

The Ontario Securities Commission

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

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Table of Contents

Chapter 1 Notices	1689	Chapter 9 Legislation.....	(nil)
1.1 Notices	1689	Chapter 11 IPOs, New Issues and Secondary	
1.1.1 Notice of Amended and Restated CPC		Financings.....	1923
Operating Agreement	1689	Chapter 12 Registrations.....	1935
1.2 Notices of Hearing.....	(nil)	12.1.1 Registrants.....	1935
1.3 Notices of Hearing with Related		Chapter 13 SROs, Marketplaces,	
Statements of Allegations	(nil)	Clearing Agencies and	
1.4 Notices from the Office		Trade Repositories	1937
of the Secretary	1713	13.1 SROs	(nil)
1.4.1 ESW Capital, LLC and Optiva Inc.	1713	13.2 Marketplaces	1937
1.4.2 Majd Kitmitto et al.	1713	13.2.1 TSX Inc. and TSX Venture Exchange Inc. –	
1.5 Notices from the Office		TSX and TSX Venture Wealth Client Fee Cap	
of the Secretary with Related		Program – Notice of Approval	1937
Statements of Allegations	(nil)	13.2.2 TSX Inc. – Amendments to Broker	
Chapter 2 Decisions, Orders and Rulings	1715	Preferencing Functionality – Notice of	
2.1 Decisions	1715	Approval.....	1939
2.1.1 Cronos Group Inc.	1715	13.2.3 Trumid Financial LLC – Application for	
2.1.2 Manulife Investment Management Limited		Exemptive Relief – Notice of Commission	
and Manulife Real Asset Fund	1720	Orders.....	1939
2.1.3 Trumid Financial, LLC	1724	13.3 Clearing Agencies	1940
2.1.4 Ayr Strategies Inc.	1730	13.3.1 Canadian Derivatives Clearing Corporation	
2.2 Orders.....	1737	(CDCC) – Proposed Amendments to the Risk	
2.2.1 Pacgen Life Science Corporation	1737	Manual of CDCC to Introduce a New Risk	
2.2.2 Cidel Asset Management Inc. and the Top		Model Recalibration Process – OSC Staff	
Funds	1739	Notice of Request for Comment.....	1940
2.2.3 T. Rowe Price Associates, Inc. and T. Rowe		13.4 Trade Repositories	(nil)
Price International Ltd – s. 80 of the CFA.....	1743	Chapter 25 Other Information	1941
2.2.4 Trumid Financial, LLC – s. 15.1 of NI 21-101,		25.1 Consents	1941
s. 12.1 of NI 23-101, s. 10 of NI 23-103,		25.1.1 Leo Acquisitions Corp. – s. 4(b) of Ont. Reg.	
s. 144(1) of the OSA.....	1751	289/00 under the OBCA.....	1941
2.2.5 Majd Kitmitto et al.	1753	Index	1943
2.3 Orders with Related Settlement			
Agreements.....	(nil)		
2.4 Rulings	(nil)		
Chapter 3 Reasons: Decisions, Orders and			
Rulings	1755		
3.1 OSC Decisions.....	1755		
3.1.1 ESW Capital, LLC and Optiva Inc. – s. 104....	1755		
3.2 Director’s Decisions.....	(nil)		
Chapter 4 Cease Trading Orders.....	1771		
4.1.1 Temporary, Permanent & Rescinding			
Issuer Cease Trading Orders	1771		
4.2.1 Temporary, Permanent & Rescinding			
Management Cease Trading Orders	1771		
4.2.2 Outstanding Management & Insider			
Cease Trading Orders	1771		
Chapter 5 Rules and Policies.....	(nil)		
Chapter 6 Request for Comments.....	(nil)		
Chapter 7 Insider Reporting.....	1773		

Chapter 1

Notices

1.1 Notices

1.1.1 Notice of Amended and Restated CPC Operating Agreement

NOTICE OF AMENDED AND RESTATED CPC OPERATING AGREEMENT

March 4, 2021

The Ontario Securities Commission (OSC) is entering into an amended and restated operating agreement with the TSX Venture Exchange (TSXV), the Alberta Securities Commission, the British Columbia Securities Commission, the Manitoba Securities Commission, the Financial and Consumer Services Commission (New Brunswick), the Office of the Superintendent of Securities (Northwest Territories), the Nova Scotia Securities Commission, the Office of the Superintendent of Securities (Prince Edward Island), the Autorité des marchés financiers, the Financial and Consumer Affairs Authority of Saskatchewan, and the Office of the Yukon Superintendent of Securities that sets out the standards the TSXV will apply in its review of capital pool company prospectuses and qualifying transactions under the TSXV's Policy 2.4 Capital Pool Companies (the CPC Policy). The amended and restated operating agreement reflects recent changes to the CPC Policy that became effective on January 1, 2021 and further amends and restates the amended and restated CPC operating agreement approved by the Minister of Finance in 2005. The agreement is being published in accordance with the OSC's obligations under s. 143.10 of the *Securities Act* (Ontario) and was delivered to the Minister of Finance on February 25, 2021.

Questions may be referred to:

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CPC OPERATING AGREEMENT

Among:

TSX Venture Exchange Inc. (**TSX Venture**)

and

Alberta Securities Commission (**ASC**)

British Columbia Securities Commission (**BCSC**)

The Manitoba Securities Commission (**MSC**)

Financial and Consumer Services Commission (New Brunswick) (**FCNB**)

Office of the Superintendent of Securities (Northwest Territories) (**NWT**)

Nova Scotia Securities Commission (**NSSC**)

Ontario Securities Commission (**OSC**)

Office of the Superintendent of Securities (Prince Edward Island) (**PEI**)

Autorité des marchés financiers (**AMF**)

Financial and Consumer Affairs Authority of Saskatchewan (**FCAA**)

and

Office of the Yukon Superintendent of Securities (**YT**)

I. Definitions And Interpretation

A. Definitions

The following terms used in this Agreement have the meanings set out below.

Applicable Commission(s) means each Commission with which a CPC has filed a CPC Prospectus.

Co-lead Regulators means each of the ASC and BCSC.

Commission means any of the ASC, BCSC, MSC, FCNB, NWT, NSSC, OSC, PEI, AMF, FCAA and YT, and includes either or both of the securities regulatory authority and regulator, as applicable.

Control Person has the meaning ascribed to that term in TSX Venture Policy 1.1 - *Interpretation*.

CPC has the meaning ascribed to that term in the CPC Policy.

CPC Filing Statement means a filing statement of the CPC prepared in accordance with Form 3B2 – *Information Required in a Filing Statement for a Qualifying Transaction*.

CPC Information Circular means an information circular of the CPC prepared in accordance with Form 3B1 – *Information Required in an Information Circular for a Qualifying Transaction*.

CPC Jurisdictions means the jurisdictions in which a CPC Prospectus may be filed and receipted and, as at the date of this Agreement, includes Alberta, British Columbia, Manitoba, New Brunswick, Northwest Territories, Nova Scotia, Ontario, Prince Edward Island, Québec, Saskatchewan and Yukon Territory.

CPC Policy means TSX Venture Policy 2.4 - *Capital Pool Companies* as published on December 1, 2020 and effective on January 1, 2021, as amended from time to time.

CPC Prospectus has the meaning ascribed to that term in the CPC Policy and includes a preliminary prospectus, final prospectus and any amendments to a preliminary or final prospectus except where specifically identified to be only the preliminary, final or amended version of such document.

CPC Prospectus Form means Form 3A – *Information Required in a CPC Prospectus*.

CPC Review Staff means those individuals employed by the TSX Venture on a full-time, part-time or secondment basis that review CPC Prospectuses.

Excluded Person means a person who meets the following criteria:

- (a) the person is currently on the board of directors or a member of senior management of an issuer that is listed on TSX Venture or the Toronto Stock Exchange (TSX); and
- (b) either:
 - (i) TSX Venture has:
 - (A) required a PIF and conducted background checks on that person in the prior 60 month period, and those prior background checks did not disclose material information of detriment; and
 - (B) received a statutory declaration from that person confirming that there has been no change in the information disclosed in the most recent PIF filed by that person; or
 - (ii) a Director of TSX Venture has concluded that it is not necessary to conduct background checks because the person has exhibited:
 - (A) a satisfactory track record with public companies in Canada or the United States; and
 - (B) a positive corporate governance and regulatory history.

Final QT Exchange Bulletin has the meaning ascribed to that term in the CPC Policy.

Insider has the meaning ascribed to that term in TSX Venture Policy 1.1 – *Interpretation*.

IPO has the meaning ascribed to that term in TSX Venture Policy 1.1 – *Interpretation*.

IPO Jurisdiction(s) means the one or more CPC Jurisdictions in which the CPC's IPO is made by filing a CPC Prospectus.

IPO Regulator means, in connection with a CPC's IPO, the principal regulator as determined under the Passport System.

NI 13-101 means National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* or its successor legislation.

Passport Jurisdictions means Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Québec, and Saskatchewan.

Passport System means National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions* or any successor instrument.

PIF means TSX Venture's Form 2A - *Personal Information Form* or any successor form.

QT Circular means the CPC Information Circular or CPC Filing Statement, as applicable, required to be prepared in connection with a Qualifying Transaction by a CPC in accordance with the CPC Policy.

QT Circular Form means:

- (a) for a CPC Information Circular, TSX Venture Form 3B1 – Information Required in an Information Circular for a Qualifying Transaction; and
- (b) for a CPC Filing Statement, TSX Venture Form 3B2 – Information Required in a Filing Statement for a Qualifying Transaction.

QT Regulator means, for a CPC that has issued a news release announcing a proposed Qualifying Transaction:

- (a) the securities regulatory authority in the jurisdiction in which the head office of the Resulting Issuer will be located; or
- (b) if the head office of the Resulting Issuer will not be located in one of the Passport Jurisdictions, the principal regulator as determined under the Passport System.

QT Review Staff means those individuals employed by the TSX Venture on a full-time, part-time or secondment basis that review QT Circulars.

Qualified Accountant means an individual employed by TSX Venture on a full-time, part-time or secondment basis, who has a Canadian professional accounting designation or any other individual that the Co-lead Regulators accept in writing.

Qualified Lawyer means an individual employed by TSX Venture on a full-time, part-time or secondment basis, who is a member of a law society in Canada and has a minimum of three years experience primarily in the area of securities law or any other individual that the Co-lead Regulators accept in writing.

Qualified Resource Professional means an individual employed or retained by TSX Venture, who:

- (a) if the Resulting Issuer will be a mining issuer, is:
 - (i) a “qualified person” as defined in National Instrument 43-101 Standards of Disclosure for Mineral Projects (“NI 43-101”) or any successor instrument; or
 - (ii) an engineer or geologist with at least three years experience in mineral exploration, mine development or operation or mineral project assessment, or any combination of these and a member in good standing of a provincial professional association of engineers or geologists where that individual is located; or
- (b) if the Resulting Issuer will be an oil and gas issuer, is:
 - (i) a “qualified reserves evaluator or auditor” as defined in National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities (“NI 51-101”) or any successor instrument; or
 - (ii) a member of a Canadian professional engineering or geoscience association or an equivalent foreign professional association with at least three years of relevant professional experience in the oil and gas industry; or
- (c) the Co-lead Regulators agree in writing to accept as a qualified resource professional.

Qualifying Transaction has the meaning ascribed to that term in the CPC Policy.

Qualifying Transaction Agreement has the meaning ascribed to that term in the CPC Policy.

Receipt means a receipt issued for a CPC Prospectus.

Receipt Refusal Concerns mean concerns that a CPC Prospectus appears to raise any of the specific instances where the Executive Director of the IPO Regulator must not issue a receipt for a prospectus set out in each of section 120 of the *Securities Act* (Alberta); section 120 of the *British Columbia Securities Commission Rules*; section 61 of the *Securities Act* (Manitoba); section 75 of the *Securities Act* (New Brunswick); section 100 of the *Securities Act* (Northwest Territories); section 66 of the *Securities Act* (Nova Scotia); section 61 of the *Securities Act* (Ontario); section 100 of the *Securities Act* (Prince Edward Island); section 15 of the *Securities Act* (Quebec); section 70 of the *Securities Act* (Saskatchewan); and section 100 of the *Securities Act* (Yukon Territory) as amended from time to time, as applicable.

Resulting Issuer has the meaning ascribed to that term in the CPC Policy.

RSP means Investment Industry Regulatory Organization of Canada or any regulation services provider as defined in National Instrument 21-101 *Marketplace Operation* that may be retained by TSX Venture.

SEDAR means the filing system referred to in NI 13-101 (or its successor system), and in relation to all filings and communications between a CPC and TSX Venture that are not filed under that system, means the TSX Venture electronic filing portal.

Significant Waiver means any waiver of the CPC Policy identified in Appendix B to this Agreement.

Sponsor has the meaning ascribed to that term in TSX Venture Policy 1.1 - *Interpretation*.

Target Company has the meaning ascribed to that term in the CPC Policy.

B. Interpretation

The following terms have the meanings ascribed to them in National Instrument 14-101 *Definitions*: jurisdiction; securities directions; securities legislation; securities regulatory authority; and regulator (other than when used in the term IPO Regulator, Co-lead Regulators or QT Regulator).

Reference in this Agreement to the application of, or compliance with, the CPC Policy includes reference to the application of, or compliance with, any other TSX Venture policy or form that is referred to in the CPC Policy.

II. Background and Purpose

1. The CPC program is a two-stage process. The first stage involves the filing and clearing of a CPC Prospectus, the completion of the IPO and the listing of the CPC's common shares on TSX Venture. The second stage involves a Qualifying Transaction Agreement in respect of a proposed Qualifying Transaction, the preparation and filing of a QT Circular with the TSX Venture, and, if necessary, obtaining shareholder approval for the Qualifying Transaction.

After the CPC obtains shareholder approval, if necessary, and files the final QT Circular on SEDAR, it will proceed to close the Qualifying Transaction. It must then submit to the TSX Venture all required post-meeting and post-closing documents. Provided that the Resulting Issuer meets applicable TSX Venture initial listing requirements, TSX Venture issues a Final QT Exchange Bulletin and the issuer is considered a Resulting Issuer.

2. TSX Venture administers the CPC program including the review of CPC Prospectuses and QT Circulars in order to reduce duplication of review, improve market efficiencies and provide consistent treatment of CPCs.
3. In agreeing to accept the CPC program and in determining that the operation of the CPC program is not contrary to the public interest, the Commissions considered that it was appropriate to enter into this Agreement to set out the standards TSX Venture will apply in review of CPC Prospectuses and QT Circulars.
4. The Commissions, in exercising their discretion under securities legislation, intend to rely primarily on the analysis and review carried out by TSX Venture. However, nothing in this Agreement involves a surrender of jurisdiction by any Commission. Each Commission may conduct a detailed review of a CPC Prospectus and retains its discretion to refuse to issue a Receipt. Nothing in this Agreement is intended to create an obligation on any Commission to review a CPC Prospectus or draft QT Circular.

III. IPO Regulator

A. Issuing Receipts

1. The provisions related to the issuance of Receipts are set out in the applicable securities legislation of the IPO Regulator.

B. Commission Review of CPC Prospectus

1. If an IPO Regulator elects to conduct a detailed review of a CPC Prospectus, the IPO Regulator will use its reasonable best efforts to advise the TSX Venture of this in writing, within five business days following the filing of the preliminary CPC Prospectus.
2. An IPO Regulator will, as soon as is practicable after the five business days referred to in section 1, notify the CPC in writing of its intention to review the CPC Prospectus and will advise the CPC to deal directly with the IPO Regulator.
3. The terms of this Agreement shall continue to apply to the parties except to the extent they relate to the review of that CPC Prospectus.

IV. CPC Prospectus: Responsibilities of TSX Venture

1. When reviewing a CPC Prospectus, TSX Venture will exercise its reasonable professional judgment. This Agreement does not impose on TSX Venture a standard higher than that which would be achieved by the exercise of reasonable professional judgment.
2. TSX Venture, on a timely basis, having regard to the procedures set out in Part I of Appendix A, will use its reasonable best efforts to:
 - (a) apply and enforce the requirements outlined in the CPC Policy;
 - (b) review the disclosure contained in the CPC Prospectus to determine whether it:
 - (i) complies in all material respects with the CPC Prospectus Form; and
 - (ii) contains full, true and plain disclosure of all material facts relating to the securities offered by the CPC Prospectus; and
 - (c) identify material issues and consider whether there appears to be any Receipt Refusal Concerns.
3. TSX Venture will not recommend issuance of a Receipt for a final CPC Prospectus where it appears to TSX Venture that:
 - (a) there are unresolved Receipt Refusal Concerns;

- (b) the disclosure in the CPC Prospectus does not comply with subparagraphs 2(b)(i) and (ii), above;
- (c) there is material non-compliance with the CPC Policy and such non-compliance, if allowed, would constitute a Significant Waiver unless the necessary exemption or waiver has been granted in accordance with Part VI of this Agreement;
- (d) any necessary exemption or waiver from securities legislation has not been granted by the relevant Commission or Commissions; or
- (e) the CPC Prospectus does not comply with linguistic obligations prescribed by Québec securities law, if applicable.

V. Qualifying Transaction: Responsibilities of TSX Venture

1. When reviewing a QT Circular filing, TSX Venture will exercise its reasonable professional judgment. This Agreement does not impose on TSX Venture a standard higher than that which would be achieved by the exercise of reasonable professional judgment.
2. When reviewing a QT Circular, TSX Venture, on a timely basis, having regard to the procedures set out in Part 2 of Appendix A, will use its reasonable best efforts to:
 - (a) apply and enforce the requirements outlined in the CPC Policy;
 - (b) review the disclosure in the QT Circular to determine whether it complies in all material respects with the QT Circular Form; and
 - (c) work collaboratively with the AMF in its joint review of the QT Circular, when applicable.
3. TSX Venture will not accept a QT Circular where it appears to TSX Venture that:
 - (a) the QT Circular does not comply in all material respects with the QT Circular Form;
 - (b) there is material non-compliance with the CPC Policy and such non-compliance, if allowed, would constitute a Significant Waiver, unless a Significant Waiver has been granted in accordance with Part VI of this Agreement; or
 - (c) any necessary exemption or waiver from securities legislation has not been granted by the relevant Commission or Commissions.

VI. Waivers and Amendments

A. Waivers of Securities Legislation

1. CPC Prospectus Filings - In regard to pre-filings and waivers of securities legislation in connection with a CPC Prospectus filing, the CPC will deal with its IPO Regulator and follow the process in Part 8 of the Passport System.
2. QT Circular Filings - When an exemption from securities legislation, if applicable, is required in regard to the disclosure that must be provided in a QT Circular, generally, the QT Regulator will act as the principal regulator.
3. TSX Venture Advice - TSX Venture will require a CPC to identify, at the time of filing the preliminary CPC Prospectus and the draft QT Circular, whether any waiver or exemption from securities legislation is required. If a waiver or exemption is required in connection with a CPC Prospectus or QT Circular, TSX Venture will advise the IPO Regulator or QT Regulator, as applicable, whether it has any objection to the requested waiver or exemption.

B. Significant Waivers of CPC Policy and Forms

TSX Venture agrees not to allow any Significant Waiver of the CPC Policy, the CPC Prospectus Form or QT Circular Form unless TSX Venture has considered the proposed waiver and determined that granting the waiver:

- (a) is a reasonable exercise of discretion; and
- (b) does not, to the best of its knowledge, authorize an action which is contrary to applicable securities legislation except where a waiver or exemption has also been obtained from the applicable Commission or Commissions.

C. Amendments to the CPC Policy, CPC Prospectus Form or QT Circular Form

Any proposed amendment to any provision of the CPC Policy, the CPC Prospectus Form or the QT Circular Form (a "Policy Amendment"), will be reviewed and approved by the Co-lead Regulators in accordance with the oversight program established for TSX Venture by the Co-lead Regulators from time to time and in accordance with the procedures set out in Part VI of Appendix A.

VII. Violation of Securities Legislation

In the event that, in the context of a review of a CPC Prospectus or a QT Circular, TSX Venture becomes aware of a circumstance that appears to be a violation of applicable securities legislation:

- (a) TSX Venture will conduct a reasonable inquiry into the matter;
- (b) if the results of the inquiry reveal a circumstance that TSX Venture perceives to be a contravention of securities legislation, TSX Venture will immediately provide written notification to the Applicable Commission(s) to the persons identified in Appendix E; and
- (c) TSX Venture will not take any further action with regard to acceptance of the CPC Prospectus or the QT Circular until the Applicable Commission(s) has confirmed it has no objection to TSX Venture proceeding.

VIII. Reporting

Unless otherwise agreed to by the Co-lead Regulators, TSX Venture will submit to the Co-lead Regulators the information referred to in:

- (a) Paragraphs 3(a) and (c) of Appendix A, except for a Significant Waiver contemplated by section 2 of Appendix B, in which case TSX Venture will submit the name of the CPC and the financial statement requirement that was waived; and
- (b) Part V. B of Appendix A;

within 30 days after the end of the applicable reporting period. Reporting periods are for six month periods ending on June 30 and December 31 of each year.

A Commission may request a copy of such information from the Co-lead Regulators, which will be provided within 15 days of such request.

IX. Miscellaneous

A. Application of this Agreement

- 1. This Agreement will apply only to a CPC that files a preliminary CPC Prospectus with an Applicable Commission as its principal regulator on or after the date this Agreement becomes effective with the Applicable Commission in accordance with Part IX.B.
- 2. In the review of a CPC Prospectus or a Qualifying Transaction for a CPC that filed a preliminary CPC Prospectus prior to the effective date of this Agreement, as set out in Part IX.B with an Applicable Commission, TSX Venture will continue to be subject only to the applicable prior operating agreement.

B. Effective Date

- 1. Except in Ontario, this Agreement will come into effect on January 1, 2021.
- 2. In Ontario, this Agreement will come into effect on the date that the following requirements are met:
 - (a) the Agreement is signed by all of the Commissions; and
 - (b) all applicable Ministerial or governmental approvals are obtained in accordance with the procedures outlined in Part IX.F.5.
- 3. The Co-Lead Regulators will attach an addendum to this Agreement setting out the date that the conditions in section 2 have been met.
- 4. Subject to section A.2, this Agreement replaces an earlier agreement of March 24, 2005, as amended on November 1, 2005 and April 30, 2010.

C. Termination of this Agreement

1. A Commission may terminate its participation in this Agreement by giving six months prior written notice to the other parties. If any Commission terminates its participation in this Agreement, TSX Venture will cease to have authority to review CPC Prospectuses and QT Circulars in that jurisdiction from the effective date of termination. Notwithstanding such termination, the Agreement will continue to bind the other parties.
2. TSX Venture may terminate this Agreement with any one or more Commissions by giving six months prior written notice to the Commission or Commissions. However, the Agreement will continue to apply with regard to any CPC that has filed a preliminary CPC Prospectus before the effective date of TSX Venture's termination.
3. If TSX Venture materially breaches this Agreement, a Commission may terminate this Agreement immediately by giving written notice to the TSX Venture.
4. Any notices of termination under this Part must be given to the persons referred to in Appendix C, and to TSX Venture, as applicable.

D. Appendices

1. Appendix A to this Agreement provides the relevant policies and procedures for review of a CPC Prospectus and a QT Circular, qualifications of CPC Review Staff and QT Review Staff, SEDAR filings, file maintenance and Policy Amendments. Appendix B identifies waivers from the CPC Policy that are considered Significant Waivers. Appendix C identifies the persons to whom proposed CPC Policy, CPC Prospectus Form, and QT Circular Form amendments and amendments to this Agreement are to be addressed. Appendix D identifies the parties required to approve amendments to this Agreement. Appendix E identifies the persons to be notified if TSX Venture perceives that securities legislation has been contravened. The Appendices form part of this Agreement.

E. Consultation

At the request of the Co-lead Regulators, TSX Venture will meet semi-annually with the Co-lead Regulators in order to review and enhance the operation of this Agreement and to identify and discuss issues that have arisen during the applicable reporting period.

F. Amendments to Operating Agreement

1. Subject to sections 4 and 5, amendments may be made to this Agreement upon the written consent of TSX Venture and the parties referred to in Appendix D.
2. If a Commission requests an amendment, the request will be made in writing and sent by that Commission to the Co-lead Regulators to be coordinated by the Co-lead Regulators among the Commissions prior to it being sent to TSX Venture. TSX Venture will endeavor to provide a response or consent to the Co-lead Regulators within 30 days of receipt of any written request from the Co-lead Regulators.
3. If TSX Venture requests an amendment, TSX Venture, in a covering letter sent to the Commissions, will provide a narrative summary and reasons for the proposed amendment together with a copy of the proposed amendment. The Co-lead Regulators will consolidate written responses and/or coordinate consents from the other Commissions and will endeavor to provide such responses and/or consents to TSX Venture within 30 days of receipt of any written request from TSX Venture.
4. An amendment to the information respecting a Commission contained in Appendix C, D or E may be made by that Commission without the consent of any other party to this Agreement, provided that any such Commission sends written notice of such amendment to the other parties in the form of a revised Appendix C, D or E, as the case may be.
5.
 - (a) No amendment to this Agreement shall affect the OSC until the procedures set out in section 143.10 of the Securities Act (Ontario) (the "**Ontario Act**") have been complied with, unless:
 - (i) the amendment is an amendment to an Appendix;
 - (ii) the amendment adds an additional securities regulatory authority as a party to the Agreement; or
 - (iii) on the date upon which the proposed amendment is to become effective, section 143.10 of the Ontario Act no longer applies to this Agreement.
 - (b) Where section 143.10 of the Ontario Act applies to this Agreement, the amendment shall come into effect with respect to the OSC on the date determined in accordance with section 143.10 of the Ontario Act.

Where section 143.10 of the Ontario Act does not apply to this Agreement, the amendment shall come into effect with respect to the OSC upon the written consent of TSX Venture and the parties referred to in Appendix D.

G. Counterparts

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one single Agreement between the parties.

H. Québec Policy Statement

Any CPC benefiting from the CPC Policy Program whose head office is in Québec and which seeks to conduct an IPO by way of a prospectus filed with the AMF, as well as for any CPC conducting a Qualifying Transaction where the CPC's head office is in Québec, or was in Québec at the time of its IPO, are referred to Québec Policy Statement 41-601Q respecting Capital Pool Companies which applies to Qualifying Transactions for CPCs with certain connections to Québec.

I. Privacy

TSX Venture agrees to comply with applicable privacy legislation in performing its obligations under this Agreement.

J. English and French Versions

This Agreement has been drafted in both English and French. Both the English and French versions shall be executed by all signatories and both versions are equally authoritative.

Acknowledgements

By placing their signatures below, each of the parties to this Agreement acknowledges and agrees to the terms of this Agreement.

TSX Venture Exchange Inc.

"Loui Anastasopoulos"
President, Capital Formation

Alberta Securities Commission

"Stan Magidson"
Chair and Chief Executive Officer

British Columbia Securities Commission

"Brenda Leong"
Chair and Chief Executive Officer

The Manitoba Securities Commission

"David Cheop"
Chair and Chief Executive Officer

Financial and Consumer Services Commission (New Brunswick)

"Kevin Hoyt"
Chief Executive Officer

Office of the Superintendent of Securities (Northwest Territories)

"Matthew Yap"
Superintendent of Securities

Nova Scotia Securities Commission

"Paul E. Radford", Q.C.
Chair

Ontario Securities Commission

“Grant Vingo”
Acting Chair and Chief Executive Officer

Office of the Superintendent of Securities (Prince Edward Island)

“Steve Dowling”
Superintendent of Securities

Autorité des marchés financiers (AMF)

“Louis Morisset”
President and Chief Executive Officer

Financial and Consumer Affairs Authority of Saskatchewan

“Roger Sobotkiewicz”
Chair

Office of the Yukon Superintendent of Securities

“Fred Pretorius”
Superintendent of Securities

APPENDIX A

CPC Prospectus and QT Circular Procedures, Review Staff, SEDAR, File Maintenance and Policy Amendments

I. CPC Prospectus

A. Filing of CPC Prospectus

1. **CPC Policy Requirements** - TSX Venture will require each CPC, subject to the grant by TSX Venture of a Significant Waiver:
 - (a) to comply in all material respects with the CPC Policy;
 - (b) to prepare the CPC Prospectus in accordance with the CPC Prospectus Form or any successor form;
 - (c) to identify in the letter to the TSX Venture accompanying the filing of the preliminary CPC Prospectus, in addition to any requirement of Part 8 of the Passport System, any required waivers or exemptive relief applications from applicable securities legislation or TSX Venture requirements;
 - (d) to file the CPC Prospectus together with supporting materials in accordance with the Passport System; and
 - (e) to confirm to the IPO Regulator in a letter accompanying the preliminary filing materials that it has made application, or is concurrently making an application, to TSX Venture to list its securities on TSX Venture.

B. Review of Preliminary CPC Prospectus

1. **Review Procedures** - The following review procedures will apply in respect of the filing of a CPC Prospectus:
 - (a) **General Review** – After the Receipt for the preliminary CPC Prospectus is issued by the IPO Regulator, TSX Venture will promptly review the CPC Prospectus and supporting materials in accordance with its review procedures.
 - (b) **TSX Venture Background Checks** – Subject to paragraph (c), as soon as practicable after receiving the completed PIF for any director, officer, Insider, promoter or Control Person of the CPC, TSX Venture will conduct background checks on each such person or company to determine whether there is relevant material information of detriment with respect to any of such persons or companies that would give TSX Venture reason to believe that there is a Receipt Refusal Concern.
 - (c) **TSX Venture Discretion on Background Checks** - TSX Venture may choose not to carry out a background check for an Excluded Person.
 - (d) **IPO Regulator Background Checks** – The IPO Regulator may initiate its own background checks. In the event the IPO Regulator identifies any questions or concerns as a result of those background checks, the IPO Regulator will deal directly with the CPC or the applicable person or company and, if the questions or concerns are satisfactorily resolved, the IPO Regulator will advise TSX Venture accordingly.
 - (e) **Communication with CPC Relating to Background Checks** – TSX Venture will address details of any issues or concerns arising from background checks conducted on any director, officer, Insider, promoter or Control Person of the CPC as soon as possible after receipt of any such background checks. If confidential inquiries regarding potential information of detriment are necessary, the communication may be made in writing directly with the applicable individual and need not be sent via SEDAR, provided the communication is made in another secure manner if the communication contains personal information. However, TSX Venture must maintain a record of that communication.
 - (f) **General TSX Venture Responsibility** - Subject to paragraph (d), TSX Venture will be responsible for issuing and resolving comments on the CPC Prospectus and related materials and the CPC will generally deal solely with TSX Venture.
 - (g) **TSX Venture Financial Statement Review** – TSX Venture will provide the CPC Prospectus (including the financial statements) to a Qualified Accountant for review and comment if:
 - (i) the financial statements consist of anything other than an audit report, opening balance sheet, an income statement and notes;
 - (ii) there are any items in the balance sheet, income statement, if applicable, or notes that deviate from those customarily contained in the financial statements accompanying a CPC Prospectus; or

- (iii) the auditor's report contains a modified opinion.
 - (h) **TSX Venture Initial Comment Letter** – TSX Venture will use its reasonable best efforts to send an initial comment letter to the CPC within 10 business days of the date of the Receipt for the preliminary CPC Prospectus. The initial comment letter will provide a clear and full explanation of TSX Venture's material concerns and the issues to be resolved, including:
 - (i) any potential Receipt Refusal Concerns;
 - (ii) any material disclosure deficiencies;
 - (iii) any non-compliance with the CPC Policy that, if permitted, would constitute a Significant Waiver and, unless an application has already been filed, a direction to the CPC to comply with the CPC Policy or make application to TSX Venture for a Significant Waiver;
 - (iv) requests for any additional information reasonably required to assess the filing; and
 - (v) a request that the CPC confirm that all necessary applications for exemptive relief or waivers have been made to the Applicable Commissions.
 - (i) **Comments of IPO Regulator** - Within five business days after TSX Venture issues its initial comment letter, the IPO Regulator will use its reasonable best efforts to advise TSX Venture if it has any concerns with the materials filed (other than as a result of background checks), that if left unresolved, would cause it to refuse to issue a Receipt. TSX Venture will incorporate into a subsequent comment letter or send as an attachment to the CPC any concerns raised by the IPO Regulator.
 - (j) **Comments of OSC if an Applicable Commission but not the IPO Regulator** – Within five business days after TSX Venture issues its initial comment letter, the OSC, if they are an Applicable Commission but not the IPO Regulator, will use its reasonable best efforts:
 - (i) to advise TSX Venture and the IPO Regulator if it has any material concerns with the materials that, if left unresolved, would cause it to opt out of the Passport System; or
 - (ii) if there are no outstanding applications for exemption orders or waivers filed with it, to indicate in the SEDAR "Filing Status" screen that it is "Clear for Final".
 - (k) **Notices Under Passport System** – Any notice from an Applicable Commission that is required to be provided under the Passport System to the principal regulator will be provided at the same time to both TSX Venture and the IPO Regulator.
2. **Written Record of Material Communication** - Material communication including all comment letters and responses to comment letters between TSX Venture and the CPC will be in writing and delivered via SEDAR. Any material verbal communication must be documented in writing, including the nature and outcome of the discussion.
 3. **CPC's Response** - Where issues or deficiency comments were initially raised by a Qualified Lawyer or Qualified Accountant, that individual (or a similarly qualified individual) will consider the acceptability of the CPC's responses.
 4. **Invitation to File Final Material** - TSX Venture will only invite the CPC to file final material when the IPO Regulator has indicated via SEDAR, in the SEDAR "Filing Status" screen that it is "Clear for Final". Before the IPO Regulator will indicate that it is "Clear for Final", it will generally require that TSX Venture provide written confirmation that:
 - (a) all of TSX Venture's comments on the preliminary CPC Prospectus filing (including those raised by an Applicable Commission) have been satisfactorily resolved;
 - (b) TSX Venture has received either:
 - (i) the results of all TSX Venture background checks as carried out in accordance with paragraph B 1(b) and any relevant information of detriment revealed by those background checks has been appropriately resolved and, if necessary, disclosed in the CPC Prospectus; or

- (ii) the results of the TSX Venture background checks as carried out in accordance with paragraph B 1(b), in relation to at least a majority of all directors, officers, other Insiders, and promoters, including Excluded Persons, and any Control Person of the CPC and any relevant information of detriment revealed by those background checks, has been appropriately resolved and, if necessary, disclosed in the CPC Prospectus and in regard to each director, officer, Insider or promoter who is not an Excluded Person in regard to whom background checks have not been received, from such person or company:

- (A) an undertaking to resign;
- (B) in the case of an Insider, an undertaking to divest shares; or
- (C) in the case of a promoter, an undertaking to cease to be involved with the CPC;

at the request of TSX Venture, if TSX Venture in its sole discretion, considers the resignation, divestiture or cessation of involvement appropriate;

- (c) to the best of its knowledge, TSX Venture is not aware of any other circumstances that would cause it to conclude that there are Receipt Refusal Concerns or a failure to materially comply with the CPC Policy, except where a Significant Waiver waiving such non-compliance has been granted;
- (d) TSX Venture has granted listing approval to the CPC, conditional only on satisfaction of distribution and other standard conditions of TSX Venture or, if there are any non-standard conditions, those conditions and the concerns underlying those conditions are fully described in the written confirmation;
- (e) either TSX Venture has:
 - (i) not granted any Significant Waiver; or
 - (ii) only granted a Significant Waiver in accordance with Part VI.B of this Agreement; and
- (f) if the CPC Prospectus has been filed in Ontario, the OSC has indicated in the SEDAR "Filing Status" screen that it:
 - (i) is "Clear for Final"; or
 - (ii) has opted out of the Passport System by indicating "Passport System - Opt Out".

5. **Review of Final Material** - When the final CPC Prospectus and supporting material is filed, a member of the CPC Review Staff will promptly review it to determine that acceptable materials have been filed.

6. **TSX Venture's Recommendation to Issue Final Receipt** - If the final materials are acceptable, TSX Venture will use its reasonable best efforts to send to the IPO Regulator, within one business day of receipt of the final materials, a written notice recommending that a Receipt be issued for the final prospectus and stating that:

- (a) acceptable materials have been filed;
- (b) TSX Venture has complied with this Agreement; and
- (c) if the CPC Prospectus has been filed in multiple CPC Jurisdictions, the CPC has filed the letter required under section 7.3(4) of the Passport System.

7. **Final Receipt** - The IPO Regulator will generally require receipt of the written notice from TSX Venture referred to in section B.6 prior to issuing a Receipt for the final CPC Prospectus.

C. Prospectus Amendments

1. **Preliminary Prospectus Amendments** - In the case of an amendment to the preliminary CPC Prospectus, TSX Venture will follow the Passport System as if it were the principal regulator and if the OSC sends comments in respect of the amendment to the preliminary CPC Prospectus, they will provide those comments both to TSX Venture and the IPO Regulator.

2. **Final Prospectus Amendments** - If an amendment to the final CPC Prospectus is filed, the following procedures will apply:
 - (a) Except as varied by this section 2, Part I of Appendix A, as modified by the time period requirements of section 10.4 of the Passport System, will apply to the review by TSX Venture of any amendment.
 - (b) TSX Venture, the IPO Regulator and the OSC, if the amendment was filed in Ontario, will review the amendment and accompanying documents following the procedure set out in paragraphs B.1(h) to (k) to the extent applicable to the amendment filed.
 - (c) Prior to issuing a Receipt for the amendment to the final CPC Prospectus, the IPO Regulator will generally require receipt from TSX Venture of the written confirmation or notice:
 - (i) referred to in section B.4, as may be applicable, and paragraphs B.6(a) and (b); and
 - (ii) if the amendment has been filed in multiple CPC Jurisdictions, that the CPC has filed the letter required under subsection 10.5(4) of the Passport System.

II. Qualifying Transaction Review

A. Review of QT Circular

1. **Initial QT Circular Filing** - TSX Venture will require each CPC, subject to the grant by TSX Venture of a Significant Waiver to:
 - (a) comply in all material respects with the CPC Policy;
 - (b) prepare the draft QT Circular in accordance with the applicable QT Circular Form;
 - (c) make a complete filing with TSX Venture; and
 - (d) identify in the cover letter accompanying the filing of the draft QT Circular, any required waivers or exemptive relief orders required under applicable securities legislation or TSX Venture requirements.
- 1.1 In addition, upon receiving a Qualifying Transaction filing where the AMF is the QT Regulator, TSX Venture will promptly advise the AMF of the submission and review of the filing will follow the review procedures outlined under Appendix A.II.B.
2. **General Review** – Following receipt of a draft QT Circular, TSX Venture will promptly review the QT Circular and supporting materials in accordance with its review procedures.
3. **TSX Venture Background Checks** – Subject to section 4, TSX Venture will conduct, as soon as possible after receiving the PIF for any proposed director, officer, Insider, promoter or Control Person of the Resulting Issuer, background checks on each such person or company. TSX Venture will conduct a reasonable review to determine whether there is relevant material information of detriment with respect to such persons or companies that would give TSX Venture reason not to accept the Qualifying Transaction.
4. **TSX Venture Discretion on Background Checks** - TSX Venture may choose not to carry out a background check for an Excluded Person.
5. **Trading Surveillance** – TSX Venture will cause its RSP to advise it if the RSP becomes aware of any materially unusual trading patterns in the shares of a CPC. TSX Venture or its RSP will conduct such inquiry or investigation as TSX Venture or its RSP, as the case may be, determines to be reasonably necessary or advisable in the circumstances.
6. **Financial Statements** - TSX Venture will provide the financial statements included in the draft QT Circular to a Qualified Accountant for review and comment. The Qualified Accountant will assess whether it appears that:
 - (a) the financial statements (including any pro forma financial statements) comply with Canadian generally accepted accounting principles;
 - (b) the QT Circular contains all of the financial statements required under the CPC Policy and the QT Circular Form; and
 - (c) any future oriented financial information has been prepared in accordance with the CPA Canada Handbook – Accounting and National Instrument 51-102 *Continuous Disclosure Obligations* or any successor instrument.

7. **Financial Statement Disclosure** - A Qualified Accountant or a member of the QT Review Staff will review the QT Circular and the financial statements included in the draft QT Circular to assess whether it appears that the disclosure derived from the financial statements (e.g. management's discussion and analysis and share capitalization) fairly corresponds to the financial statements. If the review is not conducted by a Qualified Accountant, a Qualified Accountant will be consulted, as necessary.
8. **Geological or Engineering Reports** - If the Resulting Issuer will be an oil and gas or mining issuer, TSX Venture will provide any geological or engineering report to a Qualified Resource Professional for review and comment. The Qualified Resource Professional will assess whether it appears that:
 - (a) there are one or more resource properties which have sufficient merit to meet TSX Venture's initial listing requirements;
 - (b) the property reports materially comply with NI 43-101 and Form 43-101F1 *Technical Report* or NI 51-101 or any successor instrument, as applicable; and
 - (c) resource and reserve definitions are substantially in accordance with NI 43-101 or NI 51-101 or any successor instrument, as applicable.
9. **Geological or Engineering Disclosure** - TSX Venture will ensure that a reasonable review of the QT Circular and the geological or engineering reports filed with the QT Circular is conducted to assess whether it appears that:
 - (a) the QT Circular substantially complies with the CPC Policy (including as specified in the QT Circular Form);
 - (b) the funds available to the Resulting Issuer are sufficient to complete any recommended program and the geologist's or engineer's recommendations, conclusions and cost estimates for any recommended program correspond with the details in the "Available Funds" section of the QT Circular; and
 - (c) all material facts contained in the reports are fairly disclosed or summarized in the QT Circular and in this regard, quantities, values and disclosure in the reports are consistent with the disclosure in the QT Circular.

If the Resulting Issuer will be a mining issuer, the review may be conducted by either a Qualified Resource Professional or a member of QT Review Staff, but if the property contains reserves and resources or an economic valuation, such as scoping, pre-feasibility or feasibility studies, the review must be conducted by a Qualified Resource Professional.

If the Resulting Issuer will be an oil and gas issuer, the review may be conducted either by a Qualified Resource Professional or a member of the QT Review Staff. In assessing the materiality of information in the reports, the QT Review Staff will consider any comments received from the Qualified Resource Professional and, if necessary, will consult with the Qualified Resource Professional.
10. **TSX Venture Comment Letters** - TSX Venture will send a comment letter to the CPC, which will provide a clear and full explanation of TSX Venture's material concerns and issues to be resolved, including:
 - (a) any matters arising out of the review conducted in accordance with section 2 of Part V of this Agreement;
 - (b) any material disclosure deficiencies;
 - (c) any material non-compliance with the CPC Policy that, if permitted, would constitute a Significant Waiver and, unless an application has already been filed, a direction to the CPC to comply with the CPC Policy or make application to TSX Venture for a Significant Waiver;
 - (d) requests for any additional information reasonably required to assess the filing; and
 - (e) a request that the CPC identify any exemptive relief or waivers required from a Commission in connection with a Qualifying Transaction and confirmation that all necessary applications for exemptive relief or waivers have been made.
11. **Geologist/Engineer Comments** - If the Resulting Issuer will be a mining or oil and gas issuer, the CPC will be provided with a comment letter that identifies any material issues or deficiencies identified by a Qualified Resource Professional arising from the review contemplated by section 8, above. The Qualified Resource Professional's comments will be provided to the CPC as soon as reasonably possible. They may be provided with the initial comment letter or as a separate letter.
12. **Written Record of Material Communication** - Material communication between TSX Venture and the CPC will generally be in writing. Any material verbal communication must be documented in writing, including the nature and outcome of the discussion.

13. **Background Check Comment Letters** - Details of any issues or concerns arising from background checks conducted on any director, officer, Insider, promoter or Control Person of the Resulting Issuer will be addressed as soon as possible after receipt of the information. If confidential inquiries regarding potential information of detriment are necessary, the communication may be made in writing directly with the applicable individual, provided the communication is made in another secure manner if the communication contains personal information. However, TSX Venture will maintain a record of that communication.
 14. **CPC's Response** - If issues or deficiency comments were initially raised by a Qualified Lawyer, Qualified Accountant or Qualified Resource Professional, that individual (or another similarly qualified individual) will consider the acceptability of the responses.
 15. **Conditions to Giving Clearance to File and Send QT Circular** - TSX Venture will not advise the CPC that it is clear to file and send the QT Circular unless:
 - (a) all of TSX Venture's comments on the draft QT Circular have been satisfactorily resolved;
 - (b) TSX Venture has received either:
 - (i) the results of all background checks as carried out in accordance with section A3 above and any relevant information of detriment revealed by those background checks has been appropriately resolved and, if necessary, disclosed in the QT Circular; or
 - (ii) the results of TSX Venture background checks, as carried out in accordance with section A3 above, in relation to at least a majority of all the proposed directors, officers, Insiders, and promoters, including Excluded Persons, and any Control Person of the Resulting Issuer, and any relevant information of detriment revealed by those background checks has been appropriately resolved and, if necessary, disclosed in the QT Circular and in regard to each director, officer, Insider or promoter who is not an Excluded Person in regard to whom background checks have not been received, from such person or company:
 - (A) an undertaking to resign;
 - (B) in the case of an Insider, an undertaking to divest shares; or
 - (C) in the case of a promoter, an undertaking to cease to be involved with the Resulting Issuer;
 at the request of TSX Venture, if TSX Venture in its sole discretion, considers the resignation, divestiture or cessation of involvement appropriate;
 - (c) TSX Venture is not aware of any other circumstances that would cause it, having regard to section 2 of the Agreement, to conclude that there has been a failure to materially comply with the CPC Policy, except where a Significant Waiver waiving such non-compliance has been granted;
 - (d) TSX Venture has granted conditional acceptance of the Qualifying Transaction;
 - (e) any Significant Waivers required to be granted by TSX Venture have been granted;
 - (f) to the best of its knowledge, any exemptive relief or waiver required from any Commission in connection with the Qualifying Transaction has been granted or the relevant Commission has confirmed that the QT Circular can be sent to shareholders or filed on SEDAR, as applicable, prior to the granting of such relief or waiver; and
 - (g) if section II.B.1 of Appendix A to this Agreement applies, the AMF has issued its notice of acceptance of the Qualifying Transaction.
 16. **Post Meeting and Closing Material** - A member of the QT Review Staff will promptly review the post-meeting (if applicable) and closing materials to determine whether the materials comply with the CPC Policy. In the event that the materials are acceptable and all conditions to TSX Venture's acceptance of the Qualifying Transaction have been satisfied (or, subject to the terms of this Agreement, waived), the QT Review Staff member will promptly issue a Final QT Exchange Bulletin (as defined in the CPC Policy) confirming that the Qualifying Transaction has been completed and that the Resulting Issuer is not a CPC.
- B. Procedures for AMF Review of QT Circulars**
1. AMF staff will review all QT Circulars (a) where the head office of the CPC is in Québec or was in Québec at the time of its IPO, and the CPC filed its CPC Prospectus only in Québec, or in Québec and in other jurisdictions where the AMF is the principal regulator pursuant to the Passport System; and (b) where the CPC has its head office in Québec when

conducting its Qualifying Transaction. Staff at the TSX Venture's Montreal office will conduct such review in consultation with AMF staff.

2. TSX Venture staff will review and accept for filing QT Circulars in accordance with Appendix A of this Agreement.
3. At the time of providing initial comments to the CPC, TSX Venture will send a copy of its comments to AMF staff.
4. Within five business days of receipt of a copy of TSX Venture's comments, AMF staff will use its reasonable best efforts to: (i) send its own comments to the CPC, copied to TSX Venture; and (ii) advise TSX Venture if the comments are not substantive in nature.
5. TSX Venture will copy the AMF on all subsequent comments provided to the CPC pertaining to the vetting of the QT Circular.
6. The AMF will copy TSX Venture on all subsequent comments provided to the CPC pertaining to the vetting of the QT Circular.
7. Once the AMF is satisfied that its comments have been satisfactorily resolved, it will advise the CPC accordingly, copying TSX Venture.
8. Upon receipt of the confirmation from the AMF, and if all of TSX Venture's comments have also been satisfactorily resolved, then TSX Venture will advise the CPC, copying the AMF, that it is clear to file and send the QT Circular in accordance with Appendix A of this Agreement.

III. CPC Review Staff and QT Review Staff: Qualifications and Training

A. General

1. CPC Review Staff and QT Review Staff must:
 - (a) have adequate access to a Qualified Accountant;
 - (b) have adequate access to a Qualified Lawyer who can provide legal advice relating to securities legislation and securities directions of a CPC Jurisdiction; and
 - (c) report to and be appropriately supervised by an individual who is a Qualified Accountant or a Qualified Lawyer or holds an MBA or CFA or is an individual who is otherwise accepted in writing by the Co-lead Regulators. A manager of the CPC Review Staff or QT Review Staff, as the case may be, must also qualify as a member of the review staff that he or she oversees.
2. TSX Venture will consider the complexity and significance of each CPC Prospectus filing and each QT Circular filing to ensure that it is assigned to one or more suitably qualified and experienced members of its CPC Review Staff or QT Review Staff, as applicable.

B. CPC Review Staff

1. A member of the CPC Review Staff that does not meet the qualifications of QT Review Staff set out in part C must hold a Bachelors of Commerce degree (or have substantially equivalent education and experience) and have at least one year's experience as an analyst or similar role with TSX Venture or a predecessor of TSX Venture or have other qualifications accepted by the Co-lead Regulators.

C. QT Review Staff

1. Each member of the QT Review Staff must:
 - (a) have an MBA, CFA, a Canadian professional accounting designation or be a lawyer qualified to practice law in a CPC Jurisdiction;
 - (b) have other comparable business and financial education or experience and a minimum of three years' full-time supervised experience reviewing prospectuses, QT Circulars (or their predecessors) or disclosure documents in connection with reverse takeovers and changes of business;
 - (c) be a Qualified Resource Professional; or
 - (d) have such other qualifications as may be accepted in writing by the Co-lead Regulators.

IV. Use of SEDAR

1. With respect to a CPC Prospectus, except as permitted by NI 13-101 or as otherwise agreed to in writing by the Co-lead Regulators, TSX Venture will not, other than through SEDAR:
 - (a) accept the filing of any CPC Prospectus or any supporting document required to be filed by the CPC with an Applicable Commission;
 - (b) provide any written correspondence to a CPC (including any correspondence which includes comments of an Applicable Commission); or
 - (c) accept the filing of any response to comments made (including responses to comments of an Applicable Commission) or the filing of any supplementary documents.
2. TSX Venture will not consider a CPC Prospectus or any supporting document required to be filed with an Applicable Commission, to be “filed” unless it has been properly filed in accordance with NI 13-101.
3. Notwithstanding subsection IV 1, PIFs and other documents required to be submitted by a Sponsor are not required to be filed via SEDAR, provided that the submission of any PIF or other document containing personal information is made in another secure manner.
4. Notwithstanding anything in this Agreement relating to filing or communication to be made or delivered via SEDAR, such filing or communication shall be subject to any exemption permitted by NI 13-101.

V. File Maintenance

A. File Maintenance

1. TSX Venture will maintain for a period of seven years, the files or reports referred to in this Part VA and the following Part VB.
2. TSX Venture will maintain a file in paper or electronic format of all material documents filed in connection with a CPC Prospectus filing or QT Circular filing, including:
 - (a) if deemed material by TSX Venture, in relation to a CPC Prospectus filing, all versions of the CPC Prospectus filed with TSX Venture, all supporting documents and correspondence, including correspondence with any Applicable Commission;
 - (b) if deemed material by TSX Venture, in relation to a Qualifying Transaction filing, all versions of the QT Circular filed with TSX Venture, including all supporting documents and correspondence;
 - (c) if deemed material by TSX Venture, all internal notes and comments on a CPC Prospectus, a QT Circular or the Qualifying Transaction, including comments by the Qualified Accountant, Qualified Lawyer, Qualified Resource Professional or any other expert retained by TSX Venture;
 - (d) each letter recommending to the IPO Regulator to issue a receipt for a CPC Prospectus;
 - (e) each letter confirming that TSX Venture is in a position to accept final materials;
 - (f) a record evidencing that all comments made by TSX Venture, including those raised by an Applicable Commission have been satisfactorily addressed;
 - (g) the Sponsor report, if applicable;
 - (h) the minutes of the Exchange’s listing committee in relation to each conditional approval for listing of a CPC and each conditional acceptance of a Qualifying Transaction; and
 - (i) identification of whether any Significant Waiver was requested or granted in regard to the file.
3. TSX Venture will maintain a file of all Significant Waivers of the CPC Policy granted. The file will:
 - (a) identify the name of the CPC;
 - (b) include the submissions made in support of the Significant Waiver; and
 - (c) include TSX Venture’s reasons for accepting the Significant Waiver.

4. TSX Venture is not required to maintain its own file of documents that have been filed via SEDAR.

B. Maintaining a Database

1. TSX Venture will maintain a record of the number of CPC Prospectuses filed, the number that were rejected by the Exchange's listing committee and the number that were withdrawn or abandoned. In regard to any that were rejected by the Exchange's listing committee, the reasons for that rejection will be recorded. If known, the reasons for withdrawal or abandonment will also be recorded.
2. In regard to Qualifying Transaction filings, TSX Venture will maintain a database which contains the following information:
 - (a) the name of each CPC, each Resulting Issuer and each of their respective trading symbols;
 - (b) the date of announcement of the proposed Qualifying Transaction;
 - (c) the date of initial filing of the QT Circular;
 - (d) the dollar amount of any concurrent financing and whether it was conducted by the CPC or a Target Company;
 - (e) the proposed industry sector of the Resulting Issuer;
 - (f) the location of the Resulting Issuer's head office and, if different, the location of its principal business operations;
 - (g) the TSX Venture office that reviewed the QT Circular;
 - (h) whether the Qualifying Transaction is a Related Party Transaction as defined in TSX Venture Policy 5.9 – *Protection of Minority Security Holders in Special Transactions*;
 - (i) escrow requirements or other resale restrictions imposed by TSX Venture on any person, other than as contemplated by TSX Venture's Policy 5.4 – *Escrow, Vendor Consideration and Resale Restrictions*;
 - (j) whether TSX Venture concluded that any person meets the criteria in section (b)(ii) of the definition of Excluded Person and, if so, the name of the person, and the reasons for the decision;
 - (k) if applicable, the name of the Sponsor;
 - (l) whether the Resulting Issuer is a Tier 1 or Tier 2 issuer; and
 - (m) the date of TSX Venture's Final QT Exchange Bulletin.
3. TSX Venture will maintain a record of the number of QT Circulars filed, the number that were rejected by the Exchange's listing committee and the number that were withdrawn or abandoned. In regard to any that were rejected by the Exchange's listing committee, the reasons for that rejection will be maintained. If known, the reasons for the withdrawal or abandonment of any Qualifying Transaction will also be recorded.
4. TSX Venture will maintain a record of all complaints received in relation to a CPC, a non-arm's length party to a CPC, the Sponsor or other person or company relating to the CPC or a Qualifying Transaction. TSX Venture will maintain and provide, or may cause any RSP retained by TSX Venture to maintain and provide, to an Applicable Commission, a report reflecting the following information:
 - (a) the name of the parties against whom the complaint was made or the investigation was started;
 - (b) the date the complaint was received or investigation started;
 - (c) a brief summary of the complaint or the allegations under investigation;
 - (d) in regard to any complaint or investigation that has been resolved or concluded, the date of resolution or conclusion and a brief summary of the resolution or conclusion.

VI. Policy Amendments

1. Subject to section 4, TSX Venture will file any Policy Amendment for review and approval with the Co-lead Regulators, and TSX Venture will concurrently provide copies of the Policy Amendment to the other Commissions addressed to the persons identified in Appendix C.
2. Within 10 business days of receipt of the Policy Amendment, the other Commissions will endeavour to provide written notice to the Co-lead Regulators as to:

- (a) any comments on the Policy Amendments; or
 - (b) advice that they have no comments on the Policy Amendments.
- 3. In the event that the Co-lead Regulators advise TSX Venture that a Commission objects to a Policy Amendment that would otherwise be approved by the Co-lead Regulators in accordance with the oversight program, such Policy Amendment will not take effect in the objecting Commission's jurisdiction until such time as the Co-lead Regulators advise that the objection has been withdrawn.
- 4. Notwithstanding section 1, TSX Venture may make a Policy Amendment:
 - (a) if that Policy Amendment involves only:
 - (i) the correction of mistakes with regard to spelling, punctuation, grammar, inaccurate cross-references or other similar merely typographical errors;
 - (ii) stylistic reformatting, including in regard to headings and paragraph numbering;
 - (iii) non-material amendments required to ensure consistency between TSX Venture policies and rules and applicable securities legislation or securities directions; or
 - (iv) other non-material amendments agreed to by the Co-Lead Regulators; or
 - (b) if TSX Venture determines that the Policy Amendment is of an urgent nature, in which case:
 - (i) prior to publishing the Policy Amendment, TSX Venture will notify the Co-lead Regulators;
 - (ii) TSX Venture may immediately proceed to institute and publish the Policy Amendment; and
 - (iii) TSX Venture will concurrently send the Policy Amendment to the Co-lead Regulators advising that the Policy Amendment has been published and requesting the Co-lead Regulators to review and approve the Policy Amendment. TSX Venture will also send a copy of the Policy Amendment concurrently to every other Commission addressed to the persons identified in Appendix C.
- 5. A Policy Amendment that is published in accordance with paragraph 4 (b) will cease to have any force and effect:
 - (a) in all CPC Jurisdictions on the earlier of:
 - (i) the date of receipt by TSX Venture of a notice of objection from the Co-lead Regulators; or
 - (ii) the 60th day following publication, if the Co-lead Regulators have failed to approve the Policy Amendment; and
 - (b) in a CPC Jurisdiction on the date of receipt by TSX Venture of notice from the Co-lead Regulators that a Commission objects to the implementation of the Policy Amendment in that Commission's jurisdiction.

In the event the Co-lead Regulators object or fail to provide notice of approval in accordance with section 5 (a) or notify TSX Venture of an objection pursuant to section 5 (b), TSX Venture will promptly publish an Exchange Bulletin (as defined in TSX Venture Policies) advising that the Policy Amendment has no further force and effect in all or any particular CPC Jurisdiction.

APPENDIX B

Significant Waivers of CPC Policy

The parties agree that waivers of the following provisions of the CPC Policy will constitute Significant Waivers:

1. distribution requirements (at either the IPO or Qualifying Transaction stage) where the issuer's distribution is, or in the case of a Resulting Issuer will be, less than 80% of any one or more of the applicable distribution requirements;
2. any financial statement requirement in connection with a Qualifying Transaction;
3. financial requirements specified in TSX Venture's initial listing requirements, such as net tangible assets, earnings, revenues, expenditures, reserves or working capital if the actual financial circumstances of the Resulting Issuer will represent less than 80% of any one or more of the stated financial requirements;
4. the initial listing requirements applicable to a Resulting Issuer upon completion of the Qualifying Transaction relating to a holding of at least a 50% interest in the asset, business or property which is the subject of the application, unless this is otherwise permitted by Policy 2.1 – *Initial Listing Requirements*;
5. the requirement to escrow securities, including any material variation or waiver of the securities to be escrowed, the persons to be escrowed or the terms of release of escrowed securities, provided that any variation resulting in less stringent requirements from that which would be obtained if the guidelines in National Policy 46-201 *Escrow For Initial Public Offerings* were applied will be considered to be a material variation or waiver unless otherwise permitted by the CPC Policy;
6. the requirement for shareholder approval where required by the CPC Policy;
7. initial listing requirements as to residency requirements for proposed directors or senior officers of the CPC;
8. material seed capital or initial public offering financing requirements for CPCs including minimum and maximum price per share and minimum and maximum proceeds;
9. restrictions on private placements or other financings if it allows the CPC to raise, in aggregate, in excess of \$10,000,000 (after including proceeds from the seed capital and IPO);
10. sponsorship requirements, including:
 - (a) waiver of sponsorship, other than as may be permitted under TSX Venture Policy 2.2 – *Sponsorship and Sponsorship Requirements*; or
 - (b) acceptance of a Sponsor report from a person not qualified to act as Sponsor;
11. limits on agent's compensation or options;
12. restrictions on material payments prohibited under the CPC Policy;
13. material requirements of NI 51-101 or any other successor instrument;
14. prohibitions on the issuance of securities; or
15. the prohibition against the Resulting Issuer being a mutual fund as defined under applicable securities legislation.

APPENDIX C

Addressees for CPC Policy and Form Amendments and Amendments to the Agreement

Director, Corporate Finance
Alberta Securities Commission
600 – 250 5th Street SW
Calgary, Alberta T2P 0R4

Director, Corporate Finance
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, British Columbia V7Y 1L2

Deputy Director, Corporate Finance
The Manitoba Securities Commission
500 – 400 St. Mary Avenue
Winnipeg, Manitoba R3C 4K5

Executive Director of Securities
Financial and Consumer Services Commission (New Brunswick)
85 Charlotte Street, Suite 300
Saint John, New Brunswick E2L 2J2

Superintendent of Securities
Office of the Superintendent of Securities (Northwest Territories)
1st Floor, Stuart M. Hodgson Building
5009 – 49th Street
P.O. Box 1320
Yellowknife, Northwest Territories X1A 2L9

Director, Corporate Finance
Nova Scotia Securities Commission
5251 Duke Street, Suite 400
P.O. Box 458
Halifax, Nova Scotia B3J 2P8

Director, Corporate Finance
Ontario Securities Commission
20 Queen Street West, 20th Floor
Toronto, Ontario M5H 3S8

Superintendent of Securities
Office of the Superintendent of Securities (Prince Edward Island)
95 Rochford Street
P.O. Box 2000
Charlottetown, Prince Edward Island C1A 7N8

Director, Corporate Finance
Autorité des marchés financiers (Québec)
800 Rue du Square-Victoria
Montréal, Québec H4Z 1A1

Director, Corporate Finance
Financial and Consumer Affairs Authority of Saskatchewan
Suite 601, 1919 Saskatchewan Drive
Regina, Saskatchewan S4P 4H2

Superintendent of Securities
Office of the Yukon Superintendent of Securities
307 Black Street
Whitehorse, Yukon Y1A 2N1

APPENDIX D

Parties Required to Approve Amendments to the Agreement¹

Chair and Chief Executive Officer
Alberta Securities Commission
600 – 250 5th Street SW
Calgary, Alberta T2P 0R4

Chair and Chief Executive Officer
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, British Columbia V7Y 1L2

Chair and Chief Executive Officer
The Manitoba Securities Commission
500 – 400 St. Mary Avenue
Winnipeg, Manitoba R3C 4K5

Chief Executive Officer Financial and Consumer Services Commission (New Brunswick)
85 Charlotte Street, Suite 300
Saint John, New Brunswick E2L 2J2

Superintendent of Securities
Office of the Superintendent of Securities (Northwest Territories)
1st Floor, Stuart M. Hodgson Building
5009 – 49th Street
P.O. Box 1320
Yellowknife, Northwest Territories X1A 2L9

Chair
Nova Scotia Securities Commission
5251 Duke Street, Suite 400
P.O. Box 458
Halifax, Nova Scotia B3J 2P8

Chair
Ontario Securities Commission
20 Queen Street West, 20th Floor
Toronto, Ontario M5H 3S8

Superintendent of Securities
Office of the Superintendent of Securities (Prince Edward Island)
95 Rochford Street
P.O. Box 2000
Charlottetown, Prince Edward Island C1A 7N8

President and Chief Executive Officer
Autorité des marchés financiers (AMF)
800 Rue du Square-Victoria
Montréal, Québec H4Z 1A1

Chair
Financial and Consumer Affairs Authority of Saskatchewan
Suite 601, 1919 Saskatchewan Drive
Regina, Saskatchewan S4P 4H2

Superintendent of Securities
Office of the Yukon Superintendent of Securities
307 Black Street
Whitehorse, Yukon Y1A 2N1

¹ In some jurisdictions, amendments are also subject to [Ministerial or governmental approvals](#)

APPENDIX E

Addressees for Notification of Securities Legislation Contraventions

Director, Enforcement
Alberta Securities Commission
600 – 250 5th Street SW
Calgary, Alberta T2P 0R4

Director, Enforcement
copy to: Director, Corporate Finance
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, British Columbia V7Y 1L2

Director, General Counsel
The Manitoba Securities Commission
500 – 400 St. Mary Avenue
Winnipeg, Manitoba R3C 4K5

Director of Enforcement
Financial and Consumer Services Commission (New Brunswick)
85 Charlotte Street, Suite 300
Saint John, New Brunswick E2L 2J2

Superintendent of Securities
Office of the Superintendent of Securities (Northwest Territories)
1st Floor, Stuart M. Hodgson Building
5009 – 49th Street
P.O. Box 1320
Yellowknife, Northwest Territories X1A 2L9

Director, Enforcement
Nova Scotia Securities Commission
5251 Duke Street, Suite 600
P.O. Box 458
Halifax, Nova Scotia B3J 2P8

Director, Enforcement
copy to: Director, Corporate Finance
Ontario Securities Commission
20 Queen Street West, 20th Floor
Toronto, Ontario M5H 3S8

Superintendent of Securities
Office of the Superintendent of Securities (Prince Edward Island)
95 Rochford Street
P.O. Box 2000
Charlottetown, Prince Edward Island C1A 7N8

Senior Director, Litigation
Autorité des marchés financiers (AMF)
800 Rue du Square-Victoria
Montréal, Québec H4Z 1A1

Director, Enforcement
Financial and Consumer Affairs Authority of Saskatchewan
Suite 601, 1919 Saskatchewan Drive
Regina, Saskatchewan S4P 4H2

Superintendent of Securities
Office of the Yukon Superintendent of Securities
307 Black Street
Whitehorse, Yukon Y1A 2N1

1.4 Notices from the Office of the Secretary

1.4.1 ESW Capital, LLC and Optiva Inc.

**FOR IMMEDIATE RELEASE
February 24, 2021**

**ESW CAPITAL, LLC and
OPTIVA INC.,
File No. 2020-26**

TORONTO – The Commission issued its Reasons for Decision in the above named matter.

A copy of the Reasons for Decision dated February 23, 2021 is available at www.osc.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

1.4.2 Majd Kitmitto et al.

**FOR IMMEDIATE RELEASE
March 1, 2021**

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

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

A copy of the Order dated March 1, 2021 is available at www.osc.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

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Cronos Group Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted permitting issuer to send-proxy-related materials to registered securityholders and beneficial owners using a delivery method permitted under U.S. federal securities law – issuer will send proxy-related materials in compliance with Rule 14a-16 under the Securities Exchange Act of 1934 of the United States of America and will provide additional information relating to meetings and delivery and voting processes.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 9.1, 9.1.5 and 13.1.

National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer, ss. 2.7, 9.1.1 and 9.2.

February 24, 2021

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
CRONOS GROUP INC.
(the “Filer”)

DECISION

Background

The securities regulatory authority or regulator in the Jurisdiction (the “**Decision Maker**”) has received an application (the “**Application**”) from the Filer for a decision under the securities legislation of the Jurisdiction (the “**Legislation**”) for:

- (a) relief permitting the Filer to send proxy-related materials to registered holders of securities entitled to vote at any meeting of securityholders of the Filer using a delivery method permitted under U.S. federal securities law (the “**Registered Holder Notice-and-Access Relief**”); and
- (b) relief permitting the Filer to send proxy-related materials to beneficial holders of securities entitled to vote at any meeting of securityholders of the Filer using a delivery method permitted under U.S. federal securities law (the “**Beneficial Holder Notice-and-Access Relief**” and, together with the Registered Holder Notice-and-Access Relief, the “**Requested Relief**”).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

- (a) the Ontario Securities Commission is the principal regulator (the “**Principal Regulator**”) for this Application; and

- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 – *Passport System* (“**MI 11-102**”) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

Interpretation

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

Representations

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

1. The Filer was incorporated under the *Business Corporations Act* (Ontario). Effective July 9, 2020, the Filer’s legal existence was continued under the *Business Corporations Act* (British Columbia). The Filer’s head office is located at 111 Peter Street, Unit 300, Toronto, Ontario, M5V 2G9.
2. The Filer is a global cannabinoid company, with international production and distribution across five continents. The Filer’s brand portfolio includes a global wellness platform, two adult-use brands, and three U.S. hemp-derived consumer products brands. The Filer’s business is comprised of two primary business segments: “United States” and “Rest of World”.
3. The Filer is a reporting issuer in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador and is currently not in default of its obligations as a reporting issuer under applicable securities legislation in any of the jurisdictions in Canada in which it is a reporting issuer. The Filer is also subject to the reporting requirements of the *Securities Exchange Act of 1934* of the United States of America, as amended (the “**Exchange Act**”), as applicable to U.S. domestic issuers and files annual, quarterly and current reports and proxy statements with the United States Securities and Exchange Commission (the “**SEC**”). The Filer has filed with the SEC all reports required to be filed by it under the Exchange Act during the preceding 12 months.
4. The Filer had outstanding approximately 360,253,332 common shares in the capital of the Filer as of the close of business on December 22, 2020.
5. The Filer’s common shares are listed on the Toronto Stock Exchange and the Nasdaq Global Market (“**NASDAQ**”) under the symbol “CRON”.
6. The Filer is an “SEC issuer” as defined in NI 51-102 – *Continuous Disclosure Obligations* (“**NI 51-102**”) and, accordingly, is required to comply with applicable U.S. securities laws in all respects.
7. The Filer has determined that it currently does not qualify as a “foreign private issuer” under U.S. federal securities laws and, accordingly, in order to use notice-and-access to send proxy-related materials to holders of securities entitled to vote at a meeting of securityholders of the Filer, the Filer is subject to and must comply with the U.S. notice-and-access rules under Rule 14a-16.
8. In accordance with section 9.1.5 of NI 51-102, a reporting issuer that is an SEC issuer can send proxy-related materials to registered holders under section 9.1 of NI 51-102 using a delivery method permitted under U.S. federal securities law if both of the following apply:
 - (a) the SEC issuer is subject to, and complies with, Rule 14a-16 under the Exchange Act;
 - (b) residents of Canada do not own, directly or indirectly, outstanding voting securities carrying more than 50% of the votes for the election of directors, and none of the following apply:
 - (i) the majority of the executive officers or directors of the issuer are residents of Canada;
 - (ii) more than 50% of the consolidated assets of the issuer are located in Canada;
 - (iii) the business of the issuer is administered principally in Canada(the “**Automatic Registered Holder Exemption**”).
9. In accordance with section 9.1.1(1) of National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer* (“**NI 54-101**”), despite section 2.7 of NI 54-101, a reporting issuer that is an SEC issuer can send proxy-related materials to beneficial holders using a delivery method permitted under U.S. federal securities law if all of the following apply:

- (a) the SEC issuer is subject to, and complies with, Rule 14a-16 under the Exchange Act;
 - (b) the SEC issuer has arranged with each intermediary through whom the beneficial owner holds its interest in the reporting issuer's securities to have each intermediary send the proxy-related materials to the beneficial owner by implementing the procedures under Rule 14b-1 or Rule 14b-2 under the Exchange Act that relate to the procedures in Rule 14a-16 under the Exchange Act;
 - (c) residents of Canada do not own, directly or indirectly, outstanding voting securities of the issuer carrying more than 50% of the votes for the election of directors, and none of the following apply:
 - (i) the majority of the executive officers or directors of the issuer are residents of Canada;
 - (ii) more than 50% of the consolidated assets of the issuer are located in Canada;
 - (iii) the business of the issuer is administered principally in Canada
 (the "**Automatic Beneficial Holder Exemption**" and, together with the Automatic Registered Holder Exemption, the "**Automatic Exemptions**").
10. The Filer can satisfy all of the requirements outlined above in respect of the Automatic Exemptions, except that (1) more than 50% of the consolidated assets of the Filer are located in Canada and (2) the business of the Filer is administered principally in Canada. In connection with the foregoing, we would note that:
- (a) the Filer is an SEC issuer that is subject to Rule 14a-16 under the Exchange Act;
 - (b) less than 10% of the Filer's outstanding voting securities are held by persons that are residents of Canada (as of December 22, 2020), with over 75% of the trading volume of the Filer's common shares occurring on NASDAQ and other trading systems outside of Canada during the eleven-month period ended November 30, 2020;
 - (c) less than a majority (only two out of eight) of the Filer's executive officers are residents of Canada, with the remaining six of the Filer's executive officers resident in the U.S., including the President and Chief Executive Officer, the Chief Financial Officer and the Chief Innovation Officer; and
 - (d) less than a majority (only two out of seven) of the Filer's directors are residents of Canada, with the remaining five of the Filer's directors resident in the U.S., including the Chairman of the board of directors.
11. For any meeting of securityholders of the Filer for which the Filer elects to deliver proxy-related materials by using notice-and-access (each, a "**Notice-and-Access Meeting**"), the Filer will send proxy-related materials to holders of voting securities in compliance with Rule 14a-16 under the Exchange Act, as amended or replaced from time to time (the "**U.S. Notice-and-Access Rules**").
12. The U.S. Notice-and-Access Rules as in effect on the date hereof allow the Filer to furnish proxy-related materials by (i) sending securityholders entitled to vote at a Notice-and-Access Meeting a notice of internet availability of proxy materials and accompanying related materials (the "**Notice**") 40 calendar days or more prior to the date of the applicable Notice-and-Access Meeting, (ii) sending the record holder, broker or respondent bank the Notice in sufficient time for such record holder, broker or respondent bank to prepare, print and send the Notice to beneficial securityholders entitled to vote at the applicable Notice-and-Access Meeting at least 40 calendar days before the date of such Notice-and-Access Meeting and (iii) making all proxy-related materials identified in the Notice, including a proxy statement, publicly accessible, free of charge, at a website address specified in the Notice. The Notice will comply with the requirements of the U.S. Notice-and-Access Rules and will include instructions regarding how a securityholder entitled to vote at the applicable Notice-and-Access Meeting may request a paper or e-mail copy of the proxy-related materials at no charge. The U.S. Notice-and-Access Rules permit the Filer and, in turn, the record holder, broker or respondent bank, to send only the Notice to beneficial securityholders, provided that all applicable requirements of the U.S. Notice-and-Access Rules have been satisfied.
13. NI 51-102 requires the Filer to deliver proxy-related materials to registered holders of securities entitled to vote at a meeting of securityholders of the Filer ("**Registered Holders**") and NI 54-101 requires the Filer to deliver proxy-related materials to intermediaries for delivery to those beneficial holders of securities entitled to vote at a meeting of securityholders of the Filer that have requested materials for meetings of the Filer ("**Beneficial Holders**").
14. In lieu of delivering to each Registered Holder the proxy-related materials required under NI 51-102, for each Notice-and-Access Meeting the Filer will deliver by mail or electronically (if permitted by applicable law) the Notice to each Registered Holder.

15. In lieu of delivering to each Beneficial Holder the proxy-related materials required under NI 54-101, for each Notice-and-Access Meeting the Filer will deliver to Broadridge Financial Solutions, Inc. or to one of its affiliates or successors or to an equivalent provider of proxy services (collectively, "**Broadridge**") the Notice for delivery to each Beneficial Holder. Broadridge will deliver the Notice to all Beneficial Holders by postage-paid mail or electronically (if permitted by applicable law). Broadridge will act as the Filer's agent for such purposes, and the Filer will pay all of the expenses involved in printing and delivering the Notice to all Beneficial Holders.
16. The Notice sent by the Filer to securityholders entitled to vote at a Notice-and-Access Meeting will include the following information:
 - (a) the date, time and location of such Notice-and-Access Meeting as well as information on how to obtain directions to be able to attend such Notice-and-Access Meeting and vote in person;
 - (b) a description of each matter to be voted on at such Notice-and-Access Meeting including the recommendations of the board of directors of the Filer regarding those matters;
 - (c) a plain language explanation of the U.S. Notice-and-Access Rules;
 - (d) an indication that the Notice is not a form for voting and presents only an overview of the more complete proxy materials;
 - (e) a statement that the proxy-related materials for such Notice-and-Access Meeting have been made available online and that securityholders may request a paper or e-mail copy at no charge;
 - (f) an explanation of how to obtain a paper or e-mail copy of the proxy-related materials for such Notice-and-Access Meeting;
 - (g) the website addresses for SEDAR, the Filer's website and other third party hosting website where the proxy-related materials are posted;
 - (h) a reminder to review the proxy statement for such Notice-and-Access Meeting before voting;
 - (i) any control/identification numbers that the security holder needs to access his or her form of proxy for such Notice-and-Access Meeting;
 - (j) instructions on how to access the form of proxy for such Notice-and-Access Meeting;
 - (k) an explanation of the methods available for securityholders to vote at such Notice-and-Access Meeting; and
 - (l) the date by which a validly completed form of proxy or voting instruction form must be deposited in order for the securities represented by such form of proxy or voting instruction form to be voted at such Notice-and-Access meeting, or any adjournment thereof.
17. Should a securityholder request a paper or e-mail copy of the proxy-related materials, the U.S. Notice-and-Access Rules would require the Filer to send, via first class mail or other reasonably prompt means for purposes of paper copies or via e-mail for purposes of e-mail copies, such proxy-related materials within three business days of receiving such request. Registered Holders and Beneficial Holders requesting the proxy-related materials will receive the same materials required to be sent to securityholders under the U.S. Notice-and-Access Rules.
18. A Beneficial Holder who wants to attend a Notice-and-Access Meeting in person may use his, her or its voting instruction form to direct his, her or its applicable intermediary to send an executed proxy to the Beneficial Holder to vote his, her or its shares registered in the intermediary's name.
19. For each Notice-and-Access Meeting, the Filer will instruct Broadridge to notify all Canadian intermediaries on whose behalf Broadridge or a related company acts as agent under NI 54-101 to advise them of the Filer's reliance on the U.S. Notice-and-Access Rules and this decision.
20. For each Notice-and-Access Meeting, the Filer will retain Broadridge to respond to requests for the proxy related-materials from all Beneficial Holders and will retain TSX Trust Company or one of its affiliates or successors or an equivalent provider of transfer agent or proxy services (collectively, "**TSX**" and together with Broadridge, the "**Agents**") to respond to requests for the proxy related-materials from all Registered Holders. The Notice from the Filer will direct all Registered Holders and all Beneficial Holders to contact the Agents, as applicable, at a specified toll-free telephone number, by e-mail or via the internet to request a printed copy of the proxy-related materials for the applicable Notice-and-Access Meeting. The Agents will give notice to the Filer of the receipt of requests for printed copies and the Filer will provide materials to the Agents in compliance with the requirements of the U.S. Notice-and-Access Rules.

21. The Filer will not receive any information from the Agents about the Registered Holders and Beneficial Holders that contact the Agents in respect of a Notice-and-Access Meeting, other than the aggregate number of proxy-related material packages requested by the Registered Holders and Beneficial Holders, and the Filer will reimburse the Agents for the costs of delivering such packages. In the event the Agents obtain any e-mail address from a Registered Holder or a Beneficial Holder in connection with a request for a copy of proxy materials, the Agents will be instructed to use such e-mail address solely for the purpose of sending a copy of proxy materials to such holder and not for any other purpose.
22. The Filer has consulted with the Agents in developing the mailing and voting procedures for the Registered Holders and Beneficial Holders described in this decision.

Decision

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

The decision of the Decision Maker under the Legislation is that the Requested Relief is granted, provided that, in respect of a Notice-and-Access Meeting, at the time the Filer sends the notification of meeting and record dates for such meeting in accordance with section 2.2 of NI 54-101, the Filer must meet all of the applicable requirements of the Automatic Exemptions other than those set out in:

- (a) sections 9.1.5(b)(ii) and (iii) of NI 51-102, in the case of the Automatic Registered Holder Exemption; and
- (b) sections 9.1.1(1)(c)(ii) and (iii) of NI 54-101, in the case of the Automatic Beneficial Holder Exemption.

"Lina Creta"
Manager, Corporate Finance Branch
Ontario Securities Commission

2.1.2 Manulife Investment Management Limited and Manulife Real Asset Fund

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Mutual fund that is not a reporting issuer granted 90-day extension of the annual financial statement filing and delivery deadlines and 60-day extension of the interim financial statement filing and delivery deadlines under NI 81-106 – Fund invests the majority of its assets in Underlying Funds with later financial reporting deadlines.

Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 2.2, 2.4, 5.1(2), and 17.1.

December 17, 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
MANULIFE INVESTMENT MANAGEMENT LIMITED
(the Filer)

AND

MANULIFE REAL ASSET FUND
(the Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of itself and the Fund, for a decision under the securities legislation of the Jurisdiction (the **Legislation**), exempting the Filer and the Fund from:

- (a) the requirement in section 2.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) that the Fund file its audited annual financial statements and auditor's report on or before the 90th day after the Fund's most recently completed financial year (the **Annual Filing Deadline**);
- (b) the requirement in paragraph 5.1(2)(a) of NI 81-106 that the Fund deliver its audited financial statements by the Annual Filing Deadline (the **Annual Delivery Requirement**);
- (c) the requirement in section 2.4 of NI 81-106 that the Fund file its interim financial report on or before the 60th day after the Fund's most recently completed interim period (the **Interim Filing Deadline**); and
- (d) the requirement in paragraph 5.1(2)(b) of NI 81-106 that the Fund deliver its interim financial report by the Interim Filing Deadline (the **Interim Delivery Requirement**);

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

Under National Policy 11-203 - *Process for Exemptive Relief Applications in Multiple Jurisdictions*:

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

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

Interpretation

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

Representations

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

The Filer and the Fund

1. The Filer is a corporation amalgamated under the laws of Canada, with its registered head office located in Toronto, Ontario.
2. The Filer is registered in the categories of commodity trading manager, portfolio manager, derivatives portfolio manager and investment fund manager.
3. The Filer is not in default of securities legislation in any Jurisdiction.
4. The Filer is the general partner, investment fund manager and portfolio advisor of the Fund.

The Fund

5. The Fund is a limited partnership formed under the laws of the Province of Ontario.
6. The Fund is a "mutual fund" for purposes of the Legislation.
7. Units of the Fund are offered for sale on a continuous basis to qualified investors in all provinces and territories of Canada pursuant to exemptions from the prospectus requirements under National Instrument 45-106 - *Prospectus Exemptions* (**NI 45-106**).
8. Units of the Fund will only be distributed in Canada pursuant to exemptions from the prospectus requirement in accordance with NI 45-106. Each investor in the Fund is, or will be, responsible for making its own investment decisions regarding its purchases and/or redemptions of securities of the Fund.
9. The Fund is not a reporting issuer in any province or territory of Canada.
10. The Fund is not in default of securities legislation in any Jurisdiction.
11. The Fund has a financial year-end of December 31.
12. The Fund's investment objective is to achieve long term growth of capital. The Fund seeks positive returns over the Canadian Consumer Price Index (CPI) by investing in direct real assets and liquid assets globally. The Fund's exposure to real assets (such as mortgages, real estate and private debt) is obtained by investing in securities of underlying direct real asset funds (the **Underlying Funds**).
13. All of the Underlying Funds currently invested in by the Fund have financial reporting periods that end on December 31 of each year.
14. Five of the Underlying Funds are managed by entities unrelated to the Filer (the **Third-Party Underling Funds**).
15. The Filer believes that investing in the Underlying Funds (including the Third-Party Underling Funds) offers benefits not available through a direct investment in the companies, other issuers or assets held by the Underlying Funds.
16. The Filer engages in an extensive due diligence process when selecting Underlying Funds for the Fund.
17. Securities of the Underlying Funds are typically redeemable at various intervals. As the Fund has a long-term investment horizon, the Fund is able to manage its own liquidity requirements taking into consideration the frequency at which the securities of the Underlying Funds may be redeemed.

18. Currently, the net asset value of the Fund is calculated on a monthly basis, as of the last day of each month, except if that day falls on a Saturday, Sunday, a statutory holiday in Toronto, Ontario or another day on which the Toronto Stock Exchange is not open for trading. Investors in the Fund are provided with the net asset value of the Fund on a monthly basis.
19. The holdings by the Fund of securities of the Underlying Funds are disclosed in the financial statements of the Fund.

Financial Statement Filing and Delivery Requirements

20. Section 2.2 and subsection 5.1(2)(a) of NI 81-106 require the Fund to file and deliver its annual audited financial statements by the Annual Filing Deadline. As the Fund's financial year-end is December 31, it has a filing and delivery deadline of March 31.
21. Section 2.4 and subsection 5.1(2)(b) of NI 81-106 require the Fund to file and deliver its interim financial reports by the Interim Filing Deadline. As the Fund's financial year-end is December 31, it has an interim filing and delivery deadline of August 29.
22. Section 2.11 of NI 81-106 provides an exemption from the filing requirements of the annual financial statements and interim financial reports if, among other things, the Fund delivers its annual financial statements and interim financial reports in accordance with Part 5 of NI 81-106 by the Annual Filing Deadline and Interim Filing Deadline, as applicable.
23. In order to formulate an opinion on the financial statements on the Fund, the Fund's auditor requires audited financial statements of the respective Underlying Funds in order to audit the information contained in the Fund's financial statements. The auditor of the Fund has advised the Filer that they may be unable to express an unmodified audit opinion in accordance with subsection 2.7(3) of NI 81-106 if the audited financial statements of the Underlying Funds are not completed and available to the Fund.
24. The delivery requirements for the annual financial statements and the interim financial statements for four Third-Party Underlying Funds (the **Misaligned Third-Party Underlying Funds**) do not comply with the Annual Delivery Requirement and the Interim Delivery Requirement, as applicable.
25. Twenty five percent of the Fund's assets are invested in Misaligned Third-Party Underlying Funds.
26. The Fund will not be able to obtain the financial statements of the Misaligned Third-Party Underlying Funds sooner than the deadline for filing the financial statements of the Misaligned Third-Party Underlying Funds and, in all cases, no sooner than other unitholders of the Misaligned Third-Party Underlying Funds receive the financial statements of the Misaligned Third-Party Underlying Funds.
27. The offering memorandum that will be provided to investors will disclose that: (i) annual audited financial statements for the Fund would be delivered to each investor within 180 days of the Fund's financial year end; and (ii) unaudited interim financial statements for the Fund would be delivered to each investor within 120 days following the end of each interim period of the Fund.
28. The Filer will notify its securityholders that it has received and intends to rely on relief from the Annual Filing Deadline and Annual Delivery Requirement and the Interim Filing Deadline and the Interim Delivery Requirement.
29. The Third-Party Underlying Funds are suitable and desirable investments for the Fund but, as noted, the Misaligned Third-Party Underlying Funds have financial reporting deadlines that are not aligned with the filing and delivery deadlines contemplated by NI 81-106 and that are applicable to the Fund. Given the expected investment profile of the Fund, the Filer expects such timing discrepancies to occur year after year for the foreseeable future.
30. The Fund therefore seeks an extension of the Annual Filing Deadline and Annual Delivery Requirement of 180 days, to enable the Fund's auditors to first receive the audited financial statements of all the Misaligned Third-Party Underlying Funds so as to be able to prepare its opinion with respect to the Fund's annual audited financial statements.
31. Owing to its investments in the Third-Party Underlying Funds, apart from the timing challenges imposed by producing financial statements/financial reports in accordance with the Annual Filing Deadline and the Interim Filing Deadline, the delivery of any financial statements/reports prepared within the applicable time frames could be detrimental to investors, as such statements would necessarily be based on estimates which are subject to change and therefore could be materially inaccurate. Such rationale is equally applicable to the annual financial statements, as it is to the interim financial reports. In the Filer's view, investors are better served by having financial statements/financial reports free of material inaccuracies delivered: (i) in the case of annual financial statements, within 180 days following the Fund's year-end rather than the Annual Filing Deadline; and (ii) in the case of interim financial reports, within 120 days following the Fund's most recent interim period rather than the Interim Filing Deadline.

32. In order to ensure all financial statements of the Fund are free of material inaccuracies, the Filer therefore also seeks an extension of the Interim Filing Deadline and Interim Delivery Requirement of 120 days.

Decision

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

The decision of the principal regulator under the Legislation is that the Requested Relief is granted for so long as:

- (a) The Fund has a financial year ended December 31.
- (b) The Fund's investment strategy requires investing a majority of its assets in securities of the Underlying Funds.
- (c) No less than 25% of the total assets of the Fund at the time the Fund makes an initial investment decision in a Third-Party Underlying Fund, are invested in investment entities that have financial reporting periods that end on December 31 of each year and are subject to laws of their jurisdictions that require:
 - (i) annual financial statements to be delivered within 120 days of their financial year ends; and
 - (ii) interim financial statements to be delivered between 60 and 90 days of their most recent interim period.
- (d) On behalf of the Fund, within 60 days of the date hereof, the Filer will notify Fund investors that the Fund has received and intends to rely on relief from the Annual Filing Deadline, the Interim Filing Deadline, the Annual Delivery Requirement and the Interim Delivery Requirement (the **Notification**).
- (e) As soon as reasonably practicable following the Notification, the offering memorandum for the Fund and the limited partnership agreement of the Fund will each be amended to confirm:
 - (i) the audited annual financial statements of the Fund may be filed and delivered on or before the 180th day after the Fund's most recently completed financial year; and
 - (ii) the interim financial reports of the Fund may be filed and delivered on or before the 120th day after the Fund's most recently completed interim period.
- (f) The Fund is not a reporting issuer.
- (g) The conditions in section 2.11 of NI 81-106 will be met, except for subsection 2.11(b), and:
 - (i) the annual audited financial statements will be delivered to Fund investors in accordance with Part 5 of NI 81-106 on or before the 180th day after the Fund's most recently completed financial year; and
 - (ii) the interim financial reports will be delivered to Fund investors in accordance with Part 5 of NI 81-106 on or before the 120th day after the Fund's most recently completed interim period.
- (h) This decision will terminate within one year of the coming into force of any amendment to NI 81-106 or other rule that modifies how the Annual Filing Deadline, the Interim Filing Deadline, the Annual Delivery Requirement or the Interim Delivery Requirement applies in connection with mutual funds under the Legislation.

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

2.1.3 Trumid Financial, LLC

Headnote

Application for relief under s. 15.1 of National Instrument 21-101 Marketplace Operation, s. 12.1 of National Instrument 23-101 Trading Rules, and s. 10 of National Instrument 23-103 Electronic Trading and Direct Access to Marketplaces – relief 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 in the Jurisdictions – relief granted subject to terms and conditions.

February 24, 2021

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA,
BRITISH COLUMBIA,
SASKATCHEWAN,
MANITOBA,
ONTARIO,
QUEBEC,
NEW BRUNSWICK,
NEWFOUNDLAND AND LABRADOR,
NOVA SCOTIA,
PRINCE EDWARD ISLAND,
NORTHWEST TERRITORIES,
NUNAVUT AND
YUKON
(the Jurisdictions)

AND

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

AND

IN THE MATTER OF
TRUMID FINANCIAL, LLC
("Trumid")

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions ("**Decision Maker**") has received an application from Trumid ("**Application**") for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") for an exemption from (i) National Instrument 21-101 *Marketplace Operation* ("**NI 21-101**") in whole; (ii) National Instrument 23-101 *Trading Rules* ("**NI 23-101**") in whole; and (iii) National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* ("**NI 23-103**") and, together with NI 21-101 and NI 23-101, the "**Marketplace Rules**") in whole (the "**Exemptive Relief Sought**")

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

- (a) The Ontario Securities Commission is the principal regulator for the Exemptive Relief Sought, and
- (b) The decision on the Exemptive Relief Sought is the decision of the principal regulator and evidences the decision of each other Decision Maker;

Interpretation

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

Representations

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

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 fixed income securities trading platform for institutional clients.
3. Trumid does not have any offices or maintain other physical installations in the Jurisdictions.
4. 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.
5. Trading of USD fixed income securities is facilitated through Trumid’s Market Center (2.0) interface (the “**Platform**”). Trumid’s technology solution is html5 based and offered over the internet. Through this software, Trumid’s clients can access the functionality of the Platform to access available trades in USD fixed income securities on the Platform. There are no retail clients on the Platform.
6. It is expected that certain Canadian institutional investors wish to become clients of Trumid in order to access the liquidity afforded by the robust, existing network of clients.
7. The prospective participants in the Jurisdictions (the “**Canadian 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**).
8. Trumid will confirm that Canadian 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 Canadian Participants for access to the Platform in their onboarding documentation. The documentation will specify that this representation is deemed to be repeated by the Canadian Participant each time it enters an order for a trade on the Platform.
9. Trumid relies on the “international dealer exemption” under section 8.18 of NI 31-103 in the Jurisdictions for any trading in securities with permitted clients located in the Jurisdictions. Trumid is not registered in any capacity under the Legislation.
10. Trumid is subject to a comprehensive regulatory regime in the U.S. 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.
11. Trumid is not in default of securities legislation in any jurisdiction.
12. Trumid seeks to provide Canadian institutional investors with direct, electronic access to trading in any debt security that is a foreign security or a debt security that is denominated in U.S. dollars, as such terms are defined in NI 31-103, including:
 - (a) debt securities issued by the U.S. government (including agencies or instrumentalities thereof);
 - (b) debt securities issued by a foreign government;
 - (c) debt securities issued by corporate or other non-governmental issuers (U.S. and foreign) or
 - (d) asset-backed securities (including mortgage backed securities),(collectively, “**Foreign Fixed Income Securities**”).
13. As an ATS, Trumid is prohibited from carrying on business in the Jurisdictions unless it complies with or is exempted from the Marketplace Rules.
14. In order to obtain direct access to the Platform, a Canadian Participant **must** agree to abide by the Trumid Rulebook.
15. Trumid will also require Canadian 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.

16. 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 the Legislation and Trumid requirements. The third-party intermediary has represented to Trumid that it is appropriately registered or relies on an exemption from registration under the Legislation to carry on this activity.
17. Trumid will only permit trading in Foreign Fixed Income Securities that are permitted to be traded in the United States under applicable securities laws and regulations.
18. All trades on Trumid are for securities which are TRACE-eligible. Trumid displays orders of fixed income 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 Canadian 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.
19. Trumid acknowledges that the Decision Makers 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 Decision Makers to continue to grant the Exemptive Relief Sought and, if so, whether it is appropriate for the Exemptive Relief Sought to continue to be granted subject to the terms and conditions set out in Schedule A to this decision.
20. Trumid acknowledges that the scope of the Exemptive Relief Sought and the terms and conditions imposed by the Decision Makers set out in Schedule A to this decision may change as a result of the Decision Makers' monitoring of developments in international and domestic capital markets or Trumid's activities, or as a result of any changes to the Legislation affecting trading in derivatives, commodity futures contracts, commodity futures options or securities.

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 Exemptive Relief Sought is granted provided that Trumid complies with the terms and conditions attached hereto as Schedule A.

"Susan Greenglass"
Director, Market Regulation
Ontario Securities Commission

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 Canadian securities laws;
3. Trumid will promptly notify the Decision Makers 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 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. Trumid will require Canadian Participants to provide prompt notification to Trumid if they no longer qualify as permitted clients;
6. Trumid must make available to Canadian Participants appropriate training for each person who has access to trade on the Platform;

Trading by Canadian Participants

7. Trading on Trumid by Canadian 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 Canadian 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 Canadian Participants to trade those fixed income securities listed in representation number 12 of this decision.
10. Trumid will automatically report all transactions of Canadian 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 Staff of the Decision Makers 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, 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 Canadian Participant;
12. Trumid will maintain the following updated information and submit such information in a manner and form acceptable to staff of the Decision Makers on a semi-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 Decision Makers:
- (a) a current list of all Canadian Participants, organized on a per provincial and territorial basis, specifically identifying for each Canadian Participant the basis upon which it represented to Trumid that it could be provided with direct access;
 - (b) a list of all Canadian applicants for status as a Canadian Participant on a per provincial and territorial basis who were denied such status or access or who had such status or access revoked during the period;
 - (i) for those Canadian applicants for status as Canadian Participants who had their access to such status denied, an explanation as to why their access was denied;
 - (ii) 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 and territorial participant basis, and
 - (ii) the proportion of worldwide trading volume and value on Trumid conducted by Canadian Participants, presented in the aggregate for such Canadian Participants on a per provincial and territorial basis; and
 - (d) a list of any system outages that occurred for any system impacting Canadian Participants' trading activity on the Platform which were reported to the regulator in Trumid's home jurisdiction;

Disclosure

13. Trumid 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 Trumid may be governed by the laws of the home jurisdiction, rather than the laws of Canada; and
 - (c) Trumid is regulated by the regulator in its home jurisdiction, rather than the Decision Makers;

Submission to Jurisdiction and Appointment of Agent for Service

14. With respect to a proceeding brought by the Decision Makers, staff of the Decision Makers or another applicable securities regulatory authority in Canada 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 Trumid in Canada, Trumid 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;
15. Trumid will submit to the Decision Makers 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 Trumid's activities in Canada;

Information Sharing

16. Trumid 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 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.

2.1.4 Ayr Strategies Inc.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the take-over bid requirements in Part 2 of NI 62-104 to allow for take-over bid thresholds to be calculated based on the aggregate number of non-multiple voting shares outstanding, as opposed to on a per-class basis – multi-class share structure among non-multiple voting shares was implemented solely to ensure the issuer's continued status as a "foreign private issuer" under U.S. securities laws; all classes of non-multiple voting shares are freely tradable, trade under the same trading symbol, have identical economic attributes and are automatically and mandatorily inter-convertible based on the shareholder's status as a U.S. Person – relief granted to allow offerors to calculate their ownership position by combining the outstanding classes of non-multiple voting shares for the purposes of determining whether take-over bid requirements are triggered.

Relief from the early warning requirements to allow early warning thresholds to be calculated based on the aggregate number of non-multiple voting shares outstanding, as opposed to on a per-class basis – multi-class share structure among non-multiple voting shares was implemented solely to ensure the issuer's continued status as a "foreign private issuer" under U.S. securities laws; all classes of non-multiple voting shares are freely tradable, trade under the same trading symbol, have identical economic attributes and are automatically and mandatorily inter-convertible based on the shareholder's status as a U.S. Person – relief granted to allow acquirors to calculate their ownership position by combining the outstanding classes of non-multiple voting shares for the purposes of determining whether early warning requirements are triggered.

Relief from the issuer-bid requirements in Part 2 of NI 62-104 to allow for the thresholds in the normal course issuer bid exemption in s.4.8(3) of NI 62-104 to be calculated based on the aggregate number of non-multiple voting shares outstanding, as opposed to on a per-class basis – multi-class share structure among non-multiple voting shares was implemented solely to ensure the issuer's continued status as a "foreign private issuer" under U.S. securities laws; all classes of non-multiple voting shares are freely tradable, trade under the same trading symbol, have identical economic attributes and are automatically and mandatorily inter-convertible based on the shareholder's status as a U.S. Person – relief granted to allow the issuer to calculate thresholds for normal course issuer bid exemption by combining the outstanding classes of non-multiple voting shares.

Relief from the requirement to issue and file a news release in section 5.4 of NI 62-104 to provide that the threshold triggering the requirement for an acquiror to file a news release during a take-over bid or an issuer bid is to be calculated based on the aggregate number of non-multiple voting shares outstanding, as opposed to on a per-class basis – multi-class share structure among non-multiple voting shares was implemented solely to ensure the issuer's continued status as a "foreign private issuer" under U.S. securities laws; all classes of non-multiple voting shares are freely tradable, trade under the same trading symbol, have identical economic attributes and are automatically and mandatorily inter-convertible based on the shareholder's status as a U.S. Person – relief granted to allow acquirors to calculate their ownership position by combining the outstanding classes of non-multiple voting shares for the purposes of determining whether the requirement to file a news release during a take-over bid or issuer bid is triggered.

Relief so that the issuer can provide disclosure on significant shareholders in its information circular on a combined basis among non-multiple voting shares, rather than for each class of non-multiple voting shares - to be calculated based on the aggregate number of non-multiple voting shares outstanding, as opposed to on a per-class basis – multi-class share structure among non-multiple voting shares was implemented solely to ensure the issuer's continued status as a "foreign private issuer" under U.S. securities laws; all classes of non-multiple voting shares are freely tradable, trade under the same trading symbol, have identical economic attributes and are automatically and mandatorily inter-convertible based on the shareholder's status as a U.S. Person – relief granted to allow issuer to provide disclosure on holders of its non-multiple voting shares on a combined basis in its information circular.

Issuer granted relief from requirements under National Instrument 41-101 General Prospectus Requirements, National Instrument 51-102 Continuous Disclosure Requirements and OSC Rule 56-501 Restricted Shares to refer to Limited Voting Shares using prescribed restricted security term – relief subject to condition that specified alternate term is used.

Applicable Legislative Provisions

National Instrument 62-104 Take-Over Bids and Issuer Bids, Part 2, ss. 5.2, 5.4 and 6.1.

National Instrument 62-103 The Early Warning System and Related Take-Over Bid and Insider Reporting Issues, ss. 4.1, 4.5 and 11.1.

National Instrument 51-102 Continuous Disclosure Obligations, s. 13.1.

National Instrument 41-101 General Prospectus Requirements, s. 19.1.

Ontario Securities Commission Rule 56-501 Restricted Shares, s. 4.2.

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
AYR STRATEGIES INC.
(the "Filer")

DECISION

Background

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

1. In connection with National Instrument 62-104 *Take-Over Bids and Issuer Bids* ("**NI 62-104**") and National Instrument 62-103 *The Early Warning System and Related Take-over Bid and Insider Reporting Issues* ("**NI 62-103**"):
 - (a) an offer to acquire outstanding subordinate voting shares ("**Subordinate Voting Shares**"), restricted voting shares ("**Restricted Voting Shares**") or limited voting shares ("**Limited Voting Shares**", and collectively with the Subordinate Voting Shares and the Restricted Voting Shares, the "**non-Multiple Voting Shares**") of the Filer, as the case may be, which would constitute a take-over bid under the Legislation as a result of the securities subject to the offer to acquire, together with the offeror's securities, representing in the aggregate 20% or more of the outstanding Subordinate Voting Shares, Restricted Voting Shares or Limited Voting Shares, as the case may be, at the date of the offer to acquire, be exempt from the requirements set out in Part 2 of NI 62-104 applicable to take-over bids (the "**TOB Relief**"),
 - (b) an acquiror who triggers the disclosure and filing obligations pursuant to the early warning requirements contained in the Legislation with respect to the Subordinate Voting Shares, Restricted Voting Shares or Limited Voting Shares, as the case may be, be exempt from such requirements (the "**Early Warning Relief**"),
 - (c) an acquiror who acquires, during a take-over bid or an issuer bid, beneficial ownership of, or control or direction over, Subordinate Voting Shares, Restricted Voting Shares or Limited Voting Shares, as the case may be, that, together with the acquiror's securities of that class, would constitute 5% or more of the outstanding Subordinate Voting Shares, Restricted Voting Shares or Limited Voting Shares, as the case may be, be exempt from the requirement to issue and file a news release set out in section 5.4 of NI 62-104 (the "**News Release Relief**"),
 - (d) an issuer bid made by the Filer in the normal course on a published market, other than a designated exchange, with respect to Subordinate Voting Shares, Restricted Voting Shares or Limited Voting Shares, as the case may be, be exempt from the requirements set out in Part 2 of NI 62-104 applicable to issuer bids (the "**NCIB Relief**" and together with the TOB Relief, the News Release Relief and the Early Warning Relief, the "**Bid Relief**");
2. The Filer be exempt from the disclosure requirements in Item 6.5 of Form 51-102F5 *Information Circular* ("**Form 51-102F5**") (the "**Alternative Disclosure Relief**", and together with the Bid Relief, the "**Aggregation Relief**"); and
3. The requirements under:
 - (a) subsections 12.2(3) and 12.2(4) of National Instrument 41-101 *General Prospectus Exemptions* ("**NI 41-101**"), (ii) Item 1.13(1) of Form 41-101 F1 *Information Required in a Prospectus* ("**Form 41-101F1**"); and (iii) item 1.12(1) of Form 44-101F1 *Short Form Prospectus* (including in respect of any equivalent disclosure in a prospectus or supplement filed pursuant to National Instrument 44-102 *Shelf Distributions* ("**NI 44-102**")) relating to the use of restricted security terms,
 - (b) subsections 10.1(1)(a), 10.1(4) and 10.1(6) of NI 51-102 *Continuous Disclosure Obligations* ("**51-102**") relating to the use of restricted security terms, and

- (c) subsections 2.3(1)(1.), 2.3(1)(3.) and 2.3(2) of Ontario Securities Commission Rule 56-501 *Restricted Shares* ("**OSC Rule 56-501**") relating to the use of restricted share terms,

shall not apply to the Limited Voting Shares (the "**Nomenclature Relief**", and together with the Aggregation Relief, the "**Exemption Sought**").

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, NI 62-103 and NI 62-104, including without limitation, "offeror", "offeror's securities", "offer to acquire", "acquiror", "acquiror's securities", "eligible institutional investor", and "security-holding percentage", have the same meaning if used in this decision, unless otherwise defined herein.

Representations

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

1. The Filer is a corporation continued under the *Business Corporations Act* (British Columbia) (the "**BCBCA**").
2. The Filer is a reporting issuer in each of the provinces and territories of Canada, except Quebec, and is not in default of the securities legislation in any of these jurisdictions.
3. The Filer's head office is located at 590 Madison Ave., 26th Floor, New York, NY 10022.
4. The Filer's authorized share capital consists of (i) an unlimited number of multiple voting shares ("**Multiple Voting Shares**") and together with the Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares, the "**Shares**"), and (ii) an unlimited number of Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares.
5. As of December 2, 2020, 3,696,486 Multiple Voting Shares and 20,875,997 non-Multiple Voting Shares were issued and outstanding.
6. The Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares are listed on the CSE under the symbol "AYR.A".
7. The Filer is a vertically integrated multi-state operator in the U.S. cannabis sector, with operations in Massachusetts and Nevada. Through its operating companies, the Filer is a leading cultivator, manufacturer and retailer of cannabis products and branded cannabis packaged goods.

Aggregation Relief

8. As at June 30, 2020, the Filer believes it qualified as an FPI under Rule 405 of the U.S. *Securities Act of 1933*, as amended, and Rule 3b-4(b) of the U.S. *Securities Exchange Act of 1934*, as amended, as:
 - (a) the Filer is continued under the laws of British Columbia; and
 - (b) based on reasonable enquiry, less than 50% of the Filer's outstanding voting securities are held directly or indirectly of record by residents of the United States (the "**FPI Threshold**").
9. For the purposes of the FPI Threshold, "voting securities" are defined as those securities that entitle the holders to vote for the election of directors at the time of such determination.
10. As (a) the majority of the Filer's executive officers and directors are U.S. citizens or residents, (b) more than 50% of the Filer's assets are located in the United States, and (c) the Filer's business is administered primarily in the United States, the Filer will not qualify as an FPI should it exceed the FPI Threshold at the applicable time.
11. The Filer derives material benefits from its status as an FPI.

12. On December 3, 2020, the Filer amended its articles (the “**Amendments**”) to (a) create and set the terms of two new share classes of the Filer, being the Restricted Voting Shares and the Limited Voting Shares, including applying coattail terms to such shares similar to those applicable to the existing Subordinate Voting Shares, and (b) amend the terms of the Filer’s existing Multiple Voting Shares and Subordinate Voting Shares, including by amending the requirements in respect of who may hold Subordinate Voting Shares.
13. The Filer received the shareholder approvals required under applicable corporate and securities laws to implement the Amendments at the annual general and special meeting of the Filer held on November 4, 2020.
14. The Amendments are intended to ensure that the Filer maintains its FPI status under applicable U.S. securities laws and thereby avoids a commensurate material increase in its ongoing costs. This is to be accomplished by implementing a mandatory conversion mechanism in the Filer’s share capital to decrease the number of shares eligible to be voted for directors of the Filer if the Filer’s FPI Threshold would be exceeded.
15. For the purposes of the Amendments, a “**U.S. Person**” means a U.S. person as defined in Regulation S (promulgated under the U.S. *Securities Act of 1933*) in Section 902(k)(1) (as amended or replaced from time to time), and a “**Non-U.S. Person**” is any person who is not a U.S. Person. Under the Amendments, where Subordinate Voting Shares are held, beneficially owned or controlled, directly or indirectly, or jointly by (a) one or more U.S. Persons, and (b) one or more Non-U.S. Persons, such Subordinate Voting Shares shall be deemed to be held, beneficially owned or controlled by a U.S. Person.
16. Subject to the Specified Exceptions (as defined below), the Subordinate Voting Shares may only be held, beneficially owned or controlled by Non-U.S. Persons, and will carry one vote per share for the election of directors (and for all other purposes). The Subordinate Voting Shares will be automatically converted, without further act or formality, on a one-for-one basis into Restricted Voting Shares if they become held, beneficially owned or controlled by a U.S. Person.
17. Subject to the Specified Exceptions, (a) the Restricted Voting Shares may be held, beneficially owned or controlled only by U.S. Persons and will carry one vote per share for the election of directors (and for all other purposes), and (b) the Limited Voting Shares may be held, beneficially owned or controlled only by U.S. Persons and will carry one vote per share on all matters except the election of directors, as the holders of Limited Voting Shares shall not have any entitlement to vote in respect of the election for directors of the Filer.
18. If, at any given time, the Restricted Voting Shares or the Limited Voting Shares are held, beneficially owned or controlled by Non-U.S. Persons, they will be automatically converted, without further act or formality, on a one-for-one basis into Subordinate Voting Shares.
19. Notwithstanding the foregoing, if, at any given time, the total number of Restricted Voting Shares represents a number equal to or in excess of the formulaic threshold set forth below, representing the FPI Threshold, then the minimum number of Restricted Voting Shares required to stay within the FPI Threshold will be automatically converted, without further act or formality, on a pro-rata basis across all registered holders of Restricted Voting Shares (rounded up to the next nearest whole number of shares), on a one-for-one basis, into Limited Voting Shares:

$$(0.50 \times \text{Aggregate Number of Multiple Voting Shares, Subordinate Voting Shares and Restricted Voting Shares}) - (\text{Aggregate Number of Multiple Voting Shares held, beneficially owned or controlled by U.S. Persons})$$
20. Notwithstanding the foregoing, in connection with a formal bid for all equity shares on identical terms made in compliance with Canadian securities laws that results in the bidder owning or controlling more than fifty percent (50%) of the total voting power of the voting securities of the Filer for the election of directors (assuming for such purposes that the Limited Voting Shares each have one (1) vote per share for the election of directors), the bidder may elect, by way of written notice to the Filer, that the Restricted Voting Shares it so acquires not be automatically converted into Limited Voting Shares.
21. If, at any given time, the total number of Restricted Voting Shares represents a number below the FPI Threshold, then a number of Limited Voting Shares will be automatically converted, without further act or formality, on a pro-rata basis across all registered holders of Limited Voting Shares (rounded down to the next nearest whole number of shares), on a one-for-one basis, into Restricted Voting Shares, to the maximum extent possible such that the Restricted Voting Shares then represent a number of Shares that is one share less than the FPI Threshold.
22. The “**Specified Exceptions**” are (i) Shares held, beneficially owned or controlled by one or more underwriters for the purposes of a distribution to the public, and (ii) Shares held by a person acting solely in the capacity of an intermediary in connection with either the payment of funds and/or the delivery of securities and that provides centralized facilities for the deposit, clearing or settlement of trades in securities (including CDS Clearing and Depository Services Inc., or any successor or assign).

23. The Multiple Voting Shares may be held, beneficially owned or controlled, directly or indirectly, by U.S. Persons or Non-U.S. Persons, and each Multiple Voting Share carries 25 votes per share. Each Multiple Voting Share will be convertible at the holder's option, on a one-for-one basis, into (a) a Subordinate Voting Share, if such Multiple Voting Share is held, beneficially owned or controlled by a Non-U.S. Person, and (b) a Restricted Voting Share, if such Multiple Voting Share is held, beneficially owned or controlled by a U.S. Person.
24. All Shares shall rank equally with the other Shares as to dividends on a share-for-share basis, without preference or distinction, except that, subject to applicable regulatory and stock exchange approvals, stock dividends or distributions may be declared by the Filer's board of directors that are payable in Multiple Voting Shares on the Multiple Voting Shares, in Subordinate Voting Shares on the Subordinate Voting Shares, in Restricted Voting Shares on the Restricted Voting Shares, and in Limited Voting Shares on the Limited Voting Shares, provided an equal number of shares is declared as a dividend or distribution on a per-share basis in each case. All Shares will rank *pari passu* on a per-share basis in the event of the Filer's liquidation, dissolution or winding-up, or a distribution of assets of the Filer for the purposes of a dissolution or winding-up of the Filer. All holders of Shares will be entitled to receive notice of, to attend (if applicable, virtually) and vote at all meetings of the Filer's shareholders, except that they will not be able to vote (but will be entitled to receive notice of, to attend (if applicable, virtually) and to speak) at those meetings at which the holders of a specific class are entitled to vote separately as a class under the BCBCA.
25. Each class of Shares shall be subject to coattail provisions to be contained in the terms of such class of Shares, pursuant to which each class of Shares may be converted into another class of Shares in the event an offer is made to purchase such other class of Shares and the offer is one which is required to be made to all or substantially all the holders in Canada of such other class of Shares (assuming that the offeree was resident in Ontario).
26. Aside from the differences in (a) who may hold Subordinate Voting Shares and Restricted Voting Shares and Limited Voting Shares as between U.S. Persons and Non-U.S. Persons, and (b) the voting rights attributable to each class of non-Multiple Voting Shares set out above, the non-Multiple Voting Shares are the same in all respects and are mandatorily inter-convertible (continuously and without formality) based on (i) the holder's status as a U.S. Person or Non-U.S. Person, and (ii) the Filer's FPI status.
27. The multi-class share structure among the Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares was implemented solely to ensure the Filer's continued status as an FPI and thereby reduce compliance costs; it has no other purpose.
28. The non-Multiple Voting Shares will be automatically and mandatorily inter-convertible based on (a) the holder's status as a U.S. Person or Non-U.S. Person (as between Subordinate Voting Shares and Restricted Voting Shares/Limited Voting Shares), and (b) the status of the Filer's FPI Threshold (as between Restricted Voting Shares and Limited Voting Shares), in each case without any further act of the Filer or the holder or further formality.
29. An investor will not control or choose which class of non-Multiple Voting Shares it acquires and holds. There are no unique features of any class of non-Multiple Voting Shares which an existing or potential investor will be able to choose to acquire, exercise or dispose of; the class ultimately available to an investor will be a function of such investor's status as a U.S. Person or Non-U.S. Person and the Filer's FPI status only. Moreover, if after having acquired non-Multiple Voting Shares (a) a holder's status as a U.S. Person or Non-U.S. Person changes, or (b) the Filer's FPI status changes in a material manner, such Shares will convert accordingly and automatically, without formality or regard to any other consideration.

Nomenclature Relief

30. Section 1.1 of NI 41-101 and Section 1.1 of NI 51-102 defines "restricted security terms" to mean each of the terms "non-voting security", "subordinate voting security" and "restricted voting security".
31. Section 1.1 of OSC Rule 56-501 defines "restricted share terms" to mean "non-voting shares", "subordinate voting shares", "restricted voting shares" or any other term deemed appropriate by the Director.
32. The Limited Voting Shares may be considered restricted securities and restricted shares, as applicable, under NI 41-101, NI 51-102 and OSC Rule 56-501 as there will be (a) another class of shares that carries a disproportionate vote per share relative to the Limited Voting Shares, and (b) the share terms of the Limited Voting Shares contain provisions that nullify certain of the voting rights attributable to the Limited Voting Shares.
33. The Filer is limited to the restricted security term "non-voting" in respect of the nomenclature for the Limited Voting Shares insofar as (a) the restricted security terms "subordinate voting" and "restricted voting" are already taken by the Subordinate Voting Shares and Restricted Voting Shares, respectively, and (b) also naming the Limited Voting Shares as "restricted voting shares" would cause market confusion and be impracticable from a logistical standpoint given the need to distinguish the Limited Voting Shares from the Restricted Voting Shares.

34. It would be inappropriate to use the restricted security term “non-voting” in respect of the Limited Voting Shares because they will carry the right to vote generally other than in respect of the election of the Filer’s directors.
35. The Filer desires to refer to such shares as Limited Voting Shares in any offering documents, in any future prospectuses and in all future continuous disclosure documents of the Filer to avoid confusing the Limited Voting Shares with Subordinate Voting Shares and/or Restricted Voting Shares.
36. The features of the Limited Voting Shares will be set out in disclosure documents pursuant to NI 41-101, National Instrument 44-101 *Short Form Prospectus Distributions*, NI 44-102 and NI 51-102, as applicable, in compliance with the form requirements of such instruments.

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:

1. the Filer publicly discloses the Exemption Sought and the terms and conditions of this decision in a news release filed on SEDAR promptly following the issuance of this decision;
2. the Filer discloses the Exemption Sought and the terms and conditions of this decision in each of its annual information forms and management information circulars filed on SEDAR following the issuance of this decision and in any other filing where the characteristics of the Shares are described;
3. with respect only to the TOB Relief, the securities subject to the offer to acquire, together with the offeror’s securities, would not represent in the aggregate 20% or more of the outstanding Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares, as the case may be, calculated using (a) a denominator comprised of all of the outstanding Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares, determined in accordance with subsection 1.8(2) of NI 62-104 on a combined basis, as opposed to a per-class basis, and (b) a numerator including as offeror’s securities all of the Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares, as applicable, that constitute offeror’s securities;
4. with respect only to the News Release Relief, the Subordinate Voting Shares, Restricted Voting Shares or Limited Voting Shares, as the case may be, that the acquiror acquires beneficial ownership of, or control or direction over, when added to the acquiror’s securities of that class, would not constitute 5% or more of the outstanding Subordinate Voting Shares, Restricted Voting Shares or Limited Voting Shares, as the case may be, calculated using (a) a denominator comprised of all of the outstanding Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares, determined in accordance with subsection 1.8(2) of NI 62-104 on a combined basis, as opposed to a per-class basis, and (b) a numerator including as acquiror’s securities, all of the Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares that constitute acquiror’s securities;
5. with respect only to the NCIB Relief, the Filer complies with the conditions in subsection 4.8(3) of NI 62-104, except that: (a) the bid is for not more than 5% of the outstanding Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares on a combined basis, as opposed to a per-class basis, and (b) the aggregate number of Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares acquired in reliance on the NCIB Relief by the Filer and any person acting jointly or in concert with the Filer within any 12-month period does not exceed 5% of the outstanding Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares on a combined basis, as opposed to a per-class basis, at the beginning of such 12-month period;
6. with respect only to the Early Warning Relief:
 - (a) the acquiror complies with the early warning requirements, except that, for the purpose of determining the percentage of outstanding Subordinate Voting Shares, Restricted Voting Shares or Limited Voting Shares, as the case may be, that the acquiror has acquired or disposed of beneficial ownership, or acquired or ceased to have control or direction over, the acquiror calculates the percentage using (i) a denominator comprised of all of the outstanding Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares, determined in accordance with subsection 1.8(2) of NI 62-104, on a combined basis, as opposed to a per-class basis, and (ii) a numerator including, as acquiror’s securities, all of the Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares, as applicable, that constitute acquiror’s securities; or
 - (b) in the case of an acquiror that is an eligible institutional investor, the acquiror complies with the requirements of the alternative monthly reporting system set out in Part 4 of NI 62-103 to the extent it is not disqualified from filing reports thereunder pursuant to section 4.2 of NI 62-103, except that, for purposes of determining the acquiror’s securityholding percentage, the acquiror calculates its securityholding percentage using (i) a

denominator comprised of all of the outstanding Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares determined in accordance with subsection 1.8(2) of NI 62-104 on a combined basis, as opposed to a per-class basis, and (ii) a numerator including all of the Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares, as applicable, beneficially owned or controlled by the eligible institutional investor;

7. with respect only to the Alternative Disclosure Relief, the Filer provides the disclosure required by Item 6.5 of Form 51-102F5 except that for purposes of determining the percentage of voting rights attached to the Subordinate Voting Shares, Restricted Voting Shares or Limited Voting Shares, the Filer calculates the voting percentage using (a) a denominator comprised of all of the outstanding Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares on a combined basis, as opposed to a per-class basis, and (b) a numerator including all of the Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares beneficially owned, or over which control or direction is exercised, directly or indirectly, by any person who, to the knowledge of the Filer's directors or executive officers, beneficially owns, controls or directs, directly or indirectly, voting securities carrying 10% or more of the voting rights attached to the outstanding Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares on a combined basis, as opposed to a per-class basis; and
8. with respect only to the Nomenclature Relief, the Limited Voting Shares are referred to as "Limited Voting Shares".

"Jason Koskela"
Acting Director, Office of Mergers & Acquisitions
Ontario Securities Commission

2.2 Orders

2.2.1 Pacgen Life Science Corporation

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Application for an order that the issuer is not a reporting issuer under applicable securities laws – The issuer is not an OTC reporting issuer; the securities of the issuer are beneficially owned by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders worldwide; no securities of the issuer are traded on a market in Canada or another country; the issuer is not in default of securities legislation except it has not filed certain continuous disclosure documents – Requested relief granted.

Applicable Legislative Provisions

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

January 8, 2021

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

AND

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

AND

**IN THE MATTER OF
PACGEN LIFE SCIENCE CORPORATION
(the Filer)**

ORDER

Background

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

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

- (a) the British Columbia Securities Commission is the principal regulator for this application,
- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan, Manitoba and Nova Scotia, and
- (c) this order is the order of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

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

Representations

- ¶ 3 This order is based on the following facts represented by the Filer:
- 1. the Filer was incorporated under the *Business Corporations Act* (British Columbia) (the BCBCA);
 - 2. the Filer's head office is located in Vancouver, British Columbia;

3. the Filer's authorized capital of the Filer consists of an unlimited number of common shares of which 64,815,969 common shares (the Common Shares) are issued and outstanding; the Filer has no other outstanding securities;
4. the Common Shares traded on the TSX Venture Exchange (the TSXV) and no other securities of the Filer are listed on any other exchange;
5. on September 30, 2020, the Filer completed a statutory plan of arrangement (the Arrangement) under the BCBCA pursuant to which General Biologicals Corporation (GBC) acquired all issued and outstanding Common Shares of the Filer, other than Common Shares owned by GBC, Tsong-Chin Lin, Golden Global International Corporation and Curie Med Corporation;
6. following completion of the Arrangement, the sole shareholders of the Corporation are GBC, Tsong-Chin Lin, Golden Global International Corporation and Curie Med Corporation;
7. on October 1, 2020, the Common Shares were delisted from the TSXV;
8. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;
9. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
10. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
11. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer;
12. the Filer is not in default of securities legislation in any jurisdiction, other than the obligation to file on or before November 30, 2020 its interim financial statements and related management's discussion and analysis for the interim period ended September 30, 2020 as required under National Instrument 51-102 *Continuous Disclosure Obligations* and the related certification of interim filings as required under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (collectively, the Filings); and
13. the Filer is not eligible to use the simplified procedure under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* as the Filer is in default for failure to file the Filings.

Order

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

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

"Noreen Bent"
Chief, Corporate Finance Legal Services
British Columbia Securities Commission

2.2.2 Cidel Asset Management Inc. and the Top Funds

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Mutual funds that are not a reporting issuers granted 90-day extension of the annual financial statement filing and delivery deadlines under NI 81-106 – Top Funds invests the majority of its assets in Underlying Funds – Some Underlying Funds are subject to a variety of financial reporting deadlines, in some cases extending beyond annual financial statement filing and delivery deadline under NI 81-106 – Relief granted provided that no less than 25% of the total assets of the Top Fund at the time the Top Fund makes the initial investment decision in the Underlying Funds, are invested in entities that have financial reporting periods that end on December 31 of each year and are subject to laws of their jurisdictions that require their annual financial statements to be delivered within 120 days of their financial year ends.

Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 2.2, 5.1(2)(a), and 17.1.

February 25, 2021

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE “JURISDICTION”)

AND

IN THE MATTER OF
CIDEL ASSET MANAGEMENT INC.

AND

THE TOP FUNDS
(AS DEFINED BELOW)

ORDER

Background

The principal regulator in the Jurisdiction has received an application from Cidel Asset Management Inc. (the “**Filer**”), as investment fund manager of Cidel Credit Opportunities Fund, Cidel Relative Value Fund and Cidel Long/Short Equity Fund (collectively, the “**Initial Top Funds**”) and any other existing or future mutual fund that is not and will not be a reporting issuer, and that is, or will be, managed by the Filer and invests in underlying funds as part of its investment strategy (the “**Future Top Funds**”, and together with the Initial Top Funds, the “**Top Funds**”) for a decision under the securities legislation of the Jurisdiction (the “**Legislation**”) in respect of the Fund-on-Fund Structure (as defined below) exempting the Filer and the Top Funds from:

1. the requirement in section 2.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (“**NI 81-106**”) that the Top Funds file their audited annual financial statements and auditor’s report on or before the 90th day after the Top Funds’ most recently completed financial year (the “**Annual Filing Deadline**”); and
2. the requirement in paragraph 5.1(2)(a) of NI 81-106 that the Top Funds deliver their audited financial statements by the Annual Filing Deadline (the “**Annual Delivery Requirement**”)

(collectively, relief from the Annual Filing Deadline and the Annual Delivery Requirement, the “**Requested Relief**”).

Representations

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

The Filer

1. The Filer is a corporation formed under the laws of Ontario with its head office in Toronto, Ontario.
2. The Filer is registered as a commodity trading manager in Ontario, investment fund manager, portfolio manager and exempt market dealer in each of Ontario, Québec, and Newfoundland and Labrador, and as a portfolio manager and an exempt market dealer in each of Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, and Saskatchewan.

3. The Filer is not a reporting issuer in any jurisdiction and is not in default of securities legislation of any jurisdiction of Canada.
4. The Filer is the investment fund manager and portfolio manager of the Initial Top Funds. The Filer is, or will be, the investment fund manager and portfolio manager of each Top Fund. The Filer or a third party will act as trustee of each Top Fund.

The Top Funds

5. Each Initial Top Fund is a trust organized under the laws of Ontario pursuant to an amended and restated trust agreement dated July 31, 2020 (the “**Trust Agreement**”). Each Future Top Fund will be organized as a pooled fund trust or limited partnership under the laws of Ontario or another jurisdiction of Canada.
6. Each Top Fund will be a “mutual fund” for the purposes of the Legislation.
7. Securities of each Top Fund will only be offered for sale on a continuous basis to qualified investors in all provinces and territories in Canada pursuant to an exemption from the prospectus requirements under National Instrument 45-106 *Prospectus and Registration Exemptions* (“**NI 45-106**”).
8. Units of each Top Fund will only be distributed in Canada pursuant to exemptions from the prospectus requirement in accordance with NI 45-106.
9. None of the Top Funds is, or will be, a reporting issuer in any province or territory of Canada.
10. Each Top Fund will have a financial year-end of December 31.
11. The Initial Top Funds invest in units of underlying funds (the “**Initial Underlying Funds**”).
12. In addition, each Top Fund may also invest in units of one or more future underlying funds (each, a “**Future Underlying Fund**” and, together with the Initial Underlying Funds, the “**Underlying Funds**”) which investment or investments will be consistent with the Top Fund’s investment objectives and strategies.
13. The investment objective of each Top Fund is, or will be, to meet or exceed the return of a certain benchmark while meeting certain volatility goals vis-à-vis its benchmark by investing in the Underlying Funds. The investment strategy of each Top Fund is to invest the Top Fund’s assets in Underlying Funds that are private investment entities managed by independent managers.
14. The Filer believes that investing in the Underlying Funds offers benefits not available through a direct investment in the companies, other issuers or assets held by the Underlying Fund.
15. The Filer engages in an extensive due diligence process when selecting Underlying Funds for each Top Fund.
16. Securities of the Underlying Funds are typically redeemable at various intervals, but in some cases may not be redeemable until the termination of the Underlying Funds. As each Top Fund has a long-term investment horizon, each Top Fund is able to manage its own liquidity requirements taking into consideration the frequency at which the securities of the Underlying Funds may be redeemed.
17. The net asset value of each Top Fund (“**NAV**”) is calculated on a monthly basis, as of the last business day of each month (the “**Valuation Date**”). Investors of each Top Fund are provided with the NAV on a monthly basis within 60 days of each Valuation Date.
18. The holdings of each Top Fund of securities of the Underlying Funds will be disclosed in the financial statements.

Financial Statements

19. Generally, section 2.2 and subsection 5.1(2)(a) of NI 81-106 require a Top Fund to file and deliver its annual audited financial statements by the Annual Filing Deadline. As each Top Funds’ financial year-end is December 31, they each have a filing and delivery deadline of March 31.
20. Section 2.11 of NI 81-106 provides an exemption (the “**Filing Exemption**”) from the Annual Filing Deadline if, among other things, an investment fund delivers its annual financial statements in accordance with part 5 of NI 81-106 by the Annual Filing Deadline.

21. In order to formulate an opinion on the financial statements on each Top Fund, the Top Fund's auditor requires audited financial statements of the respective Underlying Funds in order to audit the information contained in the Top Fund's financial statements. The auditors of the Top Funds have advised the Filer that they will be unable to complete the audit of each Top Fund's annual financial statements until the audited financial statements of the Underlying Funds are completed and available to the respective Top Fund.
22. The Underlying Funds may be domiciled in Canada, the United States or other international jurisdictions.
23. The Underlying Funds may have varying financial year-ends and may be subject to a variety of financial reporting deadlines. For example, a material amount of the assets of the Top Funds invested in Underlying Funds will be in Underlying Funds that are governed by laws that require the financial statements to be filed within 120 days of the financial year end of the Underlying Fund.
24. In most cases, the Top Funds will not be able to obtain the financial statements of the Underlying Funds sooner than the deadline for filing the financial statements of the Underlying Funds and, in all cases, no sooner than other unitholders of the Underlying Funds receive the financial statements of the Underlying Funds
25. The offering memorandum of each Top Fund that will be provided to investors will disclose or investors will be otherwise notified that annual audited financial statements for the Top Fund will be filed and delivered within 180 days of financial year end, subject to regulatory approval.
26. The Filer will notify unitholders in the Top Funds that it has received and intends to rely on relief from the Annual Filing Deadline and Annual Delivery Requirement.
27. The Filer does not anticipate it will be able to rely on the Filing Exemption since it is unable to prepare and deliver the financial statements and auditor's report within ninety (90) days after the Top Fund's most recently completed financial year.
28. It is expected that each Top Fund will not be able to file the annual audited financial statements of the Top Fund by the Annual Filing Deadline. As a result, the Top Fund will not be able to meet the Annual Delivery Requirement. The Filer expects this timing delay in the completion of its annual audited financial statements to occur every year for the foreseeable future.
29. Each Top Fund therefore seeks an extension of the Annual Filing Deadline and Annual Delivery Requirement to June 30 of each year, to enable the Top Fund's auditors to first receive the audited financial statements of the Underlying Funds so as to be able to prepare the Top Fund's annual audited financial statements.

Decision

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

The decision of the principal regulator under the Legislation is that the Requested Relief is granted to a Top Fund for so long as:

1. The Top Fund has a financial year ended December 31.
2. The Top Fund's investment strategy is to invest its assets in private investment entities managed by independent managers.
3. The Top Fund invests the majority of its assets in Underlying Funds.
4. No less than 25% of the total assets of the Top Fund at the time the Top Fund makes the initial investment decision in the Underlying Fund(s), are invested in investment entities that have financial reporting periods that end on December 31 of each year and are subject to laws of their jurisdictions that require their financial statements to be delivered within 120 days of their financial year ends.
5. The offering memorandum provided to unitholders regarding the Top Fund discloses that annual audited financial statements for the Top Fund will be filed and delivered within 180 days of financial year end, subject to regulatory approval.
6. The Top Fund notifies its unitholders that the Top Fund has received and intends to rely on relief from the filing and delivery requirements under section 2.2 and subsection 5.1(2)(a) of NI 81-106.
7. The Top Fund is not a reporting issuer and the Filer is a Corporation formed under the laws of Ontario with its head office in Toronto, Ontario and has the necessary registrations to carry out its operations in each jurisdiction of Canada in which it operates.

- (a) The audited annual financial statements of the Top Fund are filed on or before the 180th day after the Top Fund's most recently completed financial year; or
 - (b) the conditions in section 2.11 of NI 81-106 are met, except for subsection 2.11(b), and the annual audited financial statements are delivered to unitholders in accordance with Part 5 of NI 81-106 on or before the 180th day after the Top Fund's most recently completed financial year.
- 8. The Requested Relief terminates within one year of the coming into force of any amendment to NI 81-106 or other rule that modifies how the Annual Filing Requirement or Annual Delivery Requirement applies in connection with mutual funds under the Legislation.

"Darren McKall"

Manager, Investment Funds and Structured Products Branch
Ontario Securities Commission

2.2.3 T. Rowe Price Associates, Inc. and T. Rowe Price International Ltd – s. 80 of the CFA

Headnote

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

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

Applicable Legislative Provisions

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 1(1), 22(1)(b), and 80.

Securities Act, R.S.O. 1990, c. S.5, as am., s. 25(3).

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 1.1 and 8.26.

Ontario Securities Commission Rule 13-502 Fees.

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

AND

**IN THE MATTER OF
T. ROWE PRICE ASSOCIATES, INC.**

AND

**T. ROWE PRICE INTERNATIONAL LTD
(the “FILERS”)**

**ORDER
(Section 80 of the CFA)**

UPON the application (the “**Application**”) of T. Rowe Price Associates, Inc. (“**TRP Associates**”) and T. Rowe Price International Ltd (“**TRP International**”) (each a Filer and collectively, the “**Filers**”) to the Ontario Securities Commission (the “**Commission**”) for an order pursuant to section 80 of the CFA (the “**Order**”) that the Filers and any individuals engaging in, or holding themselves out as engaging in, the business of advising others as to trading in Contracts (as defined below) on the Filers’ behalf (the “**Representatives**”) be exempt, for a specified period of time, from the adviser registration requirement in paragraph 22(1)(b) of the CFA, subject to certain terms and conditions;

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

AND WHEREAS for the purposes of this Order:

“**CFA Adviser Registration Requirement**” means the requirement in the CFA that prohibits a person or company from acting as an adviser with respect to trading in Contracts unless the person or company is registered in the appropriate category of registration under the CFA;

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

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

“**FCA**” means the United Kingdom Financial Conduct Authority;

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

“**Home Jurisdiction**” means the jurisdiction in which a Filer’s head office is located;

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

“NFA” means the United States National Futures Association;

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

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

“OSA Adviser Registration Requirement” means the requirement in the OSA that prohibits a person or company from acting as an adviser with respect to investing in, buying or selling securities unless the person or company is registered in the appropriate category of registration under the OSA;

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

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

“specified affiliate” has the meaning ascribed to that term in Form 33-506F6 *Firm Registration* to Ontario Securities Commission Rule 33-506 (*Commodity Futures Act*) *Registration Information*; and

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

AND UPON the Filers having represented to the Commission that:

1. TRP Associates was incorporated under the laws of the State of Maryland, United States. The Filer’s principal place of business is located in 100 East Pratt Street, Baltimore, Maryland, 21202.
2. TRP Associates provides portfolio management, equities, fixed income, asset allocation, and financial advisory services to clients that are non-individual permitted clients. In Canada, TRP Associates provides these services by advising clients’ funds or portfolios, either directly or as delegated sub-adviser of T. Rowe Price (Canada), Inc. (**TRP Canada**). In addition, TRP Associates acts as sub-adviser to certain pooled funds sponsored by TRP Canada in reliance on the International Adviser Exemption.
3. TRP Canada is registered as an exempt market dealer, portfolio manager and investment manager in Ontario and various jurisdictions across Canada.
4. TRP Associates is currently registered (a) with the SEC as an investment adviser under the United States Advisers Act; (b) registered with the CFTC as a commodity trading advisor and a commodity pool operator; and (c) a member of the NFA.
5. TRP International is a company incorporated under the laws of England and Wales (registered company number 3957748). Its registered and head office is located at 60 Queen Victoria Street London, United Kingdom, EC4N 4TZ.
6. TRP International offers portfolio management and advisory services to institutions, trusts, private funds, charitable organizations, and investment companies to clients that are non-individual permitted clients. In Canada, TRP International provides these services by advising clients’ funds or portfolios, either directly or as delegated sub-adviser of TRP Canada in reliance on the International Adviser Exemption.
7. TRP International is (a) authorised and regulated by the FCA to advise on investments, advise on P2P agreements, arrange safeguarding and administration of assets, deal in investments as agent, make arrangements with a view to transactions in investments, and manage investments; (b) registered with the CFTC as a commodity trading advisor; and (c) a member of the NFA.
8. The Filers are affiliated companies as defined in section 1 of the OSA. They are part of T. Rowe Price Group, Inc., a U.S. publicly owned global investment management firm. As of March 31, 2020, T. Rowe Price Group, Inc. has approximately USD \$1.0 trillion in assets under management.
9. The Filers are not registered in any capacity under the CFA. The Filers rely on the International Adviser Exemption in the province of Ontario.
10. Certain institutional investors in Ontario that are Permitted Clients seek to engage the Filers as discretionary investment managers for purposes of implementing certain specialized investment strategies.

11. Each of the Filers is registered in a category of registration, or operates under an exemption from registration, under the applicable securities legislation or commodity futures legislation of its Home Jurisdiction, that permits it to carry on the activities in that jurisdiction that registration as an adviser under the CFA in the category of commodity trading manager would permit it to carry on in Ontario.
12. The Filers seek to act as a discretionary commodity trading manager for Canadian Institutional investors that are Permitted Clients. The Filers' proposed advisory services would include the use of specialized investment strategies employing Foreign Contracts.
13. Were the proposed advisory services limited to securities, as defined in subsection 1(1) of the OSA, the Filers would be able to rely on the International Adviser Exemption and carry out such activities for Permitted Clients on a basis that would be exempt from the OSA Adviser Registration Requirement.
14. The Filers are not in default of securities legislation, commodity futures legislation or derivatives legislation in any jurisdiction in Canada. Each Filer is in compliance in all material respects with securities laws, commodity futures laws and derivatives laws of its Home Jurisdiction.
15. Paragraph 22(1)(b) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA or is registered as a representative or as a partner or an officer of a registered adviser and is acting on behalf of such registered adviser.
16. By providing the advisory services, the Filers and their representatives will be engaging in, or holding himself, herself or themselves out as engaging in, the business of advising others in respect of Foreign Contracts and, absent the requested relief, would be required to register as an adviser under the CFA.
17. There is currently no exemption from the CFA Adviser Registration Requirement that is equivalent to the International Adviser Exemption. Consequently, in order to advise Permitted Clients in Ontario as to trading in Foreign Contracts, in the absence of this Order the Filers would be required to satisfy the CFA Adviser Registration Requirement by applying for and obtaining registration in Ontario as an adviser under the CFA in the category of commodity trading manager.
18. Each Filer confirms that, to the best of such Filer's knowledge, there are currently no regulatory actions of the type contemplated by the Notice of Regulatory Action attached as Appendix "B" to the Order, except as otherwise disclosed to the Commission, in respect of the Filer or any predecessors or specified affiliates of the Filer.

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

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

1. the Filer provides advice to Permitted Clients only as to trading in Foreign Contracts and does not advise any Permitted Clients as to trading in Contracts that are not Foreign Contracts, unless providing such advice is incidental to it providing advice on Foreign Contracts;
2. the Filer's head office or principal place of business remains in its current Home Jurisdiction;
3. the Filer is registered in a category of registration, or operates under an exemption from registration, under the applicable securities or commodity futures legislation of its Home Jurisdiction that permits it to carry on the activities in that jurisdiction that registration under the CFA as an adviser in the category of commodity trading manager would permit it to carry on in Ontario;
4. the Filer continues to engage in the business of an adviser, as defined in the CFA, in its Home Jurisdiction;
5. as at the end of the Filer's most recently completed financial year, not more than 10% of the aggregate consolidated gross revenue of the Filer, its affiliates and its affiliated partnerships (excluding the gross revenue of an affiliate or affiliated partnership of the Filer if the affiliate or affiliated partnership is registered under securities legislation, commodities futures legislation or derivatives legislation of a jurisdiction of Canada) was derived from the portfolio management activities of the Filer, its affiliates and its affiliated partnerships in Canada (which, for greater certainty, includes both securities-related and commodity futures-related activities);
6. before advising a Permitted Client with respect to Foreign Contracts, the Filer notifies the Permitted Client of all of the following:
 - (a) the Filer is not registered in Ontario to provide the advice described in paragraph 1 of this Order;

- (b) the foreign jurisdiction in which the Filer's head office or principal place of business is located (United States or United Kingdom);
 - (c) all or substantially all of the Filer's assets may be situated outside of Canada;
 - (d) there may be difficulty enforcing legal rights against the Filer because of the above; and
 - (e) the name and address of the Filer's agent for service of process in Ontario;
7. the Filer has submitted to the Commission a completed Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* in the form attached as Appendix A;
8. the Filer notifies the Commission of any regulatory action initiated after the date of this Order with respect to the Filer or, to the best of the Filer's knowledge after reasonable inquiry, any predecessors or the specified affiliates of the Filer by completing and filing Appendix "B" within 10 days of the commencement of each such action, provided that the Filer may also satisfy this condition by filing with the Commission,
- (a) within 10 days of the date of this Order, a notice making reference to and incorporating by reference the disclosure made by the Filer pursuant to federal securities laws of the United States that is identified on the Investment Adviser Public Disclosure website,
 - (b) promptly, a notification of any Form ADV amendment and/or filing with the SEC that relates to legal and/or regulatory actions; and
9. if the Filer is not subject to the requirement to pay a participation fee in Ontario because it is not registered under the OSA and does not rely on the International Adviser Exemption, by December 31st each year, the Filer pays a participation fee based on its specified Ontario revenues for its previous financial year in compliance with the requirements of Part 3 and section 6.4 of Ontario Securities Commission Rule 13-502 *Fees* as if the Filer relied on the International Adviser Exemption; and

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

- (a) the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA;
- (b) six months, or such other transition period as may be provided by law, after the coming into force of any amendment to Ontario commodity futures law (as defined in the CFA) or Ontario securities law (as defined in the OSA) that affects the ability of the Filer to act as an adviser to a Permitted Client; and
- (c) five years after the date of this Order.

Dated this **26** of **February 2021**

"Raymond Kindiak"
Commissioner
Ontario Securities Commission

"Mary Anne De Monte-Whelan"
Commissioner
Ontario Securities Commission

APPENDIX "A"

SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE

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

1. Name of person or company ("International Firm"):
2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm:
3. Jurisdiction of incorporation of the International Firm:
4. Head office address of the International Firm:
5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.
6. Name:
E-mail address:
Phone:
Fax:
7. 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]:
8. Name of agent for service of process (the "Agent for Service"):
9. Address for service of process on the Agent for Service:
10. 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.
11. 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.
12. 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 and
 - 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.
13. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

Decisions, Orders and Rulings

Dated: _____

(Signature of the International Firm or authorized signatory)

(Name of signatory)

(Title of signatory)

Acceptance

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

Dated: _____

(Signature of the Agent for Service or authorized signatory)

(Name of signatory)

(Title of signatory)

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

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

APPENDIX "B"

NOTICE OF REGULATORY ACTION

1. Has the firm, or any predecessors or specified affiliates¹ of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

Yes _____ No _____

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

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

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

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

If yes, provide the following information for each action:

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

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

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

Yes ____ No ____

If yes, provide the following information for each investigation:

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

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

Witness

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

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

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

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

2.2.4 Trumid Financial, LLC – s. 15.1 of NI 21-101, s. 12.1 of NI 23-101, s. 10 of NI 23-103, s. 144(1) of the OSA

Headnote

Subsection 144(1) of the OSA – Application for an order revoking an order issued June 8, 2020 granting Trumid Financial LLC exemptive relief under s. 15.1 of National Instrument 21-101 Marketplace Operation, s. 12.1 of National Instrument 23-101 Trading Rules, and s. 10 of National Instrument 23-103 Electronic Trading and Direct Access from the Marketplace Rules – order granted.

**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 and Subsection 144(1) of the OSA)**

WHEREAS the Ontario Securities Commission (the “OSC”) issued an order dated June 8, 2020 (the “**ATS Order**”) pursuant to Section 15.1 of NI 21-101, section 12.1 of NI 23-101 and section 10 of NI 23-103 (the “**Marketplace Rules**”), exempting Trumid Financial, LLC (“**Trumid**”) from the requirement to comply with the Marketplace Rules (the “**Original Relief in Ontario**”), provided that Trumid complies with the terms and conditions set out in Schedule A to the ATS Order;

AND WHEREAS Trumid has filed a coordinated review application (“**Coordinated Review Application**”) with the securities regulatory authority or regulator in each of the provinces and territories of Canada (the “**Jurisdictions**”) for a decision under the securities legislation of the Jurisdictions that would be equivalent to the Original Relief in Ontario, being exemptions in each of the Jurisdictions from NI 21-101 in whole, from NI 23-101 in whole and from NI 23-103 in whole (the “**ATS Requested Relief**”), in accordance with the guidance set out in National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* (“**NP 11-203**”);

AND WHEREAS under NP 11-203 for a coordinated review application the Ontario Securities Commission is the principal regulator for the ATS Requested Relief;

AND WHEREAS Trumid has filed an application pursuant to subsection 144(1) of the OSA to revoke the ATS Order (the “**Application**”);

AND WHEREAS the ATS Requested Relief was granted on February 24, 2021 (the “**Coordinated Review Order**”);

AND WHEREAS Trumid has represented to the Decision Maker that:

1. The terms and conditions set out in the Coordinated Review Order are substantially the same as the terms and conditions imposed on Trumid under the ATS Order;
2. Trumid continues to abide by the terms and conditions of the ATS Order;

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;

The OSC hereby revokes the ATS Order pursuant to section 144 of the OSA.

DATED February 24, 2021

"Susan Greenglass"
Director, Market Regulation
Ontario Securities Commission

2.2.5 Majd Kitmitto et al.

File No. 2018-70

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

M. Cecilia Williams, Commissioner and Chair of the Panel
Heather Zordel, Commissioner
Craig Hayman, Commissioner

March 1, 2021

ORDER

WHEREAS on February 26, 2021, the Ontario Securities Commission (the **Commission**) held a hearing by videoconference;

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

IT IS ORDERED THAT:

1. The Respondents shall provide Staff with their written submissions on their requests for confidentiality and include copies of any proposed redacted exhibits by 4:30 p.m. on March 19, 2021;
2. Staff will respond to the Respondents by 4:30 p.m. on April 9, 2021; and
3. The following shall be filed with the Commission by 4:30 p.m. on April 30, 2021:
 - (a) joint written submissions from all the parties on confidentiality and copies of any proposed redacted exhibits; or
 - (b) if agreement cannot be reached, each party shall file their written submissions on confidentiality and copies of any proposed redacted exhibits.

"M. Cecilia Williams"

"Heather Zordel"

"Craig Hayman"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 ESW Capital, LLC and Optiva Inc. – s. 104

Citation: *ESW Capital, LLC (Re)*, 2021 ONSEC 7

Date: 2021-02-23

File No. 2020-26

IN THE MATTER OF
ESW CAPITAL, LLC

AND

IN THE MATTER OF
OPTIVA INC.

REASONS FOR DECISION (Section 104 of the *Securities Act*, RSO 1990, c S.5)

Hearing:	September 10 and 11, 2020	
Decision:	February 23, 2021	
Panel:	Timothy Moseley Wendy Berman Frances Kordyback	Vice-Chair and Chair of the Panel Vice-Chair Commissioner
Appearances:	Yvonne Chisholm Naizam Kanji Jason Koskela	For Staff of the Commission
	Steve Tenai Hansen Wong	For ESW Capital, LLC
	Robert Staley Nathan Shaheen Richard Swan Kristopher Hanc	For Optiva Inc.
	Andrew McCoomb Elana Friedman	For Maple Rock Capital Partners
	Paul Steep Graham Gow Anu Koshal	For EdgePoint Investment Group Inc.

REASONS FOR DECISION

I. Overview

- [1] These reasons relate to an application for exemptive relief in connection with a contested proposed take-over bid by a control block shareholder. We dismissed the application.
- [2] On July 27, 2020, ESW Capital, LLC announced its intention to proceed with an all-cash offer to acquire any and all of the outstanding subordinate voting shares of Optiva Inc. (the **Voting Shares**) at a price of \$60 per share conditional upon, among other things, ESW successfully obtaining exemptive relief from the Commission, and certain other customary conditions (the **Proposed Offer**).

- [3] The Proposed Offer was made in the midst of an ongoing control battle related to competing strategic visions for Optiva among three control block shareholders: ESW, holding approximately 28% of the Voting Shares, Maple Rock Capital Partners, holding 22.4%, and EdgePoint Investment Group, holding 18.1%.
- [4] The Proposed Offer was subject to the mandatory minimum tender requirement in Ontario securities law which would require that at least 50% of the total outstanding Voting Shares not under the control of ESW be tendered before any take-up by ESW. The minimum tender requirement cannot be waived by ESW.
- [5] Neither Maple Rock nor EdgePoint supports the Proposed Offer. Each announced its intention not to tender to the bid. In such circumstances, the Proposed Offer cannot proceed unless ESW obtains exemptive relief to exclude Maple Rock's and EdgePoint's shareholdings from the minimum tender requirement.
- [6] On August 6, 2020, ESW applied for that exemptive relief (the **Requested Exemption**) under subsection 104(1) of the *Securities Act*¹ (the **Act**). At the suggestion of Staff of the Ontario Securities Commission, ESW did not commence a formal take-over bid pending the disposition of its application.
- [7] The minimum tender requirement is part of recent material amendments to the take-over bid regime designed to address the risks of coercion by facilitating collective shareholder decision-making. Any request for exemptive relief from the minimum tender requirement raises fundamental issues regarding the protection of shareholder choice and the integrity of the bid environment. Such a request must be considered in light of the recalibrated control dynamics among the bidder, the target and control block shareholders in the bid regime.
- [8] The main issue in this application is whether the Requested Exemption would be prejudicial to the public interest. Resolving this question requires an assessment of the circumstances of the proposed bid, the target, the bidder and the control block shareholders to determine whether excluding the control block shareholdings from the minimum tender requirement would be necessary to facilitate shareholder choice and to ensure a fair, open and even-handed bid environment.
- [9] After hearing submissions from the parties on September 10 and 11, 2020, we reserved our decision. On September 14, we issued an order dismissing the application for reasons to follow. These are our reasons.
- [10] In summary, there were no exceptional circumstances or abusive or improper conduct that undermined minority shareholder choice to warrant intervention by the Commission. Predictability is an important aspect of take-over bid regulation and the Commission must be cautious in granting exemptive relief that alters the recently recalibrated bid regime.

II. Background

A. Parties

- [11] Optiva provides customer support software solutions for telecommunications companies. Optiva is a reporting issuer in each of the provinces of Canada. Its Voting Shares are listed on the Toronto Stock Exchange.
- [12] ESW, a private company based in Texas, invests in software companies. ESW, together with its affiliates (collectively referred to below as **ESW**) owns or controls approximately 28% of the Voting Shares. It also owns or controls share purchase warrants (the **Warrants**), which if exercised would result in ESW owning, in aggregate, approximately 39% of the issued and outstanding Voting Shares. ESW also had ownership or control over 800,000 Series A preferred shares of Optiva (the **Preferred Shares**) from January 2017 until the redemption of the Preferred Shares by Optiva on July 20, 2020.
- [13] Maple Rock is an investment firm based in Toronto. It invests in companies on behalf of various discretionary accounts that it manages. Maple Rock controls approximately 22.4% of the Voting Shares. Maple Rock also holds approximately US\$22.8 million in secured debentures issued by Optiva in July 2020 (described and defined below).
- [14] EdgePoint is an investment management company based in Toronto. It provides discretionary portfolio management services to, and invests on behalf of, several mutual funds. EdgePoint controls approximately 18.1% of the Voting Shares. EdgePoint also holds approximately US\$55 million in secured debentures issued by Optiva.

B. Optiva shareholder and Optiva board control dynamics

- [15] Since 2018, Optiva has had three control block shareholders: ESW, Maple Rock and EdgePoint. By January 2020, they collectively controlled approximately 68.5% of the Voting Shares.

¹ RSO 1990, c S.5

- [16] ESW initially invested in Optiva in 2016, acquiring an 11.5% shareholding. In September 2017, ESW increased its shareholding to approximately 28% through a rights offering at an acquisition cost of approximately US\$23 million.
- [17] ESW also provided equity financing of US\$83.2 million to Optiva through the acquisition of the Preferred Shares and the Warrants (the **Preferred Share Financing**), pursuant to the terms of a subscription agreement dated December 18, 2016 (the **Subscription Agreement**). The terms of the Preferred Shares, as contained in Optiva's articles of incorporation and the Subscription Agreement, included the right to elect a majority of the board of directors of Optiva for as long as the Preferred Shares are outstanding.
- [18] Following the Preferred Share Financing in 2016 and until the Preferred Shares were redeemed on July 20, 2020 (as described more fully below), ESW elected a majority of Optiva's directors, being four members (the **Preferred Directors**) of the seven-member board.
- [19] After the Preferred Share Financing, Maple Rock and EdgePoint began to acquire Voting Shares for the various discretionary accounts and/or funds they managed. By January 2020, they had acquired approximately 22.4% and 18.1% of the Voting Shares, respectively.
- [20] In October 2017, Robert Stabile was appointed to Optiva's board at the recommendation of Maple Rock. Stabile is currently the chair of Optiva's board and the chair of the Special Committee (described and defined below).
- [21] At the time of the Proposed Offer, Maple Rock and EdgePoint together controlled approximately 40.5% of the Voting Shares. ESW controlled approximately 28% of the Voting Shares.

C. Optiva control battle

- [22] ESW, Maple Rock and EdgePoint have been engaged in a public and often hostile battle regarding the strategic direction and governance of Optiva.
- [23] Beginning in the spring of 2019, Optiva began to accelerate its cloud-based business strategic plan. It discussed this plan and associated funding needs with the three control block shareholders. Optiva also discussed a proposal to divest an asset to ESW.
- [24] Maple Rock and EdgePoint (each of which held more than 10% of Optiva by this point) expressed concerns regarding certain strategic, governance and operational aspects of Optiva, including the proposed asset sale and funding proposal. Each also began to seek formal board representation rights through various proposals in 2019 and 2020.
- [25] Maple Rock and EdgePoint had direct discussions with each other regarding their concerns. In April 2019, they jointly submitted a debt financing proposal to Optiva to partially address its funding needs. Maple Rock also indicated to Optiva its willingness to provide debt or equity financing. EdgePoint made a separate equity financing proposal to Optiva of up to \$50 million.
- [26] Optiva did not proceed with the proposed asset sale to ESW, nor with the debt or equity financing proposals.
- [27] On January 20, 2020, Optiva publicly announced its plan to accelerate investment in cloud-based innovation initiatives and to raise up to US\$100 million to fund this plan.
- [28] Neither Maple Rock nor EdgePoint was supportive of Optiva's announced plans. The day after the announcement, EdgePoint expressed concerns in a letter to the Optiva Board regarding Optiva's governance, accelerated strategic plan and the quality and accuracy of the associated financial projections. The following day, Maple Rock expressed similar concerns in an open letter to Optiva's board.
- [29] On January 24, 2020, Maple Rock commenced a proxy contest. It sought to reconstitute Optiva's board by replacing two directors with its own nominees. It also sought to put forward an advisory resolution requesting that Optiva's board establish a special committee to explore strategic alternatives.
- [30] In response to Maple Rock's requisition, Optiva's board called an annual general and special shareholder meeting for May 12, 2020. The meeting was later postponed due to the COVID-19 pandemic. A shareholder meeting was ultimately held on August 18, 2020 (the **Shareholder Meeting**).
- [31] ESW responded to Maple Rock's statements and the proxy contest in an open letter. In that letter, ESW invited Maple Rock and EdgePoint to acquire ESW's control position for US\$200 million and indicated that otherwise, ESW supported Optiva's strategic plan.

D. Preferred share redemption and reconstituted Optiva board

- [32] From May 2020 to June 2020, Optiva, ESW, Maple Rock and EdgePoint engaged in discussions and negotiations for the purchase of the Preferred Shares by Maple Rock and/or EdgePoint or a consensual redemption by Optiva. Various proposals were exchanged and discussed but ultimately these negotiations were unsuccessful.
- [33] On June 26, 2020, and following the breakdown of the negotiations for the sale or consensual redemption of the Preferred Shares, ESW advised Optiva's board that the ongoing relationship was untenable. ESW also advised that, among other things, it would either reduce its involvement (including ceding board control and reducing its operational involvement) or it would acquire and run Optiva. ESW provided a preliminary non-binding indicative offer to acquire all of the Voting Shares for \$30 per share (the **Indicative Offer**).
- [34] Later that day, Optiva announced a US\$90 million debenture offering of 9.75% secured payment-in-kind toggle debentures due 2025 (the **Debentures**) backstopped by Maple Rock and EdgePoint. The proceeds of the debenture financing were to be used to fund the redemption of the Preferred Shares for US\$91.4 million.
- [35] The debenture financing was fully subscribed and together with the preferred share redemption closed on July 20, 2020. EdgePoint and Maple Rock acquired US\$55 million and US\$22,755,000 of the Debentures, respectively.
- [36] Concurrent with the debenture financing and the preferred share redemption, Optiva entered into agreements with EdgePoint and Maple Rock that provided certain board nomination rights. The agreements provided that each of Maple Rock and EdgePoint could nominate:
- a. two directors as long as it exercised control or direction over at least 12.5% of the Voting Shares;
 - b. one director if it owned at least 7.5% but less than 12.5% of the Voting Shares; and
 - c. no directors if it owned less than 7.5%.
- [37] At the Shareholder Meeting on August 18, 2020, eight directors were elected to Optiva's board, including two Maple Rock nominees and two EdgePoint nominees. The remaining four directors were mutually agreed among Maple Rock, EdgePoint and a committee of Optiva's independent directors. Maple Rock and EdgePoint had agreed with each other to vote in favour of all eight proposed nominees, and did so.
- [38] ESW ceased to have any representation on Optiva's board following the Shareholder Meeting.

E. ESW challenges debenture financing and preferred share redemption

- [39] On July 13, 2020, ESW commenced a court proceeding before the Ontario Superior Court of Justice (Commercial List), in which it sought various remedies, including an order setting aside the Debentures (the **Court Proceeding**). ESW challenged the debenture financing both in terms of the propriety of the corporate process and its compliance with the terms of Optiva's articles of incorporation and the Subscription Agreement. In particular, ESW alleged that the debenture financing offended the requirement in the articles of incorporation that any financing to fund the redemption of the Preferred Shares be on terms more favourable from a financial point of view to Optiva than the terms and conditions of the Preferred Shares.
- [40] The Court Proceeding was scheduled to be heard in October 2020, after the hearing of this application. ESW advised us that it was not seeking any findings or relief from the Commission relating to the legal propriety of the debenture financing or the preferred share redemption and that these matters were before the court.

F. ESW's proposed offer to acquire Optiva

- [41] On June 29, 2020, shortly following Optiva's announcement of the debenture financing and the preferred share redemption, ESW reiterated to Optiva's board its interest in acquiring Optiva. It advised of a revised price of \$60 per Voting Share (the **Preliminary Proposed Offer**).
- [42] In response, Optiva's board established a special committee of independent directors (the **Special Committee**) with a mandate to review and consider the Preliminary Proposed Offer and alternatives to that offer and to oversee the preparation of a formal valuation of the offer. The Special Committee comprised two members: Stabile, who was first appointed to Optiva's board on Maple Rock's recommendation, and Andrew Day, a nominee of Maple Rock.
- [43] The Special Committee engaged legal advisors and responded to ESW on July 4, 2020. It questioned whether ESW was acting in good faith. It requested additional information from ESW before proceeding with any further steps.
- [44] ESW responded to certain information requests. It declined to respond to others on the basis that such information was confidential and beyond what a bidder would typically disclose to a target.

- [45] In particular, ESW confirmed that the offer price was in Canadian dollars and that the Preliminary Proposed Offer was an offer for all of the issued and outstanding Voting Shares. ESW declined to provide information related to, among other things, its discussions with any Optiva shareholder about the Preliminary Proposed Offer and the basis on which such offer could be completed if not supported by either Maple Rock or EdgePoint.
- [46] As any bid by ESW would be an insider offer, a formal valuation was required in accordance with Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* (MI 61-101). The Special Committee and ESW engaged in a lengthy exchange of communications regarding the selection of a valuator. That exchange included disputes regarding the timeline for the selection of the valuator, and the reasonable fee range, among others. Ultimately, the Special Committee selected a valuator on or about July 20, 2020, and ESW undertook to pay, and did deposit in trust, the valuator's fees.
- [47] Shortly after these dealings, ESW decided not to pursue a friendly bid. On July 27, 2020, ESW announced the Proposed Offer, being its intention to acquire any or all of the Voting Shares it did not already own, for \$60 per share in cash. The Proposed Offer was conditional upon ESW successfully obtaining exemptive relief from the minimum tender requirement, and contained certain other customary conditions.
- [48] The offer price of \$60 per Voting Share represented a 122% premium to the 20-day volume-weighted average price and a 92% premium to the 10-day closing high. Stabile, the chair of Optiva's board and of the Special Committee, acknowledged that the bid price represented an "extraordinary premium".

G. Events after the proposed offer

- [49] On July 27, 2020, the same day as the Proposed Offer, Optiva adopted a tactical shareholder rights plan with immediate effect (the **Shareholder Rights Plan**). Optiva also announced, among other things:
- a. the formation of the Special Committee;
 - b. the adoption of the Shareholder Rights Plan; and
 - c. its continuing concerns regarding ESW's intentions and conduct, including ESW's refusal to answer various enquiries about the Proposed Offer and certain other unspecified actions.
- [50] The Shareholder Rights Plan was ratified and approved by a majority of shareholders (51.87%) at the Shareholder Meeting. ESW voted against the Shareholder Rights Plan.
- [51] The Shareholder Rights Plan would prevent the Proposed Offer from proceeding even if an exemption from the minimum tender requirement were to be granted, absent a waiver by Optiva's board or a cease trade order by the Commission.
- [52] On the same day as the Proposed Offer, EdgePoint announced that it did not intend to tender its Voting Shares to the Proposed Offer and that it had no interest in pursuing discussions with ESW regarding any such possible transaction. Maple Rock made a similar announcement the following day.
- [53] On August 11, 2020, the Special Committee invited ESW to engage in discussions regarding a potential friendly bid at a "price to be mutually agreed between ESW and Optiva, subject to specified conditions". In response, ESW indicated its willingness to have discussions but advised that it had already made its highest and best offer.
- [54] There was no evidence before us of any other efforts by the Special Committee or Optiva relating to the Proposed Offer, including any other efforts to have discussions or negotiations with ESW, to explore strategic alternatives or to commence an auction process.

H. Order sought by ESW

- [55] ESW seeks the Requested Exemption, which as described above is an order granting relief from the minimum tender requirement, to permit it to take up the Voting Shares deposited under the Proposed Offer upon over 50% of the Voting Shares having been deposited and not withdrawn, excluding the Voting Shares beneficially owned, or over which control or direction is exercised, by Maple Rock or EdgePoint or by any person acting jointly or in concert with either of them.

III. Preliminary Issue

A. Requests for intervenor status

- [56] Rule 21(4) of the *Ontario Securities Commission Rules of Procedure and Forms*² provides that, on motion, a panel may grant a person or company who is not a party to a proceeding intervenor status to participate in all or part of the proceeding on such terms as the panel considers appropriate.

² (2019) 42 OSCB 9714

- [57] Prior to the hearing of this application, each of Maple Rock and EdgePoint filed a motion seeking the right to participate fully in the proceeding, including the right to adduce evidence, to cross-examine and to make submissions.
- [58] ESW opposed Maple Rock's and EdgePoint's requests to participate fully. However, ESW did not oppose our granting them a limited right to adduce evidence and make submissions about the allegations concerning their conduct that were contained in the application, and about the impact on them of the relief sought.
- [59] Optiva and Staff supported Maple Rock's and EdgePoint's requests for the right to participate fully.
- [60] On August 21, 2020, we heard submissions regarding the requests for intervenor status. We decided to allow both Maple Rock and EdgePoint to participate fully in the hearing of ESW's application. The following are our reasons for that decision.
- [61] Requests by non-parties for rights of participation commonly arise in bid-related proceedings before the Commission. The parties and the Commission have often referred to "*Torstar* standing" or "modified *Torstar* standing" (as a consequence of the Commission's 1985 decision in *Re Torstar*³) to describe full participation rights and limited participation rights, respectively. As we indicated at the hearing of Maple Rock's and EdgePoint's motions, we prefer to speak explicitly about specific rights of participation rather than continue to use the "*Torstar*" label, which, in our view, obscures rather than clarifies the rights at issue.
- [62] The Commission has previously granted broad rights of participation in bid-related proceedings, given the nature of such proceedings. The Commission has granted full participation rights to shareholders where it determined that they had a direct financial or other substantial interest in the outcome of the application, and determined that they would make a useful or unique contribution without prejudicing the parties or impairing the efficiency of the proceedings.⁴
- [63] Maple Rock and EdgePoint are significant shareholders and debtholders of Optiva. They have a direct and substantial interest in this application, because if we were to grant the requested relief, the shares they own or control would be excluded from the minimum tender requirement.
- [64] In addition, some of the evidence that ESW filed in support of its application relates to the alleged conduct and intentions of both Maple Rock and EdgePoint. Maple Rock and EdgePoint are uniquely positioned to provide evidence and to respond to those matters and thereby assist us in considering ESW's application.
- [65] Importantly, Maple Rock and EdgePoint undertook to: (i) coordinate with counsel for the parties to avoid duplication and ensure efficiency; and (ii) comply with any directions from the Commission regarding the conduct of this proceeding, including any timetable.
- [66] Finally, this application involves novel issues, as it is the first instance in which the Commission is being asked to provide relief from the minimum tender requirement under the bid regime.
- [67] We therefore decided that Maple Rock and EdgePoint would likely provide a useful contribution to our understanding of the issues in this application without impairing the efficiency of the proceedings or causing prejudice to the parties. Full rights of participation were appropriate.

IV. Analysis

A. Introduction

- [68] We turn now to our analysis of the principal question raised by ESW's application. Should ESW, in making the Proposed Offer, be permitted to exclude from the minimum tender requirement the Voting Shares beneficially owned, or over which control or direction is exercised by, Maple Rock and EdgePoint and any persons acting jointly or in concert with either of them?

B. Exemptive relief under the bid regime

- [69] The Commission may grant exemptive relief from the minimum tender requirement under s. 104(2)(c) of the Act if the Commission is satisfied that to do so would not be prejudicial to the public interest. ESW bears the onus of so satisfying the Commission.⁵

³ (1985) 8 OSCB 5067

⁴ *Eco Oro Minerals Corp (Re)*, 2017 ONSC 23, (2017) 40 OSCB 5321; *Hollinger (Re)*, (2006) 29 OSCB 7071 at paras 44 – 45, citing *Albino (Re)*, (1991) 14 OSCB 365 at 425-426

⁵ *Certain Directors, Officers and Insiders of Hollinger Inc et al*, 2005 ONSC 4, (2005) 28 OSCB 3309 at para 42

- [70] Applications in the context of take-over bids are most commonly made after a bid has been formally commenced. However, the Commission may grant exemptive relief prior to the launch of a formal take-over bid.⁶
- [71] In our view, a formal commencement of the Proposed Offer and delivery of a take-over bid circular to shareholders before the disposition of the application risked perpetuating market uncertainty about the viability of the bid and risked an associated prejudicial impact on the market price of Optiva's shares. We therefore determined that it was appropriate to consider ESW's application before a formal offer was made.

C. The law and policy governing the bid regime

- [72] The core purpose of take-over bid regulation is to protect the good faith interests of target shareholders by facilitating shareholder choice and ensuring fairness to shareholders. A secondary objective is to ensure that take-over bids proceed in an open and even-handed environment.⁷
- [73] In 2016, significant amendments to the bid regime were implemented across Canada. These amendments were designed to enhance the quality and integrity of the take-over bid environment and represented a material rebalancing of bid dynamics.⁸
- [74] All non-exempt bids are now subject to the minimum tender requirement and to a mandatory 10-day bid extension period following the satisfaction of the minimum tender requirement and the satisfaction or waiver of all other conditions. Before the amendments, any minimum tender condition was waivable by the bidder.
- [75] In particular, the minimum tender requirement under s. 2.29.1(c) of National Instrument 62-104 *Take-Over Bids and Issuer Bids* prohibits an offeror from taking up securities under a bid unless more than 50% of the outstanding securities of the class that is subject to the bid, excluding securities beneficially owned, or over which control or discretion is exercised, by the offeror or any person acting jointly or in concert with the offeror, have been deposited under the bid and not withdrawn.
- [76] The minimum tender requirement and the 10-day extension requirement were designed to address coercion concerns under the prior bid regime by facilitating the ability of shareholders to make voluntary, informed and co-ordinated tender decisions.
- [77] The Canadian Securities Administrators (the **CSA**) described the objective of these amendments as allowing for collective decision-making by security holders in a manner comparable to a shareholder vote on a bid. The CSA anticipated that the new bid regime might result in higher quality bids to win the support of the majority of independent security holders.⁹
- [78] The CSA recognized the potential for enhanced leverage for control block holders as a consequence of the minimum tender requirement and determined that this could be adequately addressed through exemptive relief. The CSA declined to provide guidance on the circumstances in which the CSA would be likely to grant exemptive relief, since all considerations of exemptive relief are based on unique fact circumstances.¹⁰

D. Application of the law and policy

1. Introduction

- [79] This is the first matter in which a Canadian securities regulator has been asked to grant exemptive relief from the minimum tender requirement adopted as part of the amendments to the bid regime.
- [80] In 2018, the Commission considered the first application for exemptive relief from the mandatory minimum bid period adopted as part of the amendments to the bid regime. In its decision (*Aurora Cannabis Inc. (Re)*)¹¹, the Commission emphasized the importance of predictability of take-over bid regulation, in order to ensure that investors and market participants know with reasonable certainty what rules govern the bid environment. We repeat and emphasize that objective in this context as well.
- [81] The minimum tender requirement is part of a material recalibration of bid dynamics designed to facilitate collective shareholder action. The Commission must be cautious in granting exemptive relief that alters these recalibrated control

⁶ *Macdonald Oil Exploration Ltd (Re)*, (1999) 22 OSCB 6452 at paras 50-53; *Canadian First Financial Group Inc (Re)*, (2002) 25 OSCB 3180

⁷ National Policy 62-202 *Take-Over Bids - Defensive Tactics*, s.1.1; *Hecla Mining Company (Re)*, 2016 ONSEC 31, (2016) 39 OSCB 8927 (*Hecla Mining Company*) at paras 74 -75

⁸ *Amendments to Take-Over Bid Regime*, (2016) 39 OSCB (Supp-1) (*Amendments to Take-Over Bid Regime*) at 2

⁹ *CSA Notice and Request for Comment – Proposed Amendments to Multilateral Instrument 62-104 Take-Over Bids and Issuer Bids; Proposed Changes to National Policy 62-203 Take-Over Bids and Issuer Bids; and Proposed Consequential Amendments*, OSC CSA Notice (31 March 2015), Anticipated Impact of Proposed Bid Amendments

¹⁰ *Amendments to Take-Over Bid Regime* at Annex B, Part 1, Item A1

¹¹ *Aurora Cannabis Inc (Re)*, 2018 ONSEC 10, (2018) 41 OSCB 2325 at para 73

dynamics among the bidder, the target and control block holders. The Commission should not intervene absent exceptional circumstances or clear improper or abusive conduct by the target, bidder or control block holders that undermines minority shareholder choice.

- [82] Such caution promotes the integrity of the bid regime. It does so by ensuring a clear and predictable framework, while still allowing for intervention to address circumstances that unfairly deny shareholder choice and to deter the target and other stakeholders from engaging in abusive tactics.
- [83] The public interest discretion ensures the flexibility necessary to address any particular circumstances that offend the animating principles of the bid regime.
- [84] Consideration of the public interest in the context of an exemptive relief application requires that we carefully review the legal and factual considerations through the lens of the underlying objectives and principles of take-over bid regulation. Such assessment may include reference to the following factors, among others:
- a. the nature and circumstances of the bid;
 - b. the control dynamics of the target (both pre-existing control dynamics and any changes to the control dynamics);
 - c. the impact of a grant or denial of exemptive relief on shareholders;
 - d. the conduct of the control block holders and any special or differing interests or stake in the outcome of the bid;
 - e. the conduct of the target and its board;
 - f. the conduct of the bidder; and
 - g. any other information indicating the views of the target shareholders with respect to the bid.
- [85] We will address each of these in turn.

2. Nature and circumstances of the Proposed Offer

- [86] The Proposed Offer is an all-cash proposed bid for all Voting Shares at a premium to the prevailing market price. On its face, the Proposed Offer is not structurally coercive. We must therefore assess whether other circumstances create a risk of shareholder coercion.
- [87] Maple Rock and EdgePoint submit that the Proposed Offer was financially inadequate and opportunistic. Together with Optiva, they argue that the Proposed Offer was tactically motivated to enhance ESW's control over Optiva.
- [88] Whether a bid would be financially inadequate or opportunistic is a matter for Optiva's shareholders to decide, provided they receive adequate information. No issue was raised regarding the adequacy of information that would be available to Optiva shareholders. In that regard, we note that the Proposed Offer, as an insider bid, would entail enhanced financial value disclosure through the requirement of an independent formal valuation in accordance with MI 61-101.
- [89] Optiva submits that we should question ESW's intentions. Optiva says that ESW's conduct, including its failure to make a formal offer, its failure to move "with dispatch"¹² to facilitate an independent valuation, and its refusal to respond to certain queries of the Special Committee, showed ESW's lack of good faith.
- [90] We disagree with Optiva's submission that ESW did not proceed expeditiously. ESW refrained from making a formal bid because of Staff's concerns that doing so, and delivering a take-over bid circular to shareholders, prior to the grant of the required exemptive relief could perpetuate market uncertainty and have a prejudicial impact. In our view, ESW acted appropriately.
- [91] As for the retention of a valuator, there appears to be a genuine disagreement between Optiva and ESW regarding the steps taken and not taken. In any event, ESW provided an undertaking to pay the valuator's fees, and it paid these fees into trust. Accordingly, we do not find that the dealings between ESW and the Special Committee regarding the retention of a valuator cast doubt on ESW's good faith intentions related to its proposed bid.
- [92] Similarly, we do not find that ESW's refusal to respond to various queries provides a basis to challenge ESW's good faith. ESW did respond when asked whether the proposed bid was in US or Canadian dollars, and when asked whether the bid would indeed be a bid for all shares. We consider the remaining queries, and ESW's refusal to respond, to be inconsequential and a part of the tactical play common in hostile bids.

¹² Written submissions of Optiva at para 146

- [93] Optiva persisted in its submission that ESW's real intention was to make a partial bid to enhance its control over Optiva.
- [94] We do not accept this submission. The Proposed Offer was for all Voting Shares. ESW provided clear and unequivocal evidence to support its intention in this regard. There was no evidence to suggest that the Proposed Offer was, in effect, or otherwise intended to amount to, a partial bid.
- [95] ESW had a significant investment in Optiva and a clear interest in its financial growth and in the development of its business. ESW held differing views from those of the other controlling shareholders regarding Optiva's strategic direction, operations and governance. ESW sought to overcome the control battle with Maple Rock and EdgePoint either by buying Optiva or by being bought out. ESW ultimately proposed a bid to acquire Optiva after negotiations for the purchase of its interest were unsuccessful.
- [96] We find that ESW's conduct was consistent with a genuine intention to proceed with a formal all-cash bid for all Voting Shares. The evidence fell short of demonstrating any bad faith or improper motivation on the part of ESW, such as an attempt to entrench its control over Optiva or an intention to make a partial bid.
- [97] The nature and circumstances of the Proposed Offer raised no shareholder protection concerns.

3. Control dynamics of Optiva

- [98] ESW, Maple Rock and EdgePoint have been engaged in a public and often hostile battle regarding the governance, operations and strategic direction of Optiva since at least January 2020. Maple Rock and EdgePoint have been vocal about their concerns regarding the governance, strategy and operations of Optiva since early 2019.
- [99] Against that background, we first review the shareholder control dynamics, and then review the Optiva board control dynamics. We conclude that those dynamics, on their own, do not warrant the grant of exemptive relief.

(a) Shareholder control

- [100] The current shareholder control dynamics at Optiva pre-date the Proposed Offer.
- [101] This matter does not involve a tactical share issuance or any accumulation, dilution or other alteration of shareholder control in anticipation of, or during, a bid and accordingly does not engage the abuse issues present in previous Canadian securities commission decisions such as *Hecla Mining Company* or *Red Eagle*.¹³
- [102] ESW, Maple Rock and EdgePoint, Optiva's three control block shareholders, all accumulated their positions in Optiva well before the Proposed Offer in July 2020 and even before the Indicative Offer in June 2020. Each control block shareholder held more than 10% of Optiva's shares for at least two years before the Proposed Offer. All became shareholders of Optiva after the amendments to the bid regime.
- [103] ESW has held approximately 28% of the Voting Shares since September 2017. Maple Rock has held more than 10% since June 2017, with total holdings of 22.4% since June 2019. EdgePoint has held more than 10% since May 2018, with total holdings of 18.1% since January 2020. Collectively, the three entities controlled approximately 68.5% of the Voting Shares.
- [104] These control dynamics were evident to the remaining minority shareholders when those shareholders acquired or held their positions. It would have been apparent that for any take-over bid to succeed, the bid would require acceptance by two or more of the control block shareholders. It would also have been apparent that such control dynamics created limited liquidity for their shares.
- [105] These same control dynamics were evident to ESW when it provided the Indicative Offer, the Preliminary Proposed Offer and the Proposed Offer.

(b) Optiva board control

- [106] Until July 2020, ESW elected the majority of the Optiva board. It thus exercised significant control and influence over Optiva.
- [107] After the August 2020 Shareholder Meeting, Maple Rock and EdgePoint together had significant board representation, along with the associated control and influence over Optiva. In particular, Maple Rock and EdgePoint nominated two directors each, and agreed to vote for each other's nominees, with the remaining four nominees being mutually agreed among Maple Rock, EdgePoint and Optiva.

¹³ 2015 BCSECCOM 401

- [108] ESW no longer had any Optiva board representation following the Shareholder Meeting.
- [109] Investors with significant shareholdings often obtain board nomination or other governance rights that give those investors greater oversight over, control of and input into, corporate strategy and other matters. Where, as here, there is an ongoing dispute among controlling shareholders regarding the governance, operations and strategic direction of the company, efforts to obtain board representation often intensify and may culminate in more public efforts to obtain additional control and influence, such as a proxy contest.

(c) Conclusion regarding control dynamics

- [110] These pre-existing control dynamics – that one or more shareholders held a potential blocking position and had certain board control and influence – are insufficient on their own to warrant our intervention even when coupled with the announced intention of two control block shareholders not to tender to the Proposed Offer.
- [111] All shareholders, including significant or control block shareholders, are entitled to decide in their own interests whether and at what price they are willing to exit. Transparency of shareholder views of a bid, as happened here, may enhance informed shareholder choice and may contribute to improved overall bid quality.
- [112] The amended bid regime materially altered the bid dynamics among the bidder, the target and control block holders. In implementing these amendments, Canadian securities regulators recognized that enhanced leverage for control block holders could result in bids not being made at all or shareholders being deprived of the ability to respond to a bid.
- [113] The Optiva control dynamics, in light of this recalibration, do not on their own warrant our granting the Requested Exemption. The nature of the leverage held by Maple Rock and EdgePoint as a result of their shareholdings was explicitly contemplated as part of the amendments to the bid regime. Further, the involvement of significant shareholders in governance and strategic matters, including through board nomination rights, is not uncommon and may well facilitate enhanced shareholder value.

4. Impact of grant or denial of exemptive relief

- [114] All parties argue that shareholder choice would be affected by the outcome of this application. Where the parties differ is whether granting exemptive relief would positively or negatively affect shareholder choice. Our task is to weigh the risk that granting the requested exemptive relief would unfairly pressure Optiva shareholders to tender against the risk that denying the requested relief would unfairly limit shareholders' choice to tender.
- [115] ESW argues that the Proposed Offer allows the non-control block shareholders "to exit from being caught in the ongoing battle" at a premium.¹⁴ ESW submitted that exemptive relief would allow those shareholders to determine collectively the outcome of the bid, and that the risk of coercion is mitigated by the mandatory 10-day extension period following the satisfaction of conditions (which would include a minimum tender requirement modified by exemptive relief).
- [116] Optiva submits that if exemptive relief were to be granted, ESW could gain control without the uncoerced approval of a majority of shareholders, thereby effectively allowing ESW to make a partial bid. Optiva asserts that exemptive relief would be coercive to all shareholders, as it would force shareholders who did not support the Proposed Offer to either tender to the bid or risk being left holding even less liquid securities of an ESW-controlled Optiva.
- [117] Maple Rock and EdgePoint both submit that if the requested exemptive relief were granted, they would be forced to tender in order to avoid remaining in a company under greater ESW control. Both argue that the requested relief would unfairly deny their fundamental right to determine whether and at what price to exit.
- [118] ESW filed letters from four minority shareholders, collectively holding approximately 10%, who expressed support for the Proposed Offer and the exemptive relief. Three of these shareholders expressed concern about "being stuck in the middle" of the ongoing control battle among the three control block shareholders.
- [119] This evidence was of limited assistance given the pre-existing liquidity and control dynamics. In addition, the letters were unsworn statements, which are inherently less reliable than, for example, formal lock-up agreements or sworn statements.
- [120] Although the Proposed Offer is an all-cash bid for all Voting Shares at a premium to the prevailing market price, the Requested Exemption might create an environment in which ESW could obtain a blocking position of slightly less than 50%, assuming that a majority of the non-control block shareholdings are tendered and not withdrawn.
- [121] In these circumstances, Optiva minority shareholders - whether the minority of the non-control block shareholders or of all shareholders - may feel pressured to tender in order to avoid remaining in a company with such an enhanced control

¹⁴ Written submissions of ESW at para 5

position and further reduced liquidity. The minimum tender requirement was implemented to address the potential for precisely that kind of coercion.

[122] Further, and as outlined above, the non-control block minority shareholders acquired or held their positions with knowledge of the three control block shareholders, the associated limited Voting Share liquidity and the potential for control battles. Accordingly, the desire to exit the ongoing control battle is not, in and of itself, a basis to grant the Requested Exemption and alter the recalibrated bid regime.

[123] In our view, the balance weighs in favour of denying the requested relief. The risk that a grant of exemptive relief would result in unfair pressure on the minority shareholders to tender for reasons unrelated to the quality of the bid outweighs any risk that a denial of exemptive relief would limit shareholders' choice to tender.

5. Improper or abusive conduct

(a) Introduction

[124] We turn now to consider whether there was improper or abusive conduct by any of the control block shareholders, the target, or the bidder, and if so, what impact that should have on the outcome of this application. We conclude that there was no conduct by any of the involved entities that would materially affect our decision.

(b) Conduct of control block shareholders and any differing interests in the outcome of the bid

[125] Improper conduct or abusive tactics by control block holders that undermines the bid process may warrant an exemption from the minimum tender requirement to ensure the fair treatment of shareholders and the integrity of the bid regime.

[126] For the reasons outlined below, the evidence fell short of demonstrating any abusive or improper conduct by Maple Rock or EdgePoint, or circumstances that could unfairly impede the bid.

[127] ESW asserts that various corporate developments resulted in two control block shareholders, Maple Rock and EdgePoint, having a different stake from other minority shareholders in the outcome of the Proposed Offer; namely, their control and influence over Optiva and their position as senior secured debtholders. ESW submits that Maple Rock and EdgePoint are motivated to block the Proposed Offer for reasons unrelated to the quality of the bid or their position as minority shareholders.

[128] In particular, ESW submits that Maple Rock and EdgePoint engaged in a course of conduct on a coordinated basis to:

- a. increase their control and influence over Optiva and to lessen and then eliminate ESW's control and influence;
- b. obtain status as significant senior secured lenders through the debenture financing, a special interest obtained without minority shareholder approval; and
- c. improperly use the minimum tender requirement as a "defensive tactic" to prevent the remaining minority shareholders from exercising their choice of whether to tender to the Proposed Offer.

[129] In response, Maple Rock and EdgePoint both state that they had no agreement, commitment or understanding with each other. They argue that they were not acting in concert, and that each of them sought and obtained greater influence over Optiva as a result of serious concerns regarding the strategy, governance and operations of Optiva. They note that they are fund managers with fiduciary duties to the beneficial holders of the funds, and they submit that their separate refusals to accept the Proposed Offer reflect their legitimate views that the bid price is inadequate and that Optiva's future value would be enhanced without ESW's control.

[130] The efforts of Maple Rock and EdgePoint to obtain representation on Optiva's board were initiated well before the Proposed Offer. Maple Rock sought increased representation and influence over Optiva initially in 2017, then again in 2019 (when its recommended nominee, Stabile, was appointed to Optiva's board) and in February 2020, when it commenced a proxy contest. EdgePoint also sought Optiva board representation in 2019 and 2020.

[131] Negotiations regarding the debenture financing, preferred share redemption and associated nomination rights agreements began in early June 2020, before the Proposed Offer and the Indicative Offer. These agreements were concluded before the Proposed Offer.

[132] Maple Rock and EdgePoint were aligned in their shared objective to change board control and to influence Optiva's governance, operations and strategic direction. That alignment is apparent from:

- a. EdgePoint's support of the proxy contest by Maple Rock in February 2020 to reconstitute Optiva's board by replacing two directors with nominees proposed by Maple Rock;

- b. the regular communications between Maple Rock and EdgePoint, as acknowledged in EdgePoint's disclosures related to the proxy contest initiated by Maple Rock, that it was in "regular communication with Maple Rock and is supportive of better corporate governance";
 - c. Maple Rock and EdgePoint both ceasing to use the alternative monthly reporting system¹⁵ for their shareholdings in Optiva shortly following the initiation of the proxy contest, which reporting regime was available only to the extent they were not soliciting proxies relating to Optiva board elections or certain other transactions and/or they had no current intention of acquiring control of Optiva;
 - d. Maple Rock and EdgePoint's joint financing proposals to Optiva, and joint proposal and negotiation of the debenture financing, preferred share redemption and nomination rights agreements with Optiva; and
 - e. Maple Rock and EdgePoint's agreement to vote for each other's board nominees at the Shareholder Meeting.
- [133] Maple Rock and EdgePoint ultimately obtained significant board control and influence following the Shareholder Meeting. We accept that they may well be motivated to retain such control, given their shared view of the need for strategic, governance and operational changes.
- [134] Shareholders, including control block holders, may engage in coordinated efforts to effect a change of board control, including through voting agreements, in order to pursue their own financial interests as investors.
- [135] There was no evidence to suggest that any of the coordinated efforts by these two control block shareholders related in any way to a shared objective or concerted effort to impede the Proposed Offer. Instead, the evidence demonstrates that these control block shareholders undertook the various transactions, obtained the governance rights and secured lender status, and engaged in the other conduct, all as part of the ongoing control battle and difference of views regarding the governance and strategic direction of Optiva.
- [136] The evidence also fell short of establishing any agreement, understanding or arrangement related to tendering or not tendering to the Proposed Offer. To be clear, commitments to tender or not to tender are not inherently objectionable. They are an established practice that can enhance the bid process.
- [137] Maple Rock and EdgePoint both provided evidence of their separate views regarding the inadequate bid price and their determinations to reject the Proposed Offer as fund managers with duties to the beneficial fundholders.
- [138] In our view, there is no basis to infer that either Maple Rock or EdgePoint engaged in any conduct to misuse its control block position to unfairly impede the Proposed Offer or that it otherwise controlled or influenced, or attempted to control or influence, Optiva's board or the Special Committee in respect of Optiva's response to the Proposed Offer.
- [139] As regards Maple Rock's and EdgePoint's status as senior secured lenders, there is no evidence to suggest that the Debenture terms created any unique or special rights for them beyond reasonable commercial terms typically contained in such debentures.
- [140] Had the Proposed Offer succeeded, neither Maple Rock nor EdgePoint would have suffered any detrimental financial outcome as secured lenders. The Debentures' change of control terms provided that Maple Rock and EdgePoint would remain debenture holders unless:
- a. they chose to accept a change of control offer from Optiva at 101% of the principal amount of the Debentures, plus accrued and unpaid interest; or
 - b. Optiva proceeded with a unilateral redemption with a make-whole payment.
- [141] In summary, the evidence falls short of demonstrating any conflicting or special interest or abusive or improper tactics by Maple Rock or EdgePoint to impede the Proposed Offer.
- (c) Conduct of Optiva and its board**
- i. Introduction*
- [142] Ensuring confidence in the integrity of the bid regime often requires the Commission to consider the conduct of boards of directors and special committees. This is so, despite the overlap with issues of corporate law that are scrutinized by Canadian courts.
- [143] We therefore turn now to consider the conduct of Optiva, its board and the Special Committee in relation to the Proposed Offer. We review each entity's conduct separately, as well as together with that of Maple Rock and EdgePoint, as part of the overall circumstances.

¹⁵ As contemplated in Part 4 of National Instrument 62-103 *The Early Warning System and Related Take-over Bid and Insider Reporting Issues*

- [144] ESW submits that we ought to be concerned about that conduct in two respects.
- [145] First, ESW challenges the composition and conduct of the Special Committee in responding to the Indicative Offer and the Proposed Offer and argues that this is part of the overall circumstances demonstrating unfair interference with the Proposed Offer. In particular, ESW questions:
- a. the independence of the Special Committee, as both its members are nominees of Maple Rock; and
 - b. the Special Committee's adoption of the Shareholder Rights Plan, its failure to ensure timely selection of a valuator at a reasonable fee, and its failure to enter into any meaningful discussions with ESW.
- [146] Secondly, ESW challenges the steps taken by Optiva to reduce or eliminate ESW's control and influence, including in coordination with Maple Rock and EdgePoint. ESW argues that such conduct unfairly impeded the Proposed Offer.
- [147] We address each of these two concerns in turn.
- ii. Composition and conduct of the Special Committee*
- [148] Although both members of the Special Committee were nominees of Maple Rock, there is no basis to conclude that they did not act in accordance with their duties, that they were motivated to impede the Proposed Offer, or that they were improperly influenced or directed by Maple Rock, EdgePoint or any other stakeholder in the performance of their duties.
- [149] The Special Committee followed an independent process related to its consideration of the Proposed Offer, which included a robust mandate, the engagement of independent legal and financial advisors and the holding of separate meetings.
- [150] ESW submits that the Shareholders Rights Plan should be considered as part of the course of conduct by Optiva to impede the Proposed Offer. ESW argues that the Shareholders Rights Plan was tactical and clearly designed to prevent only ESW from accumulating additional Voting Shares while allowing Maple Rock and EdgePoint to do so.
- [151] The Shareholder Rights Plan applies to any bid that involves an accumulation of more than 30%, on an aggregate basis, of the outstanding Voting Shares through purchases exempt from applicable take-over bid rules. All parties acknowledged that the 30% trigger differed from the more common 20% trigger.
- [152] However, the trigger may apply to all three control block holders depending on the circumstances. Given their respective shareholdings, the Shareholder Rights Plan would be triggered by acquisitions by ESW at or above 2%, by Maple Rock at or above 7.6% and by EdgePoint at or above 11.9%.
- [153] We note that the Shareholders Rights Plan was approved by a majority of Optiva shareholders after the Proposed Offer. We also note that adoption of a tactical shareholders rights plan is an established practice that often provides protection to minority shareholders.
- [154] We were not asked on this application to provide any relief or make any findings regarding whether the Shareholder Rights Plan amounted to an improper defensive tactic and we have not done so. ESW advised that it would consider whether to commence proceedings to challenge the Shareholder Rights Plan following the determination of this application. Accordingly, we have considered the circumstances of the adoption of the Shareholder Rights Plan as part of the overall factual matrix only.
- [155] Optiva's and the Special Committee's initial efforts may have been focused more on questioning the good faith of the Proposed Offer rather than on taking meaningful steps to open negotiations with ESW or to commence an auction. That approach could fairly be described as being tactical, instead of being designed to ensure an open and fair bid process that maximizes shareholder value. However, there was no conduct, whether viewed separately or as a course of conduct, that rises to the level of abuse or impropriety in relation to a bid necessary to warrant intervention by the Commission.
- [156] Although other cases may involve a record where the course of conduct demonstrates mixed motivations that include an improper defensive purpose, the evidence in this matter falls short of establishing any abusive or improper conduct by Optiva, its board or the Special Committee, that undermined shareholder choice in respect of the Proposed Offer.
- iii. Steps taken by Optiva with respect to ESW's control and influence*
- [157] We accept ESW's submission that Optiva, separately or in coordination with Maple Rock and EdgePoint, took steps that reduced ESW's control and influence. We reject the submission, however, that in doing so, Optiva unfairly or improperly impeded the Proposed Offer or that such conduct created exceptional circumstances warranting intervention to facilitate shareholder choice.

- [158] The relevant steps include the following:
- a. Optiva negotiated the debenture financing and preferred share redemption with Maple Rock and EdgePoint, unbeknownst to ESW, while at the same time Optiva was engaged in negotiations for the consensual redemption of the Preferred Shares;
 - b. Optiva did not give certain ESW-appointed directors access to information about the debenture financing, asserting that the directors were not entitled to that information;
 - c. Optiva structured the debenture financing so that it would be exempt from the requirement for shareholder approval and a formal valuation;
 - d. Optiva successfully rebuffed ESW's efforts to replace two of the Preferred Directors, on the basis that ESW had become, or had recently been discovered to be, a competitor (a position disputed by ESW); and
 - e. the debenture financing and the nomination rights agreements were concluded without shareholder approval, which contrasted with the shareholder approval obtained for the Preferred Share Financing and the associated right of ESW to elect a majority of Optiva's board.
- [159] The debenture financing, Preferred Share Financing and Nomination Agreements were negotiated, considered and approved by a committee of three independent directors (the **Independent Committee**), following a process that included the engagement of independent legal and financial advisors and the holding of separate meetings. In addition, two members of the Independent Committee were nominees selected by ESW.
- [160] The Independent Committee relied on a fairness opinion from an independent financial advisor that the debenture financing and preferred share redemption were fair, from a financial point of view, to Optiva shareholders other than ESW, EdgePoint and Maple Rock.
- [161] We note that the issues regarding the legal propriety of the debenture financing and preferred share redemption, including whether Optiva's conduct in implementing these transactions violates corporate law principles, Optiva's articles of incorporation or any contractual entitlements, are the subject of the Court Proceedings initiated by ESW. ESW confirmed to us that it was not seeking any findings or relief from the Commission in this application regarding the legal propriety of these transactions.
- [162] Accordingly, we make no determination regarding the propriety, from a corporate law or contractual perspective, of any failure to inform or involve ESW, the Preferred Directors or the full Optiva board in the process leading to the preferred share redemption and the debenture financing.
- [163] As for the structure of the debenture financing, the financing was a related party transaction within the meaning of MI 61-101 and was structured to come within certain exemptions from the requirements for minority shareholder approval and a formal valuation.
- [164] Absent some abuse, there is nothing inherently improper about Optiva structuring the debenture financing to ensure the availability of an exemption from minority shareholder approval and a formal valuation. In our view, Optiva undertook the financing for the legitimate purpose of redeeming the Preferred Shares, given the ongoing control battle.
- [165] The conduct described above may have effectively prevented ESW from exercising influence over these transactions, whether through its board representation entitlements or through voting as a significant shareholder. However, there is no indication that the debenture financing, nomination rights agreements and preferred share redemption were negotiated or implemented by Optiva in anticipation of a bid or as part of any strategy to impede the Proposed Offer or otherwise had the effect of unfairly doing so.
- (d) *Conduct of bidder: Has ESW engaged in abusive or improper conduct, and, if so, should such conduct disentitle ESW from seeking the requested exemptive relief?***
- [166] Optiva argues that the Commission should refuse to exercise its discretion to grant the Requested Exemption on the basis that ESW engaged in conduct that was fundamentally inconsistent with the standards of honesty and business conduct expected of market participants.
- [167] In particular, Optiva alleges that ESW engaged in conduct designed to enrich its control over Optiva and interfere with Optiva's operations and corporate transactions. Among other things, Optiva alleges that ESW attempted to improperly renegotiate or disrupt ongoing operational, financial and technical support services provided by ESW to Optiva under various services agreements, improperly acquire an asset of Optiva, improperly influence current executive management and improperly attempt to interfere with the debenture financing and preferred share redemption, including by attempting to replace the Preferred Directors and external legal counsel who were facilitating these transactions.

[168] In our view, any such conduct of ESW, which included conduct and transactions prior to the Proposed Offer, is not relevant to the application and does not disentitle ESW from seeking the Requested Exemption. None of the alleged conduct raises any concerns regarding the integrity or fairness of the bid process.

6. Public interest considerations

[169] The new bid regime makes it possible for control block holders to have greater leverage and to misuse that leverage. In all bid-related applications, the Commission must examine closely the entire factual matrix in order to determine whether actions by control block shareholders undermine the integrity of the bid regime, including the primary objective of protecting shareholder choice, and to determine whether remedies including exemptive relief are in the public interest.

[170] In the circumstances of this application, preserving the minimum tender requirement holds open the possibility of superior offers and protects against the potential for coercion of the minority shareholders.

[171] We found no reason to grant the exemptive relief from the minimum tender requirement in the circumstances of this matter in the public interest.

V. Conclusion

[172] For the above reasons, we issued our order on September 14, 2020, dismissing ESW's application.

Dated at Toronto this 23rd day of February, 2021.

"Timothy Moseley"

"Wendy Berman"

"Frances Kordyback"

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
THERE IS NOTHING TO REPORT THIS WEEK.				

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
THERE IS NOTHING TO REPORT THIS WEEK.		

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
Nutritional High International Inc.	December 1, 2020	February 24, 2021

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
Agrios Global Holdings Ltd.	September 17, 2020	
Just Energy Group Inc.	February 17, 2021	
Nutritional High International Inc.	December 1, 2020	February 24, 2021

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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:

3iQ Ether ETF

Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Feb 26, 2021

NP 11-202 Preliminary Receipt dated Feb 26, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3179295

Issuer Name:

RGP Impact Fixed Income Portfolio

Principal Regulator – Quebec

Type and Date:

Preliminary Simplified Prospectus dated Feb 24, 2021

NP 11-202 Preliminary Receipt dated Feb 26, 2021

Offering Price and Description:

Class I Units, Class F Units, Class A Units and Class P Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3177390

Issuer Name:

CI Galaxy Ethereum ETF

Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Feb 24, 2021

NP 11-202 Preliminary Receipt dated Feb 25, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3177942

Issuer Name:

Ether ETF

Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Mar 1, 2021

NP 11-202 Preliminary Receipt dated Mar 1, 2021

Offering Price and Description:

USD Units and CAD Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3180317

Issuer Name:

Relevance North American Equity Pool

Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus dated Feb 25, 2021

NP 11-202 Preliminary Receipt dated Feb 25, 2021

Offering Price and Description:

Series F Units, Series A Units and Series O Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3178355

Issuer Name:

Evolve Clean Energy Fund

Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Feb 25, 2021

NP 11-202 Preliminary Receipt dated Feb 26, 2021

Offering Price and Description:

Unhedged ETF Units, Hedged Class F Mutual Fund Units, Hedged Class A Mutual Fund Units and Hedged ETF Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3178726

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
TD Global Healthcare Leaders Index ETF
TD Global Technology Leaders Index ETF
TD International Equity CAD Hedged Index ETF
TD International Equity Index ETF
TD One-Click Aggressive ETF Portfolio
TD One-Click Conservative ETF Portfolio
TD One-Click Moderate ETF Portfolio
TD Q Canadian Low Volatility ETF
TD Q International 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 U.S. Equity CAD Hedged Index ETF
TD U.S. Equity Index ETF
Principal Regulator – Ontario

Type and Date:

Combined Preliminary and Pro Forma Long Form Prospectus dated Feb 25, 2021
NP 11-202 Final Receipt dated Feb 25, 2021

Offering Price and Description:

USD Units and CAD Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3160490

Issuer Name:

Guardian Canadian Bond ETF
Guardian Canadian Sector Controlled Equity Fund
Guardian Fundamental All Country Equity ETF
Guardian Fundamental Emerging Markets Equity ETF
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Feb 24, 2021
NP 11-202 Final Receipt dated Feb 26, 2021

Offering Price and Description:

Unhedged ETF Units, ETF Units, Series A Mutual Fund Units, Series I Mutual Fund Units and Series F Mutual Fund Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3160139

Issuer Name:

Americas Gold and Silver Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus (NI 44-101) dated Received on January 14, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3160780

Issuer Name:

Global Equity Pool
Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus dated Feb 23, 2021
NP 11-202 Final Receipt dated Feb 24, 2021

Offering Price and Description:

Series IT8 units, Series I units, Series A units, Series W units, Series E units, Series FT8 units, Series ET8 units, Series OF units and Series F units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3169722

Issuer Name:

First Trust Cboe Vest U.S. Equity Buffer ETF - February
First Trust Cboe Vest U.S. Equity Deep Buffer ETF – February
Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Long Form Prospectus dated February 23, 2021
NP 11-202 Final Receipt dated Feb 24, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3148922

Issuer Name:

Mackenzie Global Resource Fund
Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
February 22, 2021

NP 11-202 Final Receipt dated Feb 23, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3140751

Issuer Name:

Fidelity Frontier Emerging Markets Fund
Principal Regulator - Ontario

Type and Date:

Amendment #4 to Final Simplified Prospectus and
Amendment #5 to Final Annual Information Form dated
February 19, 2021

NP 11-202 Final Receipt dated Feb 24, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3114687

Issuer Name:

Templeton Global Bond Fund
Franklin Bissett Canadian Equity Fund
FT Balanced Income Private Wealth Pool
FT Balanced Growth Private Wealth Pool
FT Growth Private Wealth Pool
Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated
February 18, 2021

NP 11-202 Final Receipt dated Feb 24, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3059902

NON-INVESTMENT FUNDS

Issuer Name:

AIM6 Ventures Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary CPC Prospectus dated February 25, 2021
NP 11-202 Preliminary Receipt dated February 25, 2021

Offering Price and Description:

Offering: \$330,000.00 or 3,300,000 Common Shares
Price: \$0.10 per Common Share

Underwriter(s) or Distributor(s):

Haywood Securities Inc.

Promoter(s):

-

Project #3178389

Issuer Name:

Aleafia Health Inc. (formerly Canabo Medical Inc.)
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated February 22, 2021
NP 11-202 Preliminary Receipt dated February 23, 2021

Offering Price and Description:

\$19,920,000.00
24,000,000 Units
Price: \$0.83 per Offered Unit

Underwriter(s) or Distributor(s):

CANTOR FITZGERALD CANADA CORPORATION
ECHELON WEALTH PARTNERS INC.
MACKIE RESEARCH CAPITAL CORP.

Promoter(s):

-

Project #3173851

Issuer Name:

Auxly Cannabis Group Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated February 22, 2021
NP 11-202 Preliminary Receipt dated February 23, 2021

Offering Price and Description:

\$200,000,000.00
COMMON SHARES
PREFERRED SHARES
DEBT SECURITIES
SUBSCRIPTION RECEIPTS
WARRANTS
UNITS

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3176246

Name:

Bright Minds Biosciences Inc.
Principal Regulator - British Columbia

Type and Date:

Amendment dated February 23, 2021 to Preliminary Short Form Prospectus dated February 22, 2021
NP 11-202 Preliminary Receipt dated February 23, 2021

Offering Price and Description:

\$25,003,710.00
3,303,000 Units
\$7.57 per Unit

Underwriter(s) or Distributor(s):

EIGHT CAPITAL
STIFEL NICOLAUS CANADA INC.
BEACON SECURITIES LIMITED
HAYWOOD SECURITIES INC.

Promoter(s):

-

Project #3175967

Issuer Name:

Burrell Resources Inc.
Principal Regulator - British Columbia

Type and Date:

Preliminary Long Form Prospectus dated February 26, 2021
NP 11-202 Preliminary Receipt dated February 26, 2021

Offering Price and Description:

Minimum Offering: \$400,000.00 or 2,000,000 Common Shares (the "Minimum Offering")
Maximum Offering: \$800,000.00 or 4,000,000 Common Shares (the "Maximum Offering")
Price: \$0.20 per Common Share

Underwriter(s) or Distributor(s):

PI Financial Corp.

Promoter(s):

Patrick McGrath
Project #3179479

Issuer Name:

Canaccord Genuity Growth II Corp.
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated February 24, 2021
NP 11-202 Preliminary Receipt dated February 24, 2021

Offering Price and Description:

No securities are being offered pursuant to this prospectus.

Underwriter(s) or Distributor(s):

-

Promoter(s):

CG INVESTMENTS INC. III
Project #3177161

Issuer Name:

Canopy Growth Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated February 23, 2021
NP 11-202 Preliminary Receipt dated February 23, 2021

Offering Price and Description:

US\$2,000,000,000.00
Common Shares
Subscription Receipts
Units
Warrants

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3176514

Issuer Name:

CloudMD Software & Services Inc. (formerly Premier Health Group Inc.)
Principal Regulator - British Columbia

Type and Date:

Preliminary Short Form Prospectus dated February 22, 2021
NP 11-202 Preliminary Receipt dated February 23, 2021

Offering Price and Description:

\$55,080,000.00
20,400,000 Common Shares
Price: \$2.70 per Common Share

Underwriter(s) or Distributor(s):

CANACCORD GENUITY CORP.
BEACON SECURITIES LIMITED
ECHELON WEALTH PARTNERS INC.
LAURENTIAN BANK SECURITIES INC.
MACKIE RESEARCH CAPITAL CORP.

Promoter(s):

-

Project #3174963

Issuer Name:

Column Capital Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary CPC Prospectus dated February 24, 2021
NP 11-202 Preliminary Receipt dated February 25, 2021

Offering Price and Description:

\$202,500.00 - (1,350,000 COMMON SHARES)
Price: \$0.15 per Common Share

Underwriter(s) or Distributor(s):

HAYWOOD SECURITIES INC.

Promoter(s):

IONIC SECURITIES LTD.

Project #3178517

Issuer Name:

Cresco Labs Inc.
Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated February 26, 2021
NP 11-202 Preliminary Receipt dated March 1, 2021

Offering Price and Description:

US\$1,000,000,000.00
Subordinate Voting Shares
Debt Securities
Subscription Receipts
Warrants
Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3179961

Issuer Name:

Energy Fuels Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated February 26, 2021
NP 11-202 Preliminary Receipt dated March 1, 2021

Offering Price and Description:

US\$300,000,000
Common Shares
Preferred Shares
Warrants
Subscription Receipts
Debt Securities
Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3179995

Issuer Name:

Ether Capital Corporation (formerly named Movit Media Corp.)
Principal Regulator - Ontario

Type and Date:

Amendment dated February 23, 2021 to Preliminary Shelf Prospectus dated November 24, 2020
NP 11-202 Preliminary Receipt dated February 25, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3139919

Issuer Name:

General Assembly Holdings Limited

Type and Date:

Preliminary Long Form Prospectus dated February 26, 2021

(Preliminary) Receipted on March 1, 2021

Offering Price and Description:

0.00

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3180058

Issuer Name:

Gold Royalty Corp.

Principal Regulator - British Columbia

Type and Date:

Amendment #2 dated February 24, 2021 to Preliminary Long Form Prospectus dated February 12, 2021

NP 11-202 Preliminary Receipt dated February 24, 2021

Offering Price and Description:

US\$60,000,000.00

12,000,000 Units

Offering Price: US\$5.00 per Unit

Underwriter(s) or Distributor(s):

BMO Nesbitt Burns Inc.

Promoter(s):

GoldMining Inc.

Project #3159743

Issuer Name:

Gold Royalty Corp.

Principal Regulator - British Columbia

Type and Date:

Amendment dated March 24, 2021 to Preliminary Long Form Prospectus dated February 12, 2021

NP 11-202 Preliminary Receipt dated February 24, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

BMO Nesbitt Burns Inc.

Promoter(s):

GoldMining Inc.

Project #3159743

Issuer Name:

Gold Royalty Corp.

Principal Regulator - British Columbia

Type and Date:

Amendment #3 dated March 1, 2021 to Preliminary Long Form Prospectus dated February 24, 2021

NP 11-202 Preliminary Receipt dated March 1, 2021

Offering Price and Description:

US\$80,000,000.00 - 16,000,000 Units

Offering Price: US\$5.00 per Unit

Underwriter(s) or Distributor(s):

BMO Nesbitt Burns Inc.

Promoter(s):

GoldMining Inc.

Project #3159743

Issuer Name:

Inner Spirit Holdings Ltd.

Principal Regulator - Alberta

Type and Date:

Preliminary Short Form Prospectus dated February 23, 2021

NP 11-202 Preliminary Receipt dated February 24, 2021

Offering Price and Description:

\$10,001,600.00 - 35,720,000 Units \$0.28 per Unit

Underwriter(s) or Distributor(s):

ECHELON WEALTH PARTNERS INC.

CANTOR FITZGERALD CANADA CORPORATION

ACUMEN CAPITAL FINANCE PARTNERS LIMITED

Promoter(s):

-

Project #3176789

Issuer Name:

Marathon Gold Corporation

Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated March 1, 2021

NP 11-202 Preliminary Receipt dated March 1, 2021

Offering Price and Description:

\$250,000,000.00

COMMON SHARES

DEBT SECURITIES

WARRANTS

SUBSCRIPTION RECEIPTS

CONVERTIBLE SECURITIES

UNITS

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3180381

Issuer Name:

mdf commerce inc.
Principal Regulator - Quebec

Type and Date:

Preliminary Short Form Prospectus dated March 1, 2021
NP 11-202 Preliminary Receipt dated March 1, 2021

Offering Price and Description:

\$80,000,009.00
5,517,242 Common Shares
Price: \$14.50 per Common Share

Underwriter(s) or Distributor(s):

STIFEL NICOLAUS CANADA INC.
ECHELON WEALTH PARTNERS INC.
ACUMEN CAPITAL FINANCE PARTNERS LIMITED
LAURENTIAN BANK SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.

Promoter(s):

-

Project #3176799

Issuer Name:

Medaro Mining Corp.
Principal Regulator - British Columbia

Type and Date:

Amendment dated February 23, 2021 to Preliminary Long
Form Prospectus dated November 24, 2020
NP 11-202 Preliminary Receipt dated February 24, 2021

Offering Price and Description:

3,475,500 Units on Exercise of 3,475,500 Outstanding
Special Warrants

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3139875

Issuer Name:

Newcore Gold Ltd.
Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus February 24, 2021
NP 11-202 Preliminary Receipt dated February 24, 2021

Offering Price and Description:

\$100,000,000.00
Common Shares
Preferred Shares
Debt Securities
Warrants
Subscription Receipts
Units

Share Purchase Contracts

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3177474

Issuer Name:

NexGen Energy Ltd.
Principal Regulator - British Columbia

Type and Date:

Preliminary Short Form Prospectus dated February 25, 2021
NP 11-202 Preliminary Receipt dated February 25, 2021

Offering Price and Description:

\$[*]
[*] Common Shares
\$[*] per Common Share

Underwriter(s) or Distributor(s):

BMO NESBITT BURNS INC.
CANACCORD GENUITY CORP.
EIGHT CAPITAL
RAYMOND JAMES LTD.
TD SECURITIES INC.
CORMARK SECURITIES INC.
HAYWOOD SECURITIES INC.
SPROTT CAPITAL PARTNERS LP
PI FINANCIAL CORP.

Promoter(s):

-

Project #3178412

Issuer Name:

NexGen Energy Ltd.
Principal Regulator - British Columbia

Type and Date:

Amendment dated February 26, 2021 to Preliminary Short
Form Prospectus dated February 25, 2021
NP 11-202 Preliminary Receipt dated February 26, 2021

Offering Price and Description:

\$150,300,000.00
33,400,000 Common Shares
\$4.50 per Common Share

Underwriter(s) or Distributor(s):

BMO NESBITT BURNS INC.
CANACCORD GENUITY CORP.
EIGHT CAPITAL
RAYMOND JAMES LTD.
TD SECURITIES INC.
CORMARK SECURITIES INC.
HAYWOOD SECURITIES INC.
SPROTT CAPITAL PARTNERS LP
PI FINANCIAL CORP.

Promoter(s):

-

Project #3178412

Issuer Name:

Nextech AR Solutions Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary Short Form Prospectus dated February 24, 2021

NP 11-202 Preliminary Receipt dated February 24, 2021

Offering Price and Description:

\$13,050,000.00 - 2,610,000 Units Price: \$5.00 per Unit

Underwriter(s) or Distributor(s):

Mackie Research Capital Corporation

Promoter(s):

-

Project #3175199

Issuer Name:

Nurosene Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated February 22, 2021

NP 11-202 Preliminary Receipt dated February 23, 2021

Offering Price and Description:

Public Offering of up to \$8,000,000.00

8,888,888 Common Shares

Price: \$0.90 per Common Share

Underwriter(s) or Distributor(s):

CANACCORD GENUITY CORP.

BEACON SECURITIES LIMITED

Promoter(s):

Daniel Gallucci

Project #3176259

Issuer Name:

Rider 2 Investment Capital Corp.
Principal Regulator - Alberta

Type and Date:

Preliminary CPC Prospectus dated February 26, 2021

NP 11-202 Preliminary Receipt dated February 26, 2021

Offering Price and Description:

\$300,000.00

3,000,000 Common Shares

PRICE: \$0.10 per Common Share

Underwriter(s) or Distributor(s):

IA Private Wealth Inc.

Promoter(s):

David M. Antony

Project #3179488

Issuer Name:

Spark Power Group Inc. (formerly Canaccord Genuity Acquisition Corp.)

Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated February 24, 2021

NP 11-202 Preliminary Receipt dated February 25, 2021

Offering Price and Description:

\$20,000,000.00

7.50% Convertible Unsecured Subordinated Debentures

Price: \$1,000 per Debenture

Underwriter(s) or Distributor(s):

RAYMOND JAMES LTD.

DESJARDINS SECURITIES INC.

EIGHT CAPITAL

Promoter(s):

-

Project #3174998

Issuer Name:

10557536 Canada Corp.

Type and Date:

Final Long Form Prospectus dated February 25, 2021

Received on February 26, 2021

Offering Price and Description:

No securities are being offered pursuant to this Prospectus

Underwriter(s) or Distributor(s):

-

Promoter(s):

Brian Kalish

Project #3146912

Issuer Name:

Almaden Minerals Ltd.
Principal Regulator - British Columbia

Type and Date:

Final Shelf Prospectus dated February 25, 2021

NP 11-202 Receipt dated February 25, 2021

Offering Price and Description:

US\$60,000,000.00

Common Shares

Warrants

Subscription Receipts

Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3160953

Issuer Name:

Altius Renewable Royalties Corp.
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated February 24, 2021
NP 11-202 Receipt dated February 25, 2021

Offering Price and Description:

C\$100,100,000.00

* Common Shares

Price: C\$* per Common Share

Underwriter(s) or Distributor(s):

TD SECURITIES INC.
SCOTIA CAPITAL INC.
RAYMOND JAMES LTD.
CORMARK SECURITIES INC.
CANACCORD GENUITY CORP.
LAURENTIAN BANK SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
HAYWOOD SECURITIES INC.

Promoter(s):

ALTIUS MINERALS CORPORATION

Project #3161398

Issuer Name:

Ayr Wellness Inc. (formerly, Ayr Strategies Inc.)
Principal Regulator - Ontario

Type and Date:

Amendment dated February 24, 2021 to Final Shelf
Prospectus dated December 17, 2020

NP 11-202 Receipt dated February 24, 2021

Offering Price and Description:

C\$500,000,000.00

Subordinate Voting Shares

Restricting Voting Shares

Limited Voting Shares

Warrants

Subscription Receipts

Debt Securities

Convertible Securities

Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3150518

Issuer Name:

Atrium Mortgage Investment Corporation
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus dated February 25, 2021
NP 11-202 Receipt dated February 26, 2021

Offering Price and Description:

\$250,000,000.00

Common Shares

Debt Securities

Subscription Receipts

Warrants

Units

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

-

Project #3172471

Issuer Name:

Bright Minds Biosciences Inc.
Principal Regulator - British Columbia

Type and Date:

Final Short Form Prospectus dated February 26, 2021
NP 11-202 Receipt dated March 1, 2021

Offering Price and Description:

\$25,003,710.00

3,303,000 Units

\$7.57 per Unit

Underwriter(s) or Distributor(s):

EIGHT CAPITAL

STIFEL NICOLAUS CANADA INC.

BEACON SECURITIES LIMITED

HAYWOOD SECURITIES INC.

Promoter(s):

-

Project #3175967

Issuer Name:

Calian Group Ltd.
Principal Regulator - Ontario

Type and Date:

Amendment dated February 25, 2021 to Final Shelf
Prospectus dated January 31, 2020
NP 11-202 Receipt dated March 1, 2021

Offering Price and Description:

\$200,000,000.00
Common Shares
Preferred Shares
Warrants
Units

Subscription Receipts

Debt Securities

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3007163

Issuer Name:

D-Box Technologies Inc.
Principal Regulator - Quebec

Type and Date:

Final Short Form Prospectus dated February 25, 2021
NP 11-202 Receipt dated February 25, 2021

Offering Price and Description:

\$5,005,000.00
38,500,000 Units
Price: \$0.13 per Unit

Underwriter(s) or Distributor(s):

CANACCORD GENUITY CORP.
ECHELON WEALTH PARTNERS INC.
IA PRIVATE WEALTH INC.

Promoter(s):

-

Project #3174287

Issuer Name:

Farmers Edge Inc.
Principal Regulator - Manitoba

Type and Date:

Final Long Form Prospectus dated February 24, 2021
NP 11-202 Receipt dated February 24, 2021

Offering Price and Description:

\$125,001,000.00
7,353,000 Common Shares
Price: \$17.00 per Common Share

Underwriter(s) or Distributor(s):

NATIONAL BANK FINANCIAL INC.
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
CANACCORD GENUITY CORP.
RAYMOND JAMES LTD.

Promoter(s):

-

Project #3170971

Issuer Name:

good natured Products Inc.
Principal Regulator - British Columbia

Type and Date:

Final Short Form Prospectus dated February 25, 2021
NP 11-202 Receipt dated February 25, 2021

Offering Price and Description:

\$20,100,000.00
16,750,000 Common Shares
Price: \$1.20 per Common Share

Underwriter(s) or Distributor(s):

BEACON SECURITIES LIMITED
CANACCORD GENUITY CORP.
INTEGRAL WEALTH SECURITIES LIMITED
RAYMOND JAMES LTD.
PARADIGM CAPITAL INC.

Promoter(s):

-

Project #3171237

Issuer Name:

Heritage Cannabis Holdings Corp. (formerly Umbral Energy Corp.)

Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated February 25, 2021
NP 11-202 Receipt dated February 26, 2021

Offering Price and Description:

Minimum Offering: \$10,000,000 .00 71,428,571 Units
Maximum Offering: \$12,040,000.00 - 86,000,000 Units
Price: \$0.14 per Unit

Underwriter(s) or Distributor(s):

CANTOR FITZGERALD CANADA CORPORATION
CORMARK SECURITIES INC.
CANACCORD GENUITY CORP.

Promoter(s):

-

Project #3168182

Issuer Name:

iA Financial Corporation Inc.
Principal Regulator - Quebec

Type and Date:

Final Shelf Prospectus) dated February 25, 2021
NP 11-202 Receipt dated February 25, 2021

Offering Price and Description:

\$2,000,000,000.00
Debt Securities
Class A Preferred Shares

Common Shares

Subscription Receipts

Warrants

Share Purchase Contracts

Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3172602

Issuer Name:

MediPharm Labs Corp.
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus dated February 24, 2021
NP 11-202 Receipt dated February 25, 2021

Offering Price and Description:

\$100,000,000.00

Common Shares

Warrants

Options

Subscription Receipts

Debt Securities

Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3168928

Issuer Name:

Nexus Real Estate Investment Trust
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated February 25, 2021
NP 11-202 Receipt dated February 25, 2021

Offering Price and Description:

\$30,340,000.00

3,700,000 Units

Price: \$8.20 per Unit

Underwriter(s) or Distributor(s):

BMO NESBITT BURNS INC.

DESJARDINS SECURITIES INC.

IA PRIVATE WEALTH INC.

NATIONAL BANK FINANCIAL INC.

RBC DOMINION SECURITIES INC.

TD SECURITIES INC.

SCOTIA CAPITAL INC

ECHELON WEALTH PARTNERS INC.

RAYMOND JAMES LTD.

Promoter(s):

-

Project #3171893

Issuer Name:

Ritual Superfoods Inc.
Principal Regulator - British Columbia

Type and Date:

Final Long Form Prospectus dated February 26, 2021
NP 11-202 Receipt dated February 26, 2021

Offering Price and Description:

\$5,217,391.50

17,391,305 Offered Units

3,183,083 Convertible Note Units issuable upon Deemed

Conversion of Convertible Notes

Underwriter(s) or Distributor(s):

CLARUS SECURITIES INC.

CANACCORD GENUITY CORP.

Promoter(s):

David Kerbel

Project #3152055

Issuer Name:

Sernova Corp.
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated February 24, 2021
NP 11-202 Receipt dated February 24, 2021

Offering Price and Description:

\$20,040,000.00

16,700,000 Units

\$1.20 per Unit

Underwriter(s) or Distributor(s):

CANACCORD GENUITY CORP.

LEEDE JONES GABLE INC .

Promoter(s):

-

Project #3169957

Issuer Name:

SPC Nickel Corp.
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated February 24, 2021
NP 11-202 Receipt dated February 24, 2021

Offering Price and Description:

29,785,093 Common Shares on Deemed Exercise of

29,785,093 Outstanding Special Warrants

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3149906

Issuer Name:

The Supreme Cannabis Company, Inc.
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus dated February 23, 2021
NP 11-202 Receipt dated February 24, 2021

Offering Price and Description:

\$150,000,000.00
Common Shares
Preferred Shares
Debt Securities
Subscription Receipts
Warrants
Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3173787

Issuer Name:

Westhaven Gold Corp.
Principal Regulator - British Columbia

Type and Date:

Final Short Form Prospectus dated March 1, 2021
NP 11-202 Receipt dated March 1, 2021

Offering Price and Description:

\$13,013,000.00
18,590,000 Units
\$0.70 per Unit

Underwriter(s) or Distributor(s):

Raymond James Ltd.

Promoter(s):

-

Project #3161852

Issuer Name:

TransCanada Trust
Principal Regulator - Alberta

Type and Date:

Final Shelf Prospectus dated February 26, 2021
NP 11-202 Receipt dated February 26, 2021

Offering Price and Description:

\$2,000,000,000.00
Trust Notes guaranteed on a subordinated basis by
TRANSCANADA PIPELINES LIMITED

Underwriter(s) or Distributor(s):

-

Promoter(s):

TransCanada Pipelines Limited

Project #3175426

Issuer Name:

VM Hotel Acquisition Corp.
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated February 23, 2021
NP 11-202 Receipt dated February 24, 2021

Offering Price and Description:

U.S.\$100,000,000.00
10,000,000 Class A Restricted Voting Units

Underwriter(s) or Distributor(s):

ECHELON WEALTH PARTNERS INC.
STIFEL NICOLAUS CANADA INC.

Promoter(s):

VM HA SPONSOR CORP.
VM HA SPONSOR LP. by its general partner, 2796386
ONTARIO INC.

Project #3163731

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Name Change	From: BFIN Securities LP To: Sera Global Securities Canada LP	Investment Dealer	January 19, 2021

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 TSX Inc. and TSX Venture Exchange Inc. – TSX and TSX Venture Wealth Client Fee Cap Program – Notice of Approval

TSX INC.
AND
TSX VENTURE EXCHANGE INC.

NOTICE OF APPROVAL

TSX AND TSX VENTURE WEALTH CLIENT FEE CAP PROGRAM

In accordance with the Process for the Review and Approval of the Information Contained in Form 21-101F1 and the Exhibits Thereto, the Ontario Securities Commission has approved the implementation by TSX Inc. (“**TSX**”) of the TSX and TSX Venture Wealth Client Fee Cap Program (the “**Wealth Client Program**”).

TSX Venture Exchange Inc. (“**TSXV**”, and together with TSX, the “**Exchanges**”) will implement, and the Alberta Securities Commission and British Columbia Securities Commission have approved, the implementation of the Wealth Client Program.

Comments Received

The Wealth Client Program was published for comment on November 12, 2020, and six comment letters were received. A copy of the Wealth Client Program can be found at www.osc.ca and at <https://tmxinfoservices.com/newsroom?id=29&year=2020>.

A summary of the comments submitted, together with the Exchanges’ responses, is attached as Appendix A. The Exchanges thank the commenters for their feedback.

Implementation Date

The Wealth Client Program will be implemented and available April 1, 2021.

Appendix A

Summary of Comments and Responses

List of Commenters:

Richard Tardif, Desjardins Securities Inc.

Claude-Frederic, National Bank Direct Brokerage

Jean-François Bernier and Yochai Korn, Interactive Brokers Canada Inc.

Praneil Ladwa, Questrade, Inc.

Leo Salom, TD Wealth

Stacey Petersen, RBC Direct Investing

Capitalized terms used and not otherwise defined in the Notice of Approval shall have the meaning in the Notice of Proposed Program and Request For Comments dated November 12, 2020.

Summary of Comments Received	Exchanges' Responses
All commenters were supportive of the Wealth Client Program. Two such commenters noted that they would not be enrolling in the Wealth Client Program, but appreciated the Exchanges' efforts to help reduce overall cost. Another such commenter noted that the meaning of the terms "professional" and "non-professional" were developed in the last century, have been muddled over time and have different interpretations around the industry globally, which only serve to cause further dispute and confusion. The commenter noted that the Wealth Client Program recognizes the shift in use rights and value and is an important step toward bringing data fees into the current century. One commenter liked that the Wealth Client Program is optional, and stated that the Wealth Client Program was an option that allows it to offer real-time TMX data to a larger client base with a known fixed cost. One commenter applauded the Exchanges' proactive approach to developing the Wealth Client Program to enable dealers to reduce administrative burden and provide improved client service to a broader client base at a predictable cost basis. The commenter encouraged the regulators to approve the Wealth Client Program on an expedited basis to help alleviate administrative burden for dealers and contribute to improved client service. One commenter noted that the Wealth Client Program offers a great benefit to the Canadian capital markets as it encourages the accessibility of real time market data to a broader number of Canadian investors. The commenter further noted that it also appreciated that the Wealth Client Program seeks to eliminate the burden of having to determine whether an end user client is a "professional" or a "non-professional", allows the Distributor to estimate the number of Wealth Clients, and addresses the concerns raised by Distributors by seeking to deliver an improved client experience for both Distributors and their Wealth Clients.	The Exchanges thank the commenters for their input. The Exchanges will continue to work with their clients to find other innovative solutions that improve their experience with the Exchanges.

13.2.2 TSX Inc. – Amendments to Broker Preferencing Functionality – Notice of Approval

TSX INC.

NOTICE OF APPROVAL

AMENDMENTS TO BROKER PREFERENCING FUNCTIONALITY

In accordance with the Process for the Review and Approval of the Information Contained in Form 21-101F1 and the Exhibits Thereto, the Ontario Securities Commission has approved amendments to the Toronto Stock Exchange Rule Book to allow anonymous broker preferencing against passive dark orders (the “**Amendments**”).

The Amendments were published for comment on November 5, 2020 and no comments were received. A copy of the Amendments can be found at www.osc.ca.

Implementation Date

The Amendments will be implemented in Q1 2021, following notice by TSX.

13.2.3 Trumid Financial LLC – Application for Exemptive Relief – Notice of Commission Orders

TRUMID FINANCIAL LLC (TRUMID)

APPLICATION FOR EXEMPTIVE RELIEF

NOTICE OF COMMISSION ORDERS

On June 8, 2020, the Commission issued 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 (**Ontario Order**), subject to terms and conditions as set out in the Order.

The Commission published Trumid’s application and draft exemption order for comment on March 5, 2020 on the OSC website at <https://www.osc.ca/en/industry/market-regulation/marketplaces/alternative-trading-systems-atss/atss-operating-ontario/foreign-atss-orders-notices/notice-and-request-0> and at (2020), 43 OSCB 2282.

On December 11, 2020, Trumid applied to revoke and replace the Ontario Order (**Revocation Order**) with a decision exempting it from the application of all provisions of the Marketplace Rules that apply to a person or company carrying on business as an ATS in each of Alberta, British Columbia, Manitoba, Saskatchewan, Ontario, Quebec, New Brunswick, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, Nunavut, Northwest Territories, and Yukon (the **Requested Relief Decision**) in order to provide its services in all other Canadian jurisdictions. On February 24, 2021, the Commission issued the Revocation Order and the Requested Relief Decision.

A copy of the Revocation Order and the Requested Relief Decision are published in Chapter 2 of this Bulletin.

13.3 Clearing Agencies

13.3.1 Canadian Derivatives Clearing Corporation (CDCC) – Proposed Amendments to the Risk Manual of CDCC to Introduce a New Risk Model Recalibration Process – OSC Staff Notice of Request for Comment

**OSC STAFF NOTICE OF
REQUEST FOR COMMENT**

CANADIAN DERIVATIVES CLEARING CORPORATION (CDCC)

**PROPOSED AMENDMENTS TO
THE RISK MANUAL OF CDCC TO
INTRODUCE A NEW RISK MODEL RECALIBRATION PROCESS**

The Ontario Securities Commission is publishing for public comment the proposed amendments to the CDCC Risk Manual to introduce a new risk model recalibration process.

The comment period ends on April 02, 2021.

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

Chapter 25

Other Information

25.1 Consents

25.1.1 Leo Acquisitions Corp. – s. 4(b) of Ont. Reg. 289/00 under the OBCA

Headnote

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under Business Corporations Act (British Columbia).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, Ont. Reg. 289/00, as am., s. 4(b).

**IN THE MATTER OF
R.R.O. 1990, REGULATION 289/00, AS AMENDED
(the REGULATION)**

**UNDER THE BUSINESS CORPORATIONS ACT (ONTARIO),
R.S.O. 1990 c. B.16, AS AMENDED
(the OBCA)**

AND

**IN THE MATTER OF
LEO ACQUISITIONS CORP.**

**CONSENT
(Subsection 4(b) of the Regulation)**

UPON the application of Leo Acquisitions Corp. (the **Applicant**) to the Ontario Securities Commission (the **Commission**) requesting the Commission's consent to the Applicant continuing in another jurisdiction pursuant to section 181 of the OBCA (the **Continuance**);

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is an offering corporation under the OBCA.
2. The Applicant's common shares (the **Common Shares**) are listed and posted for trading on the TSX Venture Exchange (the **TSXV**) under the symbol "LEQ.H"; as at February 4, 2021, the Applicant had 4,229,363 issued and outstanding Common Shares.
3. The Applicant intends to apply to the Director pursuant to section 181 of the OBCA (the **Application for Continuance**) for authorization to continue as a corporation under the *Business Corporations Act* (British Columbia), S.B.C. 2002, c.57 (the **BCBCA**).
4. The principal reason for the Continuance is that the BCBCA has no requirement for directors of a British Columbia company to be residents of Canada, as does the OBCA. Due to the proposed business combination of the Applicant and PsyBio Therapeutics, Inc., it is anticipated that a majority of the Applicant's new directors will be non-resident Canadians upon completion of the proposed business combination.
5. The material rights, duties and obligations of a corporation governed by the BCBCA are substantially similar to those of a corporation governed by the OBCA.

6. The Applicant is a reporting issuer under the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the **Act**), the *Securities Act* (British Columbia), R.S.B.C. 1996, c.418 (the **BCSA**), the *Securities Act* (Alberta), R.S.A. 2000, c. S-4 (the **ASA**), and *The Securities Act, 1988*, SS 1988-89, c S-42.2 (together with the BCSA and ASA, the **Legislation**) and will remain a reporting issuer in these jurisdictions following the Continuance.
7. The Applicant is not in default of any of the provisions of the OBCA, the Act or the Legislation, including the regulations made thereunder.
8. The Applicant is not in default of any provision of the rules, regulations or policies of the TSXV.
9. The Applicant is not subject to any proceeding under the OBCA, the Act or the Legislation.
10. The Commission is the principal regulator of the Applicant. Following the Continuance, the Applicant's registered office, which is currently located in Ontario, will be relocated to British Columbia, and the Applicant intends to change its principal regulator from the Ontario Securities Commission to the British Columbia Securities Commission.
11. The Applicant's management information circular dated December 14, 2020, for its annual general and special meeting of shareholders on January 13, 2021 (the **Shareholders Meeting**) described the proposed Continuance and disclosed the reasons for it and its implications, as well as full particulars of the dissent rights of the Applicant's shareholders under section 185 of the OBCA.
12. The Applicant's shareholders authorized the Continuance at the Shareholders Meeting by a special resolution that was approved by 99.98% of the votes cast; no shareholder exercised dissent rights pursuant to section 185 of the OBCA.
13. Subsection 4(b) of the Regulation requires the Application for Continuance to be accompanied by a consent from the Commission.

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

THE COMMISSION CONSENTS to the continuance of the Applicant under the BCBCA.

DATED at Toronto, Ontario this 10th day of February, 2021.

"Cathy Singer"
Commissioner
Ontario Securities Commission

"Craig Hayman"
Commissioner
Ontario Securities Commission

Index

Agrios Global Holdings Ltd.		Kitmitto, Majd	
Cease Trading Order	1771	Notice from the Office of the Secretary	1713
		Order	1753
Ayr Strategies Inc.		Leo Acquisitions Corp.	
Decision	1730	Consent – s. 4(b) of Ont. Reg. 289/00 under the	
		OBCA	1941
BFIN Securities LP		Manulife Investment Management Limited	
Name Change.....	1935	Decision.....	1720
Canadian Derivatives Clearing Corporation		Manulife Real Asset Fund	
Clearing Agencies – Proposed Amendments to the		Decision.....	1720
Risk Manual of CDCC to Introduce a New Risk			
Model Recalibration Process – OSC Staff Notice of		Nutritional High International Inc.	
Request for Comment.....	1940	Cease Trading Order.....	1771
Candusso, Christopher		Optiva Inc.	
Notice from the Office of the Secretary	1713	Notice from the Office of the Secretary	1713
Order.....	1753	Reasons for Decision – s. 104.....	1755
Candusso, Claudio		Pacgen Life Science Corporation	
Notice from the Office of the Secretary	1713	Order	1737
Order.....	1753	Performance Sports Group Ltd.	
CDCC		Cease Trading Order.....	1771
Clearing Agencies – Proposed Amendments to the		Sera Global Securities Canada LP	
Risk Manual of CDCC to Introduce a New Risk		Name Change	1935
Model Recalibration Process – OSC Staff Notice of		T. Rowe Price Associates, Inc	
Request for Comment.....	1940	Order – s. 80 of the CFA	1743
Cidel Asset Management Inc.		T. Rowe Price International Ltd	
Order.....	1739	Order – s. 80 of the CFA	1743
CPC Operating Agreement		Trumid Financial, LLC	
Notice – Amended and Restated	1689	Decision.....	1724
Cronos Group Inc.		Revocation Order – s. 15.1 of NI 21-101, s. 12.1 of	
Decision	1715	NI 23-101, s. 10 of NI 23-103, s. 144(1) of	
ESW Capital, LLC		the OSA.....	1751
Notice from the Office of the Secretary	1713	Marketplaces – Application for Exemptive Relief –	
Reasons for Decision – s. 104	1755	Notice of Commission Orders.....	1939
Fakhry, Frank		TSX Inc.	
Notice from the Office of the Secretary	1713	Marketplaces – TSX and TSX Venture Wealth Client	
Order.....	1753	Fee Cap Program – Notice of Approval.....	1937
Fielding, John		Marketplaces – Amendments to Broker Preferencing	
Notice from the Office of the Secretary	1713	Functionality – Notice of Approval	1939
Order.....	1753	TSX Venture Exchange Inc.	
Goss, Donald Alexander (Sandy)		Marketplaces – TSX and TSX Venture Wealth Client	
Notice from the Office of the Secretary	1713	Fee Cap Program – Notice of Approval.....	1937
Order.....	1753	Vannatta, Steven	
Just Energy Group Inc.		Notice from the Office of the Secretary	1713
Cease Trading Order	1771	Order	1753

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