securities regulatory authority or regulator of any jurisdiction in which this form is delivered. Contact information is listed at the end of this form.

CERTIFICATION

By submitting this form, I:

- certify that the statements made in this form including any attachments are true and complete, and
- agree to be subject to the securities legislation of each jurisdiction of Canada where I have submitted this form. This includes the jurisdiction of any tribunals or any proceedings that relate to my activities as a founder, director, officer or control person of a funding portal under applicable securities legislation.

Signature: _____ Date: _____

Print name: _____

Position held: _____

IT IS AN OFFENCE TO MAKE A MISREPRESENTATION IN THIS FORM

Contact information:

Alberta The Alberta Securities Commission Suite 600, 250-5th Street SW Calgary, Alberta T2P 0R4 Telephone: 403-297-6454 E-mail: registration@asc.ca www.asc.ca	**Nova Scotia** Nova Scotia Securities Commission Suite 400, 5251 Duke Street Halifax, Nova Scotia B3J 1P3 Telephone: 902-424-7768 Toll free in Nova Scotia: 1-855-424-2499 E-mail: nssc.crowdfunding@novascotia.ca nssc.novascotia.ca
British Columbia British Columbia Securities Commission P.O. Box 10142, Pacific Centre 701 West Georgia Street Vancouver, British Columbia V7Y 1L2 Telephone: 604-899-6854 Toll free in Canada: 1-800-373-6393 E-mail: portal@bcsc.bc.ca www.bcsc.bc.ca	**Ontario** Ontario Securities Commission 20 Queen Street West, 22nd Floor Toronto, Ontario M5H 3S8 Toll free: 1-877-785-1555 E-mail: inquiries@osc.gov.on.ca www.osc.ca OSC Electronic Filing Portal https://eforms1.osc.gov.on.ca/e-filings/generic/form.do?token=ec7a3cb6-d86d-419d-9c11-f1febe403cb6
Manitoba The Manitoba Securities Commission 500 - 400 St Mary Avenue Winnipeg, Manitoba R3C 4K5 Telephone: 204-945-2548 Toll free in Manitoba: 1-800-655-2548 E-mail: exemptions.msc@gov.mb.ca www.mbsecurities.ca	**Québec** Autorité des marchés financiers Direction de l'encadrement des intermédiaires 800, rue du Square-Victoria, 4th floor P.O. Box 246, Tour de la Bourse Montréal, Québec H4Z 1G3 Telephone: 514-395-0337 Toll free in Québec: 1-877-525-0337 E-mail: financement-participatif@lautorite.qc.ca www.lautorite.qc.ca
New Brunswick Financial and Consumer Services Commission 85 Charlotte Street, Suite 300 Saint John, New Brunswick E2L 2J2 Toll free: 1-866-933-2222 E-mail: emf-md@fcnb.ca www.fcnb.ca	**Saskatchewan** Financial and Consumer Affairs Authority of Saskatchewan Securities Division Suite 601 – 1919 Saskatchewan Drive Regina, Saskatchewan S4P 4H2 Telephone: 306-787-5645 E-mail: registrationfcaa@gov.sk.ca www.fcaa.gov.sk.ca

ANNEX H

PROPOSED FORM 45-110F5
ANNUAL WORKING CAPITAL CERTIFICATION

The funding portal certifies that it has sufficient working capital to continue its operations for at least the next 12 months.

On behalf of the funding portal, I certify that the statement made in this form is true and complete.

Full legal name of funding portal: _____

Signature of the chief executive officer, chief financial officer or functional equivalent: _____ Date: _____

Print name of individual: _____

Position held: _____

Telephone: _____

E-mail: _____

IT IS AN OFFENCE TO MAKE A MISREPRESENTATION IN THIS FORM

ANNEX I

CSA STAFF NOTICE 45-XXX
GUIDANCE FOR USING THE START-UP CROWDFUNDING REGISTRATION AND PROSPECTUS EXEMPTIONS

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA Staff Notice 45-XXX

Guidance for using the start-up crowdfunding registration and prospectus exemptions

XX, 202X

The Canadian Securities Administrators (**CSA**) have implemented National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* to provide a further option for start-ups and early stage businesses to raise capital using securities crowdfunding (the **prospectus exemption**).

Staff (**staff** or **we**) of the CSA have prepared this Staff Notice (this **Notice**) to assist issuers with raising capital using the prospectus exemption and businesses proposing to operate a funding portal to facilitate the use of the prospectus exemption.

This Notice includes the following documents:

- Appendix 1 – Proposed Start-up Crowdfunding Guide for Businesses
- Appendix 2 – Proposed Start-up Crowdfunding Guide for Funding Portals

Questions

Please refer your questions to any of the following:

Elliott Mak
Senior Legal Counsel, Corporate Finance
British Columbia Securities Commission
604 899-6501
emak@bcsc.bc.ca

James Leong
Senior Legal Counsel, Capital Markets Regulation
British Columbia Securities Commission
604 899-6681
jleong@bcsc.bc.ca

Navdeep Gill
Manager, Legal, Market Regulation
Alberta Securities Commission
403 355-9043
Navdeep.Gill@asc.ca

Denise Weeres
Director, New Economy
Alberta Securities Commission
403 297-2930
denise.weeres@asc.ca

Gillian Findlay
Senior Legal Counsel, Corporate Finance
Alberta Securities Commission
403 297-3302
gillian.findlay@asc.ca

Mikale White
Legal Counsel
Financial and Consumer Affairs Authority of Saskatchewan
306 798-3381
mikale.white@gov.sk.ca

Chris Besko
Director, General Counsel
The Manitoba Securities Commission
204 945-2561
Chris.Besko@gov.mb.ca

Sarah Hill
Legal Counsel
The Manitoba Securities Commission
204 945-0605
Sarah.Hill@gov.mb.ca

Jo-Anne Matear
Manager, Corporate Finance
Ontario Securities Commission
416 593-2323
Toll free: 1 877 785-1555
jmatear@osc.gov.on.ca

Erin O'Donovan
Senior Legal Counsel, Corporate Finance
Ontario Securities Commission
416 204-8973
Toll free: 1 877 785-1555
eodonovan@osc.gov.on.ca

Faustina Otchere
Legal Counsel, Compliance and Registrant Regulation
Ontario Securities Commission
416 596-4255
Toll free: 1 877 785-1555
fotchere@osc.gov.on.ca

Adrian Molder
Legal Counsel, Corporate Finance
Ontario Securities Commission
416 593-2389
Toll free: 1 877 785-1555
amolder@osc.gov.on.ca

Gabriel Perras
Analyst
Autorité des marchés financiers
514 395-0337, extension 4388
Toll-free: 1 877 525-0337
gabriel.perras@lautorite.qc.ca

Jason Alcorn
Senior Legal Counsel and Special Advisor to the Executive Director
Financial and Consumer Services Commission (New Brunswick)
506 643-7857
Toll free: 1 866 933-2222
jason.alcorn@fcnb.ca

Abel Lazarus
Director, Corporate Finance
Nova Scotia Securities Commission
902 424-6859
abel.lazarus@novascotia.ca

Peter Lamey
Legal Analyst, Corporate Finance
Nova Scotia Securities Commission
902 424-7630
peter.lamey@novascotia.ca

APPENDIX 1

Start-Up Crowdfunding Guide For Businesses

Crowdfunding is a process through which an individual or a business can raise money from a large number of people, typically through the Internet. The objective is usually to raise sufficient funds in order to carry out a specific project. There are different types of crowdfunding, such as by donation, pre-selling of products or through selling shares or other securities. This guide discusses securities crowdfunding.

Securities crowdfunding

Securities crowdfunding involves a business raising money by issuing securities (such as shares) to many people through the Internet using a funding portal. This type of crowdfunding must comply with the securities laws of the provinces and territories where the business and potential investors are located.

Legal obligations

In Canada, trading of securities is subject to legal obligations. For example, a business seeking to raise capital by issuing securities must file a prospectus (a comprehensive disclosure document that includes financial statements) with the securities regulator of each of the provinces and territories where its business and its potential investors are located or have an exemption from the prospectus requirement under securities law.

These obligations can be costly for start-ups and early stage businesses. There are a number of exemptions from the prospectus requirement that businesses can use to conduct securities crowdfunding in Canada. However, these exemptions require a fairly comprehensive disclosure and/or limit the types of investors that can invest. Canadian securities regulators have created a streamlined system to allow start-ups and small businesses (**issuers**) to raise small amounts of money from the general public using securities crowdfunding, without filing a prospectus or preparing financial statements (start-up prospectus exemption).

Instead, the issuer prepares an abbreviated disclosure document that does not require financial statements.

Under securities law in Canada, a business that intends to operate a funding portal, e.g., creating a website that brings together buyers and sellers of securities, must typically be registered as a dealer with the securities regulator. However, if the funding portal restricts itself to certain activities, it is permitted to facilitate trades of those securities without having to register as a dealer (**start-up registration exemption**). In this guide, we refer to the start-up prospectus exemption and the start-up registration exemption as the "**start-up crowdfunding exemptions**" or "**start-up crowdfunding**."

The purpose of this guide is to assist issuers intending to raise funds by relying on the start-up prospectus exemption. In this guide, "**regulator**" means the applicable provincial securities regulator or regulatory authority.

How Start-up Crowdfunding Works

In order to raise funds using the start-up prospectus exemption, issuers must prepare and post an offering document on a funding portal's crowdfunding website. Investors will then be able to read about the offering and decide whether to invest. Before investing, investors will have to confirm that they have read the offering document and understand that the investment is risky.

When should an issuer consider start-up crowdfunding?

Before launching a start-up crowdfunding campaign, the management of the issuer will want to:

- evaluate other sources of funding, such as a loan from a financial institution,
- assess whether they are willing to invest the time and effort needed to prepare and run a start-up crowdfunding campaign,
- determine the type and characteristics of securities that will be sold,
- determine the number of securities to be sold and at what price, and
- assess if they have the capabilities to manage a greater number of security holders.

If a start-up crowdfunding campaign that involves the sale of shares (or other equity) is successful, the founders of the issuer may have to give up part of the ownership of the issuer to investors. Investors may want to be informed about successes and failures of the issuer's business. Management of the issuer should assess whether they are willing to spend the time and effort to maintain contact with investors.

The start-up prospectus exemption is not available to reporting issuers (public companies). Reporting issuers are required to provide ongoing public disclosure of their business activities by filing financial statements and other documents required by securities laws. These types of issuers are considered to be more established than the start-up or early stage issuers that are permitted to use start-up crowdfunding.

In addition, the start-up prospectus exemption is not available to issuers that are raising money without a specific business objective, commonly known as "blind pools". If the proceeds of the distribution are intended to be used by the issuer to invest in, merge or amalgamate with or acquire a business that has not been described in the issuer's offering document, then the issuer will need to raise capital using methods other than the start-up prospectus exemption.

Where is start-up crowdfunding available?

The start-up prospectus exemption is available to issuers that have a head office in Canada.

If an issuer wants to raise funds using start-up crowdfunding in a particular province or territory, the funding portal must be permitted to operate in that particular province or territory (see "*Where can I find out more information on whether a funding portal is able to operate?*", below).

What is the maximum amount that can be raised? How often can an issuer raise money using start-up crowdfunding?

An issuer can raise up to $1,000,000 in the 12-month period before closing of the distribution. It may complete as many distributions per calendar year as fits their business objectives.

For instance, if an issuer has already raised $250,000 on June 1 and $300,000 on December 31 using the start-up crowdfunding exemption, it can still raise up to $450,000 at any point before May 31 of the following year under that exemption.

This maximum amount applies to the issuer, together with any of related issuers in its issuer group. The "**issuer group**" has a broad meaning. In addition to the issuer, it also includes any affiliates of the issuer (e.g. related companies) and any other issuer that is engaged in a common enterprise with the issuer or an affiliate, or whose business is founded or organized by the same person or company who founded or organized the issuer.

Does the issuer have to distribute common shares in a start-up crowdfunding offering?

The securities offered in a start-up crowdfunding offering must be among those permitted by the start-up prospectus exemption. An issuer can use start-up crowdfunding to distribute common shares, but it can also distribute non-convertible preference shares, non-convertible debt securities linked to a fixed or floating interest rate, or units of a limited partnership.

The issuer can also issue securities that convert into common shares or non-convertible preference shares. These securities may include certain types of warrants, options or simple agreements for future equity.

It is up to the issuer to decide what type of security helps it best achieve its growth and development goals.

Are there any time limitations for completing a crowdfunding offering?

The offering document must indicate a minimum dollar amount that has to be raised before the offering can close. The issuer has a maximum of 90 days to raise the minimum amount, starting on the day the issuer's offering document is first made available to investors through the funding portal's website.

Investors will send the funds for their investment to the funding portal. The funding portal will then hold the money in trust. Before releasing the funds to the issuer, the following must have occurred:

- the issuer has secured the minimum amount of the offering and has decided to complete the offering; and
- the time for exercise of all withdrawal rights have expired (see "What if an investor changes their mind?", below).

If the minimum amount is not reached, or the start-up crowdfunding campaign is withdrawn, the funding portal must return all the money to the investors.

Can an issuer or group of related issuers conduct more than one start-up crowdfunding at once?

No. An issuer group cannot have more than one start-up crowdfunding campaign running at the same time or on different funding portals for the same purpose. The issuer group must wait until the first campaign has ended before launching a second one.

What is the maximum amount an issuer can raise from each investor?

The maximum investment an issuer can accept from an investor is $2,500 per start-up crowdfunding distribution. However, this amount can be increased to $5,000 if the investor has obtained advice from a registered dealer that the investment is suitable for the investor.

The issuer may require a minimum amount per investor, but this amount cannot be over $2,500 if there is no registered dealer involved.

Launching a Start-up Crowdfunding Campaign

Once an issuer has determined that it will launch a start-up crowdfunding campaign, it will need to prepare an offering document and choose a funding portal to post its offering document. Issuers are required to prepare the offering document using Form 45-110F1 *Offering Document*.

What is a funding portal?

A funding portal is a website that brings buyers and sellers together by listing start-up crowdfunding campaigns on its website and facilitating the payment of the purchase price from the investor to the issuer. The funding portal has a number of responsibilities, including:

- posting the issuer's offering document;
- providing a risk warning form to potential investors;
- holding all investor funds in trust until the issuer is permitted to close the distribution; and
- returning funds to investors, without deduction, if the issuer does not reach its minimum funding target or if the issuer withdraws the start-up crowdfunding campaign.

Funding portals will generally charge issuers for hosting a start-up crowdfunding campaign on its website.

What types of funding portals are available?

There are two types of funding portals that may facilitate start-up crowdfunding in Canada:

- funding portals that are operated by registered dealers (e.g. investment dealers or exempt market dealers) that must provide advice to investors on whether the investment is suitable to the investor, and
- funding portals that are operated by persons relying on the start-up registration exemption and that are prohibited from providing suitability advice.

An issuer has the choice of which type of funding portal to use for its start-up crowdfunding campaign.

A funding portal should be able to confirm to the issuer that it can provide certain services necessary for start-up crowdfunding, including that it will make the offering document and risk warnings available to the investor through its website.

Where can I find out information on whether a funding portal is able to operate?

The Canadian Securities Administrators maintain a list of funding portals currently permitted to operate in one or more jurisdictions of Canada. The issuer may check this list to determine whether the funding portal is authorized to operate in jurisdictions that it proposes to conduct start-up crowdfunding.

In addition, the issuer may want to evaluate other aspects of the funding portal's business, such as finding out about the individuals operating the funding portal, how it handles the funds collected from investors, and what fees it will charge the issuer for posting its start-up crowdfunding offering document.

What information needs to be in the offering document?

An issuer must include all the information required by Form 45-110F1 *Offering Document*. This form requires the issuer to disclose basic information about the business and the offering, how it will use the money and the relevant risks of the business or project. The issuer must disclose the minimum amount needed to be raised to accomplish the issuer's business goals. The issuer must provide enough detail in the offering document about the business for an investor to clearly understand what the issuer does or intends to do.

If the issuer raises funds in Québec, the offering document and the risk acknowledgement form must be made available to investors in Québec in French or in French and English.

For additional details on the offering document, including instructions on how to prepare this document, please refer to Form 45-110F1 *Offering Document*.

Do I need to include financial statements in the offering document?

The issuer is not required to provide financial statements to investors in connection with a start-up crowdfunding distribution.

However, the issuer can choose to make financial statements available to investors. For example, many investors use financial statements to assess and compare investment opportunities and may be reluctant to invest in a business that does not provide this type of information. In addition, if an issuer chooses to disclose a measure of financial performance (such as sales or expenses), financial position (such as amount of equipment or debt) or cash flow in the offering document, it must make financial statements available for the most recently completed financial year. The measure referred to in the offering document must be an amount presented in the financial statements or be reconciled to an amount presented in the financial statements.

If the issuer chooses to make financial statements available to investors, it must:

- prepare these financial statements in accordance with Canadian generally accepted accounting principles;
- present the issuer's results of operations for its most recently completed financial year; and
- include the statement provided in item 3.5 in Form 45-110F1 *Offering Document*.

As with any information provided to investors, the financial statements should not be misleading.

The issuer can post the financial statements on its website for the convenience of its investors. **However, if an issuer includes financial statements in its offering document or provides a link to the financial statements in the offering document, there will likely be an obligation under securities laws to prepare the financial statements using Canadian generally accepted accounting principles for publicly accountable enterprises.**

There may be other requirements outside securities laws. For example, corporate legislation in some jurisdictions may require issuers to prepare and disseminate audited annual financial statements to their shareholders. Further, such issuers may be required to hold annual meetings of shareholders and provide certain specified disclosure in an information circular. To ascertain whether these requirements apply, issuers can refer to applicable corporate law and consult their legal advisers.

Do I need to disclose information about myself or other principals of the issuer?

The issuer must include in the offering document certain details about the residency, principal occupation, expertise and securityholdings of each founder, director, officer and control person.

Director: An individual occupying the position of director with the issuer or another person acting in a similar capacity.

Officer: Includes the CEO, president, a vice-president, corporate secretary, general manager or any other individual who performs functions of officer for the issuer. If the issuer is a limited partnership, information should also be provided for the officers of the general partner.

Founder: A person who, acting along, in conjunction, or in concert with one or more persons, directly or indirectly, take the initiative in founding, organizing or substantially reorganizing the business of the issuer and at the time of the start-up crowdfunding distribution is actively involved in the business of the issuer.

Control person: A person that holds more than 20% of the voting rights, alone or with other persons acting in concert, is generally considered a control person of the issuer.

Does the issuer need to provide information to the investor following the crowdfunding campaign?

Canadian securities laws do not require that the issuer report to investors, but investors will want to be kept informed. The issuer should disclose to investors in the offering document whether and, if so, how it intends to keep investors informed about the business and their investment. Reporting can be through newsletters, social media sites, email, financial statements or similar documents.

What if an investor changes their mind?

Investors have the right to withdraw their investment within two business days following either:

- the investor's subscription; or
- the funding portal notifying the investor of an amendment to the issuer's offering document.

To exercise this right of withdrawal, an investor must deliver a notice to the funding portal not later than midnight on the 2nd business day after the investor's subscription or notification of the amendment, as applicable. The funding portal must return the funds to an investor who exercises this right, without any deduction, within five business days after receiving notice of the withdrawal.

What if the information in the offering document is not, or is no longer, accurate?

The issuer must certify that the offering document does not contain a **misrepresentation**.

A misrepresentation means:

- a statement of material fact that is not true, or
- omitting a material fact that is required or necessary to be stated to prevent a statement in the offering document from being false or misleading in the circumstances in which it was made.

The information contained in the offering document may need to be updated during the start-up crowdfunding campaign. If the circumstances of the issuer have changed such that the offering document is no longer accurate and contains a misrepresentation, the issuer must:

- immediately advise the funding portal of this fact; and
- amend the offering document and send the new version to the funding portal as soon as practicable.

The funding portal is required to post the new version of the offering document on its website and promptly notify investors about the amendment. Providing an amended offering document gives an investor the opportunity to withdraw their investment (see "*What if an investor changes their mind?"* above).

The offering document does not need to be updated after the start-up crowdfunding campaign is over.

What if an investor purchases securities when the offering document contained a misrepresentation?

Securities laws in all provinces and territories of Canada provide investors with a **statutory right to sue for damages (typically limited to the amount paid for the securities)** or **rescission (to unwind or reverse the purchase)** in cases where an offering document contains a misrepresentation. These claims may be made against the issuer and in a number of provinces and territories, the directors and other persons that signed the offering document.

This statutory right to sue is available whether or not the investor relied on the misrepresentation. However, there may be various defenses available. In particular, a defense may be available if the investor knew of the misrepresentation when he or she purchased the securities.

Completing a Start-up Crowdfunding Campaign

Once the minimum offering amount has been collected, the issuer may choose to "close the offering" by issuing the securities to investors. However, the issuer must wait until each investor's 2-day withdrawal period has expired.

An issuer can continue raising additional funds up to the maximum amount indicated in the offering document provided it closes the offering within the 90-day maximum offering period. The issuer must disclose in the offering document what it intends to do with any extra funds raised above the minimum amount.

At the closing of the offering, the funding portal will release the funds raised to the issuer. The issuer should make note of the date on which it closes the offering because certain filings and deliveries must be completed within a certain number of days of the closing.

Can an issuer use another prospectus exemption to meet the minimum amount?

Although an issuer cannot have more than one start-up crowdfunding campaign running at the same time, the issuer can raise funds using other prospectus exemptions during a start-up crowdfunding campaign. For example, the issuer may issue securities to an accredited investor. Other prospectus exemptions, such as the accredited investor exemption, are found in securities laws, including National Instrument 45-106 *Prospectus Exemptions*. The funds raised under other prospectus exemptions can be counted towards the minimum offering amount if those funds are unconditionally available to the issuer. This would not trigger the requirement for the issuer to amend the offering document.

If an issuer raises funds under other prospectus exemptions, it must comply with the conditions of both the start-up crowdfunding exemptions and the other exemption(s). An issuer should seek professional advice if it has any questions regarding compliance.

After the Closing

What documents have to be filed with securities regulators?

The offering document and a Form 45-106F1 *Report of Exempt Distribution* must be filed with the regulator in each jurisdiction where investors are located no later than 30 days after the closing of the distribution. For example, if the issuer has raised money in Québec and Nova Scotia, the offering document and report of exempt distribution must be filed with the Autorité des marchés financiers and the Nova Scotia Securities Commission.

In addition, the offering document and report of exempt distribution must be filed with the regulator of the jurisdiction where the issuer's head office is located, even if no investors were located in this jurisdiction.

When filing the offering document, the issuer must include all copies of the offering document including any amended versions.

[Note to industry: this section will also include instructions to assist issuers with filing the offering document and report of exempt distribution]

Confirmation notice to investors

Within 30 days after the closing of the offering, the issuer must send a copy of the offering document and a confirmation notice to each investor who purchased securities with the following information:

- the date of subscription and the closing date of the distribution;
- the quantity and description of securities purchased;
- the price paid per security;
- the total commission, fee and any other amounts paid by the issuer to the funding portal in respect of the start-up crowdfunding distribution.

The issuer may choose to have the funding portal send this information to investors if the funding portal platform has this capability.

For more information contact:

For more information, please contact the following:

Alberta	Alberta Securities Commission Telephone: 403-355-4151 E-mail: inquiries@asc.ca Website: www.albertasecurities.com
British Columbia	British Columbia Securities Commission Telephone: 604-899-6854 or 1-800-373-6393 Email: inquiries@bcsc.bc.ca Website: www.bcsc.bc.ca
Saskatchewan	Financial and Consumer Affairs Authority of Saskatchewan Securities Division Telephone: 306-787-5645 E-mail: exemptions@gov.sk.ca Website: www.fcaa.gov.sk.ca
Manitoba	The Manitoba Securities Commission Toll free in Manitoba: 1-800-655-2548 E-mail: exemptions.msc@gov.mb.ca Website: www.msc.gov.mb.ca
Ontario	Ontario Securities Commission Toll free: 1-877-785-1555 E-mail: inquiries@osc.gov.on.ca Website: www.osc.ca
Québec	Autorité des marchés financiers Direction du financement des sociétés Toll free in Québec: 1-877-525-0337 E-mail: financement-participatif@lautorite.qc.ca Website: www.lautorite.qc.ca
New Brunswick	Financial and Consumer Services Commission Toll free: 1-866-933-2222 E-mail: emf-md@fcnb.ca Website: www.fcnb.ca
Nova Scotia	Nova Scotia Securities Commission Toll free in Nova Scotia: 1-855-424-2499 E-mail: nssc.crowdfunding@novascotia.ca Website: www.nssc.novascotia.ca

APPENDIX 2

Start-Up Crowdfunding Guide For Funding Portals

Introduction and purpose

The purpose of this guide is to assist funding portals that facilitate or intend to facilitate distributions under National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (NI 45-110). This guide is intended both for funding portals that rely on the registration exemption in NI 45-110 (an exempt funding portal) and those operated by registered dealers.

This guide describes:

- the requirements that apply to funding portals, and
- how a crowdfunding distribution under NI 45-110 works, including an overview of the responsibilities of an issuer of which the funding portal should be aware.

What is securities crowdfunding?

Securities crowdfunding involves a business raising money by issuing securities (such as shares) to many people through the Internet using a funding portal. This type of crowdfunding must comply with the securities laws of the provinces and territories where the business and potential purchasers are located.

Legal obligations for securities crowdfunding

In Canada, trading of securities is subject to legal obligations. For example, a person or company that operates a funding portal to facilitate securities crowdfunding offerings must be registered in each province or territory where it is carrying on this business, or rely on an exemption from the registration requirement under securities laws. Similarly, a business seeking to raise capital by issuing securities must file a prospectus with the securities regulators or regulatory authorities of each province or territory (the regulators) in which it intends to sell its securities, or have an exemption from the prospectus requirements under securities laws.

These obligations, however, can be costly for start-ups and early stage issuers. There are a number of exemptions from the prospectus requirement that businesses can use to conduct securities crowdfunding in Canada. However, these exemptions require fairly comprehensive disclosure and/or limit the types of investors that can invest. Canadian securities regulators have created a streamlined system to allow start-ups and small businesses to raise small amounts of money from the general public using securities crowdfunding, without filing a prospectus or preparing financial statements.

NI 45-110 provides additional new exemptions tailored to start-up and early stage issuers to facilitate securities crowdfunding and make it easier for them to raise money by issuing securities. NI 45-110 allows:

- a start-up or early stage issuer to raise relatively small amounts of capital from the general public by distributing securities to purchasers without filing a prospectus or lengthy offering document and, significantly, without needing to prepare financial statements (the start-up prospectus exemption), and
- a funding portal to facilitate the distribution of those securities without having to register as a dealer (the start-up registration exemption), although a funding portal can be operated by a registered dealer.

Under NI 45-110, all issuers intending to conduct a start-up crowdfunding offering must use a funding portal.

Types of funding portals under NI 45-110

This section describes some of the key characteristics of funding portals operated by registered dealers, and exempt funding portals.

- **Funding portals operated by registered dealers**: Registered dealers generally are required to fulfil certain obligations including know-your-client, know-your-product, and, before accepting an order to buy or sell securities from a client, determining whether that purchase or sale is suitable for the client. Funding portals operated by registered dealers must also meet these obligations. Funding portals operated by registered dealers are allowed to facilitate distributions of securities under the start-up prospectus exemption, and other prospectus exemptions. In addition, a purchaser may make a larger investment in an offering conducted through a funding portal operated by a registered dealer.
- **Exempt funding portals**: Exempt funding portals rely on the start-up registration exemption. They are not required to register provided they meet the conditions of the start-up registration exemption, including the filing

of certain documents with the regulators. The requirements on exempt funding portals are different from the obligations placed on registered dealers. For example, exempt funding portals are not allowed to provide advice and are only allowed to facilitate distributions that rely on the start-up prospectus exemption.

Operating requirements for exempt funding portals

A person or company operating a funding portal does not have to register as a dealer if they meet all conditions of the start-up registration exemption. The responses to the following questions further detail many of these conditions of the start-up registration exemption. You should refer to NI 45-110 for the complete list of the conditions that exempt funding portals must follow.

Are there any restrictions on who may operate an exempt funding portal?

A funding portal may not rely on the start-up registration exemption if it or any of its founders,[1] directors, officers or control persons[2] (principals), or any entity it or its principals has been the principal of has had a judgment, sanction or similar order imposed against it based on fraud, theft, breach of trust, insider trading, or allegations of similar conduct.

The funding portal must not be registered with the regulators. As well, it must have its head office in Canada and the majority of its directors must be Canadian residents.

What must an exempt funding portal do for an issuer seeking to conduct a crowdfunding raise?

Make the necessary disclosures available on its website. An issuer looking to raise capital using the start-up prospectus exemption must provide the funding portal an offering document that meets the conditions of the exemption. The exempt funding portal must post the issuer's offering document on its website. It is intended that posting the document on the exempt funding portal's website will satisfy any requirement to deliver the offering document to a purchaser that may apply under securities legislation.

A funding portal can carry out reviews of issuers before making their offering documents available on its website to protect the funding portal's own interests or reputation.

Confirm the issuer's location. The exempt funding portal must take reasonable measures to confirm that the head office of the issuer is in Canada. For instance, reviewing the incorporating or governing documents may be a reasonable step to confirm the issuer's head office.

What must an exempt funding portal do for purchasers?

Obtain the necessary acknowledgements before a purchaser can access the website. An exempt funding portal must not allow entry to its website until the purchaser acknowledges that they are entering the website of a funding portal that (i) is not operated by a registered dealer under Canadian securities legislation, and (ii) will not provide advice about the suitability or the merits of any investment.

For further information on the mechanics of the acknowledgement, please see the section in this guide entitled *Pop-up Acknowledgement*.

Not provide advice or recommendations. An exempt funding portal must not tell purchasers an investment is suitable for them or otherwise discuss the merits of an investment.

This means the funding portal cannot tell a purchaser that the securities offered are a good investment or that the purchaser should make an investment. The funding portal must refrain from saying or doing anything that might lead a purchaser to think that they should buy the securities because the securities somehow meet their investment needs or objectives.

However, the funding portal can give factual information about the securities. For example, it may tell purchasers the information set out in the offering document about the features of the securities, the risks generally of investing, how start-up crowdfunding works, and other items of a general, factual nature.

Confirm purchaser status. An exempt funding portal can only facilitate a distribution for a purchaser residing in a province or territory where the funding portal meets the conditions of the start-up registration exemption, including having delivered documents to the regulator in that jurisdiction (see *Delivery Requirements for Exempt Funding Portals* below). Accordingly, the exempt funding portal should take reasonable measures to ensure that the purchaser is a resident of a province or territory in which the exempt funding portal is permitted to operate. These reasonable measures may include requiring the purchaser to indicate its address in Canada, including the province or territory of residence before allowing a subscription for securities.

[1] A person or company who founded, organized or significantly reorganized the funding portal is generally considered to be a founder.
[2] A person or company who holds a sufficient number of voting rights to control the funding portal or who holds more than 20% of the voting rights of the funding portal is generally considered a control person of the funding portal.

Obtain the necessary risk acknowledgement before receiving funds. Before taking a purchaser's subscription, an exempt funding portal must ensure that purchasers confirm online that they have read and understood the offering document and risk warning available on the exempt funding portal.

What requirements do exempt funding portals have for handling funds?

The exempt funding portal must ensure that a purchaser's payment for securities through its platform is received only by the exempt funding portal, and no one else. The exempt funding portal must hold purchasers' assets separate from the exempt funding portal's property, in trust for the purchaser and, in the case of cash, at a Canadian financial institution.

What must the exempt funding portal disclose about itself on its website?

The exempt funding portal must prominently display the following information on its website:

- the full legal name, municipality and jurisdiction of residence, business mailing and e-mail address, and business telephone number of each principal of the exempt funding portal,
- that the exempt funding portal is relying on the start-up registration exemption,
- that the exempt funding portal will hold purchasers' assets separate from the funding portal's property, in trust for the purchaser and, in the case of cash, at a Canadian financial institution, and
- the process the exempt funding portal will use to notify purchasers if it becomes insolvent or discontinues operations, and how the exempt funding portal will return the purchasers' assets it is holding to those purchasers.

For instance, clearly displaying this information on one page of the website that is easily accessible (such as a main tab in a drop-down menu) would generally be acceptable.

What other requirements do exempt funding portals have?

Only facilitate start-up crowdfunding distributions under NI 45-110. The exempt funding portal must not facilitate the distribution of securities to purchasers under prospectus exemptions other than the start-up prospectus exemption. A funding portal that intends to facilitate crowdfunding distributions under other prospectus exemptions (e.g. the accredited investor exemption and the offering memorandum exemption) would need to apply for registration as a dealer.

Not receive compensation directly from a purchaser. The exempt funding portal must not receive a commission or fee from a purchaser.

Maintain records. The exempt funding portal must keep its books and records, including its compliance procedures, at its head office for eight years from the date a record is created.

Delivery requirements for exempt funding portals

Attached as Appendix A to this guide is a checklist that includes some of the delivery and timing requirements for exempt funding portals.

What steps must occur before a funding portal can rely on the start-up registration exemption?

At least 30 days before it intends to start operating in reliance on the start-up registration exemption, the funding portal must deliver the following documents to the regulator of each jurisdiction of Canada in which it intends to solicit investors:

1) a completed Form 45-110F3 *Funding Portal Information* (funding portal information form),
2) completed Forms 45-110F4 *Portal Individual Information* (individual information form) for each principal of the funding portal, and
3) the applicable supporting documents (see below).

The regulators will review these documents during the 30-day waiting period and may notify the funding portal, for example, if:

- the documents the funding portal delivered are incomplete, or
- the policies and procedures for handling funds in relation to a start-up crowdfunding distribution described in the funding portal information form and supporting documents does not satisfy the conditions of the start-up exemption.

If the funding portal receives such notification, it has not satisfied the conditions of the start-up registration exemption and cannot operate as an exempt funding portal. If this occurs, the funding portal must file amended documents with the regulators and wait a 30 day period from the date the revised documents are filed before operating.

What supporting documents are required?

The funding portal information form and individual information form must include the following supporting documents:

- organizing documents such as articles and certificate of incorporation or partnership agreement,
- a chart showing the funding portal's structure and ownership that, at a minimum, includes all parents, affiliates and subsidiaries, as well as the full list of securityholders (including number and type of securities held) of the funding portal,
- details and relevant documents describing the funding portal's process and procedure for handling funds relating to a start-up crowdfunding offering, including:
    - the name of the Canadian financial institution the funding portal will use, together with the designated trust account number,
    - the name of the signatories on this account and their role with the funding portal,
    - a description of how the funds held in this account will be kept separate and apart from the funding portal's own property,
    - a copy of the trust agreement for the funding portal's trust account with a Canadian financial institution or details surrounding the establishment of this account, or, if there is no trust agreement or trust account, an explanation why,
    - how funds will flow from: (i) the purchaser**s** to the account; (ii) the funding portal's trust account to the issuer in the event that the offering closes; and (iii) the trust account back to the purchasers' bank accounts if the offering does not close, or the purchaser has exercised their right of withdrawal (for further information please see the section in this guide entitled *What rights do purchasers have before the start-up crowdfunding distribution closes?*), and
- attachments providing the relevant details sought if the answer to any of questions 11 to 14 of the funding portal information form or questions 11 to 18 of an individual information form is "Yes".

The requirements around the flow of purchaser funds are fundamental to the start-up registration exemption. The regulators may assess if the funding portal complies with these requirements, as well as the other conditions of the start-up crowdfunding exemption, in future compliance exams.

How do I deliver the funding portal information form and individual information forms?

The funding portal must deliver the forms and documents by e-mail to the regulator in each jurisdiction where the funding portal intends to facilitate start-up crowdfunding distributions. For example, a funding portal with a head office in Saskatchewan that intends to seek funds from purchasers in all jurisdictions of Canada must deliver the forms and documents described in this guide to the Financial and Consumer Affairs Authority of Saskatchewan and the regulators in all of the other jurisdictions of Canada.

Are there any required filings after an exempt funding portal has started operating?

After it has started operating, the exempt funding portal must:

1) certify, within ten days of a calendar year-end, that it has sufficient working capital to continue its operations for at least the next 12 months (See "Working Capital Certification" below), and

2) deliver, within 30 days of a change to any of the information in the funding portal information form or individual information forms, the updated funding portal information form and/or individual forms as applicable.

Working Capital Certification

An exempt funding portal is required to certify to the regulator that it has sufficient working capital to operate for the next 12 months:

- in the completed funding portal information form, and

- in the completed Form 45-110F5 *Annual Working Capital Certification* (working capital certification) that needs to be delivered within ten days of a calendar year-end.

For example: an exempt funding portal delivers the completed funding portal information form (which includes a form of the working capital certification) on May 31, 2021. The funding portal ensures that it complies with all the conditions of the start-up registration exemption and begins to facilitate distributions on June 30, 2021.

- The exempt funding portal must then deliver a working capital certification between December 31, 2021 and January 10, 2022, in order to meet the requirements to operate as an exempt funding portal after January 10, 2022.

- If the exempt funding portal delivers its working capital certification on January 4, 2021, it will need to deliver its next working capital certification between December 31, 2021 and January 10, 2022, in order to meet the requirements to operate as an exempt funding portal after January 10, 2022.

A funding portal's working capital is calculated based on current assets less current liabilities. The terms "current assets" and "current liabilities" are defined under Canadian GAAP. Current assets generally include assets such as cash, accounts receivable, inventory and other assets that can be realised, sold or consumed within a year. Current liabilities generally include accounts payable, wages, taxes, and the portion of debt to come due within a year.

Good practices for compliance with this condition include:

- Keeping documentation that is regularly maintained to ensure effective monitoring; and

- Establishing, maintaining and applying a system of controls and supervision sufficient to ensure the accuracy of the documents, including financial statements, used to support the funding portal's assessment of working capital.

Updated Funding Portal Information Form and/or Individual Information Forms

If a change occurs and the information in the forms and documents delivered to a regulator are no longer up-to-date, the exempt funding portal must update the information by delivering a new form or document setting out the change. These updated forms must be provided within thirty days of the change. Failure to deliver these updated forms on time means that the funding portal has not satisfied the conditions of the start-up registration exemption and cannot rely on the exemption.

For example: if management at an exempt funding portal changes on July 1, 2021, an updated funding portal information form, as well as an individual information form for each new officer, must be delivered to the regulators by July 31, 2021.

Assessing compliance for funding portals

Failure to comply with the conditions of NI 45-110 or other securities law requirements is a serious offence that could prevent the funding portal from being able to rely on the start-up registration exemption and expose the funding portal's principals to sanctions. The regulators may conduct compliance reviews on funding portals, including exempt funding portals, to ensure that they comply with the requirements. Funding portals relying on the start-up registration exemption should be prepared to provide documents supporting their compliance with the conditions of the start-up registration exemption.

Funding portals will also be subject to various other laws beyond securities law (e.g. anti-money laundering and privacy laws). We encourage funding portals to consult a lawyer for advice.

Funding portals operated by registered dealers

Registered exempt market dealers and investment dealers are allowed to operate start-up funding portals, provided that they:

- meet their existing registration obligations under securities legislation (including the know-your-client, know-your-product and suitability obligations owed to purchasers, and disclosure of all fees charged to purchasers in accordance with relationship disclosure requirements under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*),

- meet the requirements in NI 45-110 for portals that rely on the start-up registration exemption that still apply to registered dealers (see the section entitled "What are the requirements in NI 45-110 that apply to funding portals operated by registered dealers, as well as to exempt funding portals?" below),

- confirm to issuers that the funding portal is being operated by a registered dealer, and

- prompt any person entering the funding portal's website to acknowledge that the funding portal is operated by

a registered dealer that will provide suitability advice. For more information on the mechanics of this acknowledgement, please see the section of this guide entitled *Pop-Up Acknowledgement.*

An exempt market dealer or investment dealer that wants to operate a start-up funding portal is required to report changes in their business activities by completing and delivering Form 33-109F5 *Change of Registration Information* and updating information previously reported in Form 33-109F6 *Firm Registration* to include operating a start-up funding portal.

What are the requirements in NI 45-110 that apply to funding portals operated by registered dealers, as well as to exempt funding portals?

Registered dealers operating funding portals must meet the conditions set out in section 4 of NI 45-110 (which also apply to exempt funding portals). These include requirements to:

- ensure that a purchaser's payment for securities through the funding portal's platform is received only by the funding portal, and no one else,
- take reasonable measures to ensure the head office of the issuer is in Canada,
- make available the issuers' offering documents and risk warnings on its website, and
- ensure, before it takes an purchaser's subscription, that the purchaser has confirmed they have read and understood the offering document and risk warning available on the funding portal.

Are there different restrictions (e.g. investment limits) placed on start-up crowdfunding distributions facilitated by registered dealers?

An offering conducted through a funding portal operated by a registered dealer is permitted to facilitate a larger investment. Typically, a purchaser may invest up to $2,500 under the start-up prospectus exemption. However, purchasers can purchase up to $5,000 if the registered dealer has determined that the investment is suitable for the purchaser.

"Pop-up" Acknowledgement

The start-up crowdfunding exemptions require purchasers to acknowledge certain information before entering the platform of a funding portal (pop-up acknowledgement). A platform may include the funding platform's website or app. This requirement does not distinguish between where or how the purchaser enters the funding portal's platform. As a result, funding portals must design their platform so that purchasers acknowledge the required information regardless of whether those purchasers enter the platform through the funding portal's home page or through another page.

The funding portal should also manage the risk that potential purchasers are visiting the funding portal's platform using a shared computer, tablet, or other mobile device. In other words, multiple people in a household may be entering the funding portal's website at different times using the same device. As a result, the funding portal should consider designing their platform so that the pop-up acknowledgement reappears each time the purchaser's internet browser or app is closed and re-opened.

We expect the pop-up acknowledgement to appear in the following circumstances:

The pop-up acknowledgement should appear upon the first and every subsequent time a person enters a funding portal's platform. This means that after opening their internet browser or app:

(a) If a person lands on any page of a funding portal's platform (home page or other page) the pop-up acknowledgment should appear.

(b) If the person clicks "I acknowledge" and then immediately closes out of their browser, when the person goes back to any page on a funding portal's platform, the pop-up acknowledgment should appear. The result is that the same person will have to click on "I acknowledge" to go back into the funding portal's platform regardless of the fact that they had just been to that platform.

The pop-up acknowledgement should appear regardless of a person's entry point to the platform (home page or other page). For example:

(a) If a person were to search the name of the funding portal and finds a link to the funding portal's platform, the link would take the person to the funding portal's home page and a pop-up acknowledgement would appear.

(b) If a person were to browse directly to the funding portal's issuer-offering page from an external link, the link would take the person to issuer's page on the funding portal's platform and a pop-up acknowledgement would appear.

Once a person clicks “I acknowledge” and enters the funding portal’s platform, they can navigate from page to page within the website without the re-appearance of the pop-up acknowledgement.

How does a start-up crowdfunding distribution work?

Issuers are responsible for preparing an offering document that complies with Form 45-110F1 *Offering Document*. In particular, the offering document must indicate the minimum amount necessary to close a start-up crowdfunding distribution. Issuers provide the offering document to the funding portal to post online. Purchasers read the offering document and decide whether or not to invest.

Before accepting an investment, the funding portal collects personal information on the purchaser, including the province or territory where the purchaser resides. The funding portal also obtains confirmation that the purchaser has read and understood the offering document and the risks described in Form 45-110F2 *Risk Acknowledgement Form*.

An issuer cannot close a distribution unless it has raised the minimum amount set out in its offering document and each purchaser’s right to withdraw has expired. At the closing:

- the issuer distributes shares or other eligible securities to purchasers, and
- the funding portal releases funds to the issuer.

No later than 15 days following the closing of the distribution, the funding portal notifies purchasers that the funds have been released to the issuer, and provides the issuer with the following information on each purchaser:

- full name,
- address,
- telephone number,
- e-mail address,
- number of securities purchased, and
- total purchase price.

Using this information, no later than 30 days following the closing of the distribution, the issuer files Form 45-106F1 *Report of Exempt Distribution* (the report of exempt distribution) with the regulators. When providing purchaser information to the issuer, funding portals may use the spreadsheet of Schedule 1 of the report of exempt distribution. Please refer to the *Start-up Crowdfunding Guide for Businesses* for more information on the issuer’s filing requirements.

As well, no later than 30 days following the closing of the distribution, the issuer sends a confirmation to each purchaser that includes:

- the date of the purchaser’s subscription and the closing date,
- the number of securities purchased and a description of the securities purchased,
- the price per security paid,
- the total commission, fee and any other amounts paid by the issuer to the funding portal in respect of the distribution, and
- instructions on how the purchaser can access the offering document.

While the obligation is on the issuer to provide this information to purchasers, we expect that the issuer will arrange for the funding portal to provide this information on its behalf.

If the issuer withdraws its start-up crowdfunding offering or does not raise the minimum amount within 90 days after the funding portal posts the offering document online, all the funds must be returned to purchasers within five business days. No deductions are permitted. The funding portal must also send a notice to the issuer and each purchaser confirming that the funds have been returned to purchasers.

The funding portal may send notices to purchasers and issuers by e-mail.

When must an offering document be amended?

From the time it is posted online until the closing or withdrawal of the offering, an issuer must amend its offering document if the information it contains is no longer accurate and contains a misrepresentation. This could be the case if, for example, an issuer wants to change the price of the securities or the minimum or maximum offering amount. The issuer must send the amended version to the funding portal for posting on the funding portal's website. The funding portal must promptly notify purchasers about the amendment.

Can a funding portal facilitate a start-up crowdfunding distribution for itself or for related parties?

A funding portal cannot act in a start-up crowdfunding distribution if one of its principals is also a principal of the issuer group. The issuer group means the issuer, an affiliate of the issuer, and any other issuer that is engaged in a common enterprise with the issuer or an affiliate, or whose business is founded or organized by the same person or company who founded or organized the issuer.

What rights do purchasers have before the start-up crowdfunding distribution closes?

Purchasers have the right to withdraw their investment up to midnight, two business days following:

- the purchaser's subscription, and
- any notice the funding portal sends to the purchaser of an amendment to the offering document.

For example: a funding portal posts an offering document on July 1, 2021 and a purchaser subscribes on July 5, 2021. The funding portal then notifies the purchaser of amendments to the offering documents on July 14, 2021 and July 28, 2021. The purchaser then has the right to withdraw its investment during the following time periods:

- up to midnight, July 7, 2021 (two business days from subscription),
- between July 14, 2021 and midnight, July 16, 2021 (two business days from the first amendment), and
- between July 28, 2021 and midnight, July 30, 2021 (two business days from the second amendment).

The funding portal must give purchasers the opportunity to exercise this right. The purchaser exercises the right of withdrawal by notifying the funding portal. The funding portal must return the funds to a purchaser who exercises this right, without any deduction, within five business days after the notice.

Does an issuer have to provide financial statements?

Under the start-up prospectus exemption, issuers are not required to provide financial statements to purchasers with the offering document.

If an issuer wants to make its financial statements available to purchasers, it can place a hyperlink on the funding portal leading to the financial statements. However, the hyperlink should not appear in the offering document unless the issuer wants the financial statements to form part of it. Please refer to the *Start-Up Crowdfunding Guide for Businesses* for more information on potential reporting requirements relating to making financial statements a part of the issuer's offering document. It should be noted that if an issuer makes its financial statements available to purchasers, those financial statements have to be prepared in accordance with Canadian GAAP.

For more information

For more information, please contact the following:

British Columbia	British Columbia Securities Commission Telephone: 604-899-6854 or 1-800-373-6393 Email: inquiries@bcsc.bca Website: www.bcsc.bc.ca
Alberta	Alberta Securities Commission Telephone: 403-355-4151 E-mail: inquiries@asc.ca Website: www.albertasecurities.com
Saskatchewan	Financial and Consumer Affairs Authority of Saskatchewan Securities Division Telephone: 306-787-5645 E-mail: exemptions@gov.sk.ca Website: www.fcaa.gov.sk.ca
Manitoba	The Manitoba Securities Commission Toll free in Manitoba: 1-800-655-2548 E-mail: exemptions.msc@gov.mb.ca Website: http://www.mbsecurities.ca/
Ontario	Ontario Securities Commission Toll free: 1-877-785-1555 E-mail : inquiries@osc.gov.on.ca Website: www.osc.ca
Québec	Autorité des marchés financiers Direction du financement des sociétés Toll free in Québec: 1-877-525-0337 E-mail: financement-participatif@lautorite.qc.ca Website: www.lautorite.qc.ca
New Brunswick	Financial and Consumer Services Commission Toll free: 1-866-933-2222 E-mail: emf-md@fcnb.ca Website: www.fcnb.ca
Nova Scotia	Nova Scotia Securities Commission Toll free in Nova Scotia: 1-855-424-2499 E-mail: nssc.crowdfunding@novascotia.ca Website: nssc.novascotia.ca

The information in this Guide is for educational purposes only and does not constitute legal advice.

If any information in this Guide is inconsistent with NI 45-110 Start-up Crowdfunding Registration and Prospectus Exemptions, please follow the instrument and the related forms.

Published **.

Appendix A

Checklist for Exempt Funding Portals

Documents required to be delivered to the regulators before a funding portal can rely on the start-up registration exemption:

☐ A completed Form 45-110F3 *Funding Portal Information* (portal information form), with the following documents attached, signed and dated by the authorized individual certifying the portal information form:

- ☐ The funding portal's organizing documents (Item 8 of the portal information form)
- ☐ A chart showing the funding portal's structure and ownership (Item 9 of the portal information form)
- ☐ Details and the relevant documents on the process and procedure for handling all funds relating to a start-up crowdfunding offering (Item 15 of the portal information form)
- ☐ If any of the answers to questions 11 to 14 of the portal information form is "Yes", complete details pertaining to such matters

☐ Completed Forms 45-110F4 *Portal Individual Information* (individual information form) for each principal of the funding portal, with the following documents attached to each individual information form:

- ☐ If any of the answers to questions 11 to 18 of an individual information form is "Yes", complete details pertaining to such matters; except for attachments pertaining to question 11, these attachments must be signed and dated by the authorized individual certifying the individual information form.

Date the funding portal has delivered a completed portal information form and individual information forms, with necessary attachments, to the regulators: _____

Date the funding portal may begin operations if it has not received a notification from the regulator that it is not allowed to rely on the start-up registration exemption (30 days from the date the funding portal delivered the completed portal information form and individual information forms, with necessary attachments, to the regulators): _____

Documents required to be delivered to the regulators after an exempt funding portal has started operations:

☐ A completed Form 45-110F5 *Annual Working Capital Certification* (working capital certification) within ten (10) days of each calendar year-end that the funding portal intends to continue operating.

Note: the working capital certification requires exempt funding portals to certify they have sufficient working capital to operate for at least the next 12 months.

We consider an exempt funding portal to have sufficient working capital if its current assets are equal or greater than its current liabilities. The terms "current assets" and "current liabilities" are defined under Canadian GAAP. Current assets generally include assets such as cash, accounts receivable, inventory and other assets that can be realised, sold or consumed within a year. Current liabilities generally include accounts payable, wages, taxes, and the portion of debt to come due within a year.

Good practices for compliance with this condition include:

- **Keeping documentation that is regularly maintained to ensure effective monitoring; and**
- **Establishing, maintaining and applying a system of controls and supervision sufficient to ensure the accuracy of the documents, including financial statements, used to support the funding portal's assessment of working capital.**

☐ Updated portal information forms or individual information forms if there is a change to any of the information previously provided in these forms, within 30 days of the change.

ANNEX J

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 13-101 *SYSTEM FOR ELECTRONIC DOCUMENT ANALYSIS AND RETRIEVAL (SEDAR)*

1. ***Appendix A of National Instrument 13-101 System for Electronic Analysis and Retrieval (SEDAR) is amended by adding, in section II "Other Issuers (Reporting/Non-reporting)" and after section 6 of item E "Exempt Market Offerings and Disclosure", the following***:

7.	Offering document required to be filed or delivered by an issuer under National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*.	Alta, Sask, Man, Que, NB, PEI, NS, Nfld, YK, NWT, NU

2. This Instrument comes into force on [•].

ANNEX K

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 45-102 *RESALE OF SECURITIES*

1. ***National Instrument 45-102 Resale of Securities is amended by this Instrument.***

2. ***Appendix D is amended by adding, before the title*** **"Transitional and Other Provisions"*, the following paragraph***:

3. Except in Manitoba, the exemption from the prospectus requirement in section 5 [Exemption from Prospectus Requirement for Issuers] of National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*.

3. This Instrument comes into force on [•].

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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:
Horizons Big Data & Hardware Index ETF (formerly Horizons Blockchain Technology & Hardware Index ETF)
Horizons Pipelines & Energy Services Index ETF (formerly Horizons Canadian Midstream Oil & Gas Index ETF)
Principal Regulator - Ontario
Type and Date:
Amendment #3 to Final Long Form Prospectus dated February 26, 2020
Received on February 26, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Horizons ETFs Management (Canada) Inc.
Project #2881931

Issuer Name:
Sun Life Granite Income Portfolio
Sun Life Sentry Value Fund
Sun Life Dynamic American Fund
Sun Life Templeton Global Bond Fund
Sun Life BlackRock Canadian Equity Fund
Sun Life BlackRock Canadian Balanced Fund
Sun Life MFS Canadian Equity Growth Fund
Sun Life Franklin Bissett Canadian Equity Class
Sun Life Invesco Canadian Class
Principal Regulator - Ontario
Type and Date:
Amendment #3 to Final Simplified Prospectus and Amendment #4 to AIF dated February 26, 2020
Received on February 27, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2858300

Issuer Name:
The Bitcoin Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated to Preliminary Long Form Prospectus dated February 27, 2020
NP 11-202 Preliminary Receipt dated March 2, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
3iQ CORP.
Project #2992060

Issuer Name:
Lysander-Canso Credit Opportunities Fund
Lysander-Triasima All Country Long/Short Equity Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Simplified Prospectus dated Feb 24, 2020
NP 11-202 Preliminary Receipt dated Feb 25, 2020
Offering Price and Description:
Series A units and Series F units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3020259

Issuer Name:
Capital Group Monthly Income Portfolio (Canada)
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Feb 28, 2020
NP 11-202 Final Receipt dated Mar 2, 2020
Offering Price and Description:
Series A units, Series T4 units, Series I units, Series F units and Series F4 units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3013888

Issuer Name:
TD Active Global Enhanced Dividend ETF
TD Active Global Equity Growth ETF
TD Active Global Infrastructure Equity ETF
TD Active Preferred Share ETF
TD Active U.S. Enhanced Dividend ETF
TD Canadian Aggregate Bond Index ETF
TD Canadian Equity Index ETF (formerly TD S&P/TSX Capped Composite Index ETF)
TD Global Aggregate Bond Index ETF
TD Global Technology Leaders Index ETF
TD International Equity CAD Hedged Index ETF
TD International Equity Index ETF
TD Q Canadian Low Volatility ETF
TD Q U.S. Low Volatility ETF
TD Select Short Term Corporate Bond Ladder ETF
TD Select U.S. Short Term Corporate Bond Ladder ETF
TD Systematic International Equity Low Volatility ETF
TD U.S. Equity CAD Hedged Index ETF (formerly TD S&P 500 CAD Hedged Index ETF)
TD U.S. Equity Index ETF (formerly TD S&P 500 Index ETF)
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Long Form Prospectus dated Feb 27, 2020
NP 11-202 Final Receipt dated Mar 2, 2020
Offering Price and Description:
USD Units and CAD Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3007968

Issuer Name:
Portland North American Alternative Fund
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated Feb 24, 2020
NP 11-202 Preliminary Receipt dated Feb 25, 2020
Offering Price and Description:
Series A Units and Series F Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3020548

Issuer Name:
Vertex Liquid Alternative Fund
Vertex Liquid Alternative Fund Plus
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Feb 26, 2020
NP 11-202 Preliminary Receipt dated Feb 27, 2020
Offering Price and Description:
Class F Units
Class I Units (formerly Class O Units)
Class A Units (formerly Class B Units)
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2998799

Issuer Name:
Purpose Structured Equity Yield Portfolio
Principal Jurisdiction - Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated February 20, 2020
NP 11-202 Final Receipt dated Feb 26, 2020
Offering Price and Description:
Series A shares, Series F shares and Series I shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2946418

Issuer Name:
CI Investment Grade Bond Fund
Principal Jurisdiction - Ontario
Type and Date:
Amendment #4 to Final Simplified Prospectus dated February 18, 2020
NP 11-202 Final Receipt dated Feb 26, 2020
Offering Price and Description:
Class A units, Class AH units, Class E units, Class EF units, Class F units, Class FH units, Class I units, Class IH units, Class O units, Class P units and Class PH units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2924573

Issuer Name:
Educators Balanced Fund
Educators Bond Fund
Educators Dividend Fund
Educators Growth Fund
Educators Money Market Fund
Educators Monthly Income Fund
Educators Mortgage & Income Fund
Educators U.S. Equity Fund
Educators Monitored Aggressive Portfolio
Educators Monitored Balanced Portfolio
Educators Monitored Conservative Portfolio
Educators Monitored Growth Portfolio
Principal Jurisdiction - Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated February 20, 2020
NP 11-202 Final Receipt dated Feb 28, 2020
Offering Price and Description:
Class E units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2997362

Issuer Name:
RBC Canadian T-Bill Fund
RBC $U.S. Money Market Fund
RBC O'Shaughnessy U.S. Growth Fund
RBC Life Science and Technology Fund
RBC Canadian Money Market Fund
RBC Monthly Income Fund
RBC Bond Fund
RBC Global Corporate Bond Fund
RBC Global High Yield Bond Fund
BlueBay European High Yield Bond Fund (Canada)
RBC O'Shaughnessy Canadian Equity Fund
RBC O'Shaughnessy All-Canadian Equity Fund
RBC Canadian Equity Income Fund
RBC North American Growth Fund
RBC U.S. Equity Currency Neutral Fund
RBC U.S. Mid-Cap Growth Equity Fund
RBC U.S. Mid-Cap Growth Equity Currency Neutral Fund
RBC O'Shaughnessy U.S. Growth Fund II
RBC O'Shaughnessy Global Equity Fund
RBC Global Energy Fund
RBC Global Precious Metals Fund
RBC Global Resources Fund
RBC Global Technology Fund
RBC Global Bond Fund
BlueBay Global Monthly Income Bond Fund
RBC U.S. Monthly Income Fund
RBC O'Shaughnessy U.S. Value Fund
RBC O'Shaughnessy International Equity Fund
BlueBay Emerging Markets Corporate Bond Fund
BlueBay Global Convertible Bond Fund (Canada)
BlueBay $U.S. Global Convertible Bond Fund (Canada)
RBC North American Value Fund
RBC Global Balanced Fund
RBC Global Dividend Growth Fund
RBC Canadian Equity Fund
RBC U.S. Dividend Fund
RBC U.S. Equity Fund
RBC International Equity Fund
RBC European Equity Fund
Principal Jurisdiction - Ontario
Type and Date:
Amendment #4 to Final Simplified Prospectus dated February 27, 2020
NP 11-202 Final Receipt dated Mar 2, 2020
Offering Price and Description:
Advisor Series units, Advisor T5 Series units, Series A units, Series D units, Series DZ units, Series F units, Series H units, Series I units, Series O units, Series FT5 units, Series FT8 units, Series O units, Series T5 units, Series T8 units and Series U units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2918773

Issuer Name:
Sentry U.S. Monthly Income Fund
Principal Jurisdiction - Ontario
Type and Date:
Amendment #3 to Final Simplified Prospectus dated February 18, 2020
NP 11-202 Final Receipt dated Feb 26, 2020
Offering Price and Description:
Series A securities, Series AH securities, Series B securities, Series E securities, Series EF securities, Series F securities, Series FH securities, Series I securities, Series IH securities, Series O securities, Series P securities and Series PH securities
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2918575

Issuer Name:
RBC Private Canadian Growth Equity Pool
Principal Jurisdiction - Ontario
Type and Date:
Amendment #3 to Final Simplified Prospectus dated February 25, 2020
NP 11-202 Final Receipt dated Feb 28, 2020
Offering Price and Description:
Series F units and Series O units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2918773

Issuer Name:
RBC Short Term Income Class
RBC Canadian Equity Class
RBC North American Value Class
RBC U.S. Dividend Class
RBC U.S. Equity Class
RBC Global Resources Class
RBC Canadian Equity Income Class
Principal Jurisdiction - Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus dated February 27, 2020
NP 11-202 Final Receipt dated Mar 2, 2020
Offering Price and Description:
Series A, Advisor Series, Advisor T5 Series, Series D, Series F, Series FT5, Series O, Series T5 and Series O
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2967162

NON-INVESTMENT FUNDS

Issuer Name:
Bee Vectoring Technologies International Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated February 20, 2020
NP 11-202 Preliminary Receipt dated February 26, 2020
Offering Price and Description:
$30,000,000.00
COMMON SHARES
PREFERRED SHARES
DEBT SECURITIES
SUBSCRIPTION RECEIPTS
WARRANTS
UNITS
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3019500

Issuer Name:
FSD Pharma Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated February 28, 2020
NP 11-202 Preliminary Receipt dated March 2, 2020
Offering Price and Description:
C$100,000,000.00
Class B Subordinate Voting Shares
Subscription Receipts
Warrants
Debt Securities
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3023506

Issuer Name:
GFL Environmental Inc.
Principal Regulator - Ontario
Type and Date:
Amendment dated February 25, 2020 to Preliminary Long Form Prospectus dated February 18, 2020
NP 11-202 Preliminary Receipt dated February 25, 2020
Offering Price and Description:
US$ *
73,170,733 Subordinate Voting Shares
Price: US$ * per Subordinate Voting Share
Underwriter(s) or Distributor(s):
J.P. Morgan Securities Canada Inc.
BMO Nesbitt Burns Inc.
Goldman Sachs Canada Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Barclays Capital Canada Inc.
Raymond James Ltd.
Stifel Nicolaus Canada Inc.
TD Securities Inc.
Merrill Lynch Canada Inc.
CIBC World Markets Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Promoter(s):
-
Project #3018168

Issuer Name:
GFL Environmental Inc.
Principal Regulator - Ontario
Type and Date:
Amendment dated February 25, 2020 to Preliminary Long Form Prospectus dated February 18, 2020
NP 11-202 Preliminary Receipt dated February 25, 2020
Offering Price and Description:
US$ *
14,000,000 *% Tangible Equity Units
Price: US$* per Unit
Underwriter(s) or Distributor(s):
J.P. Morgan Securities Canada Inc.
BMO Nesbitt Burns Inc.
Goldman Sachs Canada Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Barclays Capital Canada Inc.
Raymond James Ltd.
Stifel Nicolaus Canada Inc.
TD Securities Inc.
Merrill Lynch Canada Inc.
CIBC World Markets Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Promoter(s):
-
Project #3018174

Issuer Name:
kneat.com, inc.
Principal Regulator - Nova Scotia
Type and Date:
Preliminary Short Form Prospectus dated February 26, 2020
NP 11-202 Preliminary Receipt dated February 26, 2020
Offering Price and Description:
$*
* Common Shares
Price: $* per Offered Share
Underwriter(s) or Distributor(s):
CORMARK SECURITIES INC.
CANACCORD GENUITY CORP.
ECHELON WEALTH PARTNERS INC.
MACKIE RESEARCH CAPITAL CORPORATION
Promoter(s):
-
Project #3021518

Issuer Name:
kneat.com, inc.
Principal Regulator - Nova Scotia
Type and Date:
Amendment dated February 27, 2020 to Preliminary Short Form Prospectus dated February 26, 2020
NP 11-202 Preliminary Receipt dated February 27, 2020
Offering Price and Description:
$2.10
5,238,500 Common Shares
Underwriter(s) or Distributor(s):
CORMARK SECURITIES INC.
CANACCORD GENUITY CORP.
ECHELON WEALTH PARTNERS INC.
MACKIE RESEARCH CAPITAL CORPORATION
Promoter(s):
-
Project #3021518

Issuer Name:
Mawson Resources Limited
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated February 28, 2020
NP 11-202 Preliminary Receipt dated March 2, 2020
Offering Price and Description:
$25,000,000.00
Common Shares
Debt Securities
Warrants
Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3024123

Issuer Name:
Spartan Acquisition Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary CPC Prospectus dated February 28, 2020
NP 11-202 Preliminary Receipt dated March 2, 2020
Offering Price and Description:
MINIMUM OFFERING: $400,000.00 or 2,000,000 Common Shares
MAXIMUM OFFERING: $800,000.00 or 4,000,000 Common Shares
Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
-
Project #3023787

Issuer Name:
Sun Peak Metals Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated February 24, 2020
NP 11-202 Preliminary Receipt dated February 25, 2020
Offering Price and Description:
36,963,369 Common Shares Issuable Upon the Deemed Exercise of 36,963,369 Special Warrants
Price per Special Warrant - $0.35
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3020492

Issuer Name:
Trenchant Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated February 24, 2020
NP 11-202 Preliminary Receipt dated February 25, 2020
Offering Price and Description:
Minimum Offering: $1,000,000.00
Maximum Offering: $7,817,000.00
8% Series B Secured Convertible Debentures
Underwriter(s) or Distributor(s):
INDUSTRIAL ALLIANCE SECURITIES INC.
CANACCORD GENUITY CORP.
RAYMOND JAMES LTD.
ECHELON WEALTH PARTNERS INC.
PI FINANCIAL CORP.
HAMPTON SECURITIES LIMITED
INTEGRAL WEALTH SECURITIES LTD.
Promoter(s):
-
Project #3020578

Issuer Name:
Vitalhub Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 27, 2020
NP 11-202 Preliminary Receipt dated February 27, 2020
Offering Price and Description:
$13,500,000.00 - 7,500,000 Common Shares
Price: $1.80 per Common Share
Underwriter(s) or Distributor(s):
Cormark Securities Inc.
BEACON SECURITIES LIMITED
CANACCORD GENUITY CORP.
Promoter(s):
-
Project #3020006

Issuer Name:
Ag Growth International Inc.
Principal Regulator - Manitoba
Type and Date:
Final Short Form Prospectus dated February 27, 2020
NP 11-202 Receipt dated February 27, 2020
Offering Price and Description:
$85,000,000.00 - 5.25% Senior Subordinated Unsecured Debentures
Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC
NATIONAL BANK FINANCIAL INC.
RBC DOMINION SECURITIES INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
RAYMOND JAMES LTD.
DESJARDINS SECURITIES INC.
CORMARK SECURITIES INC.
HSBC SECURITIES (CANADA) INC.
Promoter(s):
-
Project #3017393

Issuer Name:
Baltic I Acquisition Corp.
Principal Regulator - British Columbia
Type and Date:
Final CPC Prospectus dated February 25, 2020
NP 11-202 Receipt dated February 26, 2020
Offering Price and Description:
$250,000.00 OR 2,500,000 COMMON SHARES
PRICE: $0.10 PER COMMON SHARE
Underwriter(s) or Distributor(s):
HAYWOOD SECURITIES INC.
Promoter(s):
Harry Pokrandt
Project #2998435

Issuer Name:
Ceres Acquisition Corp.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated February 25, 2020
NP 11-202 Receipt dated February 25, 2020
Offering Price and Description:
U.S.$120,000,000.00
12,000,000 Class A Restricted Voting Units
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
Promoter(s):
CERES GROUP ACQUISITION SPONSOR, LLC
Project #3014791

Issuer Name:
GFL Environmental Inc.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated March 2, 2020
NP 11-202 Receipt dated March 2, 2020
Offering Price and Description:
US$ *
73,170,733 Subordinate Voting Shares
Underwriter(s) or Distributor(s):
J.P. Morgan Securities Canada Inc.
BMO Nesbitt Burns Inc.
Goldman Sachs Canada Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Barclays Capital Canada Inc.
Raymond James Ltd.
Stifel Nicolaus Canada Inc.
TD Securities Inc.
Merrill Lynch Canada Inc.
CIBC World Markets Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Promoter(s):
-
Project #3018168

Issuer Name:
GFL Environmental Inc.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated March 2, 2020
NP 11-202 Receipt dated March 2, 2020
Offering Price and Description:
US$ *
14,000,000 *% Tangible Equity Units
Price: US$* per Unit
Underwriter(s) or Distributor(s):
J.P. Morgan Securities Canada Inc.
BMO Nesbitt Burns Inc.
Goldman Sachs Canada Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Barclays Capital Canada Inc.
Raymond James Ltd.
Stifel Nicolaus Canada Inc.
TD Securities Inc.
Merrill Lynch Canada Inc.
CIBC World Markets Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Promoter(s):
-
Project #3018174

Issuer Name:
Great Canadian Gaming Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated February 24, 2020
NP 11-202 Receipt dated February 25, 2020
Offering Price and Description:
$180,000,000.00 - 5.25% Senior Unsecured Debentures due December 31, 2026
Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
BMO NESBITT BURNS INC.
RBC DOMINION SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.
RAYMOND JAMES LTD.
CANACCORD GENUITY CORP.
INDUSTRIAL ALLIANCE SECURITIES INC.
CORMARK SECURITIES INC.
HSBC SECURITIES (CANADA) INC.
Promoter(s):
-
Project #3016113

Issuer Name:
Premier Gold Mines Limited
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated February 25, 2020
NP 11-202 Receipt dated February 25, 2020
Offering Price and Description:
$38,002,500.00
25,335,000 Common Shares
$1.50 per Offered Share
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
SPROTT CAPITAL PARTNERS LP
Promoter(s):
-
Project #3016344

Issuer Name:
Royal Bank of Canada
Principal Regulator - Quebec
Type and Date:
Final Shelf Prospectus dated February 27, 2020
NP 11-202 Receipt dated February 27, 2020
Offering Price and Description:
$25,000,000,000.00 - Senior Debt Securities (Unsubordinated Indebtedness), Debt Securities (Subordinated Indebtedness), First Preferred Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3013537

Issuer Name:
Slate Retail REIT
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated March 2, 2020
NP 11-202 Receipt dated March 2, 2020
Offering Price and Description:
U.S.$750,000,000 Units Debt Securities Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3017869

Issuer Name:
Turmalina Metals Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated February 24, 2020
NP 11-202 Receipt dated February 25, 2020
Offering Price and Description:
$8,500,100.00
12,143,000 Units
Price: $0.70 per Unit
Underwriter(s) or Distributor(s):
CLARUS SECURITIES INC.
CORMARK SECURITIES INC.
CANACCORD GENUITY CORP.
PI FINANCIAL CORP.
Promoter(s):
-
Project #3017325

Issuer Name:
Laramide Resources Ltd.
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 3, 2019
Withdrawn on March 2, 2020
Offering Price and Description:
$10,000,000.00
Common Shares
Debt Securities
Warrants
Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2997362

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Finhaven Capital Inc.	Exempt Market Dealer	February 25, 2020
New Registration	Green Court Capital Management Limited	Portfolio Manager	February 28, 2020
Consent to Suspension (Pending Surrender)	Bordeaux Capital Inc.	Exempt Market Dealer	February 27, 2020
Voluntary Surrender	Kawartha Asset Management Inc.	Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	February 27, 2020

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.1 SROs

13.1.1 Investment Industry Regulatory Organization of Canada (IIROC) – Housekeeping Amendments to the Universal Market Integrity Rules (UMIR) Following Implementation of IIROC Rules – Notice of Commission Deemed Approval

NOTICE OF COMMISSION DEEMED APPROVAL

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

HOUSEKEEPING AMENDMENTS TO THE UNIVERSAL MARKET INTEGRITY RULES (UMIR) FOLLOWING IMPLEMENTATION OF IIROC RULES

The Ontario Securities Commission did not object to the classification of IIROC's proposed amendments to UMIR as housekeeping. The amendments will:

- correct inaccurate cross-referencing and typographical mistakes, and
- make necessary changes of an editorial nature.

The changes to UMIR are needed in order to update rule references from the previous Dealer Member Rules with the current provisions in IIROC Rules. More information on the implementation of the IIROC Rules could be found at http://www.osc.gov.on.ca.

The proposed housekeeping amendments are deemed to be approved and will become effective on June 1, 2020.

In addition, the Alberta Securities Commission, the Autorité des marchés financiers, the British Columbia Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan, the Financial and Consumer Services Commission of New Brunswick, the Manitoba Securities Commission, the Newfoundland and Labrador Office of the Superintendent of Securities, the Northwest Territories Office of the Superintendent of Securities, the Nova Scotia Securities Commission, the Nunavut Office of the Superintendent of Securities, the Office of the Yukon Superintendent of Securities, and the Prince Edward Island Office of the Superintendent of Securities did not object to the amendments.

A copy of IIROC's Notice of Approval/Implementation and the text of the approved amendments can be found at http://www.osc.gov.on.ca.

13.2 Marketplaces

13.2.1 Trumid Financial LLC – Application for Exemption from Marketplace Rules – Notice and Request for Comment

NOTICE AND REQUEST FOR COMMENT

APPLICATION BY

TRUMID FINANCIAL LLC FOR EXEMPTION FROM MARKETPLACE RULES

A. Background

Trumid Financial LLC (**Trumid**) has applied for an exemption from National Instrument 21-101 *Marketplace Operation* (**NI 21-101**), National Instrument 23-101 *Trading Rules* (**NI 23-101**), and National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**) in their entirety (together, the **Marketplace Rules**).

Trumid is registered as an alternative trading system (**ATS**) and broker-dealer with the United States Securities and Exchange Commission (**SEC**) and is a member of the Financial Industry Regulatory Authority (**FINRA**), the U.S. equivalent of the Investment Industry Regulatory Organization of Canada (**IIROC**).

Trumid proposes to offer direct access in Ontario to its trading facilities to prospective participants in Ontario for the trading of USD corporate debt securities and has applied for an exemption from the Marketplace Rules on the basis that it is already subject to regulatory oversight in its home jurisdiction by the SEC and FINRA.

B. Application and Draft Exemption Order

In the application, Trumid has outlined how it meets the criteria for exemption from the Marketplace Rules as set out in CSA Staff Notice 21-328 *Regulatory Approach to Foreign Marketplaces Trading Fixed Income Securities*.[1] The application and draft exemption order are attached as Appendices A and B, respectively, to this Notice.

C. Comment Process

The Commission is seeking public comment on all aspects of Trumid's application and the draft exemption order.

Please provide your comments in writing, via e-mail, on or before **April 6, 2020**, to the attention of:

Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario
M5H 3S8
Fax: 416-593-2318
Email: comments@osc.gov.on.ca

The confidentiality of submissions cannot be maintained as the comment letters and a summary of written comments received during the comment period will be published.

Questions may be referred to:

Heather Cohen
Legal Counsel, Market Regulation
Email: hcohen@osc.gov.on.ca

Ruxandra Smith
Senior Accountant, Market Regulation
Email: ruxsmith@osc.gov.on.ca

[1] Available at https://www.osc.gov.on.ca/en/6097.htm.

Appendix A

Ramandeep Grewal
Direct: 416 869-5265
RGrewal@stikeman.com

November 13, 2019
Our File No. 137149.1001

Confidential
By Email &Courier

Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario M5H 3S8
Fax: (416) 593-2318

Attention: Secretary to the Commission

Dear Sirs/Mesdames:

Re: Trumid Financial LLC - Application for Exemption from Certain Marketplace Rules That Apply To Alternative Trading System

We are Canadian counsel to, and are filing this application (the "**Application**") with the Ontario Securities Commission (the "**OSC**") on behalf of, Trumid Financial, LLC ("**Trumid**" or the "**Applicant**") for an order under Section 15.1 of National Instrument 21-101 – *Marketplace Operation* ("**NI 21-101**"), Section 12.1 of National Instrument 23-101 – *Trading Rules* ("**NI 23-101**") and Section 10 of National Instrument 23-103 – *Electronic Trading and Direct Access to Marketplaces* ("**NI 23-103**" and, together with NI 21-101 and NI 23-101, the "**Marketplace Rules**") exempting Trumid from the application of all provisions of the Marketplace Rules that apply to a person or company carrying on business as an alternative trading system ("**ATS**") in Ontario (the "**Requested Relief**").

In Ontario, an ATS is regulated as a marketplace under NI 21-101. The requirements applicable to an ATS are in some aspects different from the requirements for recognition of an exchange, which is also regulated as a marketplace under NI 21-101. In particular, there is a requirement in Section 6.1 of NI 21-101 that an ATS may not carry on business as an ATS unless it is registered as a dealer, it is a member of a self-regulatory entity and it complies with the provisions of Marketplace Rules. A majority of the provisions of Marketplace Rules, however, apply equally to an exchange and an ATS.

Similar to an exchange submitting Form 21-101F1 ("**F1**") and an application to the OSC for recognition as an exchange in Ontario, an ATS is required to submit to the OSC Form 21-101F2 ("**F2**") 45 days before it intends to begin carrying on business as an ATS in Ontario and must wait for the OSC to resolve any regulatory issues in coordination with the issuance of the registration as an investment dealer before commencing carrying on activities as an ATS.[1]

In OSC Staff Notice 21-702 *Regulatory Approach for Foreign Based Stock Exchanges*, as updated, ("**OSC Staff Notice 21-702**"), OSC Staff has provided the basis for the exemption of foreign-based exchanges from the exchange recognition requirement under section 21.(1) of the *Securities Act* (Ontario) ("**OSA**") and has prescribed criteria in relation to applications by foreign exchanges for such an exemption. These criteria are set out in Appendix A to the Application.

In part (b)(i) of the OSC Staff Notice 21-702, OSC Staff have provided a rationale for granting an exchange a recognition exemption stating that most foreign based stock exchanges are subject to a regulatory regime in their country of origin (home jurisdiction) and full regulation, similar to that applied to domestic exchanges, which may be duplicative and inefficient when imposed in addition to the home jurisdiction regulation requirements. Also, trades and orders executed on the foreign stock exchange should be subject to the same rules regardless of where the investor is located or the order is entered. OSC Staff Notice 21-702 further states that, as long as a foreign exchange can establish that it meets the same criteria that a domestic exchange has to meet and that access will be through an Ontario registrant, it would not be contrary to the public interest to grant such foreign exchange an exemption from the requirement to be recognized in order to operate with clients in Ontario.

The Applicant submits that the regulation requirements imposed by the Marketplace Rules are sufficiently similar for an exchange and an ATS to justify granting an exemption from such requirements for a foreign based and regulated ATS under the same rationale that, if an ATS can demonstrate sufficient compliance with the criteria that has to be met by a domestic ATS, the balance between having efficient capital markets and protecting public interest would be achieved and the granting of the Requested Relief would be warranted.

[1] OSC Staff Notice 21-703 – *Transparency of the Operations of Stock Exchanges and Alternative Trading Systems* ("**Revisions to OSC Staff Notice 21-703**").

The Applicant submits that it is able to substantially meet or otherwise address the criteria listed in the Form F2, many of which are the same as for an exchange recognition exemption listed in OSC Staff Notice 21-702 (as set out in Appendix A to this Application). The Applicant will, therefore, use the same format of an exchange recognition exemption application and the applicable criteria listed in Appendix A, modified where appropriate, to demonstrate its compliance with ATS registration requirements in Ontario.

Reference will be made in this Application to the Trumid Rulebook (the "**Trumid Rulebook**"), which is available on the Trumid website at: https://www.trumid.com/files/Trumid_SEC-registered_Rulebook.pdf The Trumid rules are contained in the Trumid Rulebook (the "**Trumid Rules**") and are separated into 7 chapters and each focusing on a specific area. The Trumid Rulebook is the governing document for the system. In order to become users, applicants must undertake to be bound by the Trumid Rules.

For convenience, this Application is divided into the following Parts:

Section 1 - Background
Section 2 - Application of Approval Criteria Applicable to the ATS
1. Regulation of the ATS
2. Governance
3. Regulation of Products
4. Access
5. Regulation of Participants on the ATS
6. Clearing and Settlement
7. Systems and Technology
8. Financial Viability
9. Transparency and Reporting
10. Record Keeping
11. Outsourcing
12. Fees
13. Information Sharing and Oversight Arrangements
14. IOSCO Principles

Section 3 - Submissions
Section 4 - Other Matters

SECTION 1 – Background

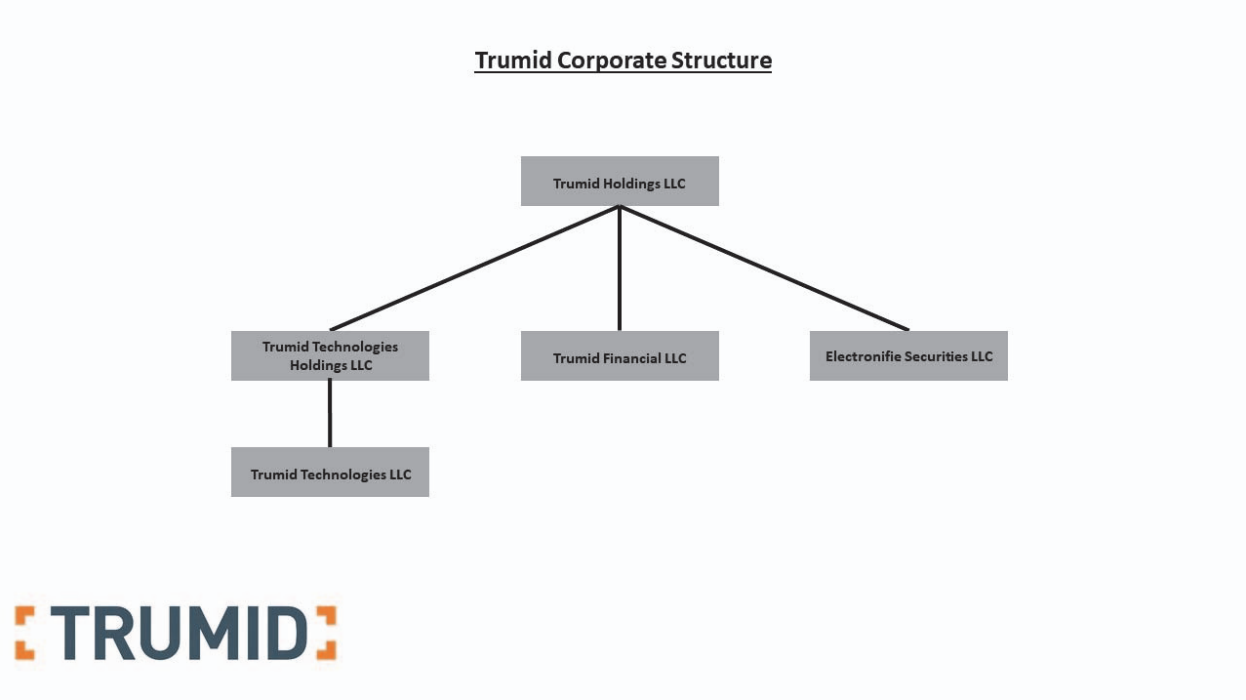
1.1 Description of Trumid and its business

1. Trumid is a limited liability company existing under the laws of Delaware in the United States (the "**U.S.**"), with its head office located in New York, New York, U.S.

2. Trumid was founded in 2014 and operates as the electronic service provider of a USD corporate debt securities trading platform for institutional clients. At the time of submitting the Application, Trumid has 443 buy-side and sell-side institutional clients and has effected nearly USD $90bn in corporate bonds trades since inception. Trumid does not provide access to any retail clients.

3. Trumid is registered as an ATS and broker-dealer with the U.S. Securities and Exchange Commission ("**SEC**") (SEC#: 8-69500) and is a member of Financial Industry Regulatory Authority ("**FINRA**") (CRD#: 172129), a U.S. equivalent of Investment Industry Regulatory Organization of Canada ("**IIROC**").

4. Trumid operates as an ATS under SEC Rules. Trumid has a technology affiliate, Trumid Technologies, LLC, which has developed the platform application and licenses the application for Trumid to operate. Trumid Technologies, LLC also designs and develops technology solutions for institutional clients. Both Trumid and Trumid Technologies, LLC, are wholly-owned subsidiaries of Trumid Holdings, LLC. All entities are under common management and control, and the corporate structure is as set out below.



5. Trading of USD corporate bonds is facilitated through Trumid's Market Center (2.0) interface (the "**Platform**"). Trumid's technology solution is html5 based and offered over the internet. The technology provides access to an electronic application that allows clients to access available trades in USD corporate bonds. Clients are onboarded by Trumid and Trumid's intermediary, State Street Global Markets, LLC ("**SSGM**" or the "**Intermediary**"), to access the application, which allows those clients (the "**Users**") to initiate transactions that are then matched by the application.

6. The onboarding documentation required by Trumid includes an agreement signed by the onboarding client agreeing to the terms and conditions of the use of the Platform (the "**User Agreement**"), Customer Account Application and Authorized Trader Form. Trumid also aids in the collection of onboarding documentation required by SSGM, which includes a DVP/RVP agreement, Tax ID Form, Authorized Trader Form, Execution Agreement with an Electronic Trading Addendum, Trumid-specific Annex to the aforementioned Addendum, Standard Settlement Instructions ("SSIs"), Investment Adviser Letter (as applicable) and a Prime Brokerage Release Form ("Form 151") (as applicable).

7. The Platform offers access to multiple protocols which run in parallel on the Trumid Market Center. The Anonymous Protocol ("**AP**") allows institutional clients to select securities in which they wish to transact, leave partially or fully informed Indications of Interest ("**IOIs**") or fully informed orders, and have the technology solution notify those users when one or more of his/her securities of interest are able to engage in a time-limited, trading session (in a Central Limit Order Book format, a "**CLOB**"). Traders with electronic matches are prompted to firm up their orders and may electronically engage in the CLOB. Price levels are only first displayed in this CLOB and are always live (executable) with a minimum size of US$1mm. Traders may choose to improve their price, execute against the opposing side or cancel during this phase (prior to any match).

   If a trade is effected, the CLOB immediately ends and progresses to a volume-clearing, time-limited, single price phase at the level just transacted. This volume-clearing phase is known as the Trumid Phase and is where most transactions on the Platform occur.

   To execute transactions which are matched in the AP, Trumid has contracted with a separate, third-party intermediary, SSGM, which is a US-based, SEC and FINRA-registered, broker dealer (SEC#: 8-69862/CRD#: 285852), and a wholly-owned subsidiary of State Street Corp.. That intermediary serves as executing broker and is counterparty to all client transactions. In its capacity, this third-party intermediary dealer handles all client funds and executory responsibilities, including settlement and clearing. Trumid is not involved with the settlement or clearing of any transactions.

8. Trumid also runs an Attributed Trading Protocol ("**ATP**"), which uses technology to better connect sell side dealers with their institutional, buy side clients. Interactions are in the form of negotiations and follow market standard engagement protocol, but without free form conversation. There are no minimum order sizes and all matches feature 'last look' functionality when aggressed upon (note: in the ATP, opposing parties are known to each other). Matches in the ATP are directly between the sell side dealer (as executing broker) and the buy side client. As with trades effected on under the AP, Trumid is similarly not involved with the settlement or clearing of any transactions for ATP trades. Despite its

registration with the SEC as a broker-dealer, Trumid is not a direct party to any transaction and does not trade for its own account. Trumid also does not handle any client funds or securities, nor hold any client accounts. Lastly, as Trumid is not the executing broker, Trumid is also not involved with the settlement or clearing of transactions.

9. It is expected that certain Ontario institutional investors wish to become clients of Trumid in order to access the liquidity afforded by the robust, existing network of clients.

10. Trumid proposes to offer access to its Platform to prospective participants in Ontario (the "**Ontario Participants**"). In order to obtain direct access to the Platform, an Ontario Participant must agree to abide by the Trumid Rulebook and consent to submit to the jurisdiction of Trumid. The Trumid Rulebook provides clear and transparent access criteria and requirements for all market participants on the Platform, as well as minimum financial requirements for participants to maintain the financial integrity of the Platform. Trumid applies these criteria to all Platform participants in an impartial manner.

11. There are no retail clients on the Platform. Trumid's institutional Platform participants include both buy side and sell side institutions, ranging from smaller hedge funds (i.e., funds with US$100mm AUM), to some of the largest asset managers in the world (i.e., those with several trillion USD in AUM). Sell side participants include similarly scaled institutions (smaller regional dealers to some of the largest banks in the world).

Ontario Participants and Requested Relief

12. Ontario Participants will be comprised of institutional investors that qualify as permitted clients as defined in Section 1.1 of NI 31-103.

13. Trumid intends to provide Ontario Participants with direct access to the Platform. Trumid is asking for the Requested Relief in order for Ontario Participants to be able to access trading on the Platform.

14. Trumid has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein.

Location

15. Trumid is based at 5 Bryant Park, 8th Floor, New York, New York, U.S.

Size

16. The vast majority of Trumid's 440+ institutional clients are located in the U.S. However, a number are in jurisdictions which allow the company to operate under foreign exemptions (e.g., the UK, Cayman Islands, Singapore, etc.). To date, approximately 99% of Trumid's trading volume has originated from U.S. clients. Trumid expects the great majority of activity to continue to come from U.S. clients.

Ownership and corporate structure

17. Trumid is a wholly-owned subsidiary of Trumid Holdings, LLC, a private limited liability company incorporated under the laws of Delaware, U.S. Trumid Holdings, LLC owns 100% of shares of Trumid.

18. Trumid has no subsidiaries, but is affiliated with Electronifie Securities LLC and Trumid Technologies, LLC. All companies are under common management and control and wholly owned by Trumid Holdings, LLC.

19. Trumid Holdings, LLC is wholly owned by individuals and private investors, a significant portion of whom are directors and/or officers of Trumid.

Third Party Clearance and Settlement Entity

20. In its capacity as third party intermediary, SSGM, the executing broker, is responsible for clearing and settlement (SSGM self-clears and settles). Trumid is not involved with the settlement or clearing of transactions.

Trading of Debt Securities

21. Trumid provides its clients with access to trades in USD corporate debt securities as facilitated by the Platform. As is standard in the corporate bond market, Trumid also may facilitate a US Treasury ("UST") trade for those clients wishing to hedge out the interest rate exposure from 'spread-based' corporate bond trades.

Tradeable Securities

22. Participants on the Platform may choose to trade any of the 22,000+, TRACE-eligible, USD corporate bonds contained on Trumid's eligible-to-trade, security-master list. In order to trade, a participant must enter a security's description either through a search feature or directly on an order ticket (all securities contain either an ISIN or CUSIP to confirm identification). Desired direction, size, price and 'good-for' times must also be entered on an order ticket. In the AP, participants interact only with the Platform, never directly with the opposing side (and executions are directly against SSGM). The Trumid Market Center AP maintains anonymity of its users before, during and after all transactions. Participants would not know if opposing interest is that of a US-based user, an Ontario-based user or a user from any other valid jurisdiction.

    Security selection in the ATP is identical to the AP. However, in the ATP, both parties are aware of the identity of the other party and executions occur directly between a sell side dealer and its buy side client.

23. Trumid's Rulebook provides Rule 306 to address Trade Cancellations and Adjustments. This section also includes Trumid's Error Trade Policy.

SECTION 2 APPLICATION OF APPROVAL CRITERIA TO THE ATS

1.1 REGULATION OF THE ATS

Regulation of the ATS – The ATS is regulated in an appropriate manner in another jurisdiction by a foreign regulator (the Foreign Regulator).

1.1.1 In the U.S., an ATS is defined in Rule 300 (a) of Regulation ATS under the 1934 Securities Exchange Act ("**Regulation ATS**") as any organization, association, person, group of persons, or system:

1) That constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange; and

2) That does not:

i. Set rules governing the conduct of subscribers other than the conduct of such subscribers' trading on such organization, association, person, group of persons, or system; or

ii. Discipline subscribers other than by exclusion from trading.

1.1.2 An ATS is a trading system that meets the definition of "exchange" under federal securities laws of the United States but is not required to register as a national securities exchange if the ATS operates under the exemption provided under Rule 3a1-1(a)(2) of the U.S. *1934 Securities Exchange Act* (the "**Exchange Act**").[2] To operate under this exemption, an ATS must comply with the requirements set forth in Rules 300-303 of Regulation ATS, which include, among other things, registering as a broker-dealer under Section 15 of the Exchange Act. Regulation ATS establishes a regulatory framework for ATSs. Under Rule 3a1-1 exemption and Regulation ATS, ATSs are allowed to choose whether to register as national securities exchanges, or to register as broker-dealers and comply with additional requirements under Regulation ATS, depending on their activities and trading volume. Trumid is operating as an ATS, registered as a broker-dealer pursuant to section 15 of the Exchange Act and is a member of FINRA, a self-regulatory organization that governs broker-dealers in the U.S. As such, Trumid is subject to the regulatory supervision by the SEC and FINRA.

1.1.3 In Ontario, Section 6.1 of NI 21-101 requires broker-dealer firms, as well as their professional representatives, to be registered with the OSC and also be a member of IIROC in order to operate their business as an ATS in Ontario. Similarly, in the U.S., broker-dealers are regulated under the Exchange Act by the SEC. All brokers and dealers must be registered with the SEC pursuant to section 15 of the Exchange Act and are subject to its regulations. They must as well be a member of at least one self-regulatory organization ("**SRO**"), which is further delegated some regulatory authority. Most broker-dealers in the U.S. are members of FINRA.

1.1.4 In the U.S., responsibility for regulating the conduct of investment businesses, providing investor protection and preventing market manipulation rests with the SEC. Additional authority rests with FINRA, an SRO that imposes rules of conduct on its dealer-members and maintains confidence in the probity of business and financial services in the U.S.

[2] 17 CFR Parts 202, 240, 242 and 249 Release No. 34-40760 - *Regulation of Exchanges and Alternative Trading Systems* ("**SEC Rule 3a1-1**"); https://www.sec.gov/rules/final/34-40760.txt.

1.1.5 The principal legal provisions for investor protection in the U.S.' financial services sector are contained in, and derived from, the federal *Securities Act of 1933* and the Exchange Act and the SEC fulfils its regulatory responsibilities within the framework established by this legislation.

1.1.6 FINRA is a not-for-profit entity, and the largest SRO in the securities industry in the U.S., FINRA is a membership based organization that creates and enforces rules for its broker-dealer members based on U.S. federal laws and is overseen by the SEC. FINRA is on the front line in licensing and regulating broker-dealers. Its stated mission is "to safeguard the investing public against fraud and bad practices." The SEC oversees FINRA.

1.1.7 In its enforcement capacity, FINRA has the power to take disciplinary actions against registered individuals or firms that violate the industry's rules. It is also responsible for overseeing the mediation and arbitration processes for disputes between customers and brokers.

1.2. ***Authority of the Foreign Regulator – The Foreign Regulator has the appropriate authority and procedures for oversight of the ATS. This includes regular, periodic oversight reviews of the ATS by the Foreign Regulator.***

Scope of authority

1.2.1. The SEC enforces the federal securities laws of the United States and regulates the majority of the securities industry. Its regulatory coverage includes the U.S. stock exchanges, options markets and options exchanges as well as all other electronic exchanges and other electronic securities markets.

1.2.2. The SEC's primary function is to oversee organizations and individuals in the securities markets, including securities exchanges, brokerage firms, dealers, investment advisors, and investment funds. Through established securities rules and regulations, the SEC promotes disclosure and sharing of market-related information, fair dealing, and protection against fraud. The SEC has the authority to bring civil actions to enforce its rules and works with the United States Justice Department on matters requiring criminal enforcement.

1.2.3. Together, the SEC and FINRA establish a regulatory structure for overseeing broker-dealers operating as ATSs. This regulatory structure includes, as applicable: financial and other fitness criteria for participants on an ATS; reporting and record-keeping requirements; procedures governing the treatment of customer funds and property; conduct of business standards; provisions designed to protect the integrity of the markets; and statutory prohibitions on fraud, abuse and market manipulation.

1.2.4. FINRA's regulation of broker-dealers follows United States federal rules. These rules include, but are not limited to:

- Days and hours of operations
- Lot size
- Membership requirements
- Required documentation
- Settlement cycles
- Procedures and policies

1.2.5. FINRA also performs periodic audits of broker-dealers. These audits review firms' internal procedures and applications. Firms' books and records are also verified for compliance with FINRA's rules.

1.2.6. Broker-dealers also have ongoing duties of financial responsibility, customer protection, and good conduct. These duties are imposed through the rules such as the following:

- **Customer protection rule.** Customer funds and securities must be segregated from the broker-dealer's proprietary business operations.
- **Record-keeping.** Basic bookkeeping requirements include records of trades, receipts, positions held in different securities, trial balances, complaints, and compliance, together with reports to be filed periodically.
- **Fair dealing.** Execute client orders promptly, disclose information relevant to investors, charge prices in line with market conditions, and disclose conflicts of interest.
- **Suitability of clients.** Only recommend investments or strategies that are suitable for the clients concerned.

- **Communication.** Be fair, balanced, and not misleading in communications with clients, seeking approval before communication as needed.

- **Gifts and contributions.** Observe rules concerning maximum value of gifts made to clients and political contributions.

- **Suspicious Activity Reports (SARs).** File reports of any suspicious activities noted by the broker-dealer, including investments over predefined monetary limits.

Source of authority to supervise the foreign ATS (including rules and policy statements)

1.2.7. Pursuant to SEC Rule 3a1-1(1), Trumid is exempted from the definition of "Exchange" as a broker-dealer operating as an ATS that complies with Regulation ATS. As such, Trumid is subject to regulation under Rule 301(b) of Regulation ATS.

1.2.8. To acquire and maintain its status as an ATS, an ATS is required to comply with several statutorily-prescribed requirements set out in Rule 301(b) of Regulation ATS, subject to available exemptions. The Rule 301(b) of Regulation ATS registration requirements for ATSs can be found at: https://www.ecfr.gov/cgi-bin/text-idx?node=17:4.0.1.1.3&rgn=div5#_top.

1.2.9. In general, an ATS must continue to fulfil these obligations to maintain its status as an ATS operating as a broker-dealer. Among other things, an ATS is required to:

(a) Register and maintain registration as a broker-dealer;

(b) Give notice, i.e. file with the SEC, Division of Trading and Markets, an initial operation report at least 20 days prior to commencing operation as an ATS and file an amendment of this report at least 20 days prior to any material change to its operation;

(c) If trading 5 percent or more of the average daily volume of corporate debt securities traded in the U.S., provide fair access to other broker-dealers by:

(i) establishing written standards for granting access to trading on its system;

(ii) not unreasonably prohibiting or limiting any person access to the ATS by applying the established standards in an unfair or discriminatory manner;

(iii) charging reasonable fees that are not inconsistent with providing equivalent access to brokers-dealers who access the ATS through a national securities exchange or national securities association;[3]

(d) have systems and controls in place to monitor transactions on the ATS;

(e) retain sufficient financial resources for the performance of its functions as an ATS;

(f) operate its markets with due attention to the protection of investors;

(g) ensure that trading is conducted in an orderly and fair manner;

(h) maintain suitable arrangements for trade reporting;

(i) maintain suitable arrangements for the clearing and settlement of contracts;

(j) monitor compliance with its rules;

(k) investigate complaints with respect to its business;

(l) maintain rules to deal with the default of its clients;

(m) co-operate with other regulatory bodies through the sharing of information or otherwise;

(n) maintain high standards of integrity and fair dealing; and

(o) prevent abuse.

[3] The Applicant notes this criteria is not applicable to Trumid as its trading volume does not currently exceed the 5 percent threshold set out below.

1.2.10. In 1998, SEC adopted Regulation ATS[4], to impose essential elements of market-oriented regulation on alternative trading systems. This regulation addressed the concerns raised by the market activities of alternative trading systems that choose to register as broker-dealers.

1.2.11. To allow an ATS to operate without disproportionate burdens, a system with less than five percent of the trading volume in all securities it trades is required to: (1) file with the Commission a notice of operation and quarterly reports; (2) maintain records, including an audit trail of transactions; and (3) refrain from using the words "exchange," "stock market," or similar terms in its name.

1.2.12. If, however, an ATS with five percent or more of the trading volume in any national market system security chooses to register as a broker-dealer (instead of as an exchange), in addition to the requirements for smaller ATSs set out above, Regulation ATS requires such ATSs to be linked with a registered market in order to disseminate the best priced orders in those national market system securities displayed in their systems (including institutional orders) into the public quote stream. Such ATSs must also comply with the same market rules governing execution priorities and obligations that apply to members of the registered exchange or national securities association to which the ATS is linked.[5]

1.2.13. In addition, ATSs with twenty percent or more of the trading volume in any single security, whether equity or debt, would be required to: (1) grant or deny access based on objective standards established by the trading system and applied in a non- discriminatory manner; and (2) establish procedures to ensure adequate systems capacity, integrity, and contingency planning. Moreover, because ATSs that choose to register as broker-dealers are not required to surveil activities on their markets, the SEC works with FINRA and other SROs to ensure that they can operate ongoing, real-time surveillance for market manipulation and fraud and develop surveillance and examination procedures specifically targeted to ATSs they oversee.[6]

1.2.14. The SEC is the authority charged with ensuring that ATSs (such as Trumid) continue to comply with the Regulation ATS. The SEC has the power to direct any ATS that is failing, or had failed, to comply with the Regulation ATS to take action to remedy such non-compliance. It also has the power to censure and /or to revoke the exemption of any ATS that fails to meet the Regulation ATS requirements and demand that it be registered as a national security exchange or cease ATS activities altogether. Accordingly, Trumid is subject to the oversight of the SEC and FINRA. Trumid enjoys a good-standing relationship with both its regulators.

1.2.15. The SEC exercises its supervisory responsibility by conducting an ongoing assessment of whether Trumid's rules, procedures and practices are adequate for the protection of investors and for the maintenance of an orderly market in accordance with the requirements under Regulation ATS and Trumid's SEC-registered Rulebook. For this purpose, the SEC and FINRA require Trumid and ATSs in general to report to them any material changes in their business and operation, including, materially adverse financial information or changes to its constitution. Further, ATSs must provide access to the SEC, upon request to, any records that an ATS is required to keep pursuant to Rule 301(b)(2)(ii) and Rule 302 and 303 of Regulation ATS).

Authorization, licensure or registration of the ATS

1.2.16. Trumid has a statutory obligation to ensure that its business as an ATS is conducted in an orderly manner so as to afford proper protection to investors. Failure to comply with this obligation may mean that Trumid could cease to be able to operate as an ATS.

1.2.17. Trumid requires each client to make representations and warranties as to the following:

(i) it is in compliance with all applicable laws in all material respects;

(ii) all information provided by it in writing to Trumid (including all information contained in applications, questionnaires and information forms, and including information delivered via electronic means) is true and accurate in all material respects;

(iii) it satisfactorily meets any eligibility criteria or other requirements contained in the Trumid Rules and is able to effect settlement of "**Transactions**" (as defined in the Trumid Rulebook) in accordance with the Trumid's Rules as set out in the Trumid Rulebook and the User Agreement;

(iv) it has all "**Intellectual Property Rights**" (as defined in the Trumid Rulebook) in and to any information submitted by it to the ATS, and its use of any software or equipment to access the ATS (other than software or equipment provided by Trumid) does not violate any third party's Intellectual Property Rights;

[4] 17 CFR Parts 202, 240, 242 and 249 Release No. 34-40760 - *Regulation of Exchanges and Alternative Trading Systems* ("**Regulation ATS**"); https://www.sec.gov/rules/final/34-40760.txt.
[5] The Applicant notes that as its trading volume does not exceed the 5 percent threshold it is not currently subject to this requirement.
[6] The Applicant notes that as this threshold is not exceeded in any single security, it is not subject to this requirement.

(v) it is authorized to enter into the Transactions entered into by it through the "**System**"(as defined in the Trumid Rulebook), and each of such Transactions, as confirmed by the System, is the legal, valid and binding obligation of User, enforceable against the User in accordance with its terms and the terms hereof;

(vi) it possesses the sophistication, experience, knowledge and expertise in financial and business matters to make its own investment decisions and to properly assess the merits, risks and suitability of investing in, and entering into Transactions in respect of, the Products;

(vii) the "**Authorized Traders**"(as defined in the Trumid Rulebook) are (x) capable of evaluating investment risks independently, both in general and with regard to particular Transactions and investment strategies involving a security or securities and (y) will exercise independent judgment in evaluating the merits of all potential Transactions;

(viii) it acknowledges, agrees and understands that (x) all Transactions are unsolicited transactions, (y) no Transaction will be solicited or recommended by Trumid or any of its representatives and (z) its decision to enter into any Transaction will be based on its own research and information, or on research and information obtained from a source other than Trumid and its representatives, and neither Trumid nor any of its representatives will have any input into its decision to enter into such Transaction;

(ix) it is and will continue to be either (x) a registered broker-dealer with at least $10 million in net capital, (y) a buy-side institution with at least $100 million in assets under management or (z) a primary dealer or bank with at least $50 million in assets; and

(x) it (x) has implemented policies and procedures to ensure its compliance with all Applicable Laws related to anti-money laundering and sanctions and (y) shall ensure that it follows such policies and procedures with respect to its use and access of the ATS (and ensure that its Authorized Traders follow such policies and procedures in accessing and using the ATS).

Furthermore, Users covenant to notify Trumid promptly in the event any of the foregoing representations and warranties become untrue at any time during the term of the User Agreement.

1.2.18. As Trumid regularly releases enhancements and updates to its system, Trumid regularly files updates to its "Form ATS"[7] with at least the requisite 20 days notice prior to implementing any material change to the operation of the ATS. The most recent filing made by Trumid that is in effect was filed on 01/16/2020.

1.3. ***The foreign regulator's approach to the detection and deterrence of abusive trading practices, market manipulation, and other unfair trading practices or disruptions of the market***

1.3.1. Regulation ATS requires all ATSs to comply with antifraud, antimanipulation and other applicable provisions of the federal securities laws. The nature of corporate bond trading does not easily lend itself to manipulative trading, in the same manner as may be seen in other, more liquid/active asset classes. Regardless, Trumid regularly monitors activity on the system in real-time and again, with an end of day review. This entails the following:

(i) Trumid's tech-operations team monitors system performance and usage in real-time;

(ii) Trumid's operations team monitors client orders and executions in real-time;

(iii) Trumid's supervisor reviews and signs off on trades daily; and

(iv) Trumid employs a third-party compliance consultant to review Trumid's review (conducted weekly). All transactions on Trumid are reported to FINRA's TRACE.

Rule 201 of Trumid's Rulebook further addresses the Duties and Responsibilities of Users, to ensure compliance with all material laws. Lastly, Trumid's internal policies address and prohibit employee trading on material non-public information.

Laws, rules, regulations and policies that govern the authorization and ongoing supervision and oversight of market intermediaries in the U.S.

Procedures for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk for market intermediaries who may deal with members and other participants located in Canada.

[7] Being the form that an ATS must file to notify the SEC of its activities pursuant to Regulation ATS, § 242.300.

1.3.2. See also section 1.2 above and the information set out under paragraphs 1.2.14 and 1.2.15, and part 5, sections 5.1 and 5.2 and section 7.2 below for further information in this regard.

2. GOVERNANCE

2.1. Governance – The governance structure and governance arrangements of the ATS ensure:

(a) ***Effective oversight of the ATS operations,***

2.1.1. Trumid has independent departments handling product development, testing, change management (code deployment), infrastructure and system operation. Further, Trumid employs real-time monitoring of the ATS with end of day checks by management. Trades, and trading in employee personal accounts, are also regularly reviewed by a third-party, compliance consulting firm.

(b) ***That business and regulatory decisions are in keeping with its public interest mandate,***

2.1.2. Trumid provides the trading environment for the trading of USD corporate debt securities. As an ATS conforming with U.S. regulatory requirements, Trumid offers a legally safe forum for USD corporate debt securities trading. As an ATS, Trumid comes under the direct jurisdiction of the SEC as discussed above.

2.1.3. Trumid has a statutory requirement to ensure that business on its markets is conducted in an orderly manner, providing proper protection to investors. The Trumid Rules have been designed to ensure compliance with all applicable legislation and to ensure a fair and orderly market. Trumid has an internal compliance department and contracts with a third-party compliance consultant which, amongst other things, monitors Trumid's compliance with all applicable legislation. Trumid's General Counsel/Chief Compliance Officer is responsible for updating policies and procedures to comply with changes in regulation.

(c) ***fair, meaningful and diverse representation on the board of directors and any committees of the board of directors, including:***

(i) appropriate representation of independent directors, and

(ii) a proper balance among the interests of the different persons or companies using services and facilities of the ATS,

2.1.4. Trumid's directors are appointed pursuant to the terms of the Trumid limited liability agreement (the "**LLC Agreement**") and its by-laws and are subject to the duties and obligations imposed under Delaware law. Trumid's directors are appointed having regard to the need to have representation of a diverse range of skills and experience related to securities markets and debt trading**.**

(d) ***The ATS has policies and procedures to appropriately identify and manage conflicts of interest, and***

2.1.5. Trumid takes potential conflicts of interest and the associated consequences seriously and has implemented appropriate procedures to mitigate the risk of such occurrences. Trumid does not trade for its own account so it has no interests to be conflicted. Further, neither SSGM, nor any SSGM affiliate, conducts proprietary trading on Trumid. Should an SSGM affiliate wish to trade on Trumid, it would first need to establish an intermediary relationship with an institution other than SSGM (to avoid any potential conflicts). These procedures supplement the legal duties on directors to avoid any situation in which he or she has, or could have, a direct or indirect interest that conflicts, or could conflict, with the interests of the firm.

2.1.6. Trumid's LLC Agreement prohibits Trumid's directors from being members of the board of directors of or employed in any capacity, including as a consultant, by any competitor of Trumid.

2.1.7. In addition, all Trumid employees are subject to contractual restrictions that are designed to mitigate, manage and limit conflicts of interest. Trumid also runs background checks on all of its employees.

2.1.8. Trumid has also implemented a Conflicts of Interest Policy which provides employees with an overview of Trumid's key obligations and the controls implemented in order to identify, manage and disclose actual conflicts of interest.

(e) ***There are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.***

2.1.9. As a Delaware LLC, the LLC Agreement is Trumid's principal governing document. Pursuant to the LLC Agreement - the holders of Trumid Class A and Class B Shares, founder and employee shares, respectively, each nominate one director to the board, representing the interests of management. The other directors are designated by those members who have such rights.

2.1.10. Directors receive no remuneration, but every director is entitled to be indemnified by Trumid against all costs, charges, losses, expenses and liabilities incurred by him or her in the execution and discharge of his or her duties to Trumid or in relation thereto to the maximum extent allowable by law. The directors also have the benefit of the directors' and officers' liability insurance.

2.2. ***Fitness – The ATS has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person.***

2.2.1. Each director is appointed on merit based on skills, qualifications and experience and is subject to detailed disclosure requirements under Form BD, which includes information as to criminal or civil sanctions and regulatory actions, and such disclosures are publicly accessible on Trumid's Form BD filing.

3. REGULATION OF PRODUCTS

3.1. ***Review and Approval of Products – The products traded on the ATS and any changes thereto are reviewed by the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.***

3.2. ***Product Specifications – The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.***

3.2.1. The SEC and FINRA establish a range of requirements that must be met before any new product is admitted for trading on the Platform. New products must be capable of being traded in a fair, orderly and efficient manner and the ATS must be designed so as to allow for its orderly pricing.

3.3. ***Risks Associated with Trading Products – The ATS maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the ATS.***

3.3.1. Trumid maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the ATS as required by regulation or as instituted by SSGM (the intermediary). These include, but are not limited to, conformance to daily trading limits, 'market access' controls (SEC 15c3-5) and internal controls. Appendix B to this Application sets out a description of all such controls.

4. ACCESS

4.1. ***Fair Access***

(a) ***The ATS has established appropriate written standards for access to its services including requirements to ensure:***

(i) Participants are appropriately registered as applicable under Ontario securities laws, or exempted from or not subject to these requirements,

(ii) The competence, integrity and authority of systems users, and

(iii) Systems users are adequately supervised.

(b) ***The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.***

(c) ***The ATS shall not unreasonably prohibit, condition or limit access by a person or company to services offered by it.***

(d) ***The ATS does not***

(i) permit unreasonable discrimination among participants, or

(ii) impose any burden on competition that is not reasonably necessary and appropriate.

Access requirements

4.1.1. As a regulated ATS, Trumid is subject to U.S. marketplace regulatory requirements that are closely aligned with those outlined above. Trumid is obligated under the Regulation ATS and under FINRA Rules to ensure that access to its facilities is fair and non- discriminatory. In particular, Trumid is required to "make transparent and non-discriminatory rules, based on objective criteria, governing access to, or membership of, its facilities" (Rule 301(b)(5)(ii) of Regulation

ATS). However, as Trumid's trading volume does not currently exceed five percent of the average daily volume of corporate debt securities traded in the U.S., Trumid is not required to comply with some of the fair access requirements prescribed in Rule 301(b) of Regulation ATS as described in Section 1.2.9(c), 1.2.12 and 1.2.13 of this Application.

4.1.2. Trumid's access to the Platform criteria are outlined in the Trumid Rulebook and User documentation and applied equally to all applicants. Chapters 1 and 2 of the Trumid Rulebook set out the requirements for access to the Platform, as well as requirements relating to provision of information. Access requirements for prospective participants on the Platform are set out in Chapter 1 of the Trumid Rulebook. Chapter 2 specifies the requirements that are applicable to each participant, including, for instance, the prospective participant's regulatory status, capital holdings, AML and financial crime procedures. Rule 203 of Chapter 2 of the Trumid Rules sets out the obligations of Users to promptly provide information reasonably requested by Trumid. Chapter 4 sets out the ability of Trumid to investigate and suspend or terminate a User's access to the Platform for suspected breaches of the Rules.

4.1.3. When an applicant applies for access to the Platform, the applicant must confirm its regulatory status and SEC registration number (where applicable), and this is validated by Trumid's intermediary. A similar process is proposed to be implemented for Ontario Participants.

4.1.4. The Trumid Rulebook does not allow a person to enter into a trade on the Platform unless that person can validly enter into trades in accordance with the U.S. law and any other applicable law or regulation.

4.1.5. Trumid is regulated in the U.S. by the SEC and FINRA. It is therefore familiar with regulators imposing particular requirements as a result of local law and regulation. Trumid's rules are designed to ensure that its participants comply with these requirements through its Rule 105 – Application of Rules and Jurisdiction under the Trumid Rulebook.

Due diligence and ongoing supervision

4.1.6. Trumid conducts a robust due diligence procedure to ensure that its Users are fit and proper, in order to protect the integrity of the Platform and the orderliness of its business. Once a User has been admitted, controls are also applied to any additional system users. System users are also subject to supervision on an ongoing basis.

4.1.7. Trumid's third-party compliance consultant performs regular due diligence on Trumid's client list to ensure none appear on applicable restricted or Office of Foreign Asset Control (OFAC) list. Further, ongoing customer due diligence/KYC procedures are performed regularly by Trumid's third-party intermediary, SSGM.

5. REGULATION OF PARTICIPANTS ON THE ATS

Regulation – Trumid has the authority, resources, capabilities, systems and processes to set requirements governing the conduct of the participants on the Platform and monitoring their conduct.

5.1. Users and other participants are required to demonstrate their compliance with these requirements

5.1.1. Users attest to this information via execution of their onboarding and related documentation. The onboarding documentation required by Trumid includes collection of a User Agreement, Customer Account Application and an Authorized Trader Form. Additional information is collected and verified through SSGM's Know-Your-Client (KYC) process. Trumid also aids in the collection of onboarding documentation required by SSGM, which includes a DVP/RVP agreement, Tax ID Form, Authorized Trader Form, Execution Agreement with an Electronic Trading Addendum, Trumid-specific Annex to the aforementioned Addendum, Standard Settlement Instructions ("SSIs"), Investment Adviser Letter (as applicable) and a Prime Brokerage Release Form ("Form 151") (as applicable). SSGM conducts KYC on an initial and ongoing basis.

5.1.2. The financial resource requirements, standards, guides or thresholds required of Users are set out in Chapter 2 of the Trumid Rulebook (the "**User Criteria**"). Users attest to these financial criteria in their signed documentation and financial information is collected and verified through SSGM's KYC process.

5.1.3. All Users are required by Trumid to satisfy the User Criteria on an ongoing basis. The Users are required to notify Trumid of anything that Trumid might reasonably expect to be disclosed and are required to make that representation each time they access the system, per Section 6(b) of the User Agreement. This would include all legal, financial and regulatory matters that are material to their standing as Users. Users must also provide the information necessary to confirm their continued compliance with the eligibility criteria set out in the Trumid Rulebook.

5.1.4. In addition, the Trumid Rules have provisions regarding the conduct of Users. These include provisions relating to "prohibited practices" (see Rule 301 in Chapter 3 of the Trumid Rules), which are designed to prevent fraudulent and manipulative acts and practices. More generally, the provisions of Chapter 3 (Trading Practices) and Chapter 4 (Termination, Limitation or Suspension of Access) are designed to set out how trading on the Platform should take place in a fair and orderly manner and have been designed to ensure just and equitable principles of trade and to foster

co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in products traded on the Platform.

5.2. Client Advisory and Member Services

5.2.1. Trumid employs a team of client-facing employees (the "**Client Team**") to ensure all users are familiar with ATS protocols, new releases or enhancements, and/or for any market-related matter where assistance may be needed in real-time. Trumid's Client Team members are all FINRA-licensed, registered representatives ("**RRs**").

5.3. Regulation and Enforcement of Trumid Rules on Users

5.3.1. Trumid is not recognized as a national security exchange in the U.S. and, therefore, does not have any regulatory or enforcement powers over its Users. It does, however, have the authority to terminate, suspend or limit the Users' access to the Platform in case of misconduct, as provided in Chapter 4 of the Trumid Rulebook.

5.3.2. Trumid also has certain summary powers to deal with market emergencies that are set out in Rule 607 of the Trumid Rulebook. An "emergency" means any occurrence or circumstance which threatens or may threaten such matters as the fair and orderly trading in, or the liquidation of or delivery pursuant to, any Product, or the timely collection and payment of funds in connection with clearing and settlement of a transaction, and which, in the opinion of the chief executive officer or his designee, requires immediate action, including: any manipulative or attempted manipulative activity; any circumstances that may materially affect the performance of Products traded pursuant to the Rules, including failure of the payment system or the bankruptcy or insolvency of any User or any other person; and any other circumstance which may have a severe, adverse effect upon the functioning of Trumid or an intermediary.

5.4. Trumid's capacity to detect, investigate, and sanction persons who violate Trumid Rules

5.4.1. Rule 401 of the Trumid Rulebook sets out Trumid's capacity to investigate and sanction persons who violate Trumid Rules. Chapter 3 of the Trumid Rulebook prohibits fraud and abuse as well as other trading practices and market abuses.

5.4.2. Trumid has sufficient personnel, and sufficient software tools, to monitor the Platform. The trading operations and technology operations teams monitor the real time market for orderly trading on the Platform. Part of this monitoring includes enforcement of the Trumid's policies in respect of error trades and erroneous submissions. As a result of daily monitoring of the real-time market, trading operations may identify activity or behaviour which warrants further investigation or analysis (examples include but are not limited to: unusual price movements in the real-time market, or order behaviour which may be detrimental to the integrity of the market).

6. CLEARING AND SETTLEMENT

6.1. ***Clearing Arrangements – The ATS has appropriate arrangements for the clearing and settlement of transactions through a clearing house.***

6.2. ***Regulation of the Clearing House – The clearing house is subject to acceptable regulation.***

6.2.1. Trumid has contracted with SSGM to serve as intermediary for the ATS. SSGM, as executing broker of record, has appropriate arrangements for the clearing and settlement of transactions through a clearing house. Trumid is not involved in the clearing or settlement of transactions.

6.2.2. SSGM is registered with the SEC as a broker-dealer and is a member of FINRA. SSGM's affiliate, State Street Global Markets Canada Inc., is registered with IIROC and Canadian Securities Administrators **("CSA")** as an investment dealer.

6.3. ***Access to the Clearing House***

(a) ***The clearing house has established appropriate written standards for access to its services.***

(b) ***The access standards for clearing members and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.***

6.3.1. As noted above, clearing and settlement is undertaken by an independent third party, SSGM.

6.4. ***Sophistication of Technology of Clearing House – The ATS has assured itself that the information technology used by the clearing house has been adequately reviewed and tested and provides at least the same level of safeguards as required of the ATS.***

6.4.1. The Depository Trust and Clearing Corporation ("**DTCC**") applies industry best practice for development, implementation, operations, monitoring, management and maintenance of IT systems, using industry standard hardware and processes for which experienced resources are readily available.

6.5. Testing

6.5.1. All releases (both major and minor/patches) undergo similar testing regiments:

6.5.2. Testing of a release includes: developer testing of each feature on a local build, peer review and automated testing of new code, code merging into test environments, automated regression testing, quality assurance and manual regression testing, quality assurance signoff, product development signoff, and production release, as set out below:

(a) Developer testing: Each developer tests his/her own code to ensure proper functionality on a local machine (sandboxed environment).

(b) Peer review: Other developers review the writer's code to ensure optimization and proper function.

(c) Automated testing of new code to ensure proper functionality.

(d) Merging of new code into a test environment.

(e) Automated testing of merged code to ensure proper functionality of new code and proper functionality of previously existing code.

(f) Quality assurance and manual regression testing to ensure proper functionality of new code and proper functionality of previously existing code.

(g) Quality assurance signoff.

(h) Product development signoff.

(i) Production release.

6.6. ***Risk Management of Clearing House – The ATS has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls***

6.6.1. As noted above, Trumid has contracted with SSGM to serve as intermediary for the ATS. SSGM, as executing broker of record, has appropriate arrangements for the clearing and settlement of transactions through a clearing house. SSGM self-clears and settles.

7. SYSTEMS AND TECHNOLOGY

7.1. ***Systems and Technology – Each of the ATS's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the ATS to properly carry on its business. Critical systems are those that support the following functions:***

(a) ***order entry,***

(b) ***order routing,***

(c) ***execution,***

(d) ***trade reporting,***

(e) ***trade comparison,***

(f) ***data feeds,***

(g) ***market surveillance,***

(h) ***trade clearing, and***

(i) ***financial reporting.***

7.1.1. Trumid's critical systems that have appropriate internal controls as applicable to its trading functionality and include:

(a) security selection and reference data,

(b) order entry,

(c) fat finger controls,

(d) order matching,

(e) trade reporting,

(f) trade routing,

(g) data feeds, and

(h) market surveillance.

Regulatory Requirements

Description of the matching system - Manner of Operation of the Trumid ATS

7.1.2. Trumid operates multiple protocols, which run in parallel: An anonymous, network-based, matching engine ("**AT**"); as well as an attributable trading protocol ("**ATP**"), which will facilitate transactions between sell side dealers wishing to divulge their identity to their pre-authorized clients.[8] Users (persons or entities authorized to utilize the Trumid ATS) will designate to Trumid the persons authorized to trade on their behalf ("**Authorized Traders**").

Trading Operation

Anonymous Protocol

Swarms

7.1.3. A "Trumid Swarm" launches when a participant, or multiple participants, firm up opposing interests on a given security (creating an order). Users wishing to make multiple, 2-sided markets on separate securities (including one or more 'locked markets'), may elect to do so through a liquidity provision feature which may be added to the User's order window. The swarm begins with the exclusive active phase, which lasts for 2 minutes (or such other time as may be established by Trumid). Users see basic, descriptive bond information, as well as the inside market (best bid/best ask). Users can enter buy and sell at the displayed prices or enter bids/offers at defined price intervals within the market. Users may also view the time-ordered progression of system notifications and actions taken. Orders may be cancelled or amended at any time.

7.1.4. Users may enter both a buy or sell order for the same bond (a 2-sided market), but are not permitted to enter multiple buy or sell orders on the same security. A User also may not enter a lower-priced sell order than his/her buy order (i.e., an inverted market).

7.1.5. Trade executions in the Exclusive Active Phase are released simultaneously to the purchaser and seller, and all Trumid Users receive notification that the particular bond traded. Trumid Users are informed of the transaction price, and the Swarm immediately progresses, at the just-executed price, to the Trumid Phase. Only those participants who were parties to a trade are informed of the volume traded. Executions to Users are reported net of the designated markup/markdown. Prioritization in the Exclusive Active Phase is price/time.

7.1.6. If no trade has occurred, orders which remain unexecuted (and un-cancelled) at the end of the exclusive active phase carry over into the (public) active phase. These orders remain live and firm, and comprise the initial Active Phase order stacks.

Active Phase

7.1.7. The second stage of a Trumid Swarm is the "Active Phase", which lasts for 5 minutes (or such other time as may be established by Trumid). All applicable participants are notified of and have the ability to participate in, the Active Phase. During this phase, Users see basic, descriptive bond information, as well as the inside market (best bid/best ask). Users may choose to buy or sell at the displayed prices or enter bids/offers at defined price intervals within the market.

[8] All participants must be documented and enabled Users of Trumid.

If a User's own order represents the bid or offer which is first in line to be executed (most aggressive price and earliest time), the Trumid ATS provides that User a visual indication of his/her 'First [in line]' status.

7.1.8. In any phase, if an order is only partially filled, the balance of the order remains outstanding until the end of the Swarm, unless cancelled sooner. A User always has the ability to cancel all of his/her outstanding orders simultaneously at any time.

7.1.9. Trumid has the ability to cancel or suspend a Swarm due to technical malfunction of the Trumid ATS itself. Users are responsible for monitoring market and credit-specific headlines throughout a Swarm as well as for managing orders accordingly.

7.1.10. In an Active Phase, if no activity occurs to improve the inside market for more than a management-determined period of time (i.e., 20 seconds), the system invites all Swarm participants at the top of the market (both on the bid side and offered side) to trade in the middle of the market via a 'dark invite'. Users accepting the dark invite will have a super-priority order at the middle of the market, supplementing the publicly viewable 'lit' order. If Users on both sides of the market accept the invite, a transaction occurs at the mid-market price.

7.1.11. Trade executions in the Active Phase are released simultaneously to the purchaser and seller, and all Trumid Users receive notification that the particular bond traded. Trumid Users are informed of the transaction price, and the Swarm immediately progresses, at the just-executed price, to the Trumid Phase. Only those participants who were party to a trade are informed of the amount traded. Executions to Users are reported net of the designated markup/markdown. Prioritization in the exclusive Active Phase is price/time.

7.1.12. If no trade has occurred, orders at the midpoint resulting from an accepted dark invitation which remain un-cancelled and unexecuted at the end of the Active Phase may carry over into the Trumid Phase. These orders remain live. Any existing orders which are not at the midpoint are automatically cancelled.

Trumid Phase

7.1.13. The Trumid Phase is the third and final stage of a Trumid Swarm and lasts for 5 minutes (or such other time as may be established by Trumid). Like the Active Phase, all Trumid Users are welcome to participate in the Trumid Phase.

7.1.14. During the Trumid Phase, a single, algorithmically calculated, 'volume clearing' mid-price is displayed for each particular bond (the "**Trumid Price**"). The Trumid Price of any given bond is determined either by 1) the price activity of the Active Phases, 2) the execution price of a just-traded transaction, or 3) an algorithmically calculated Fair Value Model Price (FVMP). Trumid also offers the ability for a User to launch a Swarm directly into the Trumid phase though a Trumid ATS component called "Bond Stream". Bond Stream displays to a User which bonds on that User's Watchlist were recently transacted and reported to FINRA's TRACE, as well as the price of those transactions. Users may elect to place an order at that just-transacted price which will immediately launch a Trumid Phase. This action indicates to the market when a User desires to repeat a transaction price which was just proven (through execution) in the broader market. Additionally, Trumid has the ability to launch a Trumid-Phase-only Swarm. As is the case with all Trumid Phases, this action displays a central, volume-clearing level, which is immediately available to all Trumid users.

7.1.15. In the Trumid Phase, Users may only enter orders to buy or sell at the determined Trumid Price. Users are permitted to cancel unexecuted orders at any point while opposing orders are executed instantly.

7.1.16. Trade executions in the Trumid Phase are released simultaneously to the purchaser and seller, and all Trumid Users receive notification that the particular bond has traded. Trumid Users are informed of the transaction price and only those participants who were parties to the trade are informed of the amount traded. Executions to Users are reported net of the designated markup/markdown. Since all trades in the Trumid Phase occur at the Trumid Price, prioritization in the Trumid Phase is time only.

Fees Paid by Users to Trumid ATS

7.1.17. Trumid is compensated through fees paid by Users on a per-trade basis. There are no subscription fees. Markups/markdowns are displayed on order tickets, electronic notifications and within the Swarm window. Trades are reported to counterparties and trade reporting authorities net of markup/markdown.

7.1.18. The markup schedule for bonds is as follows, subject to change in accordance with the Rulebook:

Price Based Bonds:

- Unless otherwise noted, price-based bond transactions are charged a markup/markdown of 1/16 of 1 point (.0625), per side. (For instance, if the Trumid price is 80, a buyer will pay 80.0625, and a seller will receive 79.9375).

- For investment grade or "IG" bonds where the maturity of the traded instrument is less than or equal to 90 days, the markup/markdown is 5/1000 of 1 point (.005), per side.
- For IG bonds where the maturity of the traded instrument is greater than 90 days but less than or equal to 12 months, the markup/markdown is 1/100 of 1 point (.01), per side.
- For IG bonds where the maturity of the traded instrument is greater than 12 months but less than or equal to 14 months, the markup/markdown is 2/100 of 1 point (.02), per side.
- For bank/financial/insurance perpetual preferred ("Perps") or hybrid ("Hybrids") securities issued by a company whose parent has an IG rating, the markup/markdown is 1/32 of 1 point (.03125).

Spread Based Bonds:

- Unless otherwise noted, spread based bond transactions are charged a markup/markdown dependent on the maturity of the reference benchmark.
- If the maturity of the reference benchmark is greater than 14 months but less than or equal to 5 years, the markup/markdown is 0.5bps. For instance, if the Trumid level on a spread based bond is +100, a buyer's execution level will be calculated as +99.5bps and a seller's execution level will be +100.5bps.
- If the maturity of the reference benchmark is greater than 5 years but less than or equal to 10 years, the markup/markdown is 0.4bps.
- If the maturity of the reference benchmark is greater than 10 years, the markup/markdown is .3bps.

7.1.19. Notwithstanding the aforementioned schedule, bonds trade at a reduced markup/markdown on the day the are first available to trade, plus the following business day. Newly-issued bonds are publicly communicated to Users of the system and the reduction of a markup/markdown on each relevant security is displayed.

Description of the architecture of the systems, including hardware and distribution network, as well as any pre- and post-trade risk-management controls

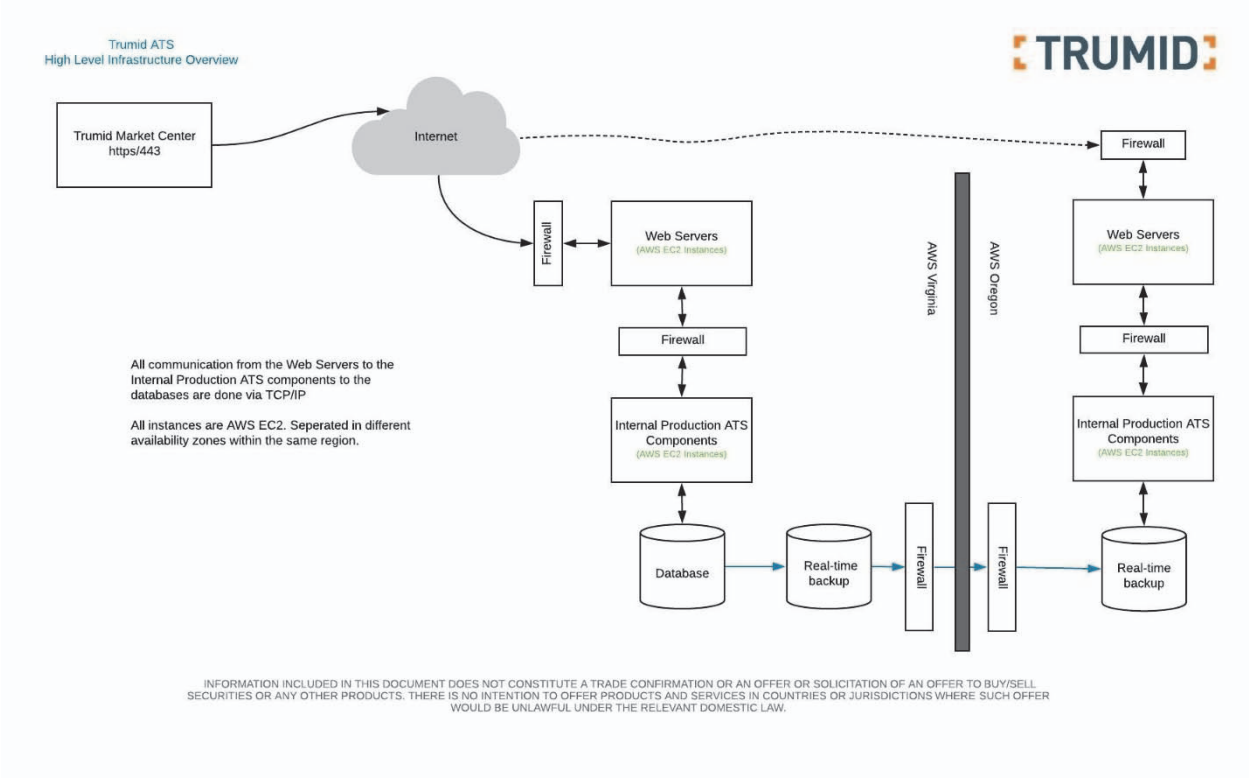
7.1.20. Trumid is not subject to any capacity, integrity and security of the automated systems requirements, but ensures that the risk management controls are in place. The pre and post-trade risk management controls include:

(a) SEC 15c3-5 market access controls: Fat finger checks ensuring bids and offers are within a reasonable tolerance away from prior execution prices, ensuring maximum order sizes are hard coded to prevent outsized orders, administrative portals to provide client administrators with direct access for trader limits.

(b) Trade cancellation: Trumid has the capability and is permitted, per the Trumid Rulebook, to cancel any trade that it determines detrimental to market integrity.

(c) User-level permissions: Trading credentials are provided only after documentation is completed and risk limits are automatically received by the system from the Intermediary.

(d) Volume and price limiting functionality: Automated limit controls enforce risk limits imposed on clients by the Intermediary as well as any restrictive limits imposed by the client's administrators.



Market continuity provision

7.1.21. Trumid has detailed business continuity and disaster recovery plans and procedures for the Platform's operations. The Trumid ATS is cloud-hosted by Amazon Web Services ("**AWS**") and accessed via the internet. The Platform is strategically located in two, geographically distinct, AWS data centers. Issues with any one data center are opaque to Users as either data center is fully capable of supporting the application. In the event the primary data center is lost due to a larger, regional issue, the Platform is designed to be up and running in our disaster recovery (secondary) data center within 3 hours.

7.2. ***Information Technology Risk Management Procedures – The ATS has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.***[9]

7.2.1. Trumid takes steps to ensure that a fair and orderly market is maintained with regard to the submission of orders, and to protect both the Platform and Users' own systems and infrastructure from inappropriate activity. Trumid performs ongoing monitoring of the Platform, including, without limitation, performance and capacity, orders sent by Users on an individual and aggregated basis, message flow, and the concentration flow of orders, to detect potential threats to the orderly functioning of the market.

7.2.2. In addition to measures listed in sections 9.1 – 9.7, Trumid has arrangements to prevent disorderly trading and breaches of capacity limits, including those set out in section 7.1.20.

7.2.3. In terms of Trumid's approach to foster system resiliency, integrity, reliability and cybersecurity, Trumid follows best practices for cybersecurity and utilizes both AWS services and Trumid-implemented firewalls to ensure the integrity of Trumid's infrastructure. Trumid regularly conducts penetration tests and vulnerability scans to ensure those best practices are reviewed and validated by third party experts. Further, Trumid's disaster recovery facility has real-time data replication, along with hourly off-site data backups. Trumid's use of AWS's RDS service also makes an additional, on-site backup every five minutes. Finally, Trumid conducts a regular fail over test to the disaster recovery location each quarter.

[9] Trumid complies with such requirements as applicable and notes, by way of example, that circuit breakers are not applicable to the trading of corporate bonds.

Trade Halts

7.2.4. Rule 307 of the Trumid Rulebook states Trumid may, in its reasonable judgment and without liability to any User, Authorized Trader or other party, delay the commencement of any Trading Swarm or cease an ongoing Trading Swarm if news or events warrant such action. Any such delay or cessation of a Trading Swarm shall be electronically communicated as soon as is practicable, to the extent possible, to all Authorized Traders.

Error Trades

7.2.5. Rule 306 of the Trumid Rulebook states that Trumid may cancel any Trumid Market Center trade that it determines would be detrimental to market integrity. All determinations of Trumid to cancel a trade, or to decline to cancel a trade, shall be final, and Trumid shall not have any liability for Losses arising out of determinations made by Trumid pursuant to this Rule, notwithstanding the limitations on liability otherwise set forth in Rule 608.

(a) Determination to Review a Trade. Trumid may determine to review a Trumid Market Center trade based on its independent analysis of market activity or upon request for review by a User. A request for review must be made within 15 minutes of the execution of the trade, and Trumid shall determine whether to review a trade promptly after such request has been received. In the absence of a timely request for review, during volatile market conditions, upon the release of significant news, or in any other circumstance in which Trumid deems it to be appropriate, Trumid may determine, in its sole discretion, that a trade shall not be subject to review. Upon deciding to review a trade, Trumid will promptly issue an alert to involved Users indicating that the trade is under review. If Trumid accepts a request for review, Trumid shall complete such review within one business day after it accepts such request unless it notifies involved Users that it is unable to complete its review during this time period.

(b) Liability for Cancelled Trades. A person responsible for an Order that results in a cancelled trade may be liable for the reasonable out-of-pocket losses incurred by a person whose trade was cancelled.

(c) Trade Cancellation Procedures. Upon a determination by Trumid that a trade shall be cancelled, that decision will be implemented. The cancelled trade shall be reflected as cancelled in Trumid's official records and, if applicable, shall be reported by Trumid to the applicable intermediary.

8. FINANCIAL VIABILITY

8.1. ***Financial Viability – The ATS has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.***

8.1.1. While Trumid has no executory responsibilities nor does it handle customer funds, settlement or clearing, Trumid, as a FINRA-registered broker dealer, has a minimum net capital requirement of US$250,000.

9. TRANSPARENCY AND REPORTING

9.1. ***Transparency – The ATS has adequate arrangements to record and publish accurate and timely trade and order information. This information is provided to all participants on an equitable basis.***

9.1.1. Section 8.2 of NI 21-101 in Ontario imposes certain pre-trade and post-trade information transparency requirements on ATSs displaying orders of corporate debt-securities. Section 10.1 requires disclosure by a marketplace (including an exchange and an ATS) on its website of certain information reasonably necessary to enable a person or company to understand the marketplace's operations or services it provides, including information related to the system's protocols and Rulebook. Further, revisions to OSC Staff Notice 21-703 align the transparency requirements for ATSs with those imposed on exchanges in the areas where the two marketplaces compete.

9.1.2. Rule 301(b)(3) of the Regulation ATS in the U.S. imposes similar market transparency requirements. The rule requires ATSs with five percent or more of trading volume in any covered security to publicly disseminate their best priced orders in those securities.[10]

9.1.3. All trades on Trumid are for securities which are TRACE-eligible. Trumid displays orders of corporate debt securities and provides accurate and timely information regarding orders. Additionally, Trumid also reports all transactions to TRACE in a timely manner, and automatically, via FIX, and would report transactions of Ontario-based participants in the same manner as it reports US-based participant trades. Trumid's reporting does not absolve any participants of their own regulatory reporting requirements.

[10] The Applicant notes that Trumid is not subject to this requirement as it does not meet this threshold.

10. RECORD KEEPING

10.1. ***Record Keeping – The ATS has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the ATS, audit trail information on all trades, and compliance with, and/or violations of ATS requirements***

10.1.1. Rule 302 of Regulation ATS requires ATSs to make and keep the records necessary to create a meaningful audit trail. Specifically, ATSs are required to maintain daily summaries of trading and time-sequenced records of order information, including the date and time the order was received, the date, time, and price at which the order was executed, and the identity of the parties to the transaction. In addition, ATSs are required to maintain a record of subscribers and any affiliations between subscribers and the ATS and of all notices provided to subscribers, including notices addressing hours of operation, system malfunctions, changes to system procedures, and instructions pertaining to access to the ATS.

10.1.2. ATSs are required to keep documents made (if any) in the course of complying with the system's capacity, integrity, and security standards in Rule 301(b)(6). These documents include all reports to an ATS's senior management, and records concerning current and future capacity estimates, the results of any stress tests conducted, procedures used to evaluate the anticipated impact of new systems when integrated with existing systems, and records relating to arrangements made with a service bureau to operate any automated systems. Regulation ATS requires that these records be kept for at least three years, the first two years in an easily accessible place.

10.1.3. As a FINRA-registered broker-dealer, Trumid is subject to all applicable requirements relating to record retention policies. These polices are reflected in Trumid's written supervisory procedures. Trumid also engages third-party vendors and external compliance consultants to advise on and assist with its record review and retention policies.

11. OUTSOURCING

11.1. ***Outsourcing – Where the ATS has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations, and that are in accordance with industry best practices.***

11.1.1. Trumid has provided in Rule 602 of the Trumid Rulebook for the use of third party providers. At this time, Trumid has contracted with AWS for hosting services as noted above. Trumid utilizes AWS's security services to ensure industry best practices.

12. FEES

12.1. Fees

(a) ***All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating unreasonable condition or limit on access by participants to the services offered by the exchange.***

(b) ***The process for setting fees is fair and appropriate, and the fee model is transparent.***

12.1.1. Trumid's fees have been designed to be fair, transparent and non-discriminatory, as required by applicable legislation, including Rule 301(b)(5) of the Regulation ATS enacted to ensure fair access to the U.S. securities markets to all qualified market participants.

12.1.2. Fees are imposed based on Trumid's standard Fee Schedule for all Users and are embedded into the transaction price received by participating clients. Fees are collected by the Intermediary and remitted to Trumid monthly.

13. INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

13.1. ***Information Sharing and Regulatory Cooperation – The ATS has mechanisms in place to enable it to share information and otherwise co-operate with the OSC, self-regulatory organizations, other marketplaces, clearing agencies, investor protection funds, and other appropriate regulatory bodies.***

13.2. ***Oversight Arrangements – Satisfactory information sharing and oversight agreements exist between the Ontario Securities Commission and the Foreign Regulator.***

13.2.1. The OSC has entered into a Memorandum of Understanding with the SEC concerning regulatory consultation, cooperation and the exchange of information related to the supervision of cross-border regulated entities (the "**Supervisory MOU**"). The Supervisory MOU provides a comprehensive framework for consultation, cooperation and information-sharing related to the day-to-day supervision and oversight of cross-border regulated entities and enhances the OSC's ability to supervise these entities. The Supervisory MOU became effective on June 10, 2010.

14. IOSCO PRINCIPLES

14.1. *IOSCO Principles – To the extent it is consistent with the laws of the foreign jurisdiction, the ATS adheres to the standards of the International Organization of Securities Commissions (IOSCO).*

14.1.1. Trumid adheres to the IOSCO principles by virtue of the fact that it must comply with the SEC rules and regulations, which reflect the IOSCO standards.

14.1.2. Trumid adheres to the IOSCO principles set out in the "Objectives and Principles of Securities Regulation" (2003) applicable to exchanges and trading systems. Trumid maintains operations to achieve the following:

(a) ensure the integrity of trading through fair and equitable rules that strike an appropriate balance between the demands of different market participants;

(b) promote transparency of trading;

(c) detect and deter manipulation and other unfair trading practices; and

(d) ensure proper management of market disruption; ensure that clearing and settlement of transactions are fair, effective and efficient, and that they reduce systemic risk.

SECTION 3 - SUBMISSIONS BY TRUMID

1. Submissions Concerning the Requested Relief

A. Trumid is a U.S.-based service provider of USD corporate bond trading software for broker-dealers and qualified institutional clients. Its technology solution, which is offered over the internet, provides access to an electronic application that allows clients to access available trades in USD corporate debt securities only.[11] Trumid is regulated and operating in the U.S. as an ATS registered as broker-dealer pursuant to Rule 301(b) of Regulation ATS. Trumid may therefore be considered an "alternative trading system" as defined in section 1(1) of the OSA and is prohibited from carrying on business in Ontario unless it complies with the Marketplace Rules. Trumid seeks to provide Ontario institutional investors with direct, electronic access to trading in USD corporate debt securities and may therefore be considered to be "carrying on business as an alternative trading system" in Ontario.

B. The requirements in section 6.1 of NI 21-101 are that an ATS may not carry on business as an ATS unless: (a) it is registered as a dealer; (b) it is a member of a self-regulatory entity; and (c) it complies with the provisions of Marketplace Rules. Trumid is not registered with the OSC as an investment dealer under the OSA and is not a member of any Canadian self-regulatory entity.

C. Trumid is registered with the SEC as a broker-dealer and ATS and is a member of FINRA, a self-regulatory organization with the similar mandate as IIROC has in Canada. Trumid intends to provide Ontario institutional investors with direct, electronic access to its Platform to facilitate the trading of USD corporate bonds.

D. In the OSC Staff Notice 21-702, OSC Staff provides that foreign exchanges may be exempt from the requirement to be recognized under the OSA provided that certain conditions of the exemption are met. However, there is no corresponding prescribed regime for ATSs under Ontario securities laws.

E. The regulation of exchanges under the Marketplace Rules and terms and conditions imposed on foreign-based exchanges relying on the recognition exemption as set out in OSC Staff Notice 21-702 are substantially similar to the requirements imposed on ATSs carrying on business in Ontario under the Marketplace Rules. Trumid's business is in compliance with the provisions of Marketplace Rules, as applicable to a platform that facilitates only the trading of corporate debt, and Trumid otherwise satisfies the criteria under section 6.1(c) for registration and carrying on business as an ATS set out by OSC Staff, as described under Part II of this Application. Ontario institutional investors that trade in USD corporate debt securities would benefit from the ability to trade on Trumid's Platform, as they would have access to a range of USD corporate bond liquidity, which is not currently available in Ontario. Trumid would offer its Ontario Participants a transparent, efficient and liquid market to trade USD corporate bonds. Trumid uses sophisticated information systems and has adopted rules and compliance functions designed to ensure that Ontario participants are adequately protected in accordance with international standards set by IOSCO. Trumid therefore submits that it would not be prejudicial to the public interest to grant the Requested Relief.

F. To become Users on Trumid's Platform, Ontario Participants must comply with the Trumid Rulebook and all applicable laws pertaining to the use of the Platform. In addition, prospective clients must also satisfy those requirements of

[11] Incidental to this and as is customary in the corporate bond market, Trumid also may facilitate a UST trade for those clients wishing to hedge out the interest rate exposure for spread based bonds.

Trumid's third-party intermediary, in order to be qualified to become Users and open an account. For the purpose of trading on the Platform, the intermediary acts as executing broker and will complete credit, know-your-client and anti-money laundering verifications, suitability analyses and other account supervision procedures prior to entering into clearing agreements with all Users and on an ongoing basis in accordance with Ontario securities laws and Trumid requirements.

G. Trumid intends to confirm that Ontario Participants that seek to participate on the Platform are institutional investors who qualify as permitted clients, as such term is defined in section 1.1 of NI 31-103, by obtaining a representation from the Ontario resident applicants for access to the Platform in their onboarding documentation. The documentation will specify that this representation is deemed to be repeated by the Ontario Participant each time it enters an order for a trade on the Platform.

H. The Applicant submits that the policy basis that underlies the foreign-based exchange exemption from recognition as stated in the OSC Staff Notice 21-702 would also be a valid policy basis for an order exempting foreign-based ATSs from the dealer registration requirements under the OSA and from complying with the other requirements of Marketplace Rules applicable to ATSs.

2. Similar Relief has been Granted

Trumid notes that exemptive relief similar to the Requested Relief has been granted in the context of the exchange recognition requirement (i) *In the Matter of London Metal Exchange* (December 21, 2018) (ii) *In the Matter of ICE Futures* (September 1, 2006), (iii), *In the Matter of Onechicago, LLC* (October 14, 2016), and (iv) *In the Matter of Nodal Exchange, LLC* (October 7, 2014).

SECTION 4 - OTHER MATTERS

Concurrently with the filing of this application we have submitted filing fees in the amount of C$7,000 and have attached a verification statement of an officer of Trumid.

Should you have any questions on this application, please contact the undersigned.

Yours truly,

"Ramandeep K. Grewal"

Encl.

Cc: Joshua Hershman, COO, *Trumid Financial, LLC*
Cc: Nicholas Kovner, GC/CCO, *Trumid Financial, LLC*

Appendix A
CRITERIA FOR EXEMPTION

PART 1 REGULATION OF THE EXCHANGE

1.1 Regulation of the Exchange

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (Foreign Regulator).

1.2 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

(a) effective oversight of the exchange,

(b) that business and regulatory decisions are in keeping with its public interest mandate,

(c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:

(i) appropriate representation of independent directors, and

(ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,

(d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest, and

(e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.2 Fitness

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person.

PART 3 REGULATION OF PRODUCTS

3.1 Review and Approval of Products

The products traded on the exchange and any changes thereto are reviewed by the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

3.2 Product Specifications

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

3.3 Risks Associated with Trading Products

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange including, but not limited to, margin requirements, intra-day margin calls, daily trading limits, price limits, position limits, and internal controls.

PART 4 ACCESS

4.1 Fair Access

(a) The exchange has established appropriate written standards for access to its services including requirements to ensure

(i) participants are appropriately registered as applicable under Ontario securities laws or Ontario commodity futures laws, or exempted from these requirements,

(ii) the competence, integrity and authority of systems users, and

(iii) systems users are adequately supervised.

(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

(c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.

(d) The exchange does not

(i) permit unreasonable discrimination among participants, or

(ii) impose any burden on competition that is not reasonably necessary and appropriate.

PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE

5.1 Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 6 RULEMAKING

6.1 Purpose of Rules

(a) The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of participants.

(b) The Rules are not contrary to the public interest and are designed to

(i) ensure compliance with applicable legislation,

(ii) prevent fraudulent and manipulative acts and practices,

(iii) promote just and equitable principles of trade,

(iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,

(v) provide a framework for disciplinary and enforcement actions, and

(vi) ensure a fair and orderly market.

PART 7 DUE PROCESS

7.1 Due Process

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

(a) parties are given an opportunity to be heard or make representations, and

(b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

PART 8 CLEARING AND SETTLEMENT

8.1 Clearing Arrangements

The exchange has appropriate arrangements for the clearing and settlement of transactions through a clearing house.

8.2 Regulation of the Clearing House

The clearing house is subject to acceptable regulation.

8.3 Authority of Regulator

A foreign regulator has the appropriate authority and procedures for oversight of the clearing house. This includes regular, periodic regulatory examinations of the clearing house by the foreign regulator.

8.4 Access to the Clearing House

(a) The clearing house has established appropriate written standards for access to its services.

(b) The access standards for clearing members and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

8.5 Sophistication of Technology of Clearing House

The exchange has assured itself that the information technology used by the clearing house has been adequately reviewed and tested and provides at least the same level of safeguards as required of the exchange.

8.6 Risk Management of Clearing House

The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

PART 9 SYSTEMS AND TECHNOLOGY

9.1 Systems and Technology

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

14.1.2.1.1 order entry,

14.1.2.1.2 order routing,

14.1.2.1.3 execution,

14.1.2.1.4 trade reporting,

14.1.2.1.5 trade comparison,

14.1.2.1.6 data feeds,

14.1.2.1.7 market surveillance,

14.1.2.1.8 trade clearing, and

14.1.2.1.9 financial reporting.

9.2 Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors and trading halts.

PART 10 FINANCIAL VIABILITY

10.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 11 TRANSPARENCY

11.1 Transparency

The exchange has adequate arrangements to record and publish accurate and timely trade and order information. This information is provided to all participants on an equitable basis.

PART 12 RECORD KEEPING

12.1 Record Keeping

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

PART 13 OUTSOURCING

13.1 Outsourcing

Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

PART 14 FEES

14.1 Fees

(a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 15 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

15.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the OSC, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

15.2 Oversight Arrangements

Satisfactory information sharing and oversight agreements exist between the OSC and the Foreign Regulator.

PART 16 IOSCO PRINCIPLES

16.1 IOSCO Principles

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organisation of Securities Commissions including those set out in the “Principles for the Regulation and Supervision of Commodity Derivative Markets” (2011).

Appendix B
Trumid Financial ATS 15c3-5 Controls

Order Entry & Management Controls	Control Description	Control Type	Additional Detail
Entity Daily Notional Limits	Aggregate notional amount for the entity for the day	Hard	Traders in the same entity cannot exceed the entity's limit; order ticket displays an error: “You've exceeded your daily limit.”
Trader Daily Notional Limits	Aggregate notional amount for the trader for the day	Hard	Traders cannot exceed their individual limit; the lowest available limit is enforced
Entity Order Size Limit	Firms can set a maximum order size at the entity level	Hard	Order ticket displays an error: “Size must be ## or less.”
Trader Order Size Limit	Firms can also set maximum order size for each individual trader	Hard	The lower of the entity and trader order size limit is enforced
Size Fat Finger Warning	All orders larger than 10MM must be double confirmed	Soft	
Price Fat Finger Warning	Trumid generates a Fair Value Model Price (FVMP) for each security in real time; traders must double confirm orders which significantly deviate from FVMP	Soft	
Duplicate order controls	Only one order per bond per user is permitted	Hard	User may edit or replace the existing order but cannot enter more than one order per security
Stale order controls	Traders set a "Good For" time for each order which may not be more than 25 minutes	Hard	Expired orders are cancelled and cannot be executed
Tools to monitor limits	Limits are systematically enforced and usage is available in real time	Hard	Authorized Limit Users can view limits and usage in Trumid Admin application
Any changes to Financial Controls must be pre-approved by authorized personnel	Authorized Limit Users are the only persons with access to the Admin application	Hard	Trumid will not process change requests from unauthorized persons
Users must not have access to change Financial Controls and associated caps	Traders do not have access or authority to change Limits	Hard	
The intra-day exposure is recorded and available for review later	Intra-day trade exposure is monitored and complete keystroke history is recorded	N.A	Limit usage reports and keystroke history are available upon request

Appendix B

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

AND

IN THE MATTER OF
NATIONAL INSTRUMENT 21-101 *MARKETPLACE OPERATION*
(NI 21-101)

AND

IN THE MATTER OF
NATIONAL INSTRUMENT 23-101 *TRADING RULES*
(NI 23-101)

AND

IN THE MATTER OF
NATIONAL INSTRUMENT 23-103 *ELECTRONIC TRADING AND DIRECT ACCESS TO MARKETPLACES*
(NI 23-103)

AND

IN THE MATTER OF
TRUMID FINANCIAL, LLC

ORDER
(Section 15.1 of NI 21-101 and section 12.1 of NI 23-101 and section 10 of NI 23-103)

WHEREAS Trumid Financial, LLC (**Trumid**) has filed an application (**Application**) with the Ontario Securities Commission (**OSC**) requesting an order under Section 15.1 of National Instrument 21-101 – *Marketplace Operation* ("**NI 21-101"), Section 12.1 of National Instrument 23-101 – *Trading Rules* ("NI 23-101")** and Section 10 of National Instrument 23-103 – *Electronic Trading and Direct Access to Marketplaces* ("**NI 23-103**" and, together with NI 21-101 and NI 23-101, the "**Marketplace Rules"**) exempting Trumid from the application of all provisions of the Marketplace Rules that apply to a person or company carrying on business as an alternative trading system ("**ATS**") in Ontario (the "**Requested Relief**");

AND WHEREAS Trumid has represented to the OSC that:

1. Trumid is a limited liability company existing under the laws of Delaware in the United States (the "**U.S.**"), with its head office located in New York, New York, U.S.;

2. Trumid was founded in 2014 and operates as the electronic service provider of a USD corporate debt securities trading platform for institutional clients;

3. Trumid has a technology affiliate, Trumid Technologies, LLC, which developed the trade matching platform and licenses the application for Trumid to operate. Both Trumid and Trumid Technologies, LLC, are wholly-owned subsidiaries of Trumid Holdings, LLC. All entities are under common management and control;

4. Trading of USD corporate bonds is facilitated through Trumid's Market Center (2.0) interface (the **"Platform"**). Trumid's technology solution is html5 based and offered over the internet. The technology provides access to an electronic application that allows clients to access available trades in USD corporate bonds;

5. It is expected that certain Ontario institutional investors wish to become clients of Trumid in order to access the liquidity afforded by the robust, existing network of clients;

6. The prospective participants in Ontario (the "**Ontario Participants**") will be comprised only of institutional investors that qualify as permitted clients as that term is defined in Section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**);

7. Trumid will confirm that Ontario Participants that seek to participate on the Platform are institutional investors who qualify as permitted clients, as such term is defined in section 1.1 of NI 31-103, by obtaining a representation from the Ontario

Participants for access to the Platform in their onboarding documentation. The documentation will specify that this representation is deemed to be repeated by the Ontario Participant each time it enters an order for a trade on the Platform;

8. Trumid relies on the "international dealer exemption" under section 8.18 of NI 31-103 in Ontario for any trading in securities with permitted clients located in Ontario. Trumid is not registered in any capacity under the OSA;

9. Trumid is regulated and operating in the U.S. as an ATS registered with the U.S. Securities Exchange Commission ("**SEC**") (SEC#: 8-69500) as broker-dealer pursuant to Rule 301(b) of the *Regulation ATS* under *1934 Securities Exchange Act* and is a member of Financial Industry Regulatory Authority (CRD#: 172129), the U.S. equivalent of Investment Industry Regulatory Organization of Canada**;**

10. Trumid is not in default of securities legislation in any jurisdiction;

11. Trumid seeks to provide Ontario institutional investors with direct, electronic access to trading in only USD corporate debt securities and is therefore considered to be an ATS in Ontario, as defined in subsection 1(1) of the OSA;

12. As an ATS, Trumid is prohibited from carrying on business in Ontario unless it complies with or is exempted from the Marketplace Rules;

13. In order to obtain direct access to the Platform, an Ontario Participant must agree to abide by the Trumid Rulebook**;**

14. Trumid will also require Ontario Participants to sign a user agreement agreeing to the terms and conditions of the use of the Platform, including clear and transparent access criteria and requirements for all market participants on the Platform, as well as minimum financial requirements for participants to maintain the financial integrity of the Platform. Trumid applies these criteria to all Platform participants in an impartial manner;

15. In addition to complying with the Trumid Rulebook and all applicable laws pertaining to the use of the Platform, prospective clients must also satisfy those requirements of Trumid's third-party intermediary. For the purpose of trading on the Platform, the intermediary acts as executing broker and will complete credit, know-your-client and anti-money laundering verifications, suitability analyses and other account supervision procedures prior to entering into clearing agreements with all users and on an ongoing basis in accordance with Ontario securities laws and Trumid requirements. The third-party intermediary has represented to Trumid that it is appropriately registered or relies on an exemption from registration under Ontario securities laws to carry on this activity**;**

16. Trumid will only permit trading in fixed income securities that are permitted to be traded in the United States under applicable securities laws and regulations;

17. All trades on Trumid are for securities which are TRACE-eligible. Trumid displays orders of corporate debt securities and provides accurate and timely information regarding orders. Additionally, Trumid automatically reports all transactions to TRACE in a timely manner (within fifteen (15) minutes) via FIX, and would report transactions of Ontario Participants in the same manner as it reports U.S.-based participant trades. Trade information is consistent with FINRA TRACE reporting standards and includes information regarding the type of counterparty, issuer, class or series of the security (achieved through the inclusion of the security's unique identifier), coupon, maturity, price of trade, time of trade and volume of trade, capped at $5mm+ for investment grade securities or $1mm+ for non-investment grade securities. Trumid's reporting does not absolve any participants of their own regulatory reporting requirements;

AND WHEREAS the OSC will monitor developments in international and domestic capital markets and Trumid's activities on an ongoing basis to determine whether it is appropriate for the OSC to continue to grant the Requested Relief and, if so, whether it is appropriate for the Requested Relief to continue to be granted subject to the terms and conditions set out in Schedule A to this order;

AND WHEREAS Trumid has acknowledged to the OSC that the scope of the Requested Relief and the terms and conditions imposed by the OSC set out in Schedule A to this order may change as a result of its monitoring of developments in international and domestic capital markets or Trumid's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives, commodity futures contracts, commodity futures options or securities;

AND WHEREAS based on the Application, together with the representations made by and acknowledgements of Trumid to the OSC, the OSC has determined that the granting of the Requested Relief would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the OSC that:

(a) Pursuant to Section 15.1 of NI 21-101, section 12.1 of NI 23-101 and section 10 of NI 23-103, Trumid is exempt from the requirement to comply with the Marketplace Rules;

PROVIDED THAT Trumid complies with the terms and conditions attached hereto as Schedule A.

DATED _____

Schedule A
TERMS AND CONDITIONS

Regulation and Oversight

1. Trumid will continue to be subject to the regulatory oversight of the regulator in its home jurisdiction;

2. Trumid will either be registered in an appropriate category or rely on an exemption from registration under Ontario securities laws;

3. Trumid will promptly notify the OSC if its status in its home jurisdiction has been revoked, suspended, or amended, or the basis on which its status has significantly changed;

Access

4. Trumid will not provide direct access to an Ontario Participant unless the Ontario Participant is a permitted client as that term is defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

5. Trumid will require Ontario Participants to provide prompt notification to Trumid if they no longer qualify as permitted clients;

6. Trumid must make available to Ontario Participants appropriate training for each person who has access to trade on the Platform;

Trading by Ontario Participants

7. Trading on Trumid by Ontario Participants must be cleared and settled through a clearing agency that is regulated as a clearing agency by the clearing agency's applicable regulator;

8. Trumid will permit Ontario Participants to only trade those securities which are permitted to be traded in the United States under applicable securities laws and regulations;

9. Trumid will only allow Ontario Participants to trade those fixed income securities listed in representation number 11 of this Order;

10. Trumid will automatically report all transactions of Ontario Participants to TRACE in a timely manner (within fifteen (15) minutes via FIX). This trade information is consistent with FINRA TRACE reporting standards;

Reporting

11. Trumid will promptly notify OSC Staff of any of the following:

    (a) any material change to its business or operations or the information provided in its application for exemptive relief, including, but not limited to:

        (i) changes to its regulatory oversight;

        (ii) the access model, including eligibility criteria, for Ontario Participants;

        (iii) systems and technology; and

        (iv) its clearing and settlement arrangements;

    (b) any change in its regulations or the laws, rules, and regulations in the home jurisdiction relevant to the products traded;

    (c) any known investigations of, or regulatory action against, Trumid by the regulator in the home jurisdiction or any other regulatory authority to which it is subject;

    (d) any matter known to Trumid that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and

    (e) any default, insolvency, or bankruptcy of any participant known to Trumid or its representatives that may have a material, adverse impact upon Trumid or any Ontario Participant;

12. Trumid will maintain the following updated information and submit such information in a manner and form acceptable to OSC Staff on a bi-annual basis (within 30 days of the end of each six-month period), and at any time promptly upon the request of OSC Staff:

    (a) a current list of all Ontario Participants, specifically identifying for each Ontario Participant the basis upon which it represented to Trumid that it could be provided with direct access;

    (b) a list of all applicants for status as an Ontario Participant who were denied such status or access and a list of Ontario Participants who had such status or access revoked during the period;

        (i) for those Ontario Participants who had their status revoked, an explanation as to why their status was revoked;

    (c) for each product:

        (i) the total trading volume and value originating from Ontario Participants, and

        (ii) the proportion of worldwide trading volume and value on Trumid conducted by Ontario Participants, presented in the aggregate for such Ontario Participants; and

    (d) a list of any system outages that occurred for any system impacting Ontario Participants' trading activity on the Platform which were reported to the regulator in Trumid's home jurisdiction;

Disclosure

13. Trumid will provide to its Ontario Participants disclosure that states that:

    (a) rights and remedies against it may only be governed by the laws of the home jurisdiction, rather than the laws of Ontario, and may be required to be pursued in the home jurisdiction rather than in Ontario;

    (b) the rules applicable to trading on Trumid may be governed by the laws of the home jurisdiction, rather than the laws of Ontario; and

    (c) Trumid is regulated by the regulator in its home jurisdiction, rather than the OSC;

Submission to Jurisdiction and Appointment of Agent for Service

14. With respect to a proceeding brought by the OSC arising out of, related to, concerning, or in any other manner connected with the OSC's regulation and oversight of the activities of Trumid in Ontario, Trumid will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario, and (ii) an administrative proceeding in Ontario;

15. Trumid will submit to the OSC a valid and binding appointment of an agent for service in those jurisdictions upon which the OSC may serve a notice, pleading, subpoena, summons, or other process in any action, investigation, or administrative, criminal, quasi-criminal, penal, or other proceeding arising out of or relating to or concerning the OSC's regulation and oversight of Trumid's activities in Ontario;

Information Sharing

16. Trumid must, and must cause its affiliated entities, if any, to promptly provide to the OSC, on request, any and all data, information, and analyses in the custody or control of Trumid or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:

    (a) data, information, and analyses relating to all of its or their businesses; and

    (b) data, information, and analyses of third parties in its or their custody or control; and

17. Trumid must share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

13.2.2 FX Connect MTF and Currenex MTF – Application for Exemption from Recognition as an Exchange – Notice and Request for Comment

NOTICE AND REQUEST FOR COMMENT

APPLICATION FOR EXEMPTION FROM RECOGNITION AS AN EXCHANGE FOR FX CONNECT MTF AND CURRENEX MTF

A. Introduction

This notice requests comment on:

(i) the applications filed by State Street Global Markets International Limited (**SSGMIL,** or the **Applicant**), as operator of FX Connect MTF (**FX Connect**) and Currenex MTF (**Currenex**), under section 147 of the *Securities Act* (Ontario) (**Act**) for an exemption from the requirement to be recognized as an exchange in section 21 of the Act (**Recognition Requirement**) to operate FX Connect and Currenex; and

(ii) the draft order exempting SSGMIL from the Recognition Requirement.

FX Connect and Currenex are multilateral trading facilities (**MTF**) operated by SSGMIL. SSGMIL is authorized by the Financial Conduct Authority (**FCA**) in the United Kingdom to act as their operator. Each MTF is a Request for Quote (**RFQ**) trading system that facilitates the trading of the following foreign exchange (**FX**) derivatives: deliverable and non-deliverable forwards and swaps.

The Applicant offers direct access to FX Connect and Currenex to participants in Ontario (**Ontario Participants**). Since the Applicant, through the MTFs, is carrying on business in Ontario, the Applicant, as their operator, is required either to be recognized as an exchange under the Act or to apply for an exemption from the Recognition Requirement. The Applicant is currently exempt from recognition as an exchange to operate FX Connect and Currenex pursuant to interim orders issued by the Commission on May 10, 2019 and June 21, 2019, respectively.[1] Both orders will expire in 2020. The Applicant has applied for an exemption from the Recognition Requirement to operate FX Connect and Currenex on the basis that it is already subject to regulatory oversight by the FCA.

B. Background

On January 3, 2018, the Markets in Financial Instruments Directive 2014/65/EU of the European Parliament and of the Council (**MiFID II**) was implemented. Under Article 28(1) of the Markets in Financial Instruments Regulation (Regulation (EU) No. 600/2014) (**MiFIR**), the regulation that accompanies MiFID II, certain European counterparties must trade certain derivatives on a trading venue and not bilaterally. As a result, Canadian banks and other institutions wishing to enter into transactions in these derivatives with EU counterparties must do so on a trading venue, namely a regulated market, an organised trading facility, an MTF or a third-country trading venue that the European Commission has determined has an equivalent system for regulating trading venues. The Applicant has indicated that Canadian banks and other institutions trade on FX Connect and Currenex.

An MTF provides a facility for bringing together orders from multiple buyers and sellers for types of over-the-counter derivatives and other securities and use established non-discretionary methods under which the orders interact with each other. An MTF meets the definition of “marketplace.”

An MTF has a responsibility to regulate the conduct of its participants with respect to trading on the MTF and to set rules governing trading on the system. Because of these self-regulatory responsibilities, under the Act an MTF would be considered an exchange.

C. Application and Draft Exemption Order

In the applications for exemption from recognition as exchanges, the Applicant has outlined how the Applicant, FX Connect and Currenex meet the criteria for exemption from the Recognition Requirement. The specific criteria can be found in Appendix 1 of the draft exemption order. Subject to comments received, Staff intend to recommend that the Commission grant an exemption order with terms and conditions based on the draft exemption order. The applications can be found on our website at www.osc.gov.on.ca and the draft exemption order is attached to this Notice.

D. Comment Process

The Commission is publishing for public comment the applications and the draft exemption order. We are seeking comment on all aspects of the applications and draft exemption order.

[1] The interim order for FX Connect is available at: https://www.osc.gov.on.ca/en/SecuritiesLaw_ord_20190516_222_fx-connect.htm The interim order for Currenex is available at: https://www.osc.gov.on.ca/en/SecuritiesLaw_ord_20190725_221_currenex-multilateral-trading.htm

Please provide your comments in writing, via e-mail, on or before April 6, 2020, to the attention of:

Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8

Email: comments@osc.gov.on.ca

The confidentiality of submissions cannot be maintained as the comment letters and a summary of written comments received during the comment period will be published.

Questions may be referred to:

Ruxandra Smith
Senior Accountant, Market Regulation
ruxsmith@osc.gov.on.ca

Alex Petro
Trading Specialist, Market Regulation
apetro@osc.gov.on.ca

Keir Wilmut
Legal Counsel, Market Regulation
kwilmut@osc.gov.on.ca

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

- and -

IN THE MATTER OF

STATE STREET GLOBAL MARKETS INTERNATIONAL LIMITED

ORDER
(Section 147 of the Act)

WHEREAS State Street Global Markets International Limited (**"Applicant")** has filed an application dated August 12, 2019 ("**Application**") with the Ontario Securities Commission **("Commission")** to request an order pursuant to section 147 of the Act exempting it from the requirement to be recognized as an exchange under subsection 21(1) of the Act in order to operate FX Connect Multilateral Trading Facility (**"FX Connect")** in Ontario;

AND WHEREAS the Applicant has filed an application dated September 26, 2019 with the Commission to request an order pursuant to section 147 of the Act exempting it from the requirement to be reconized as an exchange under subsection 21(1) of the Act in order to operate Currenex Multilateral Trading Facility ("**Currenex**" and, together with FX Connect, "**State Street MTFs**") in Ontario;

AND WHEREAS the Applicant has not requested as part of the Application that any other marketplace or trading platform operated by the Applicant, or the provision of access by any such marketplace or trading platform to prospective participants in Ontario, be exempted from any provision of Ontario securities law;

AND WHEREAS on May 10, 2019 the Commission issued an interim order under section 147 of the Act exempting the Applicant on an interim basis from the requirement in subsection 21(1) to be recognized as an exchange in order to operate FX Connect ("**FX Connect Interim Order"**), terminating on the earlier of (i) May 11, 2020 and (ii) the effective date of a subsequent order exempting the Applicant from the requirement to be recognized as an exchange;

AND WHEREAS on June 21, 2019 the Commission issued an interim order under section 147 of the Act exempting the Applicant on an interim basis from the requirement in subsection 21(1) to be recognized as an exchange to operate Currenex ("**Currenex Interim Order**" and, together with the FX Connect Interim Order, **"Interim Orders"**), terminating on the earlier of (i) June 30, 2020 and (ii) the effective date of a subsequent order exempting the Applicant from the requirement to be recognized as an exchange;

AND WHEREAS the Interim Orders will therefore terminate upon the issuance of this order;

AND WHEREAS the Applicant has represented to the Commission that:

1.1 The Applicant is authorized by the Financial Conduct Authority ("**FCA**") in the United Kingdom to act as the operator of each of the State Street MTFs, both multilateral trading facilities ("**MTF**");

1.2 The State Street MTFs are registered with the FCA as MTFs operated by the Applicant;

1.3 The State Street MTFs offer request for quote **("RFQ")** trading in certain instruments related to foreign currencies (spot, deliverable and non- deliverable forwards and swaps) and related trade support services to their subscribers **("Members").** It is understood that, as of the date of the application, exchange relief is not required in respect of foreign currencies spot;

1.4 All State Street MTF Members, including Members in Ontario ("**Ontario Members**") must qualify as an "eligible counterparty" or "professional client" under the Markets in Financial Instruments Directive 2014/65/EU ("MiFID II") and the Markets in Financial Instruments Regulation (EU) No 600/2014 ("MiFIR"), both as amended;

1.5 As required by the FCA Handbook, the Applicant has implemented a trade surveillance program for the State Street MTFs. As part of the program, the Applicant conducts real-time monitoring of trading activity on the State Street MTFs;

1.6 As MTFs, the State Street MTFs are required under the FCA Handbook to have requirements governing the conduct of their Members, to monitor compliance with those requirements and to discipline their Members, including by means other than exclusion from the State Street MTF trading platforms;

1.7 Because the Applicant regulates the conduct of the Members, it is considered by the Commission to be an exchange;

1.8 Because the State Street MTFs have Members located in Ontario, the Applicant would be considered by the Commission to be carrying on business as an exchange in Ontario with respect to the State Street MTFs and would be required to be recognized as such or exempted from recognition pursuant to section 21 of the Act to operate the State Street MTFs;

1.9 The State Street MTFs do not list or trade derivative instruments that are required to be cleared;

1.10 The Applicant and the State Street MTFs have no physical presence in Ontario and do not otherwise carry on business in Ontario except as described above; and

AND WHEREAS the products traded on the State Street MTFs are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario with respect to the State Street MTFs;

AND WHEREAS the Commission will monitor developments in international and domestic capital markets and the Applicant's activities on an ongoing basis to determine whether it is appropriate for the Exchange Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

AND WHEREAS the Applicant has acknowledged to the Commission that the scope of the Exchange Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the activities of the Applicant or the State Street MTFs, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

AND WHEREAS based on the Application, together with the representations made by and acknowledgements of the Applicant to the Commission with respect to the State Street MTFs, the Commission has determined that the granting of the Exchange Relief would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission that, pursuant to section 147 of the Act, the Applicant is exempt from recognition as an exchange under subsection 21(1) of the Act in order to operate the State Street MTFs,

PROVIDED THAT the Applicant, in respect of the State Street MTFs, complies with the terms and conditions contained in Schedule "A".

DATED , 2020.

SCHEDULE "A"

TERMS AND CONDITIONS

Meeting Criteria for Exemption

1. The Applicant will continue to meet and will cause the State Street MTFs to continue to meet the criteria for exemption included in Appendix 1 to this Schedule.

Regulation and Oversight of the Applicant

2. The Applicant will maintain its permission to operate the State Street MTFs as MTFs with the FCA in the United Kingdom and will continue to be subject to the regulatory oversight of the FCA.

3. The Applicant will continue to comply with the ongoing requirements applicable to it as the operator of an MTF registered with the FCA.

4. The Applicant will promptly notify the Commission if its authorization to operate FX Connect or Currenex has been revoked, suspended, or amended by the FCA, or the basis on which its authorization to operate FX Connect or Currenex has been granted has significantly changed.

5. The Applicant will only operate the State Street MTFs in Ontario.

6. The Applicant, as operator of the State Street MTFs, must do everything within its control to ensure that, in respect of FX Connect and Currenex, it carries out activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

Access

7. The Applicant will not provide direct access to an Ontario Member to FX Connect or Currenex unless the Ontario Member is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements and qualifies as an "eligible counterparty" under MiFID II and MiFIR, both as amended.

8. For each Ontario Member provided direct access to FX Connect and Currenex, the Applicant will require, as part of its application documentation or continued access to FX Connect and Currenex, the Ontario Member to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.

9. The Applicant may reasonably rely on a written representation from the Ontario Member that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempted from or not subject to those requirements provided the Applicant notifies such Ontario Member that this representation is deemed to be repeated each time it enters an order, request for quote or response to a request for quote or otherwise uses FX Connect or Currenex.

10. The Applicant will require Ontario Members to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario Member and subject to applicable laws, the Applicant will promptly restrict the Ontario Member's access to FX Connect and Currenex if the Ontario Member is no longer appropriately registered or exempt from those requirements.

11. The Applicant must make available to Ontario Members appropriate training for each person who has access to trade on FX Connect and Currenex.

Trading by Ontario Members

12. The Applicant, as operator of the State Street MTFs, will not provide access to an Ontario Member to trade in products other than swaps and security-based swaps, as defined in section 1a(47) of the United States Commodity Exchange Act, as amended, without prior Commission approval.

Submission to Jurisdiction and Agent for Service

13. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.

14. The Applicant will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or, concerning the Commission's regulation and oversight of the Applicant's activities in Ontario.

Disclosure

15. The Applicant will provide to the Ontario Members disclosure that:

    (a) rights and remedies against the Applicant may only be governed by the laws of the United Kingdom, rather than the laws of Ontario and may be required to be pursued in the United Kingdom rather than in Ontario;

    (b) the rules applicable to trading on the State Street MTFs may be governed by the laws of the United Kingdom rather than the laws of Ontario; and

    (c) the Applicant is regulated by the FCA, rather than the Commission.

Prompt Reporting

16. The Applicant will promptly notify staff of the Commission of any of the following:

    (a) any material change to its business or operations or the information provided in the Applications, including, but not limited to material changes to:

        (i) the regulatory oversight by the FCA;

        (ii) the corporate governance structure of the Applicant;

        (iii) the access model, including eligibility criteria, for Ontario Members;

        (iv) systems and technology; and

        (v) the clearing and settlement arrangements for FX Connect and Currenex;

    (b) any change in the regulations applicable to FX Connect and Currenex or the laws, rules and regulations in the United Kingdom relevant to the financial instruments available for trading on FX Connect and Currenex where such change may materially affect its ability to meet the criteria set out in Appendix 1 to this Schedule;

    (c) any condition or change in circumstances whereby the Applicant is unable or anticipates it will not be able to continue to meet any of the rules or regulations of the FCA that are relevant to FX Connect and Currenex, as set forth in the FCA Handbook;

    (d) any known investigations of, or disciplinary action against the Applicant by the FCA or any other regulatory authority to which it is subject;

    (e) any matter known to the Applicant that may materially affect its financial or operational viability, including, but not limited to, any significant system failure or interruption;

    (f) any default, insolvency, or bankruptcy of a Member known to the Applicant or its representatives that may have a material, adverse impact upon FX Connect, Currenex or any Ontario Member; and

    (g) any material systems outage, malfunction or delay with respect to FX Connect and Currenex;

17. The Applicant will promptly provide staff of the Commission with the following information to the extent it is required to provide to or file such information with the FCA:

    (a) details of any material legal proceeding instituted against the Applicant;

    (b) notification that the Applicant has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it; and

    (c) the appointment of a receiver or the making of any voluntary arrangement with creditors.

Quarterly Reporting

18. The Applicant will maintain the following updated information in reference to FX Connect and Currenex and submit such information for each of FX Connect and Currenex in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:

    (a) a current list of all Ontario Members and whether the Ontario Member is registered under Ontario securities laws or is exempt or not subject to registration and, to the extent known to the Applicant, of other persons or companies located in Ontario trading on FX Connect and Currenex as customers of participants **("Other Ontario Participants"**);

    (b) the legal entity identifier assigned to each Ontario Member and, to the extent known by the Applicant, to Other Ontario Participants, in accordance with the standards set by the Global Legal Entity Identifier System;

    (c) a list of all Ontario Members against whom disciplinary action has been taken in the last quarter by the Applicant or, to the best of the Applicant's knowledge, by the FCA with respect to such Ontario Members' activities on FX Connect and Currenex and the aggregate number of all Members referred to the FCA in the last quarter by the Applicant;

    (d) a list of all active investigations by the Applicant relating to Ontario Members and the aggregate number of active investigations during the quarter relating to all Members;

    (e) a list of all Ontario applicants for status as a Member who were denied such status or access to FX Connect or Currenex during the quarter, together with the reasons for each such denial;

    (f) a list of all products available for trading during the quarter, identifying any additions, deletions, or changes since the prior quarter;

    (g) for each product, in the required format, and for each of FX Connect and Currenex:

        (i) the total trading volume and value originating from Ontario Members and, to the extent known by the Applicant, from Other Ontario Participants presented on a per Ontario Member or a per Other Ontario Participant basis,

        (ii) the proportion of worldwide trading volume and value conducted by Ontario Members and, to the extent known by the Applicant, by Other Ontario Participants presented in the aggregate for such Ontario Members and Other Ontario Participants, and

        (iii) the proportion of worldwide trading volume and value conducted by Ontario Members and, to the extent known by the Applicant, by Other Ontario Participants, presented in the aggregate for such Ontario Members and Other Ontario Participants; and

    (h) a list outlining each material incident of a security breach, systems failure, malfunction or delay (including cyber security breaches, systems failures, malfunctions or delays reported under section 15(g) of this Schedule) that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data of FX Connect or Currenex, specifically identifying the date, duration and reason for the failure, malfunction or delay, and noting any corrective action taken.

Annual Reporting

19. The Applicant will file with the Commission any annual financial report or financial statements (audited or unaudited) of the Applicant provided to or filed with the FCA promptly after filing with the FCA.

Information Sharing

20. The Applicant, in reference to the State Street MTFs, will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

APPENDIX 1

CRITERIA FOR EXEMPTION OF A FOREIGN EXCHANGE TRADING OTC DERIVATIVES FROM RECOGNITION AS AN EXCHANGE

PART 1 REGULATION OF THE EXCHANGE

1.1 Regulation of the Exchange

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (Foreign Regulator).

1.2 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

(a) effective oversight of the exchange,

(b) that business and regulatory decisions are in keeping with its public interest mandate,

(c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:

(i) appropriate representation of independent directors, and

(ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,

(d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and

(e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.2 Fitness

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

PART 3 REGULATION OF PRODUCTS

3.1 Review and Approval of Products

The products traded on the exchange and any changes thereto are submitted to the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

3.2 Product Specifications

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

3.3 Risks Associated with Trading Products

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.

PART 4 ACCESS

4.1 Fair Access

(a) The exchange has established appropriate written standards for access to its services including requirements to ensure

(i) participants are appropriately registered as applicable under Ontario securities laws, or exempted from these requirements,

(ii) the competence, integrity and authority of systems users, and

(iii) systems users are adequately supervised.

(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

(c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.

(d) The exchange does not

(i) permit unreasonable discrimination among participants, or

(ii) impose any burden on competition that is not reasonably necessary and appropriate.

(e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE

5.1 Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 6 RULEMAKING

6.1 Purpose of Rules

(a) The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.

(b) The Rules are not contrary to the public interest and are designed to:

(i) ensure compliance with applicable legislation,

(ii) prevent fraudulent and manipulative acts and practices,

(iii) promote just and equitable principles of trade,

(iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,

(v) provide a framework for disciplinary and enforcement actions, and

(vi) ensure a fair and orderly market.

PART 7 DUE PROCESS

7.1 Due Process

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

(a) parties are given an opportunity to be heard or make representations, and

(b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

PART 8 CLEARING AND SETTLEMENT

8.1 Clearing Arrangements

The exchange has or requires its participants to have appropriate arrangements for the clearing and settlement of transactions for which clearing is mandatory through a clearing house.

8.2 Risk Management of Clearing House

The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

PART 9 SYSTEMS AND TECHNOLOGY

9.1 Systems and Technology

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

(a) order entry;

(b) order routing;

(c) execution;

(d) trade reporting;

(e) trade comparison;

(f) data feeds;

(g) market surveillance;

(h) trade clearing; and

(i) financial reporting

9.2 System Capability/Scalability

(a) Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

(b) makes reasonable current and future capacity estimates;

(c) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;

(d) reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;

(e) ensures that safeguards that protect a system against unauthorised access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;

(f) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;

(g) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and

(h) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and

internal controls.

9.3 Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and respond to market disruptions and disorderly trading.

PART 10 FINANCIAL VIABILITY

10.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 11 TRADING PRACTICES

11.1 Trading Practices

Trading practices are fair, properly supervised and not contrary to the public interest.

11.2 Orders

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

11.3 Transparency

The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or the Foreign Regulator. This information is also provided to all participants on an equitable basis.

PART 12 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT

12.1 Jurisdiction

The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

12.2 Member and Market Regulation

The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

12.3 Record Keeping

The exchange maintains adequate provisions for keeping books and records, including operations of the exchange, audit trail information on all trades and compliance and/or violations of exchange requirements and applicable legislation.

12.4 Availability of Information to Regulators

The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.

PART 13 RECORD KEEPING

13.1 Record Keeping

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

PART 14 OUTSOURCING

14.1 Outsourcing

Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

PART 15 FEES

15.1 Fees

(a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 16 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

16.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, self-regulatory organisations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

16.2 Oversight Arrangements

Satisfactory information sharing and oversight agreements exist between the Commission and the Foreign Regulator.

PART 17 IOSCO PRINCIPLES

17.1 IOSCO Principles

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organisation of Securities Commissions (IOSCO) including those set out in the “Principles for the Regulation and Supervision of Commodity Derivatives Markets” (2011).

August 12, 2019

Via Air Courier and E-mail (http://www.osc.gov.on.ca/en/SecuritiesLaw_forms_index.htm)

Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, ON M5H 3S8

Re: FX Connect MTF – Application for Exemption from Recognition as an Exchange

Dear Sirs and Mesdames,

This application (the "**Application**") is being submitted by State Street Global Markets International Limited as operator of FX Connect MTF ("**FX Connect MTF**") to the Ontario Securities Commission ("**Commission**") for a decision under section 147 of the Securities Act (Ontario) ("**Act**") exempting FX Connect MTF from the requirement to be recognized as an exchange under subsection 21(1) of the Act.

Exemption Criteria

Commission staff have prescribed criteria that it will apply when considering applications by foreign-based electronic trading facilities for recognition (or exemption from recognition) as an exchange under Section 21(1) of the Act. These criteria are prescribed in the OSC Staff Notice 21-702 *Regulatory Approach for Foreign Based Stock Exchanges* in relation to applications for recognition (or exemption from recognition) by foreign exchanges under section 21 of the Act. OSC Staff Notice 21-711 *Multilateral Trading Facilities – Exemption from Requirement to be Recognized as an Exchange* indicates that multilateral trading facilities ("**MTF**") are considered exchanges and, if they provide access to participants in Ontario, must also be recognized or exempt from recognition as an exchange.

For convenience, the Application is divided into the following Parts I to V, Part III of which describes how FX Connect MTF satisfies the Commission Staff's criteria for exemption as an exchange.

INTRODUCTION

1. FX Connect MTF Services to Ontario Residents

1.1 State Street Global Markets International Limited ("**SSGMIL**") is registered with, and regulated by, the Financial Conduct Authority ("**FCA**") in the United Kingdom as a multi-lateral trading facility operator in respect of two electronic trading platforms which it operates, which allow users in the European Economic Area ("**EEA**") and certain foreign jurisdictions to trade certain foreign exchange instruments.

1.2 SSGMIL has offered the two electronic trading platforms branded as FX Connect MTF and Currenex MTF since they 'went live' in December 2017 in anticipation of the implementation of the Revised Markets in Financial Instruments Directive ("**MiFID II**") on 3 January 2018. This Application only focusses on the platform known as **FX Connect MTF** and it is the FX Connect MTF platform that is seeking a decision under section 147 of the Securities Act (Ontario) ("**Act**") exempting FX Connect MTF from the requirement to be recognized as an exchange under subsection 21(1) of the Act

1.3 SSGMIL does not have and does not intend to have any offices or maintain other physical installations in Ontario or any other Canadian province or territory.

1.4 SSGMIL offers access to FX Connect MTF to users located in Ontario ("**Ontario Users**"). To obtain access to the FX Connect MTF, an Ontario User must be a firm that is eligible to join FX Connect MTF, has successfully completed all on-boarding requirements and has executed the FX Connect MTF member agreement (at which point it will be a "**Member**"). Members and their personnel authorised to access the platform on behalf of the Member (being either Authorised Traders or Authorised Users) are referred to collectively herein as "**FX Connect MTF Users**". (The terms "**Member**", "**Authorised Trader**" and "**Authorised User**" are defined in the FX Connect MTF Rulebook.)

1.5 SSGMIL obtains a representation from each Ontario User seeking access to FX Connect MTF that they are appropriately registered under Ontario securities laws to use FX Connect MTF or are exempt from or not subject to such registration requirements with respect to its use of FX Connect MTF and such representation is deemed repeated each time the Ontario User makes use of FX Connect MTF.

2. Background to the Application

2.1 On December 11, 2018, SSGMIL in its capacity as operator of FX Connect MTF submitted an application to the Ontario Securities Commission (the "**Commission**") for temporary exemption from the requirement to be recognised as an exchange under section 21(1) of the Securities Act (Ontario) (the "**Act**"). The Commission granted the order (the "**Interim Order**") effective May 10, 2019 with a termination date on the earlier of (i) May 11, 2020 and (ii) the effective date of a subsequent order exempting FX Connect MTF from the requirement to be recognised as an exchange pursuant to section 147 of the Act. FX Connect MTF currently carries on business in Ontario pursuant to the Interim Order.

PART II BACKGROUND WITH RESPECT TO FX CONNECT MTF

1. Ownership of FX Connect MTF

1.1 FX Connect MTF services are offered by SSGMIL, a private company limited by shares organised under the laws of England and Wales. SSGMIL is a wholly-owned direct subsidiary of State Street Europe Limited ("**SSEL**"), a private company limited by shares organised under the laws of England and Wales. SSEL operates as a subsidiary of State Street International Holdings ("**SSIH**"). SSIH is an Edge Act Corporation whose role within the State Street group is as an intermediate holding company that does not act as a profit generating entity in its own right. SSIH is a subsidiary of State Street Bank and Trust Company ("**SSBTC**").

1.2 SSBTC is a Massachusetts chartered trust company and a bank listed in Schedule III of the Bank Act (Canada). SSBTC is the primary financial services provider and the material entity within the State Street group, offering asset management and advisory services (including custody, banking and trust services) as well as other services which may be specific to custody clients, or available to non-custody clients. It is also the employing entity of most of the State Street group employees worldwide. SSBTC is a subsidiary of State Street Corporation ("**SSC**"). SSC is a bank holding company headquartered in the United States, Boston, Massachusetts and is subject to the supervision of the U.S. Federal Reserve Board. SSC's stock is traded publicly on the New York Stock Exchange (**NYSE:STT**).

1.3 SSGMIL has a registered office at 20 Churchill Place, London, England, E14 5HJ.

1.4 State Street's electronic trading division is known as **GlobalLink**. GlobalLink operates through a number of State Street affiliated entities (including SSGMIL) and includes FX Connect MTF, Currenex MTF, unregulated versions of both platforms and Fund Connect (not part of this Application).

2. Products Traded on the Exchange

2.1 FX Connect MTF currently supports the execution of spot, deliverable forwards, non-deliverable forwards and swap transactions in certain currency pairs (listed in an Annex 1 of the FX Connect MTF Rulebook).

2.2 FX Connect MTF offer the following types of request for quote ("**RFQ**") trading models for each of the instruments above, each described in detail in the FX Connect MTF Rulebook:

a) The request for stream RFQ trading model for a single value date;

b) The request for stream RFQ trading model for a multiple value date;

c) The portfolio RFQ trading model;

d) The competitive trading RFQ model for a single value date;

e) The competitive trading RFQ model for a multiple value date;

f) The basket competitive trading RFQ model;

g) The benchmark RFQ trading model;

h) The competitive benchmark RFQ trading model;

i) The slice RFQ trading model; and

j) The algo RFQ trading model.

3. FX Connect MTF Members

3.1 SSGMIL offers FX Connect MTF to Members in multiple jurisdictions including, the European Economic Area, Australia, provinces of Canada, Japan, Singapore, Switzerland, and the United States. All Members of FX Connect MTF, including Ontario-based Members are large banks and other well-capitalised financial institutions as well as by large and sophisticated commercial entities, who are required to meet the criteria of 'Professional Client' or 'Eligible Counterparty' (as those terms are defined by FCA's Handbook (which contains the UK's transposition of MIFID II)), and meet any equivalent local standards and requirements for investment sophistication in their own local jurisdictions. FX Connect MTF is not made available to retail investors.

3.2 Canadian Members, including Ontario Users, will also sign a specific Canadian addendum to confirm the basis on which they meet the criteria of a 'Permitted Client'[1], 'Accredited Investor'[2] and (if applicable) an 'Accredited Counterparty'[3].

PART III APPLICATION OF EXEMPTION CRITERIA TO FX CONNECT MTF

The following is a discussion of how FX Connect MTF meets the relevant criteria for exemption of a foreign exchange trading OTC derivatives from recognition as an exchange under subsection 21(1) of the Act.

1. Regulation of the Exchange

1.1 Regulation of the Exchange – The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (Foreign Regulator).

1.1.1 In the United Kingdom, investment firms (and operators of multilateral trading facilities) are regulated by the FCA under the Financial Services and Markets Act 2000 ("**FSMA**").

1.1.2 Section 19 of FSMA generally prohibits any entity from providing regulated activities (section 22 FSMA) unless they are authorised to do so under section 55A. Permission to carry on regulated activities is granted to an entity under section 55E. SSGMIL, as the operator of FX Connect MTF, is authorised and regulated by the FCA under reference number 194525.

1.1.3 FX Connect MTF is subject to regulatory supervision by the FCA and is required to comply with the FCA's regulatory framework set out in the FCA Handbook, which includes, among other things, rules on (i) the conduct of business

[1] As defined in Section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations.*
[2] As defined in Section 1.1 of National Instrument 45-106 *Prospectus and Registration Exemptions.*
[3] As defined in the *Derivatives Act* (Québec).

(including rules regarding client categorisation, communication with clients and other investor protections and client agreements), (ii) market conduct (including rules applicable to firms operating a multi-lateral trading facility, "**MTF**"), and (iii) systems and controls (including rules on outsourcing, governance, record-keeping and conflicts of interest). The FCA also requires SSGMIL to comply at all times with a set of threshold conditions for authorisation, including requirements that it is 'fit and proper' to be authorised and that it has appropriate resources for the activities it carries on (collectively, the "**FCA rules**").

1.1.4 Under the market conduct rules ("**FCA MAR**"), the FCA specifically mandate that all firms operating MTFs must, at a minimum be compliant with the following key provisions of MiFID II; (i) transparent rules and procedures for fair and orderly trading, (ii) objective criteria for the efficient execution of orders which are established and implemented in non-discretionary rules, (iii) sound management of the technical operations of the facility, (iv) transparent rules regarding the criteria for determining the financial instruments traded on MTF, (v) non-discriminatory rules, based on objective criteria, governing access to its facility, (vi) the provision of sufficient publicly available information to enable its users to form an investment judgement, (vii) arrangements to identify clearly and to manage any conflict with adverse consequences for the operation of the trading venue for the members and participants or users; or the members and participants or users otherwise.

1.2 Authority of the Foreign Regulator – The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

1.2.1 FSMA was substantially revised by the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and 2017. The FCA has been charged with administering and enforcing the provisions contained within FSMA, read in conjunction with guidance within the FCA Handbook and Market Abuse Regulations. Accordingly, the FCA is the United Kingdom's competent authority that has direct regulatory and oversight responsibility over MTFs as regulated entities providing regulated activities.

1.2.2 As an FCA authorised operator of FX Connect MTF, SSGMIL is subject to regulatory supervision by the FCA. The FCA's threshold conditions dictate that a regulated firm must be capable of being effectively supervised by the FCA having regard to all the circumstances. The FCA has the jurisdiction to perform reviews and assess and enforce FX Connect MTF's adherence to the FCA Handbook and the rules contained therein on an ongoing basis via the designated Supervisor of State Street, the Markets Oversight Department and its Enforcement Division.

1.2.3 As an operator of MTFs, SSGMIL is obliged under the FCA Handbook to have requirements governing the conduct of Members, to monitor compliance with those requirements and report to the FCA (a) significant breaches of FX Connect MTF's Rules, (b) disorderly trading conditions, and (c) conduct that may involve market abuse. SSGMIL may also notify the FCA when a FX Connect MTF Member's access is terminated, temporarily suspended or subject to condition(s). As required by the FCA Handbook, SSGMIL has implemented a surveillance program to monitor trading activity on FX Connect MTF. As part of the program, SSGMIL conducts real-time market monitoring of trading activity on the FX Connect MTF platform to identify disorderly trading and daily T+1 market abuse monitoring. The market surveillance program is designed to maintain a fair and orderly market for all FX Connect MTF Members.

1.2.4 The FCA's criteria for the operation of an MTF include demonstrating that the operator has the ability to prevent market manipulation; can ensure fair and equitable trading; has the capacity to detect, investigate and discipline any person that violates its rules; can ensure the financial integrity of transactions entered into through its facilities; and has the authority to obtain any necessary information to perform its regulatory functions, including the capacity to carry out international information-sharing agreements.

1.2.5 SSGMIL is obliged under the FCA Handbook to establish and maintain effective arrangements and procedures including the necessary resources for the ongoing monitoring of the compliance by members or participants with the FX Connect MTF Rules. FX Connect MTF is also required under the FCA Handbook to provide the FCA, without delay, information relating to any (a) significant breaches of the firm's rules; (b) disorderly trading conditions; (c) conduct that may involve market abuse; and (d) system disruptions in relation to a financial instrument. FX Connect MTF must also provide full assistance to the FCA, and any other competent authority or regulatory body, for the investigation and prosecution of market abuse, in its investigation and prosecution of market abuse occurring on or through the firm's systems.

2. Corporate Governance

2.1 Fair Representation – The governance structure and arrangements of the Exchange ensure:

(a) Effective oversight of the exchange

2.1.1 FX Connect MTF activity is subject to the ultimate oversight and supervision of the board of directors of SSGMIL ("**Board**"). The SSGMIL Board members are currently all registered with the FCA as 'Approved Persons' as defined

under section 59 of the Financial Services and Markets Act (approval for particular arrangements), and from December 2019 will be subject to the Senior Managers and Certification Regime. All the Board directors are elected via State Street Nomination Committee.

2.1.2 The SSGMIL Board terms of reference confirms the principal role of the Board to provide leadership of SSGMIL, within a framework of prudent and effective controls and to exercise its duties and responsibilities and oversee the management of the business of the entity in accordance with the UK Companies Act 2006, its articles of association and any other statutory duties. The SSGMIL Board must ensure that its obligations under State Street's Legal Entity Governance Policy and Legal Entity Governance Standards ("**LEGS**") are understood and met. LEGS is comprehensive guidance for all State Street group entities, setting out among other things, requirements and expectations regarding (i) Board composition, (ii) responsibilities of key personnel and the Board as a whole, including additional responsibilities for 'enhanced' governance entities, like SSGMIL, in respect of management information, controls and compliance (iii) group policies which apply and must be adopted by each State Street group entity.

2.1.3 The Board delegates the management and oversight of the FX Connect MTF and Currenex MTF platforms (the "**MTF Platforms**") to the MTF Oversight Committee (the "**MTF Oversight Committee**"). The purpose of the MTF Oversight Committee is to manage and oversee the operation of MTF Platforms in accordance with applicable regulatory requirements and State Street corporate policies and compliance principles.

2.1.4 The responsibilities and authority of the MTF Oversight Committee include, but are not limited to:

a) reviewing and resolving incidents or issues arising from the MTF Platform operations (including deciding on recommendations from business representatives);

b) senior oversight of the MTF Platforms regulatory programme (including the monitoring of compliance with MTF Platforms rules) reviewing/imposing appropriate disciplinary measures/sanctions (pursuant to the applicable MTF Rulebook) and submitting reports of suspicious transactions to the FCA;

c) oversight of the MTF Platforms market abuse team and market surveillance team; and

d) escalation to the Board of items which require determination/approval by the Board.

2.1.5 The MTF Oversight Committee is supported by:

a) a charter to set out, among other things, the purpose, membership, responsibilities and authority of the MTF Oversight Committee and to reflect FCA regulatory requirements; and

b) defined MTF procedures and incident escalation processes, regular and meaningful management information, minutes of meetings, including any details of reporting required to the Board or the committee and any resolution of issues identified.

(b) that business and regulatory decisions are in keeping with its public interest mandate,

2.1.6 FX Connect MTF operates on a basis consistent with applicable laws and regulations, and industry best practice, and its rules, policies and activities are designed to ensure continuous fair treatment of clients.

2.1.7 As a regulated trading venue FX Connect MTF has, and must maintain processes and procedures that provide for fair and equal access to its systems and information.

(c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:

(i) appropriate representation of independent directors, and

(ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,

2.1.8 In accordance with State Street's LEGS, the Board maintains a proper balance among the interests of different persons or companies by (1) having a nominating committee to consider this balance in nominating board members and (2) including an independent director who is experienced in the industry but not actively using the services serve on both the Board and the standing Board-level committees. Additionally, the current members serving on the Board provide a diverse array of professional experiences to the Board.

2.1.9 The SSGMIL Board currently includes one independent director who is the Chairman of the Board.

2.1.10 Based on the above, there is a clear basis for concluding that there is fair, balanced, meaningful and diverse representation on the Board and each of its standing Board-level committees.

(d) The exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees of the exchange,

2.1.11 In order to ensure that the SSGMIL Board effectively avoids or minimises conflicts of interests and quickly resolves any that arise, the Board has adopted a conflicts of interest policy as part of its Board code of ethics. The conflict of interest policy identifies and sets out processes for each State Street business to evaluate, manage and record their organizational and personal conflicts with clients in connection with services provided. In addition, SSGMIL officers and directors are subject to the broader State Street standard of conduct, which provides broad guidance, principles and rules to follow in respect of all aspects of State Street employees' roles, and which functions as a code of ethics ("**Code of Conduct**").

2.1.12 The Board's code of ethics sets out standards for identifying conflicts of interest and describes procedures and processes for the disclosure, evaluation and resolution of actual, apparent or potential conflicts of interest.

2.1.13 In accordance with these policies, members of the Board are required to act honestly, in good faith and in the best interests of the organisation, disclose any potential for the director to receive any private benefit in connection with a matter being presented to the Board, not use their positions for their personal benefit and preserve the confidentiality of information provided to them.

2.1.14 The State Street Code of Conduct applies to all personnel, including the executive management supporting FX Connect MTF. The provisions of the State Street Code of Conduct address potential and actual conflicts of interest and on an annual basis, all personnel are required to certify that they have received and agree to abide by the provisions of the State Street Code of Conduct.

2.1.15 A voting member of the MTF Oversight Committee (including the sanctions matters subcommittee ("**MTF OC-SM**")) who has a material conflict of interest (as described in FX Connect Description of Services and Conflicts of Interest Disclosure Document) would normally be prohibited from participating in deliberations and voting on the matter that is the source of the conflict.

2.1.16 The chief compliance officer (the "**CCO"**) would normally draw attention to any apparent conflicts of interest, and make recommendations to prevent them from taking place. In the event that the Board does not accept or otherwise adopt the CCO's recommendation(s) on a matter involving a potential conflict of interest, the CCO will provide formal written notification of this divergence in a report to the MTF Oversight Committee and will similarly document this outcome in the CCO's next annual report to the FCA.

2.1.17 SSGMIL, through its Board code of ethics and conflicts of interest policies, the State Street Code of Conduct, the exercise of oversight by its CCO and MTF Oversight Committee and its compliance with the FCA rules, has established a robust set of safeguards designed to ensure directors, officers and personnel fulfill their duties free from conflicts of interest or inappropriate influence as described above. The FCA also conducts its own surveillance of the markets and market participants and actively enforces compliance with the relevant regulations.

(e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.1.18 Please refer to Sections 2.1.1-2.1.3 and 2.2 of Part III of this Application for information regarding the qualifications of directors and officers of SSGMIL.

2.1.19 Only the independent director receives any remuneration from SSGMIL for serving in the role of director.

2.1.20 Officers and personnel of SSGMIL are employed and compensated by SSBTC. At present, there are no personnel employed directly by FX Connect MTF or SSGMIL. Instead, the services of SSBTC staff are made available to support FX Connect MTF under inter-company service agreements.

2.1.21 SSBTC employees who provide compliance services to FX Connect MTF are, with respect to any matters regarding the MTF operations, (i) required to report to the CCO or, in the case of the CCO to the chief executive officer of SSGMIL and (ii) subject to the oversight of the Board and the MTF Oversight Committee in accordance with the organisational documents, rules and policies and procedures of FX Connect MTF.

2.1.22 None of its directors or officers will be liable to SSGMIL or any of its owners for any act performed by such director or officer within the scope of authority conferred on such officer or director, except in the event of such director's or officer's gross negligence, fraud, bad faith or a material breach of applicable duties.

2.1.23 SSGMIL is required, to the fullest extent permitted under English law, to indemnify and hold harmless its directors and officers from and against any losses suffered or sustained by a director or officer as a result of their acts or omissions on behalf of SSGMIL or in furtherance of the interests of SSGMIL or by reason of the fact that the person was a director or officer of SSGMIL, unless the acts or omissions were a result of the director's or officer's gross negligence or were performed or omitted fraudulently or in bad faith or constituted a material breach of applicable duties.

2.2 Fitness – The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

2.2.1 As noted above, SSGMIL director appointments are subject to the Nomination Committee which recommends candidates for election after consideration of each candidate's credentials, including, without limitation, the candidate's experience, perspective, skills and knowledge, both as an absolute matter and relative to the experience and skill of other directors. Any change to the composition of the SSGMIL Board would be subject to registration and approval from the FCA. This is currently regulated by the Approved Persons Regime but will change to the Senior Managers and Certification Regime in December 2019.

2.2.2 SSGMIL governance standards, in line with the Approved Persons Regime, prohibits any person from acting as an officer or director if they meet certain disqualifying criteria, including, without limitation, if they have committed certain criminal or disciplinary offenses, is subject to certain restrictions on registration with the FCA or has had such registration suspended or revoked or is subject to certain statutory disqualifications under FSMA.

2.2.3 In addition, each existing director of SSGMIL must, on an annual basis, and each nominee for director must, prior to serving on the Board, complete a questionnaire which includes questions relating to potential related party transactions and eligibility requirements. Each Board member of SSGMIL must, on an annual basis, and each potential candidate for executive office must, prior to taking an executive office position, complete a certification that such person will inform the CCO with respect to certain conflict of interest and if such person meets any of the disqualification criteria.

3. Regulation of Products

3.1 Review and Approval of Products – The products traded on the exchange and any changes thereto are reviewed by the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

3.1.1 In accordance with FCA MAR 5.3, FX Connect MTF has adopted transparent rules regarding the criteria for determining the financial instruments that can be traded under its systems. Article 4 of the Market Abuse Regulation (EU) No 596/2014 of the European Parliament and of the Council also requires SSGMIL to notify the FCA, as its competent authority, of any financial instrument for which a request for admission to trading on FX Connect MTF. The European Securities and Markets Authority have also published technical standards to assist in the standardised reporting of transactions of financial instruments. In addition, FCA MAR 5.5 requires an operator of an MTF to establish and maintain effective arrangements; systems and procedures aimed at preventing and detecting market manipulation and attempted market manipulation.

3.1.2 Section 313CA of FSMA[4] addresses the suspension and removal of financial instruments. FX Connect MTF will suspend or remove from trading a financial instrument only if it does not cause significant damage to the interest of investors or the orderly functioning of the MTF. SSGMIL will notify the public and the FCA of any such suspensions or removals on FX Connect MTF.

3.2 Product Specifications – The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

3.2.1 As outlined in the FX Connect MTF Rulebook, Rule 6 (*Instrument Eligibility Criteria*), SSGMIL will determine in its absolute discretion which MiFID Instruments and Spot Contracts are eligible for trading on FX Connect MTF. FX Connect MTF services are provided with the FX Global Code (the "**Global Code**") in mind. FX Connect MTF is committed to conducting its FX market activities in a manner consistent with the principles of the Global Code. Among other things, the Global Code provides that operators of FX electronic trading platforms should (i) have rules that are transparent to users; (ii) make clear any restrictions or other requirements that may apply to the use of the electronic quotations; (iii) establish clarity regarding the point at which market risk may transfer; and (iv) have appropriate disclosure about subscription services being offered and any associated benefits, including market data.

[4] As amended by *2017 No. 701 The Financial Services and Markets Act 2000 (Markets in Financial Instruments) regulations, 22 June 2017.*

3.2.2 Additionally, Rule 6 (*Instrument Eligibility Criteria*) of the FX Connect MTF Rulebook explains that the list of instruments which may be traded on FX Connect MTF ("**Eligible Instruments**") may be amended from time to time and such amendment shall be notified to Members in accordance with the standard notification process in Rule 4.1 and SSGMIL may suspend a particular Eligible Instrument from trading on FX Connect MTF if it deems this necessary in order to maintain a fair and orderly market on FX Connect MTF, to comply with any Applicable Law or in response to a request from a Relevant Regulator, or for any other reason in its sole discretion. Among other things, the requirement that new products comply with the FCA Handbook means that they underwent an analysis of the related underlying market.

3.2.3 Also, in preparation for MIFID II, during the product development process, the MTF Oversight Committee reviewed the terms of existing products currently trading in other forums so that the terms and conditions of FX Connect MTF services would be in conformity with the usual commercial customs and practices.

3.2.4 In some instances, existing commercial terms have been incorporated by reference into FX Connect MTF's product terms. As an example, for a Non-Deliverable Foreign Exchange Forward Contract, FX Connect MTF has incorporated by reference in its product terms certain of the template terms of the relevant Emerging Markets Trade Association template in the currency pair that is the subject of the relevant contract.

3.3 Risks Associated with Trading Products – The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange including, but not limited to, daily trading limits, price limits, position limits, and internal controls.

3.3.1 5.3A.9 of FCA MAR requires MTF operators to have in place effective systems procedures and arrangements in order to establish appropriate risk controls for trading where users are permitted to access their trading facility.

3.3.2 The risks related to direct electronic access are avoided, as SSGMIL does not permit its Members to provide arrangements or in any way enable any person to utilise FX Connect MTF by way of 'direct electronic access' (as defined in Article 4(1)(41) of MiFID II), whether such access be by way of 'direct market access' or 'sponsored access' (each as defined in Article 4(1)(41) of MiFID II) or by any other method whatsoever. This ensures that SSGMIL has direct relationships and oversight over all FX Connect MTF Users.

3.3.3 FX Connect MTF also has in place various internal system controls to manage and mitigate the risks associated with trading products on the platform. In addition to real-time monitoring of trading activity, in order to prevent disorderly trading, the following mechanisms have been put in place:

a) order price and volume limits;

b) maximum number of log-in attempts per second;

c) maximum number of messages per second;

d) timely confirmations of quotes;

e) quote filtering;

f) cancellations and amendments of transactions;

g) circuit breakers; and

h) trading halts

Please refer to Section 9.3.1 of Part III of this Application for a discussion of internal system control utilised by FX Connect MTF to manage order messaging activity and a quantity check that may be utilised by FX Connect MTF Users. In addition, to mitigate the risks associated with trading products on the platform, users have the ability to set (or alternatively to turn off) permissioning for various transaction types.

3.3.4 FCA MAR 5.3.A.2 requires SSGMIL to ensure that Members algorithmic trading systems cannot create or contribute to disorderly trading conditions, and FX Connect MTF has imposed Rule 2.2.2 (*Eligibility Criteria*) which requires Members to certify that the algorithms they deploy that are used in connection with FX Connect MTF have been tested to avoid contributing to or creating disorderly trading conditions prior to the deployment or substantial update of a trading algorithm or trading strategy and explain the means used for that testing.

4. Access

4.1 Fair Access

(a) The exchange has established appropriate written standards for access to its services including requirements to ensure

(i) participants are appropriately registered as applicable under Ontario securities laws, or exempted from these requirements,

(ii) the competence, integrity and authority of systems users, and

(iii) systems users are adequately supervised.

(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

(c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.

(d) The exchange does not

(i) permit unreasonable discrimination among Members, or

(ii) impose any burden on competition that is not reasonably necessary and appropriate.

(e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

4.1.1 FCA MAR 5.3.1 requires MTF operators to have transparent and non-discriminatory rules, based on objective criteria, governing access to its facility and provide that its members or participants are investment firms, CRD credit institutions[5] or other persons who meet certain eligibility criteria. FX Connect MTF has implemented transparent and non-discriminatory rules based on objective criteria governing eligibility for Membership as described in the FX Connect MTF Rule 2.2 (*Eligibility Criteria*) for all Members. The FX Connect MTF Rulebook and any amendments thereto are publicly available on the FX Connect MTF website. To apply to become a Member, an applicant must complete a Member agreement, eligibility questionnaire and submit the required 'know your customer documentation and onboarding information to FX Connect MTF. FX Connect MTF will deny an application for admission if the applicant is not able to satisfy the eligibility criteria to become or remain a Member.

4.1.2 In addition to conformance with the FX Connect MTF Member eligibility obligations, SSGMIL requires each Ontario User to execute an addendum to the FX Connect MTF Member agreement which requires such Ontario User to represent that it is, with respect to its use of FX Connect MTF in Ontario, appropriately registered as applicable under Ontario securities laws or is exempt from, or not subject to, such registration requirements.

4.1.3 FX Connect MTF Rule 2.2 (*Eligibility Criteria*) provides that that an applicant to become a Member must demonstrate to the satisfaction of SSGMIL that it:

a) is carrying on business from an establishment maintained in a jurisdiction in which FX Connect MTF are permitted to carry on cross-border business, or from an establishment maintained in a jurisdiction which does not prohibit the provision of cross-border services by FX Connect MTF;

b) is an entity that (a) has adequate pre-trade controls on price, volume and value of orders and usage of the system and post-trade controls, (b) employs staff with adequate qualifications in key positions, (c) is able to successfully undertake technical and functional conformance testing, (d) has a demonstrable policy governing the use of any kill functionality, (e) is fit and proper to become a Member, (f) has a sufficient level of trading ability and competence, (g) has adequate organisational requirements, and (h) has sufficient resources for the role they are to perform;

c) in possession of all registrations, authorisations, approvals and/or consents required by applicable law in connection with trading the Eligible Instruments through FX Connect MTF and, where applicable the use of other technology Services, from time to time; and

[5] An undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account and that has its registered office in an EEA state, excluding an institution to which Capital Requirements Directive ("**CRD**") does not apply under Article 2 of CRD. CRD IV is made up of the: (i) Capital Requirements Directive (2013/36/EU) and (ii) Capital Requirements Regulation (575/2013) ("**CRR**").

d) able to certify that the algorithms they deploy that are used in connection with the FX Connect MTF business have been tested to avoid contributing to or creating disorderly trading conditions prior to the deployment or substantial update of a trading algorithm or trading strategy and explain the means used for that testing. A Member who signs a Member agreement is deemed to give the certification contemplated in Rule 2.2.2 (*Eligibility Criteria*) prior to the deployment or substantial update of the relevant trading algorithm or trading strategy is an eligible contract participant, and, if applicable, is in compliance with relevant FCA rule.

4.1.4 SSGMIL requires that each FX Connect MTF Member continues to meet its eligibility requirements while a member. Additionally, each MTF Member is responsible for conducting adequate supervision of its designated Authorised Traders and Authorised Users. Members are responsible for confirming that each Authorised Users and each Authorised Trader has sufficient experience, knowledge and competence to use the FX Connect MTF platform. All FX Connect MTF Members are subject to periodic membership assessment by SSGMIL.

4.1.5 FX Connect MTF is an electronic trading platform operated as a multilateral trading facility registered with the Financial Conduct Authority in the United Kingdom. As required by the FCA MAR 5, an MTF operator must establish non-discretionary rules and non-discriminatory access to its trading facility. FX Connect MTF rules, policies and procedures are designed to ensure impartial access consistent with the requirements contained in relevant FCA provisions which are set out in FCA MAR 5. Access rules that are unreasonably discriminatory or access and fee rules that unreasonably discriminate among participant classes would not meet the MTF Core Principles. SSGMIL cannot make material changes to the FX Connect MTF Rules, fee schedules or any other membership documentation unless such changes apply to all similarly-situated Members. FX Connect MTF is required to provide notice to Members, Authorised Traders and Authorised Users of any amendment to the FX Connect MTF Rules in accordance with Rule 4 (*Notices and Notifications*).

4.1.6 While FX Connect MTF does not have specific rules stating that they will not impose any burden on competition that is not reasonably necessary and appropriate, all rules implemented by FX Connect MTF are subject to FCA regulatory requirements. As such, FX Connect MTF does not implement rules that would impose any burden on competition that is not reasonably necessary and appropriate because such rules would not meet MTF regulatory obligations.

4.1.7 FX Connect MTF maintains records of its Member applications and any denial or limitation of access for any FX Connect MTF User, including reasons for granting, denying or limiting access. Complete records are maintained for each FX Connect MTF User in accordance with the FCA recordkeeping requirements.

5. Regulation of Members on the Exchange

5.1 Regulation – The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its Members, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

5.1.1 As an FCA registered MTF, FX Connect MTF has both the regulatory authority and obligation to establish rules governing conduct of its Members, to monitor their conduct in order to detect and to deter rule violations and to appropriately discipline its market participants for violations of FX Connect MTF rules.

5.1.2 The MTF Oversight Committee is responsible for, among other things, overseeing the monitoring the adherence of FX Connect MTF with all relevant regulations (including FCA rules), establishing and administering FX Connect MTF sanctions procedures, administering disciplinary proceedings and monitoring trading.

5.1.3 In order for the MTF Oversight Committee to accomplish its mission, FX Connect MTF expends considerable human, technological and financial resources that are focused on the maintenance of fair, efficient, competitive and transparent markets, and the protection of all FX Connect MTF Users from fraud, manipulation and other abusive trading practices.

5.1.4 To fulfill its mandate to effectively monitor and enforce the FX Connect MTF Rules, a designated MTF Surveillance team conducts real time monitoring, a Market Abuse Monitoring team conducts daily (T+1) and long-term surveillance (where specific cases require it) of trading on FX Connect MTF. '**Market Abuse**' is defined as any behaviour in relation to the business of the MTF Platforms that constitutes market abuse, market manipulation or insider trading pursuant to the Market Abuse Regulation or any other similar or analogous behaviour prohibited by the FX Global Code, or subject to sanctions or penalties under MAR or the FX Global Code, and SSGMIL use a designated '**Market Abuse Monitoring'** team to fulfil the obligation to monitor the use of the platform and to ensure the Market Abuse detective controls are effective. '**Market Surveillance**' is defined as the activities necessary to meet the requirements that trading platforms should, whenever the trading platform is in operation, monitor their markets as close to real time as possible for possible signs of disorderly trading.

5.1.5 The MTF Surveillance and Market Abuse Monitoring team's efforts are focused on identifying and remediating market anomalies, trading abuses and other actions that have the potential to undermine the fair and orderly operation of FX Connect MTF.

5.1.6 The MTF Surveillance team strives to make compliance with the FX Connect MTF Rules as straightforward as possible. The MTF Surveillance team make themselves available to field questions about the FX Connect MTF Rules, and where permissible, are available and willing to field calls and emails concerning activity in FX Connect MTF, or requests for guidance on the application of the FX Connect MTF Rules.

5.1.7 Investigating and enforcing rule violations are necessary components of the FX Connect MTF regulatory safeguards. When the MTF Surveillance and Market Abuse Monitoring teams suspects or determines that there has been activity in FX Connect MTF markets that appears to violate the FX Global Code or MAR rules, the Market Abuse Monitoring team work to ensure that the matter is thoroughly investigated. The investigative process includes the analysis of transaction data and other trading related documents, and may, as appropriate, be accompanied by a market replay. If, after a thorough investigation, the Market Abuse Monitoring team has reason to believe that a FX Connect MTF Rule has been breached, the matter is addressed in accordance with FX Connect MTF disciplinary processes and procedures.

5.1.8 The MTF Surveillance and Market Abuse Monitoring teams are dedicated to safeguarding the integrity of FX Connect MTF, to identify manipulation and other abusive practices. These efforts are a necessary component of efficiently working markets. FX Connect MTF is committed to ensuring that its markets are open and transparent.

5.1.9 In addition, the MTF Surveillance team conduct routine and annual audits of Members to verify compliance with FX Connect MTF audit trail and recordkeeping requirements. FX Connect MTF may sanction, in accordance with the procedures set forth in Chapter 7 (*Trading Rules*) of the FX Connect MTF Rules, any Member in connection with any deficiencies identified in these reviews. Moreover, under FX Connect MTF Rule 11.6 (*Sanctions*), the MTF Oversight Committee if practicable, summarily suspend, revoke, limit, condition, restrict or qualify a Member's ability to access FX Connect MTF, and may take other summary action against a FX Connect MTF User or their underlying clients in accordance with the FX Connect MTF Rules if the Committee reasonably believes that immediate action is necessary to protect the best interests of the public or FX Connect MTF.

5.1.10 When conducting an investigation, the Market abuse monitoring team will review details relating to the transaction and any relevant electronic communication. The Market abuse monitoring team have the authority to request any account documentation and any related documents from the relevant department within SSGMIL or the wider GlobalLink business that can assist in the investigation.

When required the Market abuse Team will call a meeting containing the relevant parties and the relevant regional compliance officers. The Market abuse monitoring team will present the case to the meeting and decisions will then be made regarding further investigation or notification to any relevant regulatory bodies.

5.1.11 With reference to technology to support compliance and regulatory obligations, FX Connect MTF undertakes periodic reviews to establish whether there are sufficient resources in this area. Additional resources to accommodate growing levels of activity are addressed in system planning to ensure that FX Connect MTF regulatory and market protection capabilities anticipate and evolve with the changing dynamics of the marketplace.

6. Rulemaking

6.1 Purpose of Rules

(a) The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of Members and do not permit unreasonable discrimination among Members or impose any burden on competition that is not reasonably necessary or appropriate.

6.1.1 Pursuant to its obligations under the FCA rules, FX Connect MTF has implemented rules and policies that govern the operations and activities of its FX Connect MTF Users. The FX Connect MTF Rules are covered in the FX Connect MTF Rulebook which is publically available on FX Connect MTF website.

6.1.2 As discussed in Section 4 of Part III of this Application, FX Connect MTF is not permitted to implement rules that would impose any burden on competition unless they are reasonably necessary and appropriate because such rules would not meet MTF regulatory requirements.

(b) The Rules are not contrary to the public interest and are designed to

(i) ensure compliance with applicable legislation,

(ii) prevent fraudulent and manipulative acts and practices,

(iii) promote just and equitable principles of trade,

(iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,

(v) provide a framework for disciplinary and enforcement actions, and

(vi) ensure a fair and orderly market.

6.1.3 FX Connect MTF is obligated to comply with the FCA rules. FCA MAR 5.3.1 of the FCA Handbook requires that FX Connect MTF has transparent rules and procedures for fair and orderly trading, objective criteria for the efficient execution of orders which are established and implemented in non-discretionary rules, arrangements for the sound management of the technical operations of the facility, including the establishment of effective contingency arrangements to cope with the risks of systems disruption, and transparent rules regarding the criteria for determining the financial instruments that can be traded under its systems.

6.1.4 Accordingly, the laws and regulations promulgated by the FCA have been determined by the FCA to be consistent with and not contrary to that public interest. These laws and regulations require MTFs to implement rules that require compliance with the FCA rules by their market participants. FX Connect MTF Rules are recorded in the FX Connect MTF Rulebook, which has been reviewed by the FCA for FX Connect MTF registration to ensure compliance with the relevant FCA rules. Changes to the FX Connect MTF Rulebook must be made available to all the MTF members prior to coming in to force.

6.1.5 Rule 5 (*Responsibility of Members*) of the FX Connect MTF Rulebook includes important provisions to prevent misleading acts, conduct, and prohibited, including but not limited to prohibitions on:

a) engage in any conduct which creates, or is likely to create, a false or misleading impression of the market or the price or value of, any Eligible Instrument;

b) cause or enter into any artificial transaction,

c) submit a request or quote with a fictitious quantity or price onto the system,

d) commit any act or engage in any course of conduct which causes, or contributes to, a breach of these Rules or the FX Connect MTF user guidance by another Member;

e) engage in any other conduct which constitutes Market Abuse in relation to FX Connect MTF, and

f) misuse 'Last Look' (a process by which sell-side Members confirm transactions), including by committing or engaging in any course of conduct listed in Rule 8.1.3 (*Trading Models*).

Thus, the FX Connect MTF Rules are clearly designed to prevent fraudulent and manipulative acts and practices.

6.1.6 Under FCA MAR 5.6.1, FX Connect MTF must share information with the FCA in relation to (a) significant breaches of the FX Connect MTF rules; (b) disorderly trading conditions; (c) conduct that may involve market abuse; and (d) system disruptions in relation to a financial instrument. FX Connect MTF is not bound by Rule 2.9 (Confidentiality) of the Rulebook when making regulatory disclosures.

6.1.7 FX Connect MTF Rulebook provides a framework for FX Connect MTF to take disciplinary and enforcement actions. For more information on FX Connect MTF powers in this regard, refer to Rule 11.6 (*Sanctions*).

6.1.8 Rule 2.3 of the FX Connect MTF Rules is designed to ensure that all trading on FX Connect MTF is conducted in a fair and orderly fashion. See Sections 6.1.3, 6.1.4 and 6.1.5 of Part III of this Application (above) discussing fair and orderly market requirements and bans on prohibited activity.

6.1.9 FCA MAR 5.5.1 requires MTFs to monitor trading to prevent disruption of the market. FX Connect MTF conducts real time monitoring of trading activity and T+1 monitoring and surveillance of market activity in order to detect anomalies and to ensure the operation of an orderly market.

7. Due Process

7.1 Due Process – For any decision made by the exchange that affects a Member, or an applicant to be a Member, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

(a) parties are given an opportunity to be heard or make representations, and

(b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

Sanctions and Disciplinary Actions

7.1.1 In accordance with the FCA MAR 5 guidelines for systems and controls and for monitoring compliance with the rules of the MTF, the FXC Connect MTF has implemented a sanctions and disciplinary actions policy which relates to breaches of the rules outlined in the MTF Rulebooks. Events that may lead to disorderly trading, or cases of market abuse, are only covered by the sanctions and disciplinary actions policy where they do not lead to the filing of a suspicious trade and order report ("**STOR**").

7.1.2 The sanctions policy is stated under Rule 11.6 (*Sanctions*) of the FX Connect MTF Rulebook. It states that in the interests of maintaining a fair and orderly market, SSGMIL will have absolute discretion in using any/all of the following sanctions for breach of the Rules in relation to a Member or a former Member who is still bound by the Rules in accordance with Rules 2.7 (*Effect of Termination*) and 2.10 (*Resignation*) and will notify a Member of any decision to apply any such sanction:

a) written warning;

b) temporary suspension;

c) publication of details of the offender and rule infringement; or

d) termination of participation.

7.1.3 All sanctions-related decisions are made by the MTF OC-SM. For disciplinary cases, the MTF OC-SM determines the sanction according to the severity and frequency of the Rule breach, based on the case information provided to them by the Market Abuse Monitoring team and/or Compliance. Ahead of making a final decision, the MTF OC-SM might decide to communicate with the Member to gather additional information if there is no potential for a STOR to be filed in connection with the event giving rise to a potential sanction. Events that may warrant the imposition of a sanction are brought to the MTF OC– SM by the Market Abuse Monitoring team when they have determined that sufficient evidence is available and that filing a STOR would not be appropriate.

7.1.4 Any sanctions related complaints and appeals are handled in a separate complaints Policy. The State Street complaints policy sets out the appropriate approach with respect to the receipt, recording, acknowledgement, research, escalation, investigation, resolution and reporting of complaints received from, or on behalf of, existing or past customers.

8. Clearing and Settlement

8.1 Clearing Arrangements – The exchange has appropriate arrangements for the clearing and settlement of transactions through a clearing house.

8.1.1 FX Connect MTF does not list any financial instruments products that are subject to mandatory clearing requirements.

8.2 Risk Management of Clearing House – The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

8.2.1 As stated above, FX Connect MTF does not list products that are required to be cleared and as such, does not facilitate any product clearing.

9. Systems and Technology

9.1 Systems and Technology – Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

(a) order entry,

(b) order routing,

(c) execution,

(d) trade reporting,

(e) trade comparison,

(f) data feeds,

(g) market surveillance,

(h) trade clearing, and

(i) financial reporting.

9.1.1 FX Connect MTF strives to provide the most flexible architecture in terms of bringing new technology, innovations and solutions to the market. The FX Connect MTF electronic trading platform is accessible twenty-four (24) hours a day throughout the trading week from Sunday 5pm ET to Friday 5pm ET. Each of FX Connect MTF's critical systems has appropriate internal controls designed to ensure completeness, accuracy, integrity and security of information, and, in addition, has appropriate capacity and business continuity and disaster recovery ("**BCDR**") plans to enable FX Connect MTF to properly carry on its business. Moreover, FX Connect MTF provides a highly scalable and robust system.

9.1.2 The audit trail file ("**Audit Trail**") contains a number of messages and fields that contain message information regarding orders, trades, instruments and other pertinent information. The Audit Trail maintains a complete electronic record of all orders entered and transactions executed, including all messages entered into the system, the terms of each order, all order modifications, all matched trades, and the time of each message. This record is stored in a non-rewritable (write once read many or "**WORM**") storage, and enables FX Connect MTF to reconstruct electronic trading efficiently and effectively.

9.1.3 At the system level, the Audit Trail matches every customer generated (inbound) message with corresponding match engine generated acknowledgement (outbound) message. The matched inbound and outbound messages are then consolidated into one message; the trade message is retained as is. The consolidated messages are then formatted as per customer need. This Application runs daily as a batch process after the end of each FX Connect MTF trading day.

9.1.4 The primary focus at FX Connect MTF for incidents is rapid service restoration. Critical incidents are required to be documented.

Recovery Procedures

9.1.5 All critical applications are tested at a minimum once per year.

a) Electronic Trading: The recovery time objectives for the FX Connect MTF platform is close to two (2) hours[6] or less if there is a disruption in the datacenter where FX Connect MTF production facilities are housed.

b) All Other Business Processes: The recovery time objectives for recovering all other business processes are determined as part of the process and are incorporated into the Resumption and Recovery component of the BCDR plan.

9.1.6 FX Connect MTF currently has extensive monitoring on hardware, applications and software for anomalies and alert notification to prompt a failover to backup or automatic failover for minimal disruption to business and customers. Alerts are recorded and appropriate escalation and recovery is addressed to the team that is the central point for crisis management of all technology issues and recordation in addition to follow up for incident reviews (lessons learned) from customer impacting events.

[6] Per Article 15(2) of regulatory technical standard 7 supplementing MiFID II Article 48(1).

9.1.7 The FX Connect MTF platform has various security features in place to protect trade data from disclosure, disruption, spoofing, non-repudiation, and denial of service prevention.

9.1.8 The FX Connect MTF platform uses passwords to limit access to systems. To log onto any environment, FX Connect MTF Users are required to enter their user ID and the associated password. Passwords must be a minimum length and complexity and expire periodically. User IDs are disabled after a set number of failed log in attempts. In addition to the user ID and associated password, all Authorised Users of the FX Connect MTF are required to have a digital certificate installed on their machine in order to access FX Connect MTF.

9.1.9 To protect against accidental or deliberate disclosure, customer data is isolated to that specific customer using network and application controls.

9.1.10 To prevent disruption of service, the FX Connect MTF application programming interface ("**API**") and the trading engine validate all data to ensure it complies with the Financial Information Exchange Protocol and message format. The host operating systems of all FX Connect MTF servers are updated as necessary in an effort to prevent openings for viruses and other malware.

9.1.11 The State Street global continuity program overview and the FX Connect MTF specific business continuity plan overview cover the wider business continuity plans ("**BCPs**"). The BCPs are not specific to any entity, and apply to FX Connect MTF without amendment. The FX Connect MTF BCPs include the following systems and back-up arrangements:

a) each of the databases for the FX Connect MTF has a local standby which is a near real-time copy;

b) each such database also has an offsite BCDR database which is also a near real-time copy;

c) there are full database back-ups in the primary site;

d) a full back-up set of data for FX Connect MTF gets backed-up into a disk drive, which is held independently to the main database server, and is kept for two weeks; and

e) trade data is kept in the WORM data storage device.

9.2 System Capability/Scalability – Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

(a) makes reasonable current and future capacity estimates;

9.2.1 The current capacity of FX Connect MTF's systems is sufficient for present levels of trading activity, and under MiFID II requirements, FX Connect MTF is required to demonstrate capacity for 100% over its greatest trading capacity over the last five (5) years. The system is scalable and on a continual basis the FX Connect MTF business team makes periodic assessments of current and future capacity needs.

(b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;

9.2.2 SSGMIL conducts routine, periodic stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner. Staff may also conduct stress tests on occasion in the context of quality assurance reviews related to system or product changes. For example, for major releases, FX Connect MTF conduct a stress test designed to ensure that every major release is able to cope with simulated production volume. Moreover, in terms of ongoing monitoring, all servers are monitored individually for capacity (cpu, memory and disk) on a real time basis. In addition, staff track capacity trends over time and will add capacity on an as-needed basis.

(c) reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;

9.2.3 The State Street corporate information security ("**CIS**") team create security control requirements for State Street applications based on its internal risk assessment process. With that process, State Street has a standardised, automated approach for managing information security for business applications, with risk management processes that identify, qualify and mitigate security exposures.

9.2.4 State Street's application security management program also provides a defined set of services and tools that State Street software developers, quality assurance staff, application owners and information security officers can use to identify risks within State Street's internally developed applications. Factors like application criticality ratings, internet accessibility and client requests are considered to establish priority.

(d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;

9.2.5 Access to State Street's physical space is controlled and secured by the State Street global security group, who protect State Street's worldwide locations with multiple layers of security, from security guards to card access readers and biometric technology.

9.2.6 Many of State Street's facilities and high-level security areas use positive control entry devices like turnstiles, revolving doors and security access portals. Access to State Street buildings and high-security areas are monitored and recorded on video systems. State Street operate a state-of-the-art security control center and has on-site security personnel to respond to local incidents.

9.2.7 State Street engages third parties to periodically test its network. The results of these tests are reviewed, and State Street develop and use remediation plans and re-testing strategies. Penetration tests, which are more limited in scope and focus on secure implementation of application code, are also used to assess key applications.

9.2.8 FX Connect MTF maintains and regularly updates its BCDR plans, may participate in industry-wide BCDR exercises and submits information relating to material changes to its automated systems to the FCA Division of Market Oversight. Each MTF Member is expected, to have written BCDR procedures in place to ensure it is able to operate in the event of a significant internal or external interruption to its operations.

(e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;

(f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and

(g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

9.2.9 FX Connect MTF policies and procedures related to information technology, including system safeguards, form part of a wider program of risk analysis and oversight in place at State Street, which follows generally accepted standards and best practices with respect to the development, operation, reliability, security and capacity of automated systems. State Street's CIS program adapts to changing security needs by identifying, monitoring, managing and mitigating the risks associated with information assets. The CIS program and underlying controls cover every aspect of State Street's information risk environment, including architecture, networks, information systems, data, organisational structure, risk mitigation, communications and training. This program follows the ISO 27001/27002 controls framework: an internationally recognized standard for security program design and operation.

(h) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;

9.2.10 Please see responses in Section 9.1.6-9.1.10; 9.2.1 and 9.2.12 of Part III of this Application.

(i) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and

9.2.11 Controls are continually reviewed and modified in response to evolving security threats and regulations. These controls are considered minimum requirements; high-risk situations may require that State Street implement additional controls.

(j) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

9.2.12 Please also see responses in Sections 9.1.5-9.1.10 of Part III of this application.

9.3 Information Technology Risk Management Procedures – The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

9.3.1 In order to effectively manage the risks to which FX Connect MTF is exposed, SSGMIL has implemented certain Market Surveillance safeguards which provide wide-ranging market integrity controls to ensure fair and efficient markets. In furtherance of preventing trading errors, FX Connect MTF has established order price and volume limits for trades that its FX Connect MTF Users place on the MTF Platform. Additionally, FX Connect MTF has implemented a

predetermined maximum number of log-in attempts per second, and a maximum number of messages per second which can be requested and submitted by its FX Connect MTF Users. For relevant sessions the time period for execution of trades where a quote which has been accepted must be confirmed is limited to one second. Furthermore, to ensure that quotes are within fair market value, FX Connect MTF has implemented a quote filtering mechanism by which a BID/ASK rate[7] is compared to the quote received or submitted, and if it is outside the appropriate tolerance percentage for the currency group, the quote is automatically blocked and cannot be executed.

9.3.2 FX Connect MTF has the authority to review (either upon a request from an FX Connect MTF User or upon FX Connect MTF independent analysis of market activity) any trade executed on its platform and to adjust or cancel certain trades that are outside of predetermined tolerance levels. FX Connect MTF also has authority to adjust trade prices or cancel (bust) trades when such action is necessary to mitigate market-disrupting events caused by the improper or erroneous use of FX Connect MTF.

9.3.3 FX Connect MTF circuit breakers are applied to automatically halt trading in a financial instrument when a certain pre-set threshold in that financial instrument is breached. Furthermore, in order to prevent disorderly markets, FX Connect MTF has ability to halt trading in a specific financial instruments or suspend select MTF Members. Finally, FX Connect MTF has broad authority to take action when necessary address any occurrences or circumstance which, in the opinion of the Board or the MTF Oversight Committee may have a severe, adverse effect upon the functions and facilities of FX Connect MTF and require immediate action. Accordingly, under sufficiently severe market circumstances, FX Connect MTF potentially could declare a temporarily trading halt on its entire trading facility.

10. Financial Viability

10.1 Financial Viability – The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

10.1.1 FX Connect MTF has adequate financial and staff resources to carry on its activities in compliance with its regulatory requirements set out by FSMA. The UK FCA General Prudential Sourcebook ("**GENPRU**") and Prudential Sourcebook for Investment Firms ("**IFPRU**") implements, in part, the EU CRD and certain national discretions afforded to the FCA as competent authority under EU CRR. CRD EU text was formally published in the Official Journal of the EU on 27 June 2013 (note that the Regulation has also been subject to a subsequent update). The bulk of the rules contained in the legislation are applicable from 1 January 2014. CRD IV is made up of the: (i) Capital Requirements Directive (2013/36/EU) (CRD) which must be implemented through national law and (ii) Capital Requirements Regulation (575/2013) ("**CRR**"), which is directly applicable to firms across the EU.

10.1.2 Pursuant to the above regulatory requirements the minimum capital requirement to operate an MTF is set to EUR 730,000 (approximately CAD 1.01million) with any additional capital deemed required to maintain adequate financial resources at all times. Under FCA Rules, an MTF will be considered to maintain adequate financial resources if the value of the financial resources exceeds the total amount that would enable the MTF to cover the operating costs of the MTF for a one-year period, as calculated on a rolling basis. FCA rules additionally provides that the financial resources allocated by the MTF to meet the requirements shall include unencumbered, liquid financial assets (i.e., cash and/or highly liquid securities) equal to at least six (6) months' operating costs. FX Connect MTF is in compliance with these requirements and such requirements are taken into consideration as part of the budgeting process.

11. Trading Practices

11.1 Trading Practices – Trading practices are fair, properly supervised and not contrary to the public interest.

11.1.1 As detailed more fully in the response to Section 6 of Part III of this Application, trading practices at FX Connect MTF are fair, properly supervised and not contrary to the public interest. The FX Connect MTF rules establish prohibitions on abusive or other improper trading practices. Upon launching the FX Connect MTF, these rules have been filed with the FCA along with a certification by FX Connect MTF that the rules are in compliance with the FCA rules, which are affected in accordance with a public interest.

11.2 Orders – Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of order is fair, equitable and transparent.

11.2.1 Rule 8 of the FX Connect MTF Rulebook sets forth the functionality of the FX Connect MTF trading protocols, and the Rule 9 describes the trading services and other technology services. These trading protocols and services are available to all FX Connect MTF Users. Trading on the FX Connect MTF is conducted on a fully disclosed basis, such

[7] Prices provided by liquidity providers for RFQ's are normally two way, known typically as the BID/ASK spread where the BID is the price set by the price maker to purchase or buy the underlying security priced and ASK is where the price maker is willing to offer or sell the security being priced.

that the Members disclose to each other who they are when transmitting requests for quotes or entering into transactions with each other. Once a transaction is concluded on the FX Connect MTF, transaction information is sent to both Members.

11.2.2 As described in the Rule 8 (*Trading Protocols*) of the FX Connect MTF Rulebook, FX Connect MTF currently operates an RFQ trading model, and multiple session types as are listed in Section 2.2 of Part II of this Application (all of which are sessions where a quote or quotes are provided in response to a request by a buy-side Member) for matching requests with quotes within FX Connect MTF.

11.2.3 Under the RFQ Trading Model, FX Connect MTF facilitates transactions between Members who have notified FX Connect MTF that they have a pre-existing underlying trading relationship for the purpose of executing transactions with one another. Additionally, there are clearly defined rules for those sell-side Members who use Last Look shall:

a) be transparent regarding their Last Look practices in order for the buy-side Member to understand and be able to make an informed decision as to the manner in which Last Look is applied to their trading, and shall disclose directly to the buy-side Member, at a minimum, explanations regarding whether, and if so how, changes to price in either direction may impact the decision to confirm acceptance of the quote that the buy-side selects (a "**Selected Quote**"), the expected or typical period of time for making that decision, and more broadly the purpose for using Last Look; and

b) only use Last Look as a risk control mechanism to verify price and validity of the Selected Quote. The validity check should be intended to confirm that the transaction details contained in the Selected Quote are appropriate from an operational perspective and there is sufficient available credit to enter into the transaction contemplated by the Selected Quote, while the price request should be intended to confirm whether the price at which the Selected Quote was made remains consistent with the current price that would be available to the buy-side Member.

11.2.4 Rules 8.2.4 and 8.2.5 (*RFQ Trading Model Sessions*) set down the basis for a trade being concluded in FX Connect MTF for all offered session types.

11.2.5 The rules governing the Responsibilities of Members are set forth in Rule 5 of the FX Connect MTF Rulebook and are enforced on an impartial basis with respect to all FX Connect MTF Users.

11.3 Transparency – The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or a Foreign Regulator. This information is also provided to all participants on an equitable basis.

11.3.1 As described in the FX Connect MTF Rulebook Rule 2.13 (*Transaction Reporting Obligations*) and 2.14 (*Trade Transparency*):

a) Members must be aware of, and are responsible for fulfilling, their own transaction reporting obligations under MiFID II and MiFIR, as applicable;

b) SSGMIL in turn shall submit transaction reports in accordance with Article 26 MiFIR to the FCA in respect of transactions entered into by Members that are not MiFID II Investment Firms;

c) Members agree to provide, in accordance with FX Connect MTF Rule 11.4.2 (*Information*) all information that SSGMIL may reasonably require to comply with its own reporting obligations under Applicable Law, including but not limited to the identity of decision makers, the trading capacity of the Member and the Client on whose behalf the Member submitted the Request or Quotes to FX Connect MTF no later than by 5:30pm ET on the day of submission;

d) Where required under Applicable Law, SSGMIL will make public, on a continuous basis during a Trading Day, details of transactions, including Requests or Quotes and the depth of trading interest at such prices which are advertised though a Market Segment ("**Pre-Trade Data**"). SSGMIL may obtain and apply a transparency waiver from publication of all or part of the Pre-Trade Data. Where SSGMIL has been granted such a waiver, SSGMIL will be exempted from the requirements to publish Pre-Trade Data to the extent provided for by the applicable transparency waiver; and

e) Where required under Applicable Law, SSGMIL will make public, as close to real-time as technically possible, the price, volume and time of Trades executed on FX Connect MTF ("**Post-Trade Data**") on its website (https://www.fxconnectmtf.com/reporting) where the FX Connect MTF Rulebooks and schedule of fees are also available.

12. Compliance, Surveillance and Enforcement

12.1 Jurisdiction – The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

12.1.1 The FX Connect MTF Rule 1.3 (*Compliance with the Documentation*) required each Member to comply with all Rules. Equally, each Member must execute the FX Connect MTF Membership Agreement, which requires each Member, while accessing the FX connect MTF, to be subject to the FX Connect MTF Rules.

12.1.2 Under the FX Connect MTF Rule 2.7 (*Effect of Termination*), a member whose access to the FX connect MTF has been suspended or terminated remains subject to the FX connect MTF Rules in respect of any outstanding obligations under these rules and until such obligations are satisfied. Suspended or terminated Members will continue to be liable for their acts or omissions in relation to MTF Business that occurred at any time before they ceased to be a Member.

12.1.3 The FX Connect MTF Rule 2.3 (*Continuing Obligations*) enforces obligations on all Members at all times that they are a Member or are using FX Connect MTF, including:

a) All FX Connect MTF Users must comply at all times with the requirements of these Rules, user guidance, the Member agreement and any notices from SSGMIL;

b) Members must have and maintain adequate internal procedures and controls to prevent the submission of erroneous transactions to FX Connect MTF and to ensure its continuing compliance with these Rules, user guidance, the Member agreement and any notices from SSGMIL;

c) Members must have and maintain adequate execution, order management and settlement systems in place;

d) Members must ensure that any persons, who submit requests or quotes to FX Connect MTF on behalf of the Member are sufficiently trained, are adequately supervised, and have adequate sophistication, expertise and knowledge to ensure fair and orderly trading on FX Connect MTF;

e) Members must continue to meet the eligibility criteria at all times while a Member.

f) Members must co-operate with SSGMIL and the FCA (or any other competent authority) in any investigation conducted in relation to trading on FX Connect MTF.

g) Members must ensure that FX Connect MTF Users authenticators to access FX Connect MTF given to each Member by SSGMIL are kept confidential to such individuals and not disclosed to any other person;

h) Members must, at their own cost and expense, provide all equipment, operating platforms, and software to use FX Connect MTF, and meet such technical and systems requirements necessary for use of FX Connect MTF and to comply with the Rules and the user guidance as may be prescribed by SSGMIL from time to time, including, without limitation, in relation to its risk management procedures and systems and the security of its technical system as set out in the FX Connect MTF user guidance;

i) Members must undertake conformance testing prior to the deployment or a substantial update of the Member's trading system, trading algorithm or trading strategy and to ensure that the algorithms they deploy avoid contributing to or creating disorderly trading conditions;

j) Members must not provide arrangements or in any way enable any person to utilise FX Connect MTF by way of 'direct electronic access' (as defined in Article 4(1)(41) of MiFID II), whether such access be by way of 'direct market access' or 'sponsored access' (each as defined in Article 4(1)(41) of MiFID II) or by any other method whatsoever; and

k) Members will be assessed for their compliance with the continuing obligations set out in this Rule 2.3 (*Continuing Obligations*) on a yearly basis and, in the sole discretion of SSGMIL, additional assessments may be undertaken as deemed necessary.

12.2 Member and Market Regulation – The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

12.2.1 Please see the responses to Sections 5 and 7 of Part III of this Application. Rule 11 (*Monitoring, Information and Investigation*) of the FX Connect MTF Rulebook, requires FX Connect MTF to have systems in place to monitor compliance by Members with view to identify any breaches of the Rules, eligibility criteria and misleading acts, conduct and prohibited practices.

12.3 Availability of Information to Regulators – The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission on a timely basis.

12.3.1 The FX Connect MTF Rules ensure that FX Connect MTF is able to obtain all information necessary to perform its regulatory obligations. As explained above, under FX Connect MTF Rule 2.3 (*Continuing Obligations*), each Member is obligated to provide FX Connect MTF with information supporting its compliance with the eligibility criteria of FX Connect MTF. Under FX Connect MTF Rule 4.2 (*Notification by Members of certain events*), each FX Connect MTF Users is required to notify FX Connect MTF upon the occurrence of certain events that may have a material effect on such FX Connect MTF Users' ability to continue to meet FX Connect MTF eligibility criteria.

12.3.2 As described in Rule 6 (*Instrument Eligibility Criteria*) of the Rulebook the FX Connect MTF Rulebook provides a framework for FX Connect MTF to take disciplinary and enforcement actions. For more information on FX Connect MTF powers in this regard, refer to Rule 11.6 (*Sanctions)*. FX Connect MTF has the right to share information regarding FX Connect MTF Users with any government agency or foreign regulatory authority, including the Commission, to the extent requested or legally required to do so and to share information pursuant to information-sharing agreements**.** Furthermore, under FX Connect MTF Rule 2.3 (*Continuing Obligations*), each FX Connect MTF User agrees to assist FX Connect MTF in complying with FX Connect MTF legal and regulatory obligations, to cooperate with FX Connect MTF in any inquiry, investigation, audit, examination or proceeding and to authorize FX Connect MTF to provide information regarding such FX Connect MTF User to regulators to the extent necessary or appropriate where FX Connect MTF is exercising a legal or regulatory function.

13. Record Keeping

13.1 Record Keeping – The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of requirements.

13.1.1 FX Connect MTF collects data on a daily basis related to its regulated activity in compliance with the FCA Recordkeeping and Reporting requirements. FX Connect MTF is required to maintain records of all activities relating to its business as an MTF, including data related to order messaging, order execution, and pricing in a WORM storage. FX Connect MTF maintains a precise and complete data history, referred to as the audit trail, for every order and RFQ that is entered into the system and for every transaction executed. Audit trail information for each transaction includes the order/ RFQ instructions, entry time, modification time, execution time, price, quantity, account identifier and parties to the transaction. Detailed information on all order and RFQ trade activity on FX Connect MTF is precisely timed. FX Connect MTF maintains a computerised trade reconstruction system. All electronic order and cleared trade information is archived to non-rewritable media, and copies are stored at multiple locations to ensure redundancy and critical safeguarding of the data.

13.1.2 Under FX Connect MTF Rule 5.1 (*Transaction Records*), FX Connect MTF requires FX Connect MTF Users to maintain, audit trail data in the form and manner required by the FCA. The FCA requires firms to maintain all audit trail data for a transaction for a minimum of five (5) years.

14. Outsourcing

14.1 Outsourcing – Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

14.1.1 SSGMIL is required by the FCA Outsourcing rules when relying on a third party for the performance of operational functions which are critical for the performance of regulated activities to ensure that it takes reasonable steps to avoid undue additional operational risk. SSGMIL outsource the provision of the platform that performs the matching and execution of FX transactions, market abuse system and receive related IT support for the provision of FX Connect MTF platform to its affiliate FX Connect, LLC, a Delaware corporation who offers the non-regulated form of the FX Connect platform and owns the intellectual property of the FX Connect platform (including FX Connect MTF). The relationship between SSGMIL and its suppliers (including FX Connect, LLC and SSBTC, the primary suppliers to SSGMIL in respect of FX Connect MTF) is governed by inter-company service agreements (with specific service levels and key performance indicators built in) for the provision of services. SSGMIL acknowledges that the primary responsibility to comply with its regulatory obligations remains with SSGMIL as the operator of FX Connect MTF and as the delegating or outsourcing entity.

14.1.2 While management and oversight of FX Connect MTF is being performed in the United Kingdom and the FX Connect MTF is operated by SSGMIL, some operational functions are being outsourced to affiliates of SSGMIL to allow for the most efficient utilisation of resources for State Street globally in line with the State Street Outsourcing policy.

14.1.3 GlobalLink has been structured so that the business unit has IT resources dedicated to it at the business unit level which meet the standards set by State Street globally. SSGMIL has the authority to request that additional resources are assigned to FX Connect MTF should SSGMIL find them inadequate. From a controls perspective, the technology developed or purchased for the purposes of operating FX Connect MTF is subject to all the policies and requirements from State Street, including audits.

14.1.4 The intercompany outsourcing arrangements are subject to rigorous State Street internal outsourcing assessment, and are periodically reviewed to ensure compliance with the FCA rules on outsourcing governed by the Senior Managers and Certification Regime and the Systems and Controls section of the FCA Handbook. Any external outsourcing arrangements are subject to the State Street's corporate Third Party Risk Management ("**TPRM**") policies. State Street's TPRM policies provide a process and framework to be followed for assessing and managing risks associated with the use of third party vendors throughout the engagement lifecycle in a manner consistent with compliance and regulatory requirements.

14.1.5 Copies of the respective intercompany outsourcing agreements can be made available upon request.

15. Fees

15.1 Fees –

(a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants in the services offered by the exchange.

(b) The process for setting the fees is fair and appropriate, and the fee model is transparent.

15.1.1 FCA MAR 5.3.1 concerns non-discriminatory access to an MTF by MTF Members and market participants and FCA MAR 5.3A.11 provides that an MTF must maintain comparable fee structures for eligible participants receiving comparable access to, or services from, the MTF. The FCA has further clarified that an MTF may establish different categories of market participants seeking access to, or services from, the MTF, but may not discriminate with respect to fees within a particular category.

15.1.2 FX Connect MTF currently charges transaction-based fees and connection fees for access to FX Connect MTF which are publically available at https://www.fxconnectmtf.com/content/disclosures/fx-connect-mtf-member-fees.pdf. The fees vary depending on the method of execution. FX Connect MTF may amend its fee schedule from time to time on notice to Members, but it will remain subject to the requirements of FCA MAR 5.3.1.

15.1.3 Prior to finalising any amendment of the FX Connect MTF fee schedule, the fee amendments would be reviewed by FX Connect MTF Oversight Committee, (including legal and compliance representatives) to ensure that the fee schedule as amended is consistent with applicable regulatory requirements. As a result, the process for setting the fees is fair and appropriate, and the fee model is transparent to the regulator as well as to FX Connect MTF Members.

15.1.4 Under the terms of its Member agreement, FX Connect MTF must provide prior notice to Members of any amendment or modification of the fees charged to such Member.

16. Information Sharing and Oversight Arrangements

16.1 Information Sharing and Regulatory Cooperation – The exchange has mechanisms in place to enable it to share information and otherwise cooperate with the Commission, self-regulatory organisations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

16.1.1 One of the core principles of business promulgated by the FCA is Principle 11 (*Relations with regulators*) requiring all firms regulated by the FCA to deal with its regulators in an open and cooperative way, and must disclose to the appropriate regulator appropriately anything relating to the firm of which that regulator would reasonably expect notice.

16.1.2 The FX Connect MTF Rulebook also specifically requires Members to co-operate with SSGMIL and any applicable regulator/competent authority of FX Connect MTF in any investigation conducted in relation to trading on FX Connect MTF and SSGMIL to disclose information collected as part of offering FX Connect MTF to the extent necessary to comply with any law, regulation, or regulatory investigation.

16.2 Oversight Arrangements – Satisfactory information sharing and oversight agreements exist between the Ontario Securities Commission and the Foreign Regulator.

16.2.1 The FCA has entered into memorandum of understanding ("**MOU**"[8]) arrangements for co-operative enforcements with foreign regulatory authorities in numerous jurisdictions. The MOUs typically provide for access to non-public documents and information already in the possession of the regulatory authorities, and often include undertakings to obtain documents and to take testimony of, or statements from, witnesses on behalf of a requesting regulatory authority. The FCA and the Commission entered into a memorandum of understanding for cooperative enforcement on 1 June 2013.

17. IOSCO Principles

17.1 IOSCO Principles – To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Securities Commissions (IOSCO) including those set out in the "Principles for the Regulation and Supervision of Commodity Derivatives Markets" (2011).

17.1.1 MiFID II and the FCA rules set down in the FCA Handbook are consistent with the standards set by the International Organisation of Securities Commissions ("**IOSCO**"), such as "Objective and Principles of Securities Regulation" (1998 and 2002) and "Report on Co-operation between Market Authorities and Default Procedures" as well as the "Standards for Regulated Markets" published by the Forum of European Securities Commissions in December 1999.

17.1.2 FX Connect MTF adheres to the standards of IOSCO in that it must comply with the MiFID II and the FCA rules set down in the FCA Handbook, which reflect the IOSCO standards.

PART IV SUBMISSIONS BY FX CONNECT MTF

1. Submissions Concerning the Requested Relief

1.1 Commission Staff Notice 21-711 Multilateral Trading Facility –Exemption from Requirement to be Recognized as an Exchange states:

"Because MTFs have self-regulatory responsibilities, they are considered 'exchanges' under Ontario securities law. If an MTF provides access to participants in Ontario, it is considered to be doing business in Ontario and must be recognized as an exchange or obtain an exemption from recognition."

FX Connect MTF seeks to provide Ontario market participants with direct access to trading in foreign exchange instruments listed on FX Connect MTF and, accordingly, is seeking an exemption from the requirement to be recognized as an exchange under the Act.

1.2 The products traded on FX Connect MTF include "derivatives" as defined in the Act to be "an option, swap, futures contract, forward contract or other financial or commodity contract or instrument whose market price, value, delivery obligations, payment obligations or settlement obligations are derived from, referenced to or based on an underlying interest", except as excluded.

1.3 FX Connect MTF satisfies the criteria for exemption of a foreign exchange trading OTC derivatives from recognition as an exchange, as set out by Commission Staff, as described under Part III of this Application. Ontario market participants that trade in foreign exchange instruments would benefit from the ability to trade on FX Connect MTF as they would have access to a range of exchange-traded products and clients seeking to trade those products that may not be otherwise available in Ontario. FX Connect MTF offers a transparent, efficient and liquid market for Ontario market participants to trade in NDFs. Stringent FCA oversight of FX Connect MTF as well as the sophisticated information systems, regulations and compliance functions that have been adopted by FX Connect MTF will ensure that Ontario Users of FX Connect MTF are adequately protected in accordance with international standards set by IOSCO. SSGMIL therefore submits that it would be in the public interest to grant the Requested Relief.

1.4 State Street submits that the relief requested from the requirement to be recognized as an exchange under the Act is appropriate because FX Connect MTF is registered as a MTF with the FCA, the regulator in its home jurisdiction. Commission staff acknowledges in Commission Staff Notice 21-711 Regulatory Approach for Foreign-Based Stock Exchanges that, in the case of foreign exchanges, "[f]ull regulation, similar to that applied to domestic exchanges, may be duplicative and inefficient when imposed in addition to the regulation of the home or another jurisdiction." If the Commission were to recognise FX Connect MTF as an exchange under the Act instead of exempting it from recognition, this type of duplication and inefficiency would occur because FX Connect MTF would then be subject to oversight by the Commission similar to the Commission's oversight of domestic exchanges. Oversight of FX Connect MTF by the FCA as well as the sophisticated information systems, regulations and compliance functions that have been adopted by FX Connect MTF, will ensure that users of FX Connect MTF in Ontario are adequately protected in

[8] https://www.osc.gov.on.ca/en/About_mou_20130711_nmou-osc-asc-bcsc-uk-fca.htm

accordance with international standards as reflected in the IOSCO principles. State Street therefore submits that it would not be prejudicial to the public interest to grant the relief requested from the requirement to be recognised under the Act.

PART V OTHER MATTERS

1. Enclosure

A copy of the proposed order is enclosed with this Application.

2. Consent to Publication

FX Connect MTF consents to the publication of this Application for public comment.

September 26, 2019

Via Air Courier and E-mail (http://www.osc.gov.on.ca/en/SecuritiesLaw_forms_index.htm)

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

Re: Currenex MTF – Application for Exemption from Recognition as an Exchange

Dear Sirs and Mesdames,

This application (the "**Application**") is being submitted by State Street Global Markets International Limited as operator of Currenex MTF ("**Currenex MTF**") to the Ontario Securities Commission ("**Commission**") for a decision under section 147 of the Securities Act (Ontario) ("**Act**") exempting Currenex MTF from the requirement to be recognized as an exchange under subsection 21(1) of the Act.

Commission staff have prescribed criteria that it will apply when considering applications by foreign-based electronic trading facilities for registration (or exemption from registration) under Section 21(1) of the Act. These criteria are prescribed in the Commission Staff Notice 21-702 *Regulatory Approach for Foreign Based Stock Exchanges*, as updated, ("**Staff Notice 21-711**"[1]) in relation to applications for recognition (or exemption from recognition) by foreign exchanges under section 21 of the Act.

For convenience, the Application is divided into the following Parts I to V, Part III of which describes how Currenex MTF satisfies the Commission Staff's criteria for exemption as a foreign exchange trading over the counter ("**OTC**") derivatives from recognition as an exchange under subsection 21(1) of the Act consistent with the criteria in Staff Notice 21-711:

[1] https://www.osc.gov.on.ca/en/SecuritiesLaw_20180104_21-711_multilateral-trading-facilities.htm

Questions regarding the Application and the related enclosure should be directed to the attention of Dario Lovelli, Currenex MTF's Chief Compliance Officer, at DLovelli@StateStreet.com or at +44 203395 1413.

Sincerely,

"Dario Lovelli"
Chief Compliance Officer

Encl. (Application, with Appendix; Draft Form of Order)

Yusuf Nurbhai [ ]

Sophie McDonald [ ]

Currenex MTF

INTRODUCTION

1. Currenex MTF Services to Ontario Residents

1.1 State Street Global Markets International Limited ("**SSGMIL**") is registered with, and regulated by, the Financial Conduct Authority ("**FCA**") in the United Kingdom as a multi-lateral trading facility operator in respect of two electronic trading platforms which it operates, which allow users in the European Economic Area ("**EEA**") and certain foreign jurisdictions to trade certain foreign exchange instruments.

1.2 SSGMIL has offered the two electronic trading platforms branded as FX Connect MTF and Currenex MTF since they 'went live' in December 2017 in anticipation of the implementation of the Revised Markets in Financial Instruments Directive ("**MiFID II**") on 3 January 2018. This Application only focuses on the platform known as **Currenex MTF** and it is the Currenex MTF platform that is seeking a decision under section 147 of the Securities Act (Ontario) ("**Act**") exempting Currenex MTF from the requirement to be recognized as an exchange under subsection 21(1) or the Act.

1.3 SSGMIL does not have and does not intend to have any offices or maintain other physical installations in Ontario or any other Canadian province or territory.

1.4 SSGMIL offers access to Currenex MTF to users located in Ontario ("**Ontario Users**"). To obtain access to the Currenex MTF, an Ontario User must be a firm that is eligible to join Currenex MTF, has successfully completed all on-boarding requirements and has executed the Currenex MTF member agreement (at which point it will be a "**Member**"). Members and their personnel authorised to access the platform on behalf of the Member (being either Authorised Traders or Authorised Users) are referred to collectively herein as "**Currenex MTF Users**". (The terms "**Member**", "**Authorised Trader**" and "**Authorised User**" are defined in the Currenex MTF Rulebook.)

1.5 SSGMIL obtains a representation from each Ontario User seeking access to Currenex MTF that they are appropriately registered under Ontario securities laws to use Currenex MTF or are exempt from or not subject to such registration requirements with respect to its use of Currenex MTF and such representation is deemed repeated each time the Ontario User makes use of Currenex MTF.

2. Background to the Application

2.1 On June 21st, 2019, SSGMIL in its capacity as operator of Currenex MTF submitted an application to the Ontario Securities Commission (the "**Commission**") for temporary exemption from the requirement to be recognised as an exchange under section 21(1) of the Securities Act (Ontario) (the "**Act**"). The Commission granted the order (the "**Interim Order**") effective June 21, 2019 with a termination date on the earlier of (i) June 21, 2020 and (ii) the effective date of a subsequent order exempting Currenex MTF from the requirement to be recognised as an exchange pursuant to section 147 of the Act. Currenex MTF currently carries on business in Ontario pursuant to the Interim Order.

PART II BACKGROUND WITH RESPECT TO CURRENEX MTF

1. Ownership of Currenex MTF

1.1 Currenex MTF services are offered by SSGMIL, a private company limited by shares organised under the laws of England and Wales. SSGMIL is a wholly-owned direct subsidiary of State Street Europe Limited ("**SSEL**"), a private company limited by shares organised under the laws of England and Wales. SSEL operates as a subsidiary of State Street International Holdings ("**SSIH**"). SSIH is an Edge Act Corporation whose role within the State Street group is as an intermediate holding company that does not act as a profit generating entity in its own right. SSIH is a subsidiary of State Street Bank and Trust Company ("**SSBTC**").

1.2 SSBTC is a Massachusetts chartered trust company and a bank listed in Schedule III of the Bank Act (Canada). SSBTC is the primary financial services provider and the material entity within the State Street group, offering asset management and advisory services (including custody, banking and trust services) as well as other services which may be specific to custody clients, or available to non-custody clients. It is also the employing entity of most of the State Street group employees worldwide. SSBTC is a subsidiary of State Street Corporation ("**SSC**"). SSC is a bank holding company headquartered in the United States, Boston, Massachusetts and is subject to the supervision of the U.S. Federal Reserve Board. SSC's stock is traded publicly on the New York Stock Exchange (**NYSE:STT**).

1.3 SSGMIL has a registered office at 20 Churchill Place, London, England, E14 5HJ.

1.4 State Street's electronic trading division is known as **GlobalLink**. GlobalLink operates through a number of State Street affiliated entities (including SSGMIL) and includes FX Connect MTF, Currenex MTF, unregulated versions of both platforms and Fund Connect (not part of this Application).

2. Products Traded on the Exchange

2.1 Currenex MTF currently supports the request for quote ("RFQ") trading for execution of spot, deliverable forwards, non-deliverable forwards and swap transactions in certain currency pairs (listed in an Annex 1 of the Currenex MTF Rulebook).

3. Currenex MTF Members

3.1 SSGMIL offers Currenex MTF to Members in multiple jurisdictions including, the European Economic Area, Australia, provinces of Canada, Japan, Singapore, Switzerland, and the United States. All Members of Currenex MTF, including Ontario-based Members are large banks and other well-capitalised financial institutions as well as by large and sophisticated commercial entities, who are required to meet the criteria of 'Professional Client' or 'Eligible Counterparty' (as those terms are defined by FCA's Handbook (which contains the UK's transposition of MIFID II)), and meet any equivalent local standards and requirements for investment sophistication in their own local jurisdictions. Currenex MTF is not made available to retail investors.

3.2 Canadian Members, including Ontario Users, will also sign a specific Canadian addendum to confirm the basis on which they meet the criteria of a 'Permitted Client'[2], 'Accredited Investor'[3] and (if applicable) an 'Accredited Counterparty'[4].

PART III APPLICATION OF EXEMPTION CRITERIA TO CURRENEX MTF

The following is a discussion of how Currenex MTF meets the relevant criteria for exemption of a foreign exchange trading OTC derivatives from recognition as an exchange under subsection 21(1) of the Act.

1. Regulation of the Exchange

1.1 Regulation of the Exchange – The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (Foreign Regulator).

1.1.1 In the United Kingdom, investment firms (and operators of multilateral trading facilities) are regulated by the FCA under the Financial Services and Markets Act 2000 ("**FSMA**").

1.1.2 Section 19 of FSMA generally prohibits any entity from providing regulated activities (section 22 FSMA) unless they are authorised to do so under section 55A. Permission to carry on regulated activities is granted to an entity under section 55E. SSGMIL, as the operator of Currenex MTF, is authorised and regulated by the FCA under reference number 194525.

1.1.3 Currenex MTF is subject to regulatory supervision by the FCA and is required to comply with the FCA's regulatory framework set out in the FCA Handbook, which includes, among other things, rules on (i) the conduct of business (including rules regarding client categorisation, communication with clients and other investor protections and client agreements), (ii) market conduct (including rules applicable to firms operating a multi-lateral trading facility, "**MTF**"), and (iii) systems and controls (including rules on outsourcing, governance, record-keeping and conflicts of interest). The FCA also requires SSGMIL to comply at all times with a set of threshold conditions for authorisation, including requirements that it is 'fit and proper' to be authorised and that it has appropriate resources for the activities it carries on (collectively, the "**FCA rules**").

1.1.4 Under the market conduct rules ("**FCA MAR**"), the FCA specifically mandate that all firms operating MTFs must, at a minimum be compliant with the following key provisions of MiFID II; (i) transparent rules and procedures for fair and orderly trading, (ii) objective criteria for the efficient execution of orders which are established and implemented in non-discretionary rules, (iii) sound management of the technical operations of the facility, (iv) transparent rules regarding the criteria for determining the financial instruments traded on an MTF, (v) non-discriminatory rules, based on objective criteria, governing access to its facility, (vi) the provision of sufficient publicly available information to enable its users to form an investment judgement, (vii) arrangements to identify clearly and to manage any conflict with adverse consequences for the operation of the trading venue for the members and participants or users; or the members and participants or users otherwise.

[2] As defined in Section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations.*
[3] As defined in Section 1.1 of National Instrument 45-106 *Prospectus and Registration Exemptions.*
[4] As defined in the *Derivatives Act* (Québec).

1.2 Authority of the Foreign Regulator – The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

1.2.1 FSMA was substantially revised by the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and 2017. The FCA has been charged with administering and enforcing the provisions contained within FSMA, read in conjunction with guidance within the FCA Handbook and Market Abuse Regulations. Accordingly, the FCA is the United Kingdom's competent authority that has direct regulatory and oversight responsibility over MTFs as regulated entities providing regulated activities.

1.2.2 As an FCA authorised operator of Currenex MTF, SSGMIL is subject to regulatory supervision by the FCA. The FCA's threshold conditions dictate that a regulated firm must be capable of being effectively supervised by the FCA having regard to all the circumstances. The FCA has the jurisdiction to perform reviews and assess and enforce Currenex MTF's adherence to the FCA Handbook and the rules contained therein on an ongoing basis via the designated Supervisor of State Street, the Markets Oversight Department and its Enforcement Division.

1.2.3 As an operator of MTFs, SSGMIL is obliged under the FCA Handbook to have requirements governing the conduct of Members, to monitor compliance with those requirements and report to the FCA (a) significant breaches of Currenex MTF's Rules, (b) disorderly trading conditions, and (c) conduct that may involve market abuse. SSGMIL may also notify the FCA when a Currenex MTF Member's access is terminated, temporarily suspended or subject to condition(s). As required by the FCA Handbook, SSGMIL has implemented a surveillance program to monitor trading activity on Currenex MTF. As part of the program, SSGMIL conducts real-time market monitoring of trading activity on the Currenex MTF platform to identify disorderly trading and daily [T+1] market abuse monitoring. The market surveillance program is designed to maintain a fair and orderly market for all Currenex MTF Members.

1.2.4 The FCA's criteria for the operation of an MTF include demonstrating that the operator has the ability to prevent market manipulation; can ensure fair and equitable trading; has the capacity to detect, investigate and discipline any person that violates its rules; can ensure the financial integrity of transactions entered into through its facilities; and has the authority to obtain any necessary information to perform its regulatory functions, including the capacity to carry out international information-sharing agreements.

1.2.5 SSGMIL is obliged under the FCA Handbook to establish and maintain effective arrangements and procedures including the necessary resources for the ongoing monitoring of the compliance by members or participants with the Currenex MTF Rules. Currenex MTF is also required under the FCA Handbook to provide the FCA, without delay, information relating to any (a) significant breaches of the firm's rules; (b) disorderly trading conditions; (c) conduct that may involve market abuse; and (d) system disruptions in relation to a financial instrument. Currenex MTF must also provide full assistance to the FCA, and any other competent authority or regulatory body, for the investigation and prosecution of market abuse, in its investigation and prosecution of market abuse occurring on or through the firm's systems.

2. Corporate Governance

2.1 Fair Representation – The governance structure and arrangements of the Exchange ensure:

(a) Effective oversight of the exchange

2.1.1 Currenex MTF activity is subject to the ultimate oversight and supervision of the board of directors of SSGMIL ("**Board**"). The SSGMIL Board members are currently all registered with the FCA as 'Approved Persons' as defined under section 59 of the Financial Services and Markets Act (approval for particular arrangements), and from December 2019 will be subject to the Senior Managers and Certification Regime. All the Board directors are elected via SSEL Nomination Committee.

2.1.2 The SSGMIL Board terms of reference confirms the principal role of the Board to provide leadership of SSGMIL, within a framework of prudent and effective controls and to exercise its duties and responsibilities and oversee the management of the business of the entity in accordance with the UK Companies Act 2006, its articles of association and any other statutory duties. The SSGMIL Board must ensure that its obligations under State Street's Legal Entity Governance Policy and Legal Entity Governance Standards ("**LEGS**") are understood and met. LEGS is comprehensive guidance for all State Street group entities, setting out among other things, requirements and expectations regarding (i) Board composition, (ii) responsibilities of key personnel and the Board as a whole, including additional responsibilities for 'enhanced' governance entities, like SSGMIL, in respect of management information, controls and compliance (iii) group policies which apply and must be adopted by each State Street group entity.

2.1.3 The Board delegates the management and oversight of the Currenex MTF and Currenex MTF platforms (the "**MTF Platforms**") to the MTF Oversight Committee (the "**MTF Oversight Committee**"). The purpose of the MTF Oversight

Committee is to manage and oversee the operation of MTF Platforms in accordance with applicable regulatory requirements and State Street corporate policies and compliance principles.

2.1.4 The responsibilities and authority of the MTF Oversight Committee include, but are not limited to:

a) reviewing and resolving incidents or issues arising from the MTF Platform operations (including deciding on recommendations from business representatives);

b) senior oversight of the MTF Platforms regulatory programme (including the monitoring of compliance with MTF Platforms rules) reviewing/imposing appropriate disciplinary measures/sanctions (pursuant to the applicable MTF Rulebook) and submitting reports of suspicious transactions to the FCA;

c) oversight of the MTF Platforms market abuse team and market surveillance team; and

d) escalation to the Board of items which require determination/approval by the Board.

2.1.5 The MTF Oversight Committee is supported by:

a) a charter to set out, among other things, the purpose, membership, responsibilities and authority of the MTF Oversight Committee and to reflect FCA regulatory requirements; and

b) defined MTF procedures and incident escalation processes, regular and meaningful management information, minutes of meetings, including any details of reporting required to the Board or the committee and any resolution of issues identified.

(b) that business and regulatory decisions are in keeping with its public interest mandate,

2.1.6 Currenex MTF operates on a basis consistent with applicable laws and regulations, and industry best practice, and its rules, policies and activities are designed to ensure continuous fair treatment of clients.

2.1.7 As a regulated trading venue Currenex MTF has, and must maintain processes and procedures that provide for fair and equal access to its systems and information.

(c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:

(i) appropriate representation of independent directors, and

(ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,

2.1.8 In accordance with State Street's LEGS, the Board maintains a proper balance among the interests of different persons or companies by (1) having a Nominating Committee to consider this balance in nominating board members and (2) including an independent director who is experienced in the industry but not actively using the services serve on both the Board and the standing Board-level committees. Additionally, the current members serving on the Board provide a diverse array of professional experiences to the Board.

2.1.9 The SSGMIL Board currently includes one independent director who is the Chairman of the Board.

2.1.10 Based on the above, there is a clear basis for concluding that there is fair, balanced, meaningful and diverse representation on the Board and each of its standing Board-level committees.

(d) The exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees of the exchange,

2.1.11 In order to ensure that the SSGMIL Board effectively avoids or minimises conflicts of interests and quickly resolves any that arise, the Board has adopted a conflicts of interest policy as part of its Board code of ethics. The conflict of interest policy identifies and sets out processes for each State Street business to evaluate, manage and record their organizational and personal conflicts with clients in connection with services provided. In addition, SSGMIL officers and directors are subject to the broader State Street standard of conduct, which provides broad guidance, principles and rules to follow in respect of all aspects of State Street employees roles, and which functions as a code of ethics ("**Code of Conduct**").

2.1.12 The Board's code of ethics sets out standards for identifying conflicts of interest and describes procedures and processes for the disclosure, evaluation and resolution of actual, apparent or potential conflicts of interest.

2.1.13 In accordance with these policies, members of the Board are required to act honestly, in good faith and in the best interests of the organisation, disclose any potential for the director to receive any private benefit in connection with a matter being presented to the Board, not use their positions for their personal benefit and preserve the confidentiality of information provided to them.

2.1.14 The State Street Code of Conduct applies to all personnel, including the executive management supporting Currenex MTF. The provisions of the State Street Code of Conduct address potential and actual conflicts of interest and on an annual basis, all personnel are required to certify that they have received and agree to abide by the provisions of the State Street Code of Conduct.

2.1.15 A voting member of the MTF Oversight Committee (including the sanctions matters subcommittee ("**MTF OC-SM**")) who has a material conflict of interest (as described in Currenex Description of Services and Conflicts of Interest Disclosure Document) would normally be prohibited from participating in deliberations and voting on the matter that is the source of the conflict.

2.1.16 The chief compliance officer (the "**CCO")** would normally draw attention to any apparent conflicts of interest, and make recommendations to prevent them from taking place. In the event that the Board does not accept or otherwise adopt the CCO's recommendation(s) on a matter involving a potential conflict of interest, the CCO will provide formal written notification of this divergence in a report to the MTF Oversight Committee and will similarly document this outcome in the CCO's next annual report to the FCA.

2.1.17 SSGMIL, through its Board code of ethics and conflicts of interest policies, the State Street Code of Conduct, the exercise of oversight by its CCO and MTF Oversight Committee and its compliance with the FCA rules, has established a robust set of safeguards designed to ensure directors, officers and personnel fulfill their duties free from conflicts of interest or inappropriate influence as described above. The FCA also conducts its own surveillance of the markets and market participants and actively enforces compliance with the relevant regulations.

(e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.1.18 Please refer to Sections 2.1.1-2.1.3 and 2.2 of Part III of this Application for information regarding the qualifications of directors and officers of SSGMIL.

2.1.19 Only the independent director receives any remuneration from SSGMIL for serving in the role of director.

2.1.20 Officers and personnel of SSGMIL are employed and compensated by SSBTC and Trust company. At present, there are no personnel employed directly by Currenex MTF or SSGMIL. Instead, the services of SSBTC staff are made available to support Currenex MTF under inter-company service agreements.

2.1.21 SSBTC employees who provide compliance services to Currenex MTF are, with respect to any matters regarding the MTF operations, (i) required to report to the CCO or, in the case of the CCO to the chief executive officer of SSGMIL and (ii) subject to the oversight of the Board and the MTF Oversight Committee in accordance with the organisational documents, rules and policies and procedures of Currenex MTF.

2.1.22 None of its directors or officers will be liable to SSGMIL or any of its owners for any act performed by such director or officer within the scope of authority conferred on such officer or director, except in the event of such director's or officer's gross negligence, fraud, bad faith or a material breach of applicable duties.

2.1.23 SSGMIL is required, to the fullest extent permitted under English law, to indemnify and hold harmless its directors and officers from and against any losses suffered or sustained by a director or officer as a result of their acts or omissions on behalf of SSGMIL or in furtherance of the interests of SSGMIL or by reason of the fact that the person was a director or officer of SSGMIL, unless the acts or omissions were a result of the director's or officer's gross negligence or were performed or omitted fraudulently or in bad faith or constituted a material breach of applicable duties.

2.2 Fitness – The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

2.2.1 As noted above, SSGMIL director appointments are subject to the Nomination Committee which recommends candidates for election after consideration of each candidate's credentials, including, without limitation, the candidate's experience, perspective, skills and knowledge, both as an absolute matter and relative to the experience and skill of other directors. Any change to the composition of the SSGMIL Board would be subject to registration and approval from the FCA. This is currently regulated by the Approved Persons Regime but will change to the Senior Managers and Certification Regime in December 2019.

2.2.2 SSGMIL governance standards, in line with the Approved Persons Regime, prohibits any person from acting as an officer or director if they meet certain disqualifying criteria, including, without limitation, if they have committed certain criminal or disciplinary offenses, is subject to certain restrictions on registration with the FCA or has had such registration suspended or revoked or is subject to certain statutory disqualifications under FSMA.

2.2.3 In addition, each existing director of SSGMIL must, on an annual basis, and each nominee for director must, prior to serving on the Board, complete a questionnaire which includes questions relating to potential related party transactions and eligibility requirements. Each Board member of SSGMIL must, on an annual basis, and each potential candidate for executive office must, prior to taking an executive office position, complete a certification that such person will inform the CCO with respect to certain conflict of interest and if such person meets any of the disqualification criteria.

3. Regulation of Products

3.1 Review and Approval of Products – The products traded on the exchange and any changes thereto are reviewed by the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

3.1.1 In accordance with FCA MAR 5.3, Currenex MTF has adopted transparent rules regarding the criteria for determining the financial instruments that can be traded under its systems. Article 4 of the Market Abuse Regulation (EU) No 596/2014 of the European Parliament and of the Council also requires SSGMIL to notify the FCA, as its competent authority, of any financial instrument for which a request for admission to trading on Currenex MTF. The European Securities and Markets Authority have also published technical standards to assist in the standardised reporting of transactions of financial instruments. In addition, FCA MAR 5.5 requires an operator of an MTF to establish and maintain effective arrangements; systems and procedures aimed at preventing and detecting market manipulation and attempted market manipulation.

3.1.2 Section 313CA of FSMA[5] addresses the suspension and removal of financial instruments. Currenex MTF will suspend or remove from trading a financial instrument only if it does not cause significant damage to the interest of investors or the orderly functioning of the MTF. SSGMIL will notify the public and the FCA of any such suspensions or removals on Currenex MTF.

3.2 Product Specifications – The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

3.2.1 As outlined in the Currenex MTF Rulebook, Rule 6 (*Instrument Eligibility Criteria*), SSGMIL will determine in its absolute discretion which MiFID Instruments and Spot Contracts are eligible for trading on Currenex MTF. Currenex MTF services are provided with the FX Global Code (the "**Global Code**") in mind. Currenex MTF is committed to conducting its FX market activities in a manner consistent with the principles of the Global Code. Among other things, the Global Code provides that operators of FX electronic trading platforms should (i) have rules that are transparent to users; (ii) make clear any restrictions or other requirements that may apply to the use of the electronic quotations; (iii) establish clarity regarding the point at which market risk may transfer; and (iv) have appropriate disclosure about subscription services being offered and any associated benefits, including market data.

3.2.2 Additionally, Rule 6 (*Instrument Eligibility Criteria*) of the Currenex MTF Rulebook explains that the list of instruments which may be traded on Currenex MTF ("**Eligible Instruments**") may be amended from time to time and such amendment shall be notified to Members in accordance with the standard notification process in Rule 4.1 and SSGMIL may suspend a particular Eligible Instrument from trading on Currenex MTF if it deems this necessary in order to maintain a fair and orderly market on Currenex MTF, to comply with any Applicable Law or in response to a request from a Relevant Regulator, or for any other reason in its sole discretion. Among other things, the requirement that new products comply with the FCA Handbook means that they underwent an analysis of the related underlying market.

3.2.3 Also, in preparation for MIFID II, during the product development process, the MTF Oversight Committee reviewed the terms of existing products currently trading in other forums so that the terms and conditions of Currenex MTF services would be in conformity with the usual commercial customs and practices.

3.2.4 In some instances, existing commercial terms have been incorporated by reference into Currenex MTF's product terms. As an example, for a Non-Deliverable Foreign Exchange Forward Contract, Currenex MTF has incorporated by reference in its product terms certain of the template terms of the relevant Emerging Markets Trade Association template in the currency pair that is the subject of the relevant contract.

[5] As amended by *2017 No. 701 The Financial Services and Markets Act 2000 (Markets in Financial Instruments) regulations, 22 June 2017*

3.3 Risks Associated with Trading Products – The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange including, but not limited to, daily trading limits, price limits, position limits, and internal controls.

3.3.1 5.3A.9 of FCA MAR requires MTF operators to have in place effective systems procedures and arrangements in order to establish appropriate risk controls for trading where users are permitted to access their trading facility.

3.3.2 The risks related to direct electronic access are avoided, as SSGMIL does not permit its Members to provide arrangements or in any way enable any person to utilise Currenex MTF by way of 'direct electronic access' (as defined in Article 4(1)(41) of MiFID II), whether such access be by way of 'direct market access' or 'sponsored access' (each as defined in Article 4(1)(41) of MiFID II) or by any other method whatsoever. This ensures that SSGMIL has direct relationships and oversight over all Currenex MTF Users.

3.3.3 Currenex MTF also has in place various internal system controls to manage and mitigate the risks associated with trading products on the platform. In addition to real-time monitoring of trading activity, in order to prevent disorderly trading, the following mechanisms have been put in place:

a) order price and volume limits;

b) maximum number of log-in attempts per second;

c) maximum number of messages per second;

d) timely confirmations of quotes;

e) quote filtering;

f) cancellations and amendments of transactions;

g) circuit breakers; and

h) trading halts.

Please refer to Section 9.3.1 of Part III of this Application for a discussion of internal system control utilised by Currenex MTF to manage order messaging activity and a quantity check that may be utilised by Currenex MTF Users. In addition, to mitigate the risks associated with trading products on the platform, users have the ability to set (or alternatively to turn off) permissioning for various transaction types.

3.3.4 FCA MAR 5.3.A.2 requires SSGMIL to ensure that Members algorithmic trading systems cannot create or contribute to disorderly trading conditions, and Currenex MTF has imposed Rule 2.2.2 (*Eligibility Criteria*) which requires Members to certify that the algorithms they deploy that are used in connection with Currenex MTF have been tested to avoid contributing to or creating disorderly trading conditions prior to the deployment or substantial update of a trading algorithm or trading strategy and explain the means used for that testing.

4. Access

4.1 Fair Access

(a) The exchange has established appropriate written standards for access to its services including requirements to ensure

(i) participants are appropriately registered as applicable under Ontario securities laws, or exempted from these requirements,

(ii) the competence, integrity and authority of systems users, and

(iii) systems users are adequately supervised.

(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

(c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.

(d) The exchange does not

(i) permit unreasonable discrimination among Members, or

(ii) impose any burden on competition that is not reasonably necessary and appropriate.

(e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

4.1.1 FCA MAR 5.3.1 requires MTF operators to have transparent and non-discriminatory rules, based on objective criteria, governing access to its facility and provide that its members or participants are investment firms, CRD credit institutions[6] or other persons who meet certain eligibility criteria. Currenex MTF has implemented transparent and non-discriminatory rules based on objective criteria governing eligibility for Membership as described in the Currenex MTF Rule 2.2 (*Eligibility Criteria*) for all Members. The Currenex MTF Rulebook and any amendments thereto are publicly available on the Currenex MTF website. To apply to become a Member, an applicant must complete a Member agreement, eligibility questionnaire and submit the required 'know your customer documentation and onboarding information to Currenex MTF. Currenex MTF will deny an application for admission if the applicant is not able to satisfy the eligibility criteria to become or remain a Member.

4.1.2 In addition to conformance with the Currenex MTF Member eligibility obligations, SSGMIL requires each Ontario User to execute an addendum to the Currenex MTF Member agreement which requires such Ontario User to represent that it is, with respect to its use of Currenex MTF in Ontario, appropriately registered as applicable under Ontario securities laws or is exempt from, or not subject to, such registration requirements.

4.1.3 Currenex MTF Rule 2.2 (*Eligibility Criteria*) provides that for an applicant to become a Member must demonstrate to the satisfaction of SSGMIL that it:

a) is carrying on business from an establishment maintained in a jurisdiction in which Currenex MTF are permitted to carry on cross-border business, or from an establishment maintained in a jurisdiction which does not prohibit the provision of cross-border services by Currenex MTF;

b) is an entity that (a) has adequate pre-trade controls on price, volume and value of orders and usage of the system and post-trade controls, (b) employs staff with adequate qualifications in key positions, (c) is able to successfully undertake technical and functional conformance testing, (d) has a demonstrable policy governing the use of any kill functionality, (e) is fit and proper to become a Member, (f) has a sufficient level of trading ability and competence, (g) has adequate organisational requirements, and (h) has sufficient resources for the role they are to perform;

c) in possession of all registrations, authorisations, approvals and/or consents required by applicable law in connection with trading the Eligible Instruments through Currenex MTF and, where applicable the use of other technology Services, from time to time; and

d) able to certify that the algorithms they deploy that are used in connection with the Currenex MTF business have been tested to avoid contributing to or creating disorderly trading conditions prior to the deployment or substantial update of a trading algorithm or trading strategy and explain the means used for that testing. A Member who signs a Member agreement is deemed to give the certification contemplated in Rule 2.2.2 (*Eligibility Criteria*) prior to the deployment or substantial update of the relevant trading algorithm or trading strategy is an eligible contract participant, and, if applicable, is in compliance with relevant FCA rule.

4.1.4 SSGMIL requires that each Currenex MTF Member continues to meet its eligibility requirements while a member. Additionally, each MTF Member is responsible for conducting adequate supervision of its designated Authorised Traders and Authorised Users. Members are responsible for confirming that each Authorised Users and each Authorised Trader has sufficient experience, knowledge and competence to use the Currenex MTF platform. All Currenex MTF Members are subject to periodic membership assessment by SSGMIL.

4.1.5 Currenex MTF is an electronic trading platform operated as a multilateral trading facility registered with the Financial Conduct Authority in the United Kingdom. As required by the FCA MAR 5, an MTF operator must establish non-discretionary rules and non-discriminatory access to its trading facility. Currenex MTF rules, policies and procedures are designed to ensure impartial access consistent with the requirements contained in relevant FCA provisions which are set out in FCA MAR 5. Access rules that are unreasonably discriminatory or access and fee rules that unreasonably discriminate among participant classes would not meet the MTF Core Principles. SSGMIL cannot make material changes to the Currenex MTF Rules, fee schedules or any other membership documentation unless such

[6] An undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account and that has its registered office in an EEA state, excluding an institution to which Capital Requirements Directive ("**CRD**") does not apply under Article 2 of CRD. CRD IV is made up of the: (i) Capital Requirements Directive (2013/36/EU) and (ii) Capital Requirements Regulation (575/2013) ("**CRR**").

changes apply to all similarly-situated Members. Currenex MTF is required to provide notice to Members, Authorised Traders and Authorised Users of any amendment to the Currenex MTF Rules in accordance with Rule 4 (*Notices and Notifications*).

4.1.6 While Currenex MTF does not have specific rules stating that they will not impose any burden on competition that is not reasonably necessary and appropriate, all rules implemented by Currenex MTF are subject to FCA regulatory requirements. As such, Currenex MTF does not implement rules that would impose any burden on competition that is not reasonably necessary and appropriate because such rules would not meet MTF regulatory obligations.

4.1.7 Currenex MTF maintains records of its Member applications and any denial or limitation of access for any Currenex MTF User, including reasons for granting, denying or limiting access. Complete records are maintained for each Currenex MTF User in accordance with the FCA recordkeeping requirements.

5. Regulation of Members on the Exchange

5.1 Regulation – The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its Members, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

5.1.1 As an FCA registered MTF, Currenex MTF has both the regulatory authority and obligation to establish rules governing conduct of its Members, to monitor their conduct in order to detect and to deter rule violations and to appropriately discipline its market participants for violations of Currenex MTF rules.

5.1.2 The MTF Oversight Committee is responsible for, among other things, overseeing the monitoring the adherence of Currenex MTF with all relevant regulations (including FCA rules), establishing and administering Currenex MTF sanctions procedures, administering disciplinary proceedings and monitoring trading.

5.1.3 In order for the MTF Oversight Committee to accomplish its mission, Currenex MTF expends considerable human, technological and financial resources that are focused on the maintenance of fair, efficient, competitive and transparent markets, and the protection of all Currenex MTF Users from fraud, manipulation and other abusive trading practices.

5.1.4 To fulfill its mandate to effectively monitor and enforce the Currenex MTF Rules, a designated MTF Surveillance team conducts real time monitoring, a Market Abuse Monitoring team conducts daily (T+1) and long-term surveillance (where specific cases require it) of trading on Currenex MTF. '**Market Abuse**' is defined as any behaviour in relation to the business of the MTF Platforms that constitutes market abuse, market manipulation or insider trading pursuant to the Market Abuse Regulation or any other similar or analogous behaviour prohibited by the FX Global Code, or subject to sanctions or penalties under MAR or the FX Global Code, and SSGMIL use a designated '**Market Abuse Monitoring'** team to fulfil the obligation to monitor the use of the platform and to ensure the Market Abuse detective controls are effective. '**Market Surveillance**' is defined as the activities necessary to meet the requirements that trading platforms should, whenever the trading platform is in operation, monitor their markets as close to real time as possible for possible signs of disorderly trading.

5.1.5 The MTF Surveillance and Market Abuse Monitoring team's efforts are focused on identifying and remediating market anomalies, trading abuses and other actions that have the potential to undermine the fair and orderly operation of Currenex MTF.

5.1.6 The MTF Surveillance team strives to make compliance with the Currenex MTF Rules as straightforward as possible. The MTF Surveillance team make themselves available to field questions about the Currenex MTF Rules, and where permissible, are available and willing to field calls and emails concerning activity in Currenex MTF, or requests for guidance on the application of the Currenex MTF Rules.

5.1.7 Investigating and enforcing rule violations are necessary components of the Currenex MTF regulatory safeguards. When the MTF Surveillance and Market Abuse Monitoring teams suspects or determines that there has been activity in Currenex MTF markets that appears to violate the FX Global Code or MAR rules, the Market Abuse Monitoring team work to ensure that the matter is thoroughly investigated. The investigative process includes the analysis of transaction data and other trading related documents, and may, as appropriate, be accompanied by a market replay. If, after a thorough investigation, the Market Abuse Monitoring team has reason to believe that a Currenex MTF Rule has been breached, the matter is addressed in accordance with Currenex MTF disciplinary processes and procedures.

5.1.8 The MTF Surveillance and Market Abuse Monitoring teams are dedicated to safeguarding the integrity of Currenex MTF, to identify manipulation and other abusive practices. These efforts are a necessary component of efficiently working markets. Currenex MTF is committed to ensuring that its markets are open and transparent.

5.1.9 In addition, the MTF Surveillance team conduct routine and annual audits of Members to verify compliance with Currenex MTF audit trail and recordkeeping requirements. Currenex MTF may sanction, in accordance with the procedures set forth in Chapter 7 (*Trading Rules*) of the Currenex MTF Rules, any Member in connection with any deficiencies identified in these reviews. Moreover, under Currenex MTF Rule 11.6 (*Sanctions*), the MTF Oversight Committee if practicable, summarily suspend, revoke, limit, condition, restrict or qualify a Member's ability to access Currenex MTF, and may take other summary action against a Currenex MTF User or their underlying clients in accordance with the Currenex MTF Rules if the Committee reasonably believes that immediate action is necessary to protect the best interests of the public or Currenex MTF.

5.1.10 When conducting an investigation, the Market Abuse Monitoring team will review details relating to the transaction and any relevant electronic communication. The Market abuse monitoring team have the authority to request any account documentation and any related documents from the relevant department within SSGMIL or the wider GlobalLink business that can assist in the investigation.

When required, the Market Abuse Team will call a meeting containing the relevant parties and the relevant regional compliance officers. The Market Abuse Monitoring team will present the case to the meeting and decisions will then be made regarding further investigation or notification to any relevant regulatory bodies

5.1.11 With reference to technology to support compliance and regulatory obligations, Currenex MTF undertakes periodic reviews to establish whether there are sufficient in this area. Additional resources to accommodate growing levels of activity are addressed in system planning to ensure that Currenex MTF regulatory and market protection capabilities anticipate and evolve with the changing dynamics of the marketplace.

6. Rulemaking

6.1 Purpose of Rules

(a) The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of Members and do not permit unreasonable discrimination among Members or impose any burden on competition that is not reasonably necessary or appropriate.

6.1.1 Pursuant to its obligations under the FCA rules, Currenex MTF has implemented rules and policies that govern the operations and activities of its Currenex MTF Users. The Currenex MTF Rules are covered in the Currenex MTF Rulebook which is publically available on Currenex MTF website.

6.1.2 As discussed in Section 4 of Part III of this Application, Currenex MTF is not permitted to implement rules that would impose any burden on competition unless they are reasonably necessary and appropriate because such rules would not meet MTF regulatory requirements.

(b) The Rules are not contrary to the public interest and are designed to

(i) ensure compliance with applicable legislation,

(ii) prevent fraudulent and manipulative acts and practices,

(iii) promote just and equitable principles of trade,

(iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,

(v) provide a framework for disciplinary and enforcement actions, and

(vi) ensure a fair and orderly market.

6.1.3 Currenex MTF is obligated to comply with the FCA rules. FCA MAR 5.3.1 of the FCA Handbook requires that Currenex MTF has transparent rules and procedures for fair and orderly trading, objective criteria for the efficient execution of orders which are established and implemented in non-discretionary rules, arrangements for the sound management of the technical operations of the facility, including the establishment of effective contingency arrangements to cope with the risks of systems disruption, and transparent rules regarding the criteria for determining the financial instruments that can be traded under its systems.

6.1.4 Accordingly, the laws and regulations promulgated by the FCA have been determined by the FCA to be consistent with and not contrary to that public interest. These laws and regulations require MTFs to implement rules that require compliance with the FCA rules by their market participants. Currenex MTF Rules are recorded in the Currenex MTF

Rulebook, which has been reviewed by the FCA for Currenex MTF registration to ensure compliance with the relevant FCA rules. Changes to the Currenex MTF Rulebook must be made available to all the MTF members prior to coming in to force.

6.1.5 Rule 5 (*Responsibility of Members*) of the Currenex MTF Rulebook includes important provisions to prevent misleading acts, conduct, and prohibited, including but not limited to prohibitions on:

a) engage in any conduct which creates, or is likely to create, a false or misleading impression of the market or the price or value of, any Eligible Instrument;

b) cause or enter into any artificial transaction,

c) submit a request or quote with a fictitious quantity or price onto the system,

d) commit any act or engage in any course of conduct which causes, or contributes to, a breach of these Rules or the Currenex MTF user guidance by another Member;

e) engage in any other conduct which constitutes Market Abuse in relation to Currenex MTF, and

f) misuse 'Last Look' (a process by which sell-side Members confirm transactions), including by committing or engaging in any course of conduct listed in Rule 8.1.3 (*Trading Models*).

Thus, the Currenex MTF Rules are clearly designed to prevent fraudulent and manipulative acts and practices.

6.1.6 Under FCA MAR 5.6.1, Currenex MTF must share information with the FCA in relation to (a) significant breaches of the Currenex MTF rules; (b) disorderly trading conditions; (c) conduct that may involve market abuse; and (d) system disruptions in relation to a financial instrument. Currenex MTF is not bound by Rule 2.9 (Confidentiality) of the Rulebook when making regulatory disclosures.

6.1.7 Currenex MTF Rulebook provides a framework for Currenex MTF to take disciplinary and enforcement actions. For more information on Currenex MTF powers in this regard, refer to Rule 11.6 (*Sanctions*).

6.1.8 Rule 2.3 of the Currenex MTF Rules is designed to ensure that all trading on Currenex MTF is conducted in a fair and orderly fashion. See Sections 6.1.3, 6.1.4 and 6.1.5 of Part III of this Application (above) discussing fair and orderly market requirements and bans on prohibited activity.

6.1.9 FCA MAR 5.5.1 requires MTFs to monitor trading to prevent disruption of the market. Currenex MTF conducts real time monitoring of trading activity and T+1 monitoring and surveillance of market activity in order to detect anomalies and to ensure the operation of an orderly market.

7. Due Process

7.1 Due Process – For any decision made by the exchange that affects a Member, or an applicant to be a Member, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

(a) parties are given an opportunity to be heard or make representations, and

(b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

Sanctions and Disciplinary Actions

7.1.1 In accordance with the FCA MAR 5 guidelines for systems and controls and for monitoring compliance with the rules of the MTF, the Currenex MTF has implemented a sanctions and disciplinary actions policy which relates to breaches of the rules outlined in the MTF Rulebooks. Events that may lead to disorderly trading, or cases of market abuse, are only covered by the sanctions and disciplinary actions policy where they do not lead to the filing of a suspicious trade and order report ("**STOR**").

7.1.2 The sanctions policy is stated under Rule 11.6 (*Sanctions*) of the Currenex MTF Rulebook. It states that in the interests of maintaining a fair and orderly market, SSGMIL will have absolute discretion in using any/all of the following sanctions for breach of the Rules in relation to a Member or a former Member who is still bound by the Rules in accordance with Rules 2.5 (*Effect of Termination*) and 2.8 (*Resignation*) and will notify a Member of any decision to apply any such sanction:

a) written warning;

b) temporary suspension;

c) publication of details of the offender and rule infringement; or

d) termination of participation.

7.1.3 All sanctions-related decisions are made by the MTF OC-SM. For disciplinary cases, the MTF OC-SM determines the sanction according to the severity and frequency of the Rule breach, based on the case information provided to them by the Market Abuse Monitoring team and/or Compliance. Ahead of making a final decision, the MTF OC-SM might decide to communicate with the Member to gather additional information if there is no potential for a STOR to be filed in connection with the event giving rise to a potential sanction. Events that may warrant the imposition of a sanction are brought to the MTF OC– SM by the Market Abuse Monitoring team when they have determined that sufficient evidence is available and that filing a STOR would not be appropriate.

7.1.4 Any sanctions related complaints and appeals are handled in a separate Complaints Policy. The State Street complaints policy sets out the appropriate approach with respect to the receipt, recording, acknowledgement, research, escalation, investigation, resolution and reporting of complaints received from, or on behalf of, existing or past customers.

8. Clearing and Settlement

8.1 Clearing Arrangements – The exchange has appropriate arrangements for the clearing and settlement of transactions through a clearing house.

8.1.1 Currenex MTF does not list any financial instruments products that are subject to mandatory clearing requirements.

8.2 Risk Management of Clearing House – The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

8.2.1 As stated above, Currenex MTF does not list products that are required to be cleared and as such, does not facilitate any product clearing.

9. Systems and Technology

9.1 Systems and Technology – Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

(a) order entry,

(b) order routing,

(c) execution,

(d) trade reporting,

(e) trade comparison,

(f) data feeds,

(g) market surveillance,

(h) trade clearing, and

(i) financial reporting.

9.1.1 Currenex MTF strives to provide the most flexible architecture in terms of bringing new technology, innovations and solutions to the market. The Currenex MTF electronic trading platform is accessible twenty-four (24) hours a day throughout the trading week from Sunday 5pm ET to Friday 5pm ET. Each of Currenex MTF's critical systems has appropriate internal controls designed to ensure completeness, accuracy, integrity and security of information, and, in addition, has appropriate capacity and business continuity and disaster recovery ("**BCDR**") plans to enable Currenex MTF to properly carry on its business. Moreover, Currenex MTF provides a highly scalable and robust system.

9.1.2 The audit trail file ("**Audit Trail**") contains a number of messages and fields that contain message information regarding orders, trades, instruments and other pertinent information. The Audit Trail maintains a complete electronic record of all orders entered and transactions executed, including all messages entered into the system, the terms of each order, all

order modifications, all matched trades, and the time of each message. This record is stored in a non-rewritable (write once read many or "**WORM**") storage, and enables Currenex MTF to reconstruct electronic trading efficiently and effectively.

9.1.3 At the system level, the Audit Trail matches every customer generated (inbound) message with corresponding match engine generated acknowledgement (outbound) message. The matched inbound and outbound messages are then consolidated into one message; the trade message is retained as is. The consolidated messages are then formatted as per customer need. This Application runs daily as a batch process after the end of each Currenex MTF trading day.

9.1.4 The primary focus at Currenex MTF for incidents is rapid service restoration. Critical incidents are required to be documented.

Recovery Procedures

9.1.5 All critical applications are tested at a minimum once per year.

a) Electronic Trading: The recovery time objectives for the Currenex MTF platform is close to two (2) hours[7] or less if there is a disruption in the datacenter where Currenex MTF production facilities are housed.

b) All Other Business Processes: The recovery time objectives for recovering all other business processes are determined as part of the process and are incorporated into the Resumption and Recovery component of the BCDR plan.

9.1.6 Currenex MTF currently has extensive monitoring on hardware, applications and software for anomalies and alert notification to prompt a failover to backup or automatic failover for minimal disruption to business and customers. Alerts are recorded and appropriate escalation and recovery is addressed to the team that is the central point for crisis management of all technology issues and recordation in addition to follow up for incident reviews (lessons learned) from customer impacting events.

9.1.7 The Currenex MTF platform has various security features in place to protect trade data from disclosure, disruption, spoofing, non-repudiation, and denial of service prevention.

9.1.8 The Currenex MTF platform uses passwords to limit access to systems. To log onto any environment, Currenex MTF Users are required to enter their user ID and the associated password. Passwords must be a minimum length and complexity and expire periodically. User IDs are disabled after a set number of failed log in attempts. In addition to the user ID and associated password, all Authorised Users of the Currenex MTF are required to have a digital certificate installed on their machine in order to access Currenex MTF.

9.1.9 To protect against accidental or deliberate disclosure, customer data is isolated to that specific customer using network and application controls.

9.1.10 To prevent disruption of service, the Currenex MTF application programming interface ("**API**") and the trading engine validate all data to ensure it complies with the Financial Information Exchange Protocol and message format. The host operating systems of all Currenex MTF servers are updated as necessary in an effort to prevent openings for viruses and other malware.

9.1.11 The State Street global continuity program overview and the Currenex MTF specific business continuity plan overview cover the wider business continuity plans ("**BCPs**"). The BCPs are not specific to any entity, and apply to Currenex MTF without amendment. The Currenex MTF BCPs include the following systems and back-up arrangements:

a) each of the databases for the Currenex MTF has a local standby which is a near real-time copy;

b) each such database also has an offsite BCDR database which is also a near real-time copy;

c) there are full database back-ups in the primary site;

d) a full back-up set of data for Currenex MTF gets backed-up into a disk drive, which is held independently to the main database server, and is kept for two weeks; and

e) trade data is kept in the WORM data storage device.

[7] Per Article 15(2) of regulatory technical standard 7 supplementing MiFID II Article 48(1).

9.2 System Capability/Scalability – Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

(a) makes reasonable current and future capacity estimates;

9.2.1 The current capacity of Currenex MTF's systems is sufficient for present levels of trading activity, and under MiFID II requirements, Currenex MTF is required to demonstrate capacity for 100% over its greatest trading capacity over the last five (5) years. The system is scalable and on a continual basis the Currenex MTF business team makes periodic assessments of current and future capacity needs.

(b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;

9.2.2 SSGMIL conducts routine, periodic stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner. Staff may also conduct stress tests on occasion in the context of quality assurance reviews related to system or product changes. For example, for major releases, Currenex MTF conduct a stress test designed to ensure that every major release is able to cope with simulated production volume. Moreover, in terms of ongoing monitoring, all servers are monitored individually for capacity (cpu, memory and disk) on a real time basis. In addition, staff track capacity trends over time and will add capacity on an as-needed basis.

(c) reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;

9.2.3 The State Street corporate information security ("**CIS**") team create security control requirements for State Street applications based on its internal risk assessment process. With that process, State Street has a standardised, automated approach for managing information security for business applications, with risk management processes that identify, qualify and mitigate security exposures.

9.2.4 State Street's application security management program also provides a defined set of services and tools that State Street software developers, quality assurance staff, application owners and information security officers can use to identify risks within State Street's internally developed applications. Factors like application criticality ratings, internet accessibility and client requests are considered to establish priority.

(d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;

9.2.5 Access to State Street's physical space is controlled and secured by the State Street global security group, who protect State Street's worldwide locations with multiple layers of security, from security guards to card access readers and biometric technology.

9.2.6 Many of State Street's facilities and high-level security areas use positive control entry devices like turnstiles, revolving doors and security access portals. Access to State Street buildings and high-security areas are monitored and recorded on video systems. State Street operate a state-of-the-art security control center and has on-site security personnel to respond to local incidents.

9.2.7 State Street engages third parties to periodically test its network. The results of these tests are reviewed, and State Street develop and use remediation plans and re-testing strategies. Penetration tests, which are more limited in scope and focus on secure implementation of application code, are also used to assess key applications.

9.2.8 Currenex MTF maintains and regularly updates its BCDR plans, may participate in industry-wide BCDR exercises and submits information relating to material changes to its automated systems to the FCA Division of Market Oversight. Each MTF Member is expected, to have written BCDR procedures in place to ensure it is able to operate in the event of a significant internal or external interruption to its operations.

(e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;

(f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and

(g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

9.2.9 Currenex MTF policies and procedures related to information technology, including system safeguards, form part of a wider program of risk analysis and oversight in place at State Street, which follows generally accepted standards and best practices with respect to the development, operation, reliability, security and capacity of automated systems. State Street's CIS program adapts to changing security needs by identifying, monitoring, managing and mitigating the risks associated with information assets. The CIS program and underlying controls cover every aspect of State Street's information risk environment, including architecture, networks, information systems, data, organisational structure, risk mitigation, communications and training. This program follows the ISO 27001/27002 controls framework: an internationally recognized standard for security program design and operation.

(h) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;

9.2.10 Please see responses in Section 9.1.6-9.1.10; 9.2.1 and 9.2.12 of Part III of this Application.

(i) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and

9.2.11 Controls are continually reviewed and modified in response to evolving security threats and regulations. These controls are considered minimum requirements; high-risk situations may require that State Street implement additional controls.

(j) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

9.2.12 Please also see responses in Sections 9.1.5-9.1.10 of Part III of this application.

9.3 Information Technology Risk Management Procedures – The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

9.3.1 In order to effectively manage the risks to which Currenex MTF is exposed, SSGMIL has implemented certain Market Surveillance safeguards which provide wide-ranging market integrity controls to ensure fair and efficient markets. In furtherance of preventing trading errors, Currenex MTF has established order price and volume limits for trades that its Currenex MTF Users place on the MTF Platform. Additionally, Currenex MTF has implemented a predetermined maximum number of log-in attempts per second, and a maximum number of messages per second which can be requested and submitted by its Currenex MTF Users. For relevant sessions the time period for execution of trades where a quote which has been accepted must be confirmed is limited to one second. Furthermore, to ensure that quotes are within fair market value Currenex MTF has implemented a quote filtering mechanism by which a BID/ASK rate[8] is compared to the quote received or submitted, and if it is outside the appropriate tolerance percentage for the currency group, the quote is automatically blocked and cannot be executed.

9.3.2 Currenex MTF has the authority to review (either upon a request from a Currenex MTF User or upon Currenex MTF independent analysis of market activity) any trade executed on its platform and to adjust or cancel certain trades that are outside of predetermined tolerance levels. Currenex MTF also has authority to adjust trade prices or cancel (bust) trades when such action is necessary to mitigate market-disrupting events caused by the improper or erroneous use of Currenex MTF.

9.3.3 Currenex MTF circuit breakers are applied to automatically halt trading in a financial instrument when a certain pre-set threshold in that financial instrument is breached. Furthermore, in order to prevent disorderly markets, Currenex MTF has ability to halt trading in a specific financial instruments or suspend select MTF Members. Finally, Currenex MTF has broad authority to take action when necessary address any occurrences or circumstance which, in the opinion of the Board or the MTF Oversight Committee may have a severe, adverse effect upon the functions and facilities of Currenex MTF and require immediate action. Accordingly, under sufficiently severe market circumstances, Currenex MTF potentially could declare a temporarily trading halt on its entire trading facility.

[8] Prices provided by liquidity providers for RFQ's are normally two way, known typically as the BID/ASK spread where the BID is the price set by the price maker to purchase or buy the underlying security priced and ASK is where the price maker is willing to offer or sell the security being priced.

10. Financial Viability

10.1 Financial Viability – The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

10.1.1 Currenex MTF has adequate financial and staff resources to carry on its activities in compliance with its regulatory requirements set out by FSMA. The UK FCA General Prudential Sourcebook ("**GENPRU**") and Prudential Sourcebook for Investment Firms ("**IFPRU**") implements, in part, the EU CRD and certain national discretions afforded to the FCA as competent authority under EU CRR. CRD EU text was formally published in the Official Journal of the EU on 27 June 2013 (note that the Regulation has also been subject to a subsequent update). The bulk of the rules contained in the legislation are applicable from 1 January 2014. CRD IV is made up of the: (i) Capital Requirements Directive (2013/36/EU) (CRD) which must be implemented through national law and (ii) Capital Requirements Regulation (575/2013) ("**CRR**"), which is directly applicable to firms across the EU.

10.1.2 Pursuant to the above regulatory requirements the minimum capital requirement to operate an MTF is set to EUR 730,000 (approximately CAD 1.01million) with any additional capital deemed required to maintain adequate financial resources at all times. Under FCA Rules, an MTF will be considered to maintain adequate financial resources if the value of the financial resources exceeds the total amount that would enable the MTF to cover the operating costs of the MTF for a one-year period, as calculated on a rolling basis. FCA rules additionally provides that the financial resources allocated by the MTF to meet the requirements shall include unencumbered, liquid financial assets (i.e., cash and/or highly liquid securities) equal to at least six (6) months' operating costs. Currenex MTF is in compliance with these requirements and such requirements are taken into consideration as part of the budgeting process.

11. Trading Practices

11.1 Trading Practices – Trading practices are fair, properly supervised and not contrary to the public interest.

11.1.1 As detailed more fully in the response to Section 6 of Part III of this Application, trading practices at Currenex MTF are fair, properly supervised and not contrary to the public interest. The Currenex MTF rules establish prohibitions on abusive or other improper trading practices. Upon launching the Currenex MTF, these rules have been filed with the FCA along with a certification by Currenex MTF that the rules are in compliance with the FCA rules, which are affected in accordance with a public interest.

11.2 Orders – Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of order is fair, equitable and transparent.

11.2.1 Rule 8 of the Currenex MTF Rulebook sets forth the functionality of the Currenex MTF trading protocols, and the Rule 9 describes the trading services and other technology services. These trading protocols and services are available to all Currenex MTF Users. Trading on the Currenex MTF is conducted on a fully disclosed basis, such that the Members disclose to each other who they are when transmitting requests for quotes or entering into transactions with each other. Once a transaction is concluded on the Currenex MTF, transaction information is sent to both Members.

11.2.2 As described in the Rule 8 (*Trading Protocols*) of the Currenex MTF Rulebook, Currenex MTF currently operates an RFQ trading model, and multiple session types as are listed in Section 2.2 of Part II of this Application (all of which are sessions where a quote or quotes are provided in response to a request by a buy-side Member) for matching requests with quotes within Currenex MTF.

11.2.3 Under the RFQ Trading Model, Currenex MTF facilitates transactions between Members who have notified Currenex MTF that they have a pre-existing underlying trading relationship for the purpose of executing transactions with one another. Additionally, there are clearly defined rules for those sell-side Members who use Last Look shall:

a) be transparent regarding their Last Look practices in order for the buy-side Member to understand and be able to make an informed decision as to the manner in which Last Look is applied to their trading, and shall disclose directly to the buy-side Member, at a minimum, explanations regarding whether, and if so how, changes to price in either direction may impact the decision to confirm acceptance of the quote that the buy-side selects (a "**Selected Quote**"), the expected or typical period of time for making that decision, and more broadly the purpose for using Last Look; and

b) only use Last Look as a risk control mechanism to verify price and validity of the Selected Quote. The validity check should be intended to confirm that the transaction details contained in the Selected Quote are appropriate from an operational perspective and there is sufficient available credit to enter into the transaction contemplated by the Selected Quote, while the price request should be intended to confirm whether the price at which the Selected Quote was made remains consistent with the current price that would be available to the buy-side Member.

11.2.4 Rules 8.2.4 and 8.2.5 (*RFQ Trading Model Sessions*) set down the basis for a trade being concluded in Currenex MTF for all offered session types.

11.2.5 The rules governing the Responsibilities of Members are set forth in Rule 5 of the Currenex MTF Rulebook and are enforced on an impartial basis with respect to all Currenex MTF Users.

11.3 Transparency – The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or a Foreign Regulator. This information is also provided to all participants on an equitable basis.

11.3.1 As described in the Currenex MTF Rulebook Rule 2.1 (*Transaction Reporting Obligations*) and 2.13 (*Trade Transparency*):

a) Members must be aware of, and are responsible for fulfilling, their own transaction reporting obligations under MiFID II and MiFIR, as applicable;

b) SSGMIL in turn shall submit transaction reports in accordance with Article 26 MiFIR to the FCA in respect of transactions entered into by Members that are not MiFID II Investment Firms;

c) Members agree to provide, in accordance with Currenex MTF Rule 11.4. (*Information*) all information that SSGMIL may reasonably require to comply with its own reporting obligations under Applicable Law, including but not limited to the identity of decision makers, the trading capacity of the Member and the Client on whose behalf the Member submitted the Request or Quotes to Currenex MTF no later than by 5:30pm ET on the day of submission;

d) Where required under Applicable Law, SSGMIL will make public, on a continuous basis during a Trading Day, details of transactions, including Requests or Quotes and the depth of trading interest at such prices which are advertised though a Market Segment ("**Pre-Trade Data**"). SSGMIL may obtain and apply a transparency waiver from publication of all or part of the Pre-Trade Data. Where SSGMIL has been granted such a waiver, SSGMIL will be exempted from the requirements to publish Pre-Trade Data to the extent provided for by the applicable transparency waiver; and

e) Where required under Applicable Law, SSGMIL will make public, as close to real-time as technically possible, the price, volume and time of Trades executed on Currenex MTF ("**Post-Trade Data**") on its website (https://www.currenexmtf.com/reporting) where the Currenex MTF Rulebooks and schedule of fees are also available.

12. Compliance, Surveillance and Enforcement

12.1 Jurisdiction – The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

12.1.1 The Currenex MTF Rule 1.3 (*Compliance with the Documentation*) required each Member to comply with all Rules. Equally, each Member must execute the Currenex MTF Membership Agreement, which requires each Member, while accessing the Currenex MTF, to be subject to the Currenex MTF Rules.

12.1.2 Under the Currenex MTF Rule 2.7 (*Effect of Termination*), a member whose access to the Currenex MTF has been suspended or terminated remains subject to the Currenex MTF Rules in respect of any outstanding obligations under these rules and until such obligations are satisfied. Suspended or terminated Members will continue to be liable for their acts or omissions in relation to MTF Business that occurred at any time before they ceased to be a Member.

12.1.3 The Currenex MTF Rule 2.3 (*Continuing Obligations*) enforces obligations on all Members at all times that they are a Member or are using Currenex MTF, including:

a) All Currenex MTF Users must comply at all times with the requirements of these Rules, user guidance, the Member agreement and any notices from SSGMIL;

b) Members must have and maintain adequate internal procedures and controls to prevent the submission of erroneous transactions to Currenex MTF and to ensure its continuing compliance with these Rules, user guidance, the Member agreement and any notices from SSGMIL;

c) Members must have and maintain adequate execution, order management and settlement systems in place;

d) Members must ensure that any persons, who submit requests or quotes to Currenex MTF on behalf of the Member are sufficiently trained, are adequately supervised, and have adequate sophistication, expertise and knowledge to ensure fair and orderly trading on Currenex MTF;

e) Members must continue to meet the eligibility criteria at all times while a Member.

f) Members must co-operate with SSGMIL and the FCA (or any other competent authority) in any investigation conducted in relation to trading on Currenex MTF.

g) Members must ensure that Currenex MTF Users authenticators to access Currenex MTF given to each Member by SSGMIL are kept confidential to such individuals and not disclosed to any other person;

h) Members must, at their own cost and expense, provide all equipment, operating platforms, and software to use Currenex MTF, and meet such technical and systems requirements necessary for use of Currenex MTF and to comply with the Rules and the user guidance as may be prescribed by SSGMIL from time to time, including, without limitation, in relation to its risk management procedures and systems and the security of its technical system as set out in the Currenex MTF user guidance;

i) Members must undertake conformance testing prior to the deployment or a substantial update of the Member's trading system, trading algorithm or trading strategy and to ensure that the algorithms they deploy avoid contributing to or creating disorderly trading conditions;

j) Members must not provide arrangements or in any way enable any person to utilise Currenex MTF by way of 'direct electronic access' (as defined in Article 4(1)(41) of MiFID II), whether such access be by way of 'direct market access' or 'sponsored access' (each as defined in Article 4(1)(41) of MiFID II) or by any other method whatsoever; and

k) Members will be assessed for their compliance with the continuing obligations set out in this Rule 2.3 (*Continuing Obligations*) on a yearly basis and, in the sole discretion of SSGMIL, additional assessments may be undertaken as deemed necessary.

12.2 Member and Market Regulation – The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

12.2.1 Please see the responses to Sections 5 and 7 of Part III of this Application. Rule 11 (*Monitoring, Information and Investigation*) of the Currenex MTF Rulebook, requires Currenex MTF to have systems in place to monitor compliance by Members with view to identify any breaches of the Rules, eligibility criteria and misleading acts, conduct and prohibited practices.

12.3 Availability of Information to Regulators – The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission on a timely basis.

12.3.1 The Currenex MTF Rules ensure that Currenex MTF is able to obtain all information necessary to perform its regulatory obligations. As explained above, under Currenex MTF Rule 2.3 (*Continuing Obligations*), each Member is obligated to provide Currenex MTF with information supporting its compliance with the eligibility criteria of Currenex MTF. Under Currenex MTF Rule 4.2 (*Notification by Members of certain events*), each Currenex MTF Users is required to notify Currenex MTF upon the occurrence of certain events that may have a material effect on such Currenex MTF Users' ability to continue to meet Currenex MTF eligibility criteria.

12.3.2 As described in Rule 6 (*Instrument Eligibility Criteria*) of the Rulebook the Currenex MTF Rulebook provides a framework for Currenex MTF to take disciplinary and enforcement actions. For more information on Currenex MTF powers in this regard, refer to Rule 11.6 (*Sanctions)*. Currenex MTF has the right to share information regarding Currenex MTF Users with any government agency or foreign regulatory authority, including the Commission, to the extent requested or legally required to do so and to share information pursuant to information-sharing agreements**.** Furthermore, under Currenex MTF Rule 2.3 (*Continuing Obligations*), each Currenex MTF User agrees to assist Currenex MTF in complying with Currenex MTF legal and regulatory obligations, to cooperate with Currenex MTF in any inquiry, investigation, audit, examination or proceeding and to authorize Currenex MTF to provide information regarding such Currenex MTF User to regulators to the extent necessary or appropriate where Currenex MTF is exercising a legal or regulatory function.

13. Record Keeping

13.1 Record Keeping – The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of requirements.

13.1.1 Currenex MTF collects data on a daily basis related to its regulated activity in compliance with the FCA Recordkeeping and Reporting requirements. Currenex MTF is required to maintain records of all activities relating to its business as an MTF, including data related to order messaging, order execution, and pricing in a WORM storage. Currenex MTF maintains a precise and complete data history, referred to as the audit trail, for every order and RFQ that is entered into the system and for every transaction executed. Audit trail information for each transaction includes the order/ RFQ instructions, entry time, modification time, execution time, price, quantity, account identifier and parties to the transaction. Detailed information on all order and RFQ trade activity on Currenex MTF is precisely timed. Currenex MTF maintains a computerised trade reconstruction system. All electronic order and cleared trade information is archived to non-rewritable media, and copies are stored at multiple locations to ensure redundancy and critical safeguarding of the data.

13.1.2 Under Currenex MTF Rule 5.1 (*Transaction Records*), Currenex MTF requires Currenex MTF Users to maintain, audit trail data in the form and manner required by the FCA. The FCA requires firms to maintain all audit trail data for a transaction for a minimum of five (5) years.

14. Outsourcing

14.1 Outsourcing – Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

14.1.1 SSGMIL is required by the FCA Outsourcing rules when relying on a third party for the performance of operational functions which are critical for the performance of regulated activities to ensure that it takes reasonable steps to avoid undue additional operational risk. SSGMIL outsource the provision of the platform that performs the matching and execution of FX transactions, market abuse system and receive related IT support for the provision of Currenex MTF platform to its affiliate Currenex, LLC a Delaware corporation who offers the non-regulated form of the Currenex platform and owns the intellectual property of the Currenex platform (including Currenex MTF). The relationship between SSGMIL and its suppliers (including Currenex, LLC and SSBTC, the primary suppliers to SSGMIL in respect of Currenex MTF) is governed by inter-company service agreements (with specific service levels and key performance indicators built in) for the provision of services. SSGMIL acknowledges that the primary responsibility to comply with its regulatory obligations remains with SSGMIL as the operator of Currenex MTF and as the delegating or outsourcing entity.

14.1.2 While management and oversight of Currenex MTF is being performed in the United Kingdom and the Currenex MTF is operated by SSGMIL, some operational functions are being outsourced to affiliates of SSGMIL to allow for the most efficient utilisation of resources for State Street globally in line with the State Street Outsourcing policy.

14.1.3 GlobalLink has been structured so that the business unit has IT resources dedicated to it at the business unit level which meet the standards set by State Street globally. SSGMIL has the authority to request that additional resources are assigned to Currenex MTF should SSGMIL find them inadequate. From a controls perspective, the technology developed or purchased for the purposes of operating Currenex MTF is subject to all the policies and requirements from State Street, including audits.

14.1.4 The intercompany outsourcing arrangements are subject to rigorous State Street internal outsourcing assessment, and are periodically reviewed to ensure compliance with the FCA rules on outsourcing governed by the Senior Managers and Certification Regime and the Systems and Controls section of the FCA Handbook. Any external outsourcing arrangements are subject to the State Street's corporate Third Party Risk Management policies ("**TPRM**"). State Street's TPRM policies provide a process and framework to be followed for assessing and managing risks associated with the use of third party vendors throughout the engagement lifecycle in a manner consistent with compliance and regulatory requirements.

14.1.5 Copies of the respective intercompany outsourcing agreements can be made available upon request.

15. Fees

15.1 Fees –

(a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants in the services offered by the exchange.

(b) The process for setting the fees is fair and appropriate, and the fee model is transparent.

15.1.1 FCA MAR 5.3.1 concerns non-discriminatory access to an MTF by MTF Members and market participants and FCA MAR 5.3A.11 provides that an MTF must maintain comparable fee structures for eligible participants receiving comparable access to, or services from, the MTF. The FCA has further clarified that an MTF may establish different categories of market participants seeking access to, or services from, the MTF, but may not discriminate with respect to fees within a particular category.

15.1.2 Currenex MTF currently charges transaction-based fees and connection fees for access to Currenex MTF which are publically available at https://www.currenexmtf.com/content/disclosures/currenex- mtf-member-fees.pdf. The fees vary depending on the method of execution. Currenex MTF may amend its fee schedule from time to time on notice to Members, but it will remain subject to the requirements of FCA MAR 5.3.1.

15.1.3 Prior to finalising any amendment of the Currenex MTF fee schedule, the fee amendments would be reviewed by Currenex MTF Oversight Committee, (including legal and compliance representatives) to ensure that the fee schedule as amended is consistent with applicable regulatory requirements. As a result, the process for setting the fees is fair and appropriate, and the fee model is transparent to the regulator as well as to Currenex MTF Members.

15.1.4 Under the terms of its Member agreement, Currenex MTF must provide prior notice to Members of any amendment or modification of the fees charged to such Member.

16. Information Sharing and Oversight Arrangements

16.1 Information Sharing and Regulatory Cooperation – The exchange has mechanisms in place to enable it to share information and otherwise cooperate with the Commission, self-regulatory organisations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

16.1.1 One of the core principles of business promulgated by the FCA is Principle 11 (*Relations with regulators*) requiring all firms regulated by the FCA to deal with its regulators in an open and cooperative way, and must disclose to the appropriate regulator appropriately anything relating to the firm of which that regulator would reasonably expect notice.

16.1.2 The Currenex MTF Rulebook also specifically requires Members to co-operate with SSGMIL and any applicable regulator/competent authority of Currenex MTF in any investigation conducted in relation to trading on Currenex MTF and SSGMIL to disclose information collected as part of offering Currenex MTF to the extent necessary to comply with any law, regulation, or regulatory investigation.

16.2 Oversight Arrangements – Satisfactory information sharing and oversight agreements exist between the Ontario Securities Commission and the Foreign Regulator.

16.2.1 The FCA has entered into memorandum of understanding ("**MOU**"[9]) arrangements for co-operative enforcements with foreign regulatory authorities in numerous jurisdictions. The MOUs typically provide for access to non-public documents and information already in the possession of the regulatory authorities, and often include undertakings to obtain documents and to take testimony of, or statements from, witnesses on behalf of a requesting regulatory authority. The FCA and the Commission entered into a memorandum of understanding for cooperative enforcement on 1 June 2013.

17. IOSCO Principles

17.1 IOSCO Principles – To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Securities Commissions (IOSCO) including those set out in the "Principles for the Regulation and Supervision of Commodity Derivatives Markets" (2011).

17.1.1 MiFID II and the FCA rules set down in the FCA Handbook are consistent with the standards set by the International Organisation of Securities Commissions ("**IOSCO**"), such as "Objective and Principles of Securities Regulation" (1998 and 2002) and "Report on Co-operation between Market Authorities and Default Procedures" as well as the "Standards for Regulated Markets" published by the Forum of European Securities Commissions in December 1999.

[9] https://www.osc.gov.on.ca/en/About_mou_20130711_nmou-osc-asc-bcsc-uk-fca.htm

17.1.2 Currenex MTF adheres to the standards of IOSCO in that it must comply with the MiFID II and the FCA rules set down in the FCA Handbook, which reflect the IOSCO standards.

PART IV SUBMISSIONS BY CURRENEX MTF

1. Submissions Concerning the Requested Relief

1.1 Commission Staff Notice 21-711 Multilateral Trading Facility – Exemption from Requirement to be Recognized as an Exchange states:

> "Because MTFs have self-regulatory responsibilities, they are considered 'exchanges' under Ontario securities law. If an MTF provides access to participants in Ontario, it is considered to be doing business in Ontario and must be recognized as an exchange or obtain an exemption from recognition."

Currenex MTF seeks to provide Ontario market participants with direct access to trading in foreign exchange instruments listed on Currenex MTF and, accordingly, is seeking an exemption from the requirement to be recognized as an exchange under the Act.

1.2 The products traded on Currenex MTF include "derivatives" as defined in the Act to be "an option, swap, futures contract, forward contract or other financial or commodity contract or instrument whose market price, value, delivery obligations, payment obligations or settlement obligations are derived from, referenced to or based on an underlying interest", except as excluded.

1.3 Currenex MTF satisfies the criteria for exemption of a foreign exchange trading OTC derivatives from recognition as an exchange, as set out by Commission Staff, as described under Part III of this Application. Ontario market participants that trade in foreign exchange instruments would benefit from the ability to trade on Currenex MTF as they would have access to a range of exchange-traded products and clients seeking to trade those products that may not be otherwise available in Ontario. Currenex MTF offers a transparent, efficient and liquid market for Ontario market participants to trade in NDFs. Stringent FCA oversight of Currenex MTF as well as the sophisticated information systems, regulations and compliance functions that have been adopted by Currenex MTF will ensure that Ontario Users of Currenex MTF are adequately protected in accordance with international standards set by IOSCO. SSGMIL therefore submits that it would be in the public interest to grant the Requested Relief.

1.4 State Street submits that the relief requested from the requirement to be recognized as an exchange under the Act is appropriate because Currenex MTF is registered as an MTF with the FCA, the regulator in its home jurisdiction. Commission staff acknowledges in Commission Staff Notice 21-711 Regulatory Approach for Foreign-Based Stock Exchanges that, in the case of foreign exchanges, "[f]ull regulation, similar to that applied to domestic exchanges, may be duplicative and inefficient when imposed in addition to the regulation of the home or another jurisdiction." If the Commission were to recognise Currenex MTF as an exchange under the Act instead of exempting it from recognition, this type of duplication and inefficiency would occur because Currenex MTF would then be subject to oversight by the Commission similar to the Commission's oversight of domestic exchanges. Oversight of Currenex MTF by the FCA as well as the sophisticated information systems, regulations and compliance functions that have been adopted by Currenex MTF, will ensure that users of Currenex MTF in Ontario are adequately protected in accordance with international standards as reflected in the IOSCO principles. State Street therefore submits that it would not be prejudicial to the public interest to grant the relief requested from the requirement to be recognised under the Act.

PART V OTHER MATTERS

1. Enclosure

A copy of the proposed order is enclosed with this Application.

2. Consent to Publication

Currenex MTF consents to the publication of this Application for public comment.

13.2.3 Lynx ATS – Notice of Proposed Changes and Request for Comment

LYNX ATS

NOTICE OF PROPOSED CHANGES AND REQUEST FOR COMMENT

Omega Securities Inc. (**OSI**) is publishing this Notice of Proposed Changes and Request for Comment in accordance with the "Process for the Review and Approval of the Information Contained in Form 21-101F2 (F2) and the Exhibits Thereto". Market participants are invited to provide the Commission with comments on the proposed changes.

Comments on the proposed changes should be in writing and submitted by April 6, 2020 to:

Market Regulation Branch
Ontario Securities Commission
22nd Floor
20 Queen Street West
Toronto, Ontario
M5H 3S8
marketregulation@osc.gov.on.ca

and

Paul Romain
Head of Market Structure, and
Chief Compliance Officer
Omega Securities Inc.
133 Richmond Street West, Suite 302
Toronto, Ontario
M5H 2L3
Paul.romain@omegaats.com

OSI is proposing to implement the following enhancements to the Lynx ATS (**Lynx**) trading book. Collectively, OSI refers to all the proposed changes as ("**Lynx 2.0**"):

1. Introduce broker preferencing;
2. Amend hidden trading functionality; and
3. Create LST trader ID definition and limit LST trader IDs orders to Post Only.

The proposed features are described in greater detail below and OSI has included execution examples at Appendix A of this cover letter. If approved, the proposed trading fees for hidden executions will be filed with the OSC closer to the implementation date.

A. Description:

1. Introduce broker preferencing

The current matching priority on Lynx is price / time priority. OSI is proposing to introduce broker preferencing into the matching priority for both lit and hidden executions.

The new matching priority will be based on Price/Broker/Time priority except for crosses, which will be granted time priority over other orders on the book at the same price level. The matching priority for hidden orders will be price/broker (attributed and anonymous)/time priority and will be based on the Protected National Best Bid Offer (**PNBBO**). The matching priority for lit orders will be price/broker (attributed only)/time priority. Any hidden executions at the PNBB or PNBO will include lit over dark as per CSA/IIROC dark trading rules. Pegged orders will be given new timestamps at each quote level change, however, they will maintain their original priority levels if multiple orders exist at each pricing level.

2. Amend hidden trading functionality

Currently, Lynx offers hidden mid-point pegged order functionality in equities, ETFs, and listed fixed income products. OSI is proposing to offer hidden trading at and within the PNBBO.

In addition, OSI is proposing to introduce new hidden pegged order functionality that allows for minimum price improvement (**MPI**) order functionality and at the PNBB or PNBO. Hidden trading on Lynx is based on the PNBBO and the following:

- Hidden orders can be entered during regular trading hours between 8:00am and 5:00 pm EST;
- Passive hidden orders can be entered as regular hidden orders, or they can be entered as hidden pegged orders;
- All hidden pegged orders will automatically adjust with the changes in the PNBBO until they are either executed or reach their limit price (i.e. dynamic reprice);
- Hidden pegged MPI orders are based on a full tick improvement to either the PNBB or PNBO;
- Hidden orders will be subject to the recently amended CSA/IIROC dark trading rules;
- The hidden orders can be entered at any pricing point, but will only execute at or between the PNBBO on UMIR based tick increments;
- MPI orders will only trade when the PNBBO is two ticks or greater. During a one tick spread PI orders will be booked and existing orders will maintain their priority but will only trade once the spread widens to two ticks or greater; and
- MPI orders will NOT execute against mid-point orders.

3. Create LST Trader ID definition and limit LST trader IDs to Post Only

OSI is proposing to create a latency sensitive trader (**LST)** definition category. A trader ID will meet the LST definition if they submit orders that;

- are entered by proprietary traders of dealers or direct electronic access (**DEA**) clients of dealers using automated, co-location trading strategies.
- Co-location is defined as the participant having a server located in the same data center as any Canadian exchange or ATS and using it for automated trading strategies.

Lynx will only accept lit or hidden "Post Only" orders from LST trader ID's. Marketplace participants will be required to provide a list of LST trading IDs to OSI prior to implementation. Most Canadian dealers have already determined trading ID's to be either Retail/Institutional and or LST. Prior to launch we will work with subscribers to identify their LST trading ID's. We will have a process in place to monitor ID's based on a variety of metrics such as numbers of orders per day, cancel to trade ratios, number of executions, etc. If we determine that a trader ID is not classified correctly, we will immediately notify the subscriber and ask for written clarification as to the status of that trader ID.

B. Expected date of implementation

OSI is planning on launching Lynx 2.0 in or about Q3 or Q4, 2020 which is dependent on receiving all required regulatory approvals and meeting all scheduled timelines.

OSI plans to reach out to its subscribers and require them to fill out a newly created Lynx trading certification form where subscribers must indicate which of their trading IDs meet the definition of LST. OSI will have a software program that limits these trading IDs to post only. After receiving the trading certification forms and ensuring that the declared LST IDs can only provide post only orders, OSI will begin a full GTE session that adheres to the testing and technology timelines of section 12.3 of NI 21-101 and OSC Staff Notice 21-706.

C. The Rationale for proposed Change:

1. Introduce broker preferencing

The rationale for introducing broker preferencing is to streamline Lynx's functionality to industry standards.

2. Amend hidden trading functionality

All Canadian marketplaces either have a dark trading book or they support hidden orders within their lit trading books. The rationale for introducing additional hidden trading opportunities in Lynx is to allow OSI subscribers to seek better fills through hidden price improvement trading opportunities without having adverse price movements on the underlying security.

3. Create LST Trader ID definition and limit LST trader IDs to Post Only

Canadian regulators have created a market structure that allows investors choice and have created enough competition to lower overall costs and to foster innovation. As a result of this, market participants in Canada can choose where and how to route

orders in their quest to seek best execution for their clients. These venues chosen are comprised of dark, lit, or speedbump marketplaces. Despite this, natural Canadian market participants continue to be frustrated by their inability to trade without the interference from latency sensitive traders, and they continue to experience quote fade, and smaller fill rates leading to increased back office and transaction costs.

Our rationale for concluding that Lynx will lead to an improved market experience for dealers and their clients was in part inspired by the results of a similar market structure model introduction in Europe.

This market was launched as a result of pushback against proprietary predatory trading practices which was harming natural investors. Its main attraction to dealers is that it offers an order book that does not allow aggressive automated non client proprietary trading. This market model has been approved by European regulators and supported by clients, and there has been no evidence of harm to the European equity market structure.

D. The expected Impact of the proposed Significant Change on Market structure for Subscribers, Investors and capital markets:

1. Introduce broker preferencing

OSI sees no impact on subscribers, investors, and capital markets as other marketplaces in Canada offer broker preferencing which has become an industry standard in the way orders are executed.

2. Amend hidden trading functionality

OSI sees no impact on subscribers, investors, and capital markets as other marketplaces in Canada offer hidden order functionality. This proposed change will allow Lynx subscribers to seek better executions for their clients through price improvement trading strategies.

3. Create LST Trader ID definition and limit LST trader IDs to Post Only

OSI sees minimal impact on subscribers, investors, and capital markets with the proposed LST definition and limiting LST trader ID's to only using post only orders. Our definition of an LST trader ID will apply to a very small subset of subscribers and those subscribers are already accustomed to similar restrictions on other Canadian marketplaces.

E. The proposed Significant Change's effect on the systemic risk in the Canadian financial system:

OSI does not see any effect on the systemic risk in the Canadian financial system as Lynx is an unprotected lit marketplace where marketplace participants can avoid quotes or trade through quotes on Lynx if they do not see any improved trading opportunities for their clients.

F. Expected impact of the Significant Change on Omega Securities compliance with Ontario securities law and the requirements of fair access and the maintenance of a fair and orderly market:

1. Introduce broker preferencing

Broker preferencing will not impact OSI's compliance with Ontario securities law and the requirements for fair access and maintenance of fair and orderly markets. Broker preference has been embedded in Canadian market structure for several decades as it has provided significant benefits to dealers with multiple orders and has reduced the amount of off market crossing or internalization.

2. Amend hidden trading functionality

The proposed hidden trading functionality will not impact OSI's compliance with Ontario securities law and the requirements for fair access and maintenance of fair and orderly markets. Dark pools and hidden orders within lit pools exist in all the marketplaces in Canada and have not had any negative impacts to compliance and fair access.

3. Create LST Trader ID definition and limit LST trader IDs to Post Only

This proposed change will comply with securities laws and the requirements for fair access and maintenance of fair and orderly markets will be met.

Order Protection Rule

Considering the rules related to the Order Protection Rule (**OPR**) and the corresponding companion policy guidance, OSI is of the view that no OPR issues exist for either Lynx or any of its subscribers.

Part 6 of National Instrument 23-101 – Trading Rules (**NI 23-101**) details marketplace requirements for order protection and marketplace participants. In addition, section 6.5 of NI 23-101 details requirements related to locked / crossed orders.

Currently, Lynx is an unprotected lit market as it does not meet the minimum market share threshold that was set by the Canadian Securities Administrators (**CSA**)[1]. Subsequently, lit orders entered on Lynx do not meet the definition of protected bid or protected offer. As a result, a marketplace participant may decide to avoid or trade through orders entered on Lynx.

Lynx provides functionality[2] to prevent locked / crossed markets. Despite Lynx's ability to prevent locked / crossed markets, marketplace participants also must not intentionally lock or cross a displayed order on a marketplace. NI 23-101CP provides additional guidance on marketplace participants related to locking / crossing markets with unprotected lit orders. Specifically, Section 6.4(1) of NI 23-101CP states that, "*the intention of section 6.5 of the instrument is to prevent intentional locks and crosses of protected orders".* Section 6.4(2) of NI 23-101CP further states that, *"A displayed order that is not a protected order that becomes locked or crossed with a subsequently entered protected order does not need to be repriced or cancelled".*

While subscribers who enter orders on Lynx must still not lock or cross orders with orders on other protected marketplaces, however, once an order is booked on Lynx passively, any marketplace participants can trade through or lock / cross existing orders in Lynx. OSI is of the view that no OPR issues exist for active LST traders, as active LST traders can still seek liquidity on other protected markets and can trade through passive orders entered on Lynx. So long as Lynx remains an unprotected marketplace, trading through or locking/crossing a better priced order on Lynx fits within OPR and the companion policy.

Should Lynx significantly grow its market share beyond the CSA's minimum market share threshold, Lynx would need to re-evaluate the active lit LST limitation as the proposed model can only function if displayed orders on Lynx remain unprotected. Should Lynx meet the CSA market share threshold, OSI would seek to implement a de minimis speed bump as the speed bump would ensure continuous unprotected status for orders entered on Lynx.

Fair Access

The concept of allowing differentiated treatment in dark pools has been around for several years. The chart below highlights specific examples of differentiated treatment in existing dark markets.

	Proposed Lynx	**Alpha IntraSpread**	**Liquidnet**
Hidden orders	Yes	Yes	Yes
Differentiated treatment	LST traders can only enter post only orders.	Active liquidity removing orders could only be entered from Retail Trader ID's. LST trader IDs were restricted from removing liquidity.	Mainly limited to buy-side only trading participants.

The chart above highlights the existence and precedent for allowing differentiated treatment in hidden pools. Therefore, allowing differentiated treatment in hidden orders or dark pools fits within Canada's regulatory fair access framework. Considering these points, OSI respectfully submits that limiting hidden LST trader ID orders to post only is consistent with the existing fair access framework as it applies to dark/hidden trading pools.

Today, in lit markets, post only orders provide a significant amount of lit order flow, while certain LST restrictions have been approved and continue to exist. For comparison, the chart below highlights the three unprotected lit marketplaces and their respective differentiated treatment that exists in each of them.

	Proposed Lynx	**NEO – N**	**Alpha**
Unprotected lit orders	Yes	Yes	Yes
Speed bump	No	Yes	Yes
Differentiated treatment	LST trader IDs can only submit post only orders.	Active LST traders are subject to a random speed bump.	1. Post only that meets minimum size orders are not subject to speed bump; 2. Different active trading fees between retail and non-retail;

[1] https://www.osc.gov.on.ca/documents/en/Securities-Category2/csa_20190131_23-324-order-protection-rule.pdf.
[2] The functionality includes cancel and/or reprice.

			3. Different passive trading fees between post only and non-post only.

For greater context of the fair access discussion and why OSI believes that the overall benefits of an improved market experience outweigh the active LST restrictions, OSI points to a recent UK regulator paper from the Financial Conduct Authority (**FCA**) Occasional Paper published in January 2020.[3] This paper quantifies the high frequency trading "Arms Race" and calculates its main estimates suggest that eliminating latency arbitrage would reduce the cost of trading by 17% and that the total sums at stake in global equity markets are in the order of $5 billion annually. While this is a UK paper, the paper specifically highlights estimated trader revenues from latency arbitrage in 2018 from the TMX Group to be $61 million alone. Further, the paper concludes that liquidity provision is useful and latency arbitrage is harmful.

While Canadian speedbump models are designed to limit or reduce latency arbitrage, OSI's proposed Lynx 2.0 model is designed to eliminate latency arbitrage outright.

The OSC continues to support competition and innovation in Canadian capital markets and has stated in previous filings that, in certain circumstances, equal access does not necessarily equate to fair access. With that in mind, OSI respectfully submits that the differentiated treatment of LST's in the unprotected Lynx trading book is consistent with the same policy rationale that has been applied to other Canadian venues which allowed them to treat certain marketplace participants differently. Given that post only orders are a significant amount of existing lit order flow, and that certain differentiated treatment exists within unprotected lit markets, OSI is of the view that Lynx meets the fair access requirements.

G. Consultation Details:

OSI is in the process of improving Lynx's competitive structure and have discussed the proposed changes with some of our subscribers.

H. Estimated time for Subscriber and Vendor system modifications for implementation of the proposed Significant Change:

Subscribers and vendors will have enough time to prepare for the implementation of the proposed changes as OSI plans on allowing at a minimum 90 days post approval to implement.

I. Rationale for not requiring public comment:

N/A.

J. Discussion of any alternatives considered:

The only other alternative would be to introduce a complex speed bump model.

[3] https://www.fca.org.uk/publication/occasional-papers/occasional-paper-50.pdf?mod=article_inline

APPENDIX A

EXAMPLES INVOLVING TRADING ON LYNX

The following examples demonstrate the proposed functionality of Lynx.

For all examples, the PNBBO is $10.00 to $10.05. The mid-point is $10.025. Minimum price improvement on bid side is $10.01. Minimum price improvement on sell side is $10.04.

Example 1: Non-Natural marketplace participants adding quotes to Lynx.

	Order Ref #	Lit / Dark	Public Broker #	Timestamp	Volume	Bid	Ask	Status
PNBBO						**10.00**	**10.05**	
Lynx	1	Lit – Buy	02 – LST	10:00:01	3,000	10.05		rejected
PNBBO						10.00	10.05	
Lynx	2	Lit – Buy	02 – LST post only	10:00:02	3,000	10.01		accepted
NBBO						**10.01**	**10.05**	
PNBBO						**10.00**	**10.05**	

Outcome: Order number 1 is rejected as it is an LST order that is NOT marked as post only.

Order number 2 is accepted as it is an LST order that IS marked as post only.

Example 2: Active natural participant removing liquidity.

	Order Ref #	Lit / Dark	Public Broker #	Timestamp	Volume	Bid	Ask	Status
PNBBO						**10.00**	**10.05**	
Lynx	1	Hidden – sell mid-peg	74 – Natural	10:00:01	22,000 Minimum quantity of 2,000		10.025	Hidden offer
Lynx	2	Hidden – sell MPI peg	74 – LST post only	10:00:02	1,000		10.04	Hidden offer
Lynx	3	Lit – sell limit	74 – Natural	10:00:03	4,000		10.05	Lit offer
Lynx	4	Hidden – sell pegged at touch	74 – LST post only	10:00:04	6,000		10.05	Hidden offer
Lynx	5	Hidden IOC buy	02 – Natural		1,000	10.05 limit		Filled at 10.04

Outcome: 02 buys 1,000 shares from 74 at $10.04 due to not meeting mid-point minimum quantity.

Example 3: Active natural participant (non-LST) removing liquidity.

	Order Ref #	Lit / Dark	Public Broker #	Timestamp	Volume	Bid	Ask	Status
PNBBO						**10.00**	**10.05**	
Lynx	1	Hidden – sell mid-peg	74 – Natural	10:00:01	22,000 Minimum quantity of 2,000		10.025	Hidden offer
Lynx	2	Hidden – sell MPI peg	74 – LST post only	10:00:02	1,000		10.04	Hidden offer
Lynx	3	Lit – sell limit	74 – Natural	10:00:03	4,000		10.05	Lit offer
Lynx	4	Hidden – sell limit	74 – LST post only	10:00:04	6,000		10.05	Hidden offer
Lynx	5	Hidden IOC buy	02 – Natural		3,000	10.05 limit		Filled at 10.025

Outcome: 02 buys 3,000 shares from 74 at $10.025 due to meeting mid-point minimum quantity.

Example 4: Active natural participant (non-LST) removing liquidity.

	Order Ref #	Lit / Dark	Public Broker #	Timestamp	Volume	Bid	Ask	Status
PNBBO						**10.00**	**10.05**	
Lynx	1	Hidden – sell mid-peg	74 – Natural	10:00:01	22,000 Minimum quantity of 2,000		10.025	Hidden offer
Lynx	2	Hidden – sell MPI peg	74 – LST post only	10:00:02	1,000		10.04	Hidden offer
Lynx	3	Lit	74 – Natural	10:00:03	4,000		10.05	Lit offer
Lynx	4	Hidden – sell limit at touch	74 – LST post only	10:00:04	6,000		10.05	Hidden offer
Lynx	5	Hidden IOC buy	74 – Natural		5,000	10.05 limit		Filled at 10.025

Outcome: 74 buys 5,000 shares from 74 at $10.025 due to meeting mid-point minimum quantity.

If other passive participants were selling at mid-point, 74 would still execute due to broker preferencing.

Example 5: Active natural participant (non-LST) removing liquidity.

	Order Ref #	Lit / Dark	Public Broker #	Timestamp	Volume	Bid	Ask	Status
PNBBO						**10.00**	**10.05**	
Lynx	1	Hidden – sell mid-peg	74 – Natural	10:00:01	500		10.025	Hidden offer
Lynx	2	Hidden – sell MPI peg	74 – LST post only	10:00:02	1,000		10.04	Hidden offer

Lynx	3	Lit offer at touch	09 – Natural	10:00:03	4,000		10.05	Lit offer
Lynx	4	Hidden – sell limit	74 – LST post only	10:00:04	6,000		10.05	Hidden offer
Lynx	5	Hidden IOC buy	02 – Natural		3,000	10.05 limit		Filled at multiple prices

Outcome: 02 buys 500 shares from 74 at $10.025.

02 buy 1,000 shares from 74 at $10.04.

02 buys 1,500 shares from 09 at $10.05.

Example 6: Active LST with higher limit price.

	Order Ref #	Lit / Dark	Public Broker #	Timestamp	Volume	Bid	Ask	Status
PNBBO						**10.00**	**10.05**	
Lynx	1	Hidden – sell mid-peg	74 - Natural	10:00:01	1,000		10.025	Hidden offer
Lynx	2	Hidden – sell MPI peg	74 – LST post only	10:00:02	1,000		10.04	Hidden offer
Lynx	3	Lit offer at touch	74 - Natural	10:00:03	4,000		10.05	Lit offer
Lynx	4	Hidden – sell limit at touch	74 – LST post only	10:00:04	6,000		10.05	Hidden offer
Lynx	5	Hidden – buy limit at $10.05. Repriced to $10.04	09 – LST post only		2,000	10.04 repriced		Repriced hidden offer. Buys 1,000 shares at 10.04.

Outcome: 09 order is not able to trade with lit quote and reprices as hidden post only bid at $10.04. 74 natural sell mid-point peg sells 1,000 shares to 09 at $10.04 and gets a better fill. 09 locks the hidden quote at $10.04 with 74 as both orders are post only. In this case, there would be a hidden locked market. Locked/crossed markets can and often do happen in hidden pools.

Example 7: Two LST orders posting post only at mid-point causing a locked market.

	Order Ref #	Lit / Dark	Public Broker #	Timestamp	Volume	Bid	Ask	Status
PNBBO						**10.00**	**10.05**	
Lynx	1	Hidden – sell mid-peg	02 – LST post only	10:00:01	1,000		10.025	Hidden mid-point offer
Lynx	2	Hidden – buy mid-peg	74 – LST post only	10:00:02	1,000	10.025		Hidden mid-point bid

Outcome: No fill as both order 1 and 2 are LST and can only trade passively. They are **NOT ELIGIBLE** to trade actively and can only post passively. In this case, there would be a hidden locked market. Locked/crossed markets can and do happen in hidden pools.

Example 8: Active non-natural participant (LST) with buy marketable limit above PNBO.

	Order Ref #	Lit / Dark	Public Broker #	Timestamp	Volume	Bid	Ask	Status
PNBBO						**10.00**	**10.05**	
Lynx	1	Hidden – sell mid-peg	02 – LST post only	10:00:01	1,000		10.025	Hidden mid-point offer
Lynx	2	Hidden – buy limit **10.06**	74 – LST post only	10:00:02	1,000	10.04		Order reprices due to post only instructions
PNBBO				10:00:05		**$10.01**	**$10.07**	
Lynx	1	Hidden – sell mid-peg	02 – LST post only	10:00:06	1,000		10.04	Sell order reprices to 10.04
Lynx	2	Hidden – buy limit 10.06	74 – LST post only	10:00:06	1,000	10.06		Buy order dynamically reprices up to limit price

Outcome A: Order #2 is not eligible to trade with lit offering and is subsequently backed off and booked at one tick ($10.04) below the PNBO. A hidden crossed market now exists on Lynx.

Outcome after PNBBO price change: Order #1 reprices to new mid-point price at 10.04 as a hidden order. Order #2 dynamically reprices up to its limit of 10.06. Hidden crossed market continues to exist.

The following examples demonstrates the proposed broker preferencing to hidden orders including non-attributed hidden orders.

Example 9: Hidden orders on Omega including matching priority based on the **PNBBO**. The chart applies independently for each action and result below.

	Order Ref #	Order Type	Lit/Dark	Timestamp	Volume	BID	ASK
PNBBO						10.00	10.05
Lynx	1	Buy – mid as LST	Hidden #02	10:00:00:00	2,000	10.025	
Lynx	2	Buy – mid as LST	Hidden #07	10:00:00:50	1,000	10.025	
Lynx	3	Buy – mid as LST	Hidden #02 entered as #01	10:00:01:00	2,000	10.025	

Action 1: Order #4 received at 10:00:02:00 – a sell mid-point order from #65 for 1,500 shares with a limit price of $10.00.

Result: #65 sells 1,500 shares to #02 at $10.025 as a result of time priority.

Action 2: Order #4 received at 10:00:02:00 – an IOC sell mid-point order from #07 for 2,000 shares.

Result: #07 sells 1,000 shares to #07 (order 2) at $10.025 as a result of broker preferencing.

#07 sells 1,000 shares to #02 (order 1) at $10.025 as a result of time priority.

Action 3: Order #4 received at 10:00:02:00 – a sell order from #02 for 4,500 shares with a limit price of $10.00.

Result: #02 sells 2,000 shares to #02 (order 1) at $10.025 as a result of time priority.

#02 sells 2,000 shares to #02 (order 3) at $10.025 as a result of hidden non-attributed broker preferencing.

#02 sells 500 shares to #07 (order 2) at $10.025 as a result of remaining order with time priority.

Example 10: Hidden pegged orders on Omega including matching priority based on the PNBBO. The chart applies independently for each action and result below.

	Order Ref #	Order Type	Lit/Dark	Timestamp	Volume	BID	ASK
PCBBO						10.00	10.05
Lynx	1	Buy -mid as LST	Hidden #02	10:00:00:00	2,000	10.025	
Lynx	2	Buy – mid peg limit 10.10 as LST	Hidden #07	10:00:00:50	1,000	10.025	
Lynx	3	Buy – Natural	Hidden #74	10:00:01:00	2,000	10.02	
Lynx	4	Buy – MPI as LST	Hidden #09	10:00:02:00	3,000	10.01	
Lynx	5	Buy – at touch peg	Hidden #05	10:00:03:00	2,000	10.00	
Lynx	6	Buy – lit order	Lit quote #07	10:00:04:00	2,000	10.00	

Action 1: Order #7 received at 10:00:05:00 – an IOC sell order from #80 for 1,500 shares with a limit price of $10.00 that does not seek dark liquidity.

Result: #80 sells 1,500 shares to #07 (order 6) at $10.00 as a result of trading at quote without seeking hidden price improvement. Lit trades over hidden at the quote.

Action 2: Order #7 received at 10:00:05:00 – a IOC sell order from #80 for 9,000 shares with a limit price of $10.00 that seeks dark liquidity.

Result: #80 sells 2,000 shares to #02 (order 1) at $10.025 as a result of price / time priority.

#80 sells 1,000 shares to #07 (order 2) at $10.025 due to price / time priority.

#80 sells 2,000 shares to #74 (order 3) at $10.02 due to price priority.

#80 sells 3,000 shares to #09 (order 4) at $10.01 due to price improvement.

#80 sells 1,000 shares to #07 (order 6) at $10.00 due to lit over dark priority at the touch.

Example 11: Hidden at the touch trading subject to meeting dark rules. The chart applies independently for each action and result below.

	Order Ref #	Order Type	Lit/Dark	Timestamp	Volume	BID	ASK
PCBBO						10.00	10.05
Lynx	1	Buy – mid peg limit 10.10 as LST	Hidden #07	10:00:00:50	1,000	10.025	
Lynx	2	Buy – MPI as LST	Hidden #09	10:00:02:00	1,000	10.01	
Lynx	3	Buy – at touch peg	Hidden #05	10:00:03:00	4,000	10.00	
Lynx	4	Buy – lit order	Lit quote #07	10:00:04:00	2,000	10.00	

Action 1: Order #5 received at 10:00:05:00 – an IOC sell order from #80 for 5,500 shares with a limit price of $10.00 that seeks dark liquidity. The sell order is greater than 50 standard trading units (STUs) and greater than $30,000 and could trade at the PNBB.

Result: #80 sells 1,000 shares to #07 (order 1) at $10.025 due to price priority.

#80 sells 1,000 shares to #09 (order 2) at $10.01 due to price priority.

#80 sells 2,000 shares to #07 (order 4) at $10.00 due to lit priority over dark priority at the touch.

#80 sells 1,500 shares to #05 (order 3) at $10.00 due to eligible hidden at the PNBB.

Action 2: Order 5 received at 10:00:05:00 – an IOC sell order from #05 for 4,500 shares with a price limit of $10.00 that seeks dark liquidity. The sell order is NOT an eligible dark order and cannot trade at the PNBB as it is less than 50 STUs.

Result: #05 sells 1,000 shares to #07 (order 1) at $10.025 due to price priority.

#05 sells 1,000 shares to #09 (order 2) at $10.01 due to price priority.

#05 sells 2,000 shares to #07 (order 4) at $10.00 due to lit priority over dark priority at the touch.

Remaining 500 shares cancelled back to subscriber as it not eligible to trade at hidden at the PNBB.

Action 3: Order 5 received at 10:00:05:00 – a sell order, marked OPR reprice, from #05 for 4,500 shares with a price limit of $10.00 that seeks dark liquidity. The sell order is NOT an eligible dark order as it is less than 50 STUs.

Result: #05 sells 1,000 shares to #07 (order 1) at $10.025 due to price priority.

#05 sells 1,000 shares to #09 (order 2) at $10.01 due to price priority.

#05 sells 2,000 shares to #07 (order 4) at $10.00 due to lit priority over dark priority at the touch.

The remaining 500 shares from #05 (order 5) are repriced as a sell lit order at $10.01. The updated trading book is shown below. This order will dynamically reprice until executed or limit price is reached.

	Order Ref #	**Order Type**	**Lit/Dark**	**Timestamp**	**Volume**	**BID**	**ASK**
PCBBO						10.00	10.05
Lynx	3	Buy – at touch peg	Hidden #05	10:00:03:00	4,000	10.00	10.05
Lynx	5	Sell – limit 10.00	Lit #05	10:00:05:00	500		10.01
PNBBO						10.00	10.05
NBBO						10.00	10.01

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