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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)

The Ontario Securities Commission

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Chapter 1

Notices

1.1 Notices

1.1.1 OSC Notice of General Order – Ontario Instrument 52-502 Exemption from National Instrument 52-112 Non-GAAP and Other Financial Measures Disclosure (Interim Class Order)

NOTICE OF GENERAL ORDER

ONTARIO INSTRUMENT 52-502

EXEMPTION FROM NATIONAL INSTRUMENT 52-112 NON-GAAP AND OTHER FINANCIAL MEASURES DISCLOSURE (INTERIM CLASS ORDER)

December 2, 2021

The Ontario Securities Commission (the **Commission**) has made an order under subsection 143.11(2) of the *Securities Act* (Ontario) (the **Act**) providing an exemption from National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure* (the **Instrument**) for a reporting issuer that is, or that has a subsidiary or an affiliate that is, a “federal financial institution” as defined in the *Bank Act* (Canada) and subject to OSFI Guidelines.

Under the *Bank Act*, “federal financial institution” means (a) a bank, (b) a body corporate to which the *Trust and Loan Companies Act* (Canada) applies, (c) an association to which the *Cooperative Credit Associations Act* (Canada) applies, or (d) an insurance company or a fraternal benefit society incorporated or formed under the *Insurance Companies Act* (Canada).

Description of Order

The Commission has made Ontario Instrument 52-502 *Exemption from National Instrument 52-112 Non-GAAP and Other Financial Measures Disclosure* (Interim Class Order) (the **Class Order**) exempting eligible issuers from the Instrument in respect of disclosure of a specified financial measure pursuant to an OSFI Guideline, if

- (a) the OSFI Guideline specifies the composition of the measure and the measure was determined in compliance with that OSFI Guideline, and
- (b) in proximity to the measure, the eligible issuer discloses the OSFI Guideline under which the measure is disclosed.

Terms defined in the Instrument and Class Order have the same meaning as used in this Notice.

The primary objective of the Instrument is to help ensure investors receive, among other things, transparent and understandable information about financial measures that are not prepared in accordance with Generally Accepted Accounting Principles. The OSFI Guidelines specify the composition of certain specified financial measures and contain specific disclosure requirements related to such measures.

The Class Order is intended to reduce regulatory burden for eligible issuers that are subject to OSFI Guidelines since sufficient disclosure exists surrounding these measures.

Reasons for the Order

Staff of the Commission have received feedback from a number of market participants that compliance with the Instrument would require eligible issuers subject to OSFI Guidelines to include adjusted additional disclosure that may contain cumbersome and duplicative disclosure that would not provide significantly different information to investors.

The Commission is satisfied that it would not be prejudicial to the public interest to provide, on an interim basis, an exemption from the Instrument described above.

Day on which the Order Ceases to Have Effect

This Class Order comes into effect on December 2, 2021, and remains in effect until the earlier of the following:

- (a) June 2, 2023
- (b) the effective date of any amendment to the Instrument that includes the addition of an exception to the application of the Instrument based on disclosure of a specified financial measure pursuant to an OSFI Guideline.

Questions

If you have any questions regarding the Class Order, please contact any of the following:

Mark Pinch

Associate Chief Accountant
Office of the Chief Accountant
Ontario Securities Commission
416-593-8057
mpinch@osc.gov.on.ca

Alex Fisher

Senior Accountant
Office of the Chief Accountant
Ontario Securities Commission
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afisher@osc.gov.on.ca

1.4 Notices from the Office of the Secretary

1.4.1 Sean Daley and Kevin Wilkerson

**FOR IMMEDIATE RELEASE
November 24, 2021**

**SEAN DALEY AND
KEVIN WILKERSON,
File No. 2019-39**

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

A copy of the Order dated November 24, 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 Strike Holdings Inc. et al.

**FOR IMMEDIATE RELEASE
November 25, 2021**

**STRIKE HOLDINGS INC.,
KM STRIKE MANAGEMENT INC.,
MICHAEL AONSO AND
KEVIN CARMICHAEL,
File No. 2021-13**

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

A copy of the Order dated November 25, 2021 is available at www.osc.ca.

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GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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media_inquiries@osc.gov.on.ca

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inquiries@osc.gov.on.ca

1.4.3 Trevor Rosborough et al.

**FOR IMMEDIATE RELEASE
November 26, 2021**

**TREVOR ROSBOROUGH,
TAYLOR CARR, AND
DMITRI GRAHAM,
File No. 2020-33**

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

A copy of the Order dated November 26, 2021 is available at www.osc.ca.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decision

2.1.1 SOL Global Investments Corp.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Issuer bid – Dutch auction – Application for relief from the requirement to take up all securities deposited under the issuer bid and not withdrawn if all the terms and conditions of the Offer have been complied with or waived unless and the Offer is under subscribed (subsection 2.32(4) of National Instrument 62-104 Take-Over Bids and Issuer Bids) – requested relief granted, subject to conditions.

Applicable Legislative Provisions

National Instrument 62-104 Take-Over Bids and Issuer Bid, ss. 2.32(4) and 6.1.

November 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
SOL GLOBAL INVESTMENTS CORP.
(the “Filer”)

DECISION

Background

The principal regulator in the Jurisdiction (the “**Principal Regulator**”) has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the “**Legislation**”) that, in connection with the proposed purchase by the Filer of a portion of its issued and outstanding common shares (the “**Common Shares**”) pursuant to a formal issuer bid (the “**Offer**”), the Filer be exempt, subject to the conditions set forth herein, from the requirement set out in subsection 2.32(4) of National Instrument 62-104 *Take-Over Bids and Issuer Bids* (“**NI 62-104**”) that the Offer not be extended if all the terms and conditions of the Offer have been complied with or waived unless the Filer first takes up all of the Common Shares deposited under the Offer and not withdrawn (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 subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (“**MI 11-102**”) is intended to be relied upon in British Columbia and Alberta.

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

1. This decision is based on the following facts represented by the Filer:
2. The Filer is a corporation validly existing under the *Business Corporations Act* (Ontario) and is in good standing.
3. The head office and registered office of the Filer is located at 100 King Street West, Suite 5600, Toronto, Ontario, M5X 1C9.
4. The Filer is a reporting issuer in the provinces of British Columbia, Alberta and Ontario and the Common Shares are listed for trading on the Canadian Securities Exchange (the “**CSE**”) under the symbol “SOL”. The Filer is not in default of any requirement of the securities legislation in any of the jurisdictions in which it is a reporting issuer.
5. The Filer’s authorized share capital consists of an unlimited number of Common Shares, of which 52,018,533 Common Shares were issued and outstanding as of October 13, 2021. In addition, as of October 13, 2021, there were 149,000 Options outstanding, of which 121,962 Options had vested and were exercisable at the option of the Option holders to purchase an equivalent number of Common Shares. The expiry dates of such Options range from September 28, 2023 to June 21, 2024. The Options are not listed for trading on any stock exchange.
6. On October 13, 2021, the closing price of the Common Shares on the CSE was \$3.42. On the basis of this closing price, on such date the Common Shares had an aggregate market value of approximately \$177.9 million (on a non-diluted basis).
7. On October 20, 2021, the Filer commenced the Offer. The issuer bid circular dated October 20, 2021 prepared and sent by the Filer in connection with the Offer (the “**Circular**”) specifies that the Filer proposes to purchase, by way of a “Dutch auction” procedure in the manner described, up to \$30,000,000 of the issued and outstanding Common Shares (the “**Specified Maximum Dollar Amount**”) at a purchase price of not less than \$4.05 per Common Share and of no more than \$4.25 per Common Share (the “**Price Range**”).
8. Pursuant to Section 2.8(b) of NI 62-104, the Filer will make the Offer to each holder of Options that, before the expiry of the deposit period of the Offer, are convertible into Common Shares. Such Options may, at the option of the holder, be exercised for Common Shares in accordance with the terms of such Options prior to the expiry of the deposit period of the Offer. Common Shares issued upon the exercise of the Options may be tendered to the Offer in accordance with the terms of the Offer.
9. The Filer will fund the purchase of Common Shares pursuant to the Offer, together with the fees and expenses of the Offer, using available cash on hand.
10. A holder of Common Shares (a “**Common Shareholder**”, and collectively, the “**Common Shareholders**”) wishing to tender to the Offer will be able to do so by making an auction tender pursuant to which it agrees to sell to the Filer, at a specified price per Common Share within the Price Range (an “**Auction Price**”), a specified number of Common Shares (an “**Auction Tender**”).
11. Common Shareholders may not deposit the same Common Shares pursuant to an Auction Tender at more than one price.
12. Any Common Shareholder who owns fewer than 100 Common Shares and tenders all of such Common Shareholder’s Common Shares pursuant to an Auction Tender at or below the Purchase Price will be considered to have made an “**Odd Lot Tender**”.
13. The Filer will determine the purchase price payable per Common Share (the “**Purchase Price**”) based on the Auction Prices and the number of Common Shares specified in valid Auction Tenders. The Purchase Price will be the lowest price that enables the Filer to purchase that number of Common Shares tendered pursuant to valid Auction Tenders having an aggregate Purchase Price not to exceed an amount (the “**Auction Tender Limit Amount**”) equal to the Specified Maximum Dollar Amount.
14. If the aggregate Purchase Price for Common Shares validly tendered pursuant to Auction Tenders (at Auction Prices at or below the Purchase Price) is less than or equal to the Auction Tender Limit Amount, the Filer will purchase, at the Purchase Price, all Common Shares so deposited pursuant to Auction Tenders at or below the Purchase Price.
15. If the aggregate Purchase Price for Common Shares validly tendered pursuant to Auction Tenders (at Auction Prices at or below the Purchase Price) is greater than the Auction Tender Limit Amount, the Filer will purchase a portion of the Common Shares so deposited pursuant to Auction Tenders (at or below the Purchase Price), determined as follows: (i) the Filer will purchase all such Common Shares tendered by Common Shareholders pursuant to Odd Lot Tenders; and (ii) the Filer will purchase on a pro rata basis that portion of such Common Shares having an aggregate purchase price,

based on the Purchase Price, equal to (A) the Auction Tender Limit Amount, less (B) the aggregate amount paid by the Filer for Common Shares tendered pursuant to Odd Lot Tenders, in each of the cases set forth in clauses (i) and (ii) of this paragraph, at the Purchase Price.

16. The number of Common Shares that the Filer will purchase pursuant to the Offer and the aggregate Purchase Price will vary depending on whether the aggregate Purchase Price payable in respect of Common Shares required to be purchased pursuant to Auction Tenders (at or below the Purchase Price) (the “**Aggregate Tender Purchase Amount**”) is equal to or less than the Auction Tender Limit Amount. If the Aggregate Tender Purchase Amount is equal to the Auction Tender Limit Amount, the Filer will purchase Common Shares pursuant to the Offer for an aggregate Purchase Price equal to the Specified Maximum Dollar Amount; if the Aggregate Tender Purchase Amount is less than the Auction Tender Limit Amount, the Filer will purchase proportionately fewer Common Shares in the aggregate, with a proportionately lower aggregate Purchase Price.
17. All Common Shares purchased by the Filer pursuant to the Offer (including Common Shares tendered at Auction Prices at or below the Purchase Price) will be purchased at the Purchase Price. Common Shareholders will receive the Purchase Price in cash. All Auction Tenders will be subject to adjustment to avoid the purchase of fractional Common Shares. All payments to Common Shareholders will be subject to deduction of applicable withholding taxes.
18. All Common Shares tendered to the Offer and not taken up will be returned to the appropriate Common Shareholders.
19. Until expiry of the Offer, all information about the number of Common Shares tendered and the prices at which the Common Shares are tendered will be required to be kept confidential by the depositary and the Filer until the Purchase Price has been determined.
20. Common Shareholders who do not accept the Offer will continue to hold the same number of Common Shares owned before the Offer and their proportionate Common Share ownership will increase following completion of the Offer.
21. The Offer is scheduled to expire at 5:00 p.m. (Eastern time) on November 26, 2021 (the “**Expiration Date**”).
22. The Filer may elect to extend the Offer without first taking up all the Common Shares deposited and not withdrawn under the Offer if all the terms and conditions of the Offer have been complied with or waived by the Filer by the Expiration Date but the aggregate Purchase Price for Common Shares validly tendered pursuant to Auction Tenders is less than the Auction Tender Limit Amount. Pursuant to subsection 2.32(4) of NI 62-104, an issuer may not extend an issuer bid if all the terms and conditions of the issuer bid have been complied with or waived unless the issuer first takes up all the securities deposited and not withdrawn under the issuer bid.
23. The Filer intends to rely on the exemption from the formal valuation requirements applicable to issuer bids under Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* (“**MI 61-101**”) set out in subsection 3.4(b) of MI 61-101 (the “**Liquid Market Exemption**”).
24. There was a “liquid market” for the Common Shares, as such term is defined in MI 61-101, as of the date of the making of the Offer because the test in paragraph 1.2(1)(a) of MI 61-101 is be satisfied. An opinion has been obtained by the Filer confirming that a liquid market exists for the Common Shares as of the date of the making of the Offer and such opinion has been included in the Circular (the “**Liquidity Opinion**”).
25. Based on the maximum number of Common Shares that may be purchased under the Offer and the Liquidity Opinion dated October 13, 2021, the board of directors of the Filer determined that it is reasonable to conclude that, following the completion of the Offer in accordance with its terms, there will be a market for holders of Common Shares who do not tender to the Offer that is not materially less “liquid”, as such term is defined in MI 61-101, than the market that existed at the time of the making of the Offer.
26. The board of directors of the Filer has determined that the making of the Offer is in the best interests of the Filer.
27. The Filer has disclosed in the Circular relating to the Offer the following information:
 - (a) the mechanics for the take up of and payment for Common Shares as described herein;
 - (b) that, by tendering Common Shares at the lowest price in the Price Range under an Auction Tender, a Common Shareholder can reasonably expect that the Common Shares so tendered will be purchased at the Purchase Price, subject to proration and other terms of the Offer as specified herein;
 - (c) that the Filer has applied for the Exemption Sought;
 - (d) the manner in which an extension of the Offer will be communicated to Common Shareholders;

- (e) that Common Shares deposited pursuant to the Offer may be withdrawn at any time prior to the expiry of the Offer;
- (f) if known after reasonable inquiry, the name of every person named in Item 11 of NI 62-104 who has accepted or intends to accept the Offer and the number of Common Shares in respect of which the person has accepted or intends to accept the Offer;
- (g) the facts supporting the Filer's reliance on the Liquid Market Exemption and the Liquidity Opinion; and
- (h) the disclosure prescribed by applicable securities laws for issuer bids.

Decision

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

The decision of the Principal Regulator under the Legislation is that the Exemption Sought is granted, provided that:

- (a) the Filer takes up and pays for Common Shares deposited pursuant to the Offer and not withdrawn, in each case, in the manner described above; and
- (b) the Filer is eligible to rely on the Liquid Market Exemption.

"David Mendicino"
Manager, Office of Mergers & Acquisitions
Ontario Securities Commission

2.1.2 TruX Exogenous Risk Pool and True Exposure Investments Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption from subsection 2.1(2) of NI 81-101 to file a prospectus more than 90 days after the date of the receipt for the preliminary prospectus.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, ss. 2.1(2), 6.1.

VIA SEDAR

November 23, 2021

Adelson Law

Attention: Eric Adelson

**Re: TruX Exogenous Risk Pool (the Pool) and True Exposure Investments Inc. (TruX)
Preliminary Simplified Prospectus, Annual Information Form, and Fund Facts dated September 14, 2021
Exemptive Relief Application under Part 6 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (NI 81-101)
Application No. 2021/0673; SEDAR Project No. 3278743**

By letter dated November 14, 2021 (the **Application**), TruX, the investment fund manager of the Pool, applied to the Director of the Ontario Securities Commission (the **Director**) under section 6.1 of NI 81-101 for relief from the operation of subsection 2.1(2) of NI 81-101, which prohibits an issuer from filing a prospectus more than 90 days after the date of the receipt for the preliminary prospectus.

This letter confirms that, based on the information and representations made in the Application, and for the purposes described in the Application, the Director intends to grant the requested exemption to be evidenced by the issuance of a receipt for the Pool's prospectus, subject to the condition that the prospectus be filed no later than **January 27, 2022**.

Yours very truly,

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

Application File #: 2021/0673

2.1.3 Green Bay Packers, Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from prospectus requirement – relief allows the Filer, a non-profit company operating a professional sports team in the United States, to conduct an offering of its common stock – none of the Filer's profits benefit any security holder of the Filer – relief is subject to conditions.

Applicable Legislative Provisions

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

November 18, 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
GREEN BAY PACKERS, INC.
(the Filer)

DECISION

Background

The local securities regulatory authority or regulator in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for an exemption from the prospectus requirement in respect of the distribution of common stock (**Offered Shares**) of the Filer to be offered (**Offering**) in each of the Jurisdictions (defined below) (the **Requested Relief**).

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

- (a) the Ontario Securities Commission is the principal regulator for this application,
- (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, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (collectively, together with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

- 1. The Filer is a corporation organized as a Wisconsin non-profit stock corporation established under the *Wisconsin Business Corporation Law* on January 26, 1935.
- 2. The Filer is not, and does not intend to become, a reporting issuer under the securities legislation of any Jurisdiction. The Filer is not, and does not intend to become, a reporting company under the United States federal Securities Exchange Act of 1934. The shares of common stock of the Filer are not listed or traded on any stock exchange or over-the-counter-market in Canada, the United States or elsewhere.

3. The Filer is not in default of securities legislation in any Jurisdiction.
4. The Filer's restated articles of incorporation as currently in effect (the **Articles**) provide that the Filer shall be non-profit sharing and its purpose shall be exclusively for charitable purposes. The Articles also state that its profit shall be donated to the Green Bay Packers Foundation (the **Foundation**) but that the Filer can make contributions to any local charitable institutions.
5. Despite its non-profit status, the Filer is not a charitable organization under Section 501(c)(3) of the United States federal *Internal Revenue Code of 1986*, as amended (the **Code**). The Foundation is a private foundation and a charitable organization under Section 501(c)(3) of the Code and was formed in 1987 to manage the Filer's contributions to charity. The Filer is an exempt organization for purposes of Wisconsin income tax.
6. In the event of dissolution of the Filer, the Articles provide that the undivided profits and assets of the Filer shall go to the Foundation for distribution to community programs, charitable causes, and such other similar causes the Foundation deems appropriate.
7. The Filer is subsisting under the Articles as a community project intended to promote community welfare and its purposes shall be exclusively charitable. Incidental to its purposes, the Filer shall have the right to conduct athletic contests, operate a football team, or such other similar projects for the purpose of carrying out its charitable purposes, which purposes shall be carried on within the State of Wisconsin, and especially within the County of Brown, Wisconsin.
8. At the time of its incorporation, the Filer operated a National Football League franchise, the Green Bay Packers, and the Filer continues to operate that franchise within the Filer's corporate entity. The operations of the National Football League franchise contribute to the Filer's purpose of carrying out its charitable objectives by generating revenues to support its charitable activities.
9. The Foundation has been giving back to Wisconsin's communities since the Filer established the Foundation in 1986 at the direction of Judge Robert J. Parins, then President of the Filer, "as a vehicle to assure continued contributions to charity." The Foundation is an entity independent of the Filer although the individual trustees are directors of the Filer and there is a requirement in the trust agreement that at least one individual trustee must be a member of the Filer's Executive Committee of the Board of Directors. The Filer is the primary contributor to the Foundation. The Foundation supports charities possessing one or more of the following goals: perpetuates a community environment that promotes families and the competitive value of athletics; contributes to player and fan welfare; ensures the safety and education of children; and/or prevents cruelty to animals.
10. The proceeds of the Offering will be maintained in a segregated account and will be used for capital expenditures and improvements of the stadium in which it holds games (known as Lambeau Field) such as new video boards and concourse improvements. None of the proceeds of the Offering will be used for ordinary operating expenses such as player costs and general administration of the National Football League franchise. The Filer maintains a segregated account for operating funds to fund operating expenses, contribute to the Foundation and contribute directly to charities.
11. The authorized capital stock of the Filer consists of 10,000,000 shares of common stock with no par value. As of October 15, 2021, there were approximately 5,009,476 shares of Common Stock issued and outstanding held by approximately 361,375 shareholders.
12. The Articles provide that no shareholder of the Filer shall receive any dividend, pecuniary profit or emolument by virtue of his or her being a shareholder of the Filer. The Filer may not distribute the proceeds from liquidation to its shareholders.
13. The Filer's bylaws, as amended, provide that no holder of shares of common stock may sell, assign, exchange, give, pledge, encumber or otherwise transfer or dispose of any shares of common stock, subject to two exceptions. A person may transfer shares of common stock to an "immediate family" member by gift, or in the event of death, and an entity may transfer shares of common stock to certain persons associated with such entity as approved by the Filer.
14. The certificates representing the shares of common stock include a restrictive transfer legend and a statement referring to the Filer's non-profit status.
15. In 1997, the Filer commenced an offering in the United States of additional shares of Common Stock pursuant to which the Filer sold 120,010 shares of Common Stock at a price of US\$200 per share. In connection with this offering, in 1997, the Filer received a "no-action" letter issued by the Securities and Exchange Commission on the basis that the shares of Common Stock are not securities for purposes of the U.S. federal Securities Act of 1933. With respect to the securities laws of each of the 50 states, the Filer proceeded pursuant to no-action positions and/or non-profit issuer exemptions from both securities and broker-dealer registration requirements under such laws. The proceeds of this offering served as part of the financing for a major redevelopment of Lambeau Field.

16. In 2011, the Filer commenced another offering in the United States of additional shares of Common Stock pursuant to which the Filer sold 275,922 shares of Common Stock at a price per share of \$250 per share. This offering was also made in reliance on the 1997 “no-action” letter issued by the Securities and Exchange Commission. With respect to the securities laws of each of the 50 states, the Filer proceeded pursuant to no-action positions that either were current or dated back to 1997 and/or non-profit issuer exemptions from both securities and broker-dealer registration requirements under such laws. There were 2,319 Canadians who purchased an aggregate of 2,442 shares of Common Stock in the 2011 offering. The proceeds of this offering were used for stadium improvements including expanding the south end zone by adding new seats and entrance gates; adding two video boards; installing a new sound system; adding a viewing platform in the north end zone; and adding improved amenities.
17. On or about November 16, 2021, the Filer intends to commence an offering of shares of common stock (the **Offering**) at a price of US\$300 per share together with a handling fee of US\$35 for each subscription. The initial amount of the Offering is intended to be 300,000 shares. The Filer reserves the right to increase or decrease the size of the Offering at any time, subject to authority to offer up to 604,068 shares of common stock. The shares of common stock that the Filer is offering pursuant to the Offering are referred to as the “Offered Shares.”
18. The Filer desires to offer up to 300,000 Offered Shares in the United States and in each of the Jurisdictions pursuant to the Offering, subject to the ability to increase such amount at its discretion. The Filer would offer the Offered Shares at a price of US\$300 per share together with a handling fee for each subscription that may be of US\$35 or some other amount. The Filer intends to offer the Offered Shares in each of the Jurisdictions until February 25, 2022, subject to extension, or until the Offering is fully subscribed.
19. The distribution of the Offered Shares by the Filer will be made pursuant to an offering document (the **Offering Document**) that contains disclosure regarding the terms and conditions of the Offering, a description of the Offered Shares, the management of the Filer, restrictions on transfer of the Offered Shares and associated fees and that the Offered Shares do not represent the possibility of profit or provide dividends, distributions, tax or other benefits to holders.
20. Each prospective purchaser of Offered Shares will have the opportunity to review the Offering Document online at www.packersstock.com and will be required to complete and sign a subscription agreement. Subscribers for the Offered Shares may complete their subscription agreement online or by mailing their completed subscription agreement to the Filer’s subscription agent, EQ Shareowner Services. A prospective purchaser of Offered Shares will also have the opportunity to ask to receive the Offering Document by mail. In that case, the subscriber would mail their completed subscription agreement to the Filer’s subscription agent.
21. The Filer maintains, by way of additional disclosure for the Offering, a website at www.packersstock.com on which the Filer posts information concerning the history of the Filer, the Offering Document, information regarding certificates representing the Offered Shares and responses to frequently asked questions.
22. The net proceeds of the Offering will be deposited in the Filer’s segregated capital improvements fund. Withdrawals from such fund may be used only for stadium or other capital improvements. Proceeds from the Offering will not be commingled with the general cash balances of the Filer or used to pay ordinary operating expenses of the Filer. The use of proceeds of the Offering for capital reserve and capital improvements is consistent with the charitable purposes of the Filer by helping enable the Filer to enhance its stadium so that it can generate revenues to support its charitable activities.
23. The Filer intends to do the following in respect of advertising the Offered Shares: (i) the Filer will deliver a press release to media outlets in the United States, including Green Bay and Milwaukee, Wisconsin; (ii) the Filer will deliver a press release to media outlets in select Canadian cities; (iii) the Filer intends to purchase advertising that will include digital advertising, but (a) while some advertising may target purchasers that reside in Canadian provinces and territories, the advertising will be largely focused on select U.S. markets and (b) advertising will include an appropriate disclaimer highlighting that the Offered Shares do not constitute an investment in “stock” in the common sense of the term; (iv) the Filer will respond to and cooperate with media inquiries; and (v) the Filer’s website will make it clear that purchasers who reside in Canadian provinces and territories can purchase the Offered Shares (collectively, the **Advertising**).
24. The objects and purposes of the Filer as well as use of the proceeds raised by the proposed offering of Offered Shares are consistent with and satisfy the requirements of the exemption under section 2.38 of NI 45-106. In particular, the prospectus requirement under the Act and the securities legislation of the Jurisdictions does not apply to an issuer that is organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit in a security of its own issue if: (i) no part of the net earnings benefit any security holder of the issuer; and (ii) no commission or other remuneration is paid in connection with the sale of the security. The Articles provide that the Filer is required to be non-profit sharing and that no shareholder may receive any dividend or pecuniary profit by virtue of being a shareholder in the Filer. In addition, the Filer is required to donate its profit to certain charitable causes, and in the event of a dissolution of the Filer, the profits and assets of the Filer must go to community programs, charitable causes and other similar causes. The Articles also provide that the Filer may create a capital reserve and therefore is not compelled to distribute all of its profits.

25. The Filer may be unable to rely on this exemption in connection with the Offering because incidental to its purposes the Filer conducts athletic contests and operates a football team with substantial revenues and expenses.
26. The Filer may also be unable to use section 2.38 of NI 45-106 because it states that such exemption is unavailable if any remuneration is paid in connection with the sale of the security.
27. It is contemplated that the Filer may engage advertising, marketing and other consultants and advisors to assist the Filer with the Advertising, but no portion of the compensation paid to them will be based on the number of Offered Shares sold in the form of commissions or otherwise.
28. The Filer has considered whether, under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) and the Legislation, it could be considered to be engaged in or holding itself out as engaging in the business of trading in securities and therefore required to register as a dealer, rely on an exemption from the dealer registration requirement or seek exemptive relief from the dealer registration requirement. In light of the particular facts and circumstances of the Filer, including the fact that it does not hold itself out as being in the business of trading in securities, does not trade in securities frequently, does not receive any remuneration for trading in securities, does not act in an intermediary capacity, does not produce or intend to produce a distinct profit from trading in securities, and does not employ or otherwise contract with persons to perform activities on its behalf that are similar to those performed by a registrant, and having considered the guidance in section 1.3 of the Companion Policy to NI 31-103, the Filer has concluded that it should not be considered to be engaged in registrable activities and therefore does not require relief from the dealer registration requirement of the Legislation.
29. The proposed Offering of Offered Shares in the United States, as was the case in the 1997 offering and the 2011 offering of shares of Common Stock, will be made in reliance on a "no-action" letter issued by the Securities and Exchange Commission in 1997 on the basis that the shares of Common Stock are not securities for purposes of the U.S. federal Securities Act of 1933 and, with respect to the securities laws of each of the 50 states, pursuant to previous or current no-action positions and/or non-profit issuer exemptions from both securities and broker-dealer registration requirements under such laws.
30. The Filer will not sell more than 200 Offered Shares in the aggregate to any one individual (counting any shares that the person may have purchased in the 1997 offering and the 2011 offering), and any shareholder who currently owns 200,000 shares of Common Stock may not purchase any Offered Shares.

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.

To the extent that the Offered Shares are securities for the purposes of the Legislation, the decision of the principal regulator under the Legislation is that the Requested Relief is granted, provided that:

- (a) the Filer is organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit and that, incidental to its purposes, the Filer shall have the right to conduct athletic contests, operate a football team, or such other similar projects for the purpose of carrying out its charitable purposes;
- (b) the Foundation is organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit;
- (c) no part of the net earnings of the Filer benefit any security holder of the Filer;
- (d) the net proceeds of the Offering will be used only for stadium or other capital improvements and will not be commingled with the general cash balances of the Filer or used to pay ordinary operating expenses of the Filer;
- (e) no commission or other remuneration is paid in connection with the sale of the Offered Shares pursuant to the Offering, other than to advertising, marketing and other consultants and advisors to assist the Filer with the Advertising;
- (f) the Filer has delivered a copy of this decision and the Offering Document to each purchaser of the Offered Shares pursuant to the Offering;
- (g) the Filer maintains a website on which it posts certain information, including information regarding the Green Bay Packers professional football team that the Filer operates; and
- (h) the prospectus requirements of the Legislation will apply to the first trade in any Offered Shares acquired by Canadian purchasers pursuant to this decision unless the following conditions are met:

- (i) the Filer was not a reporting issuer in any jurisdiction of Canada at the distribution date, or is not a reporting issuer in any jurisdiction of Canada at the date of the trade; and
- (ii) at the distribution date, after giving effect to the issue of the security and any other securities of the same class or series that were issued at the same time as or as part of the same distribution as the security, residents of Canada:
 - i. did not own, directly or indirectly, more than 10% of the outstanding securities of the class or series, and
 - ii. did not represent in number more than 10% of the total number of owners directly or indirectly of securities of the class or series.

“Cecilia Williams”
Commissioner
Ontario Securities Commission

“Frances Kordyback”
Commissioner
Ontario Securities Commission

2.1.4 Sun Life Assurance Company of Canada and Sun Life Capital Trust

Headnote

National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – passport application – credit support issuer does not satisfy conditions of exemption in section 13.4 of National Instrument 51-102 – credit support issuer has securities outstanding that are not designated credit support securities because credit supporter has not provided a full and unconditional guarantee – designated credit support securities cannot have a full and unconditional guarantee because of regulatory capital requirements – credit support issuer exempt from certain continuous disclosure, certification, insider reporting, prospectus qualification and prospectus disclosure requirements under securities law, subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c.S-5, as am., ss.107 and 121(2)(a)(ii).
National Instrument 51-102 Continuous Disclosure Obligations, ss. 13.1 and 13.4.
National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings, s. 8.6.
National Instrument 55-102 System for Electronic Disclosure by Insiders (SEDI), ss. 2.1 and 6.1.
National Instrument 55-104 Insider Reporting Requirements and Exemptions, s. 10.1.
National Instrument 44-101 Short Form Prospectus Distributions, Part 2 and s. 8.1.
Form 44-101F1 Short Form Prospectus, Item 6 and s. 11.1.
National Instrument 44-102 Shelf Distributions, Part 2 and s. 11.1.

November 23, 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
SUN LIFE ASSURANCE COMPANY OF CANADA
("SLA")

AND

SUN LIFE CAPITAL TRUST
(the "Trust", and together with SLA, the "Filers")

DECISION

Background

The Filers received an order dated January 13, 2017 (the "2017 Order") of the securities regulatory authority or regulator of each province and territory of Canada exempting the Filers from the continuous disclosure and certification requirements of securities legislation as specified in the 2017 Order. The 2017 Order expires on January 15, 2022.

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction (the "Legislation") to replace the 2017 Order, provided that:

1. SLA be granted an exemption (a "Continuous Disclosure Exemption") from the Continuous Disclosure Requirements pursuant to section 13.1 of NI 51-102;
2. the Trust be granted a Continuous Disclosure Exemption from the Continuous Disclosure Requirements pursuant to section 13.1 of NI 51-102;
3. SLA be granted an exemption (a "Certification Exemption") from the Certification Requirements pursuant to section 8.6 of NI 52-109;
4. the Trust be granted a Certification Exemption from the Certification Requirements pursuant to section 8.6 of NI 52-109;

5. insiders of SLA be granted an exemption (the “**Insider Profile Exemption**”) from the requirement to file an insider profile under section 2.1 of NI 55-102 pursuant to section 6.1 of NI 55-102;
6. insiders of SLA be granted an exemption (the “**Insider Reporting Exemption**”) from the Insider Reporting Requirements in respect of securities of SLA pursuant to section 121(2)(a)(ii) of the Act and section 10.1 of NI 55-104;
7. SLA be granted an exemption (the “**Prospectus Qualification Exemption**”) from the Prospectus Qualification Requirements in respect of a distribution of SLA Preferred Shares pursuant to section 8.1 of NI 44-101 and section 11.1 of NI 44-102; and
8. SLA be granted an exemption (the “**Prospectus Disclosure Exemption**”) from the Prospectus Disclosure Requirements in respect of a distribution of SLA Preferred Shares pursuant to section 8.1 of NI 44-101 and section 11.1 of NI 44-102 (collectively, the “**Exemption Sought**”).

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

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* is intended to be relied upon in each of the provinces and territories other than Ontario.

Interpretation

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

“**Accumulated Unpaid Indicated Yield**” means, at any time, an amount, if any, per SLEECs Series B equal to the Indicated Yield payable by the Trust thereon in respect of all previous Regular Distribution Dates remaining unpaid by the Trust;

“**Act**” means the *Securities Act* (Ontario);

“**Affiliate**” has the meaning given to such term in NI 51-102;

“**AIF**” means an annual information form;

“**Annual Certificates**” has the meaning given to such term in NI 52-109;

“**Annual Filings**” means an issuer’s AIF, annual financial statements and annual MD&A filed pursuant to NI 51-102;

“**Automatic Exchange**” means the automatic exchange of SLEECs — Series B for SLA Preferred Shares Series W upon the occurrence of certain events relating to the solvency of SLA or actions taken by the Superintendent in respect of the financial strength of SLA;

“**Certification Requirements**” means the requirements to file Annual Certificates under sections 4.1 and 6.1, as applicable, of NI 52-109 and Interim Certificates under sections 5.1 and 6.2, as applicable, of NI 52-109;

“**Continuous Disclosure Filings**” means:

- (a) annual financial statements required by section 4.1 of NI 51-102;
- (b) interim financial reports required by section 4.3 of NI 51-102;
- (c) AIFs required by section 6.1 of NI 51-102;
- (d) annual and interim MD&A required by section 5.1 of NI 51-102;
- (e) press releases and material change reports required by section 7.1 of NI 51-102 in the case of material changes that are also material changes in the affairs of SLF; and
- (f) material contracts required by section 12.2 of NI 51-102 in the case of material contracts that are also contracts of SLF;

“**Continuous Disclosure Requirements**” means the requirements contained in NI 51-102 to file and deliver, as applicable, the Continuous Disclosure Filings;

“**Credit Facilities**” means the unsecured, non-interest bearing credit facilities provided to the Trust by SLA or its Affiliates in connection with the offerings of the SLEECs;

“Credit Support Issuer” has the meaning given to such term in NI 51-102;

“Credit Support Issuer Exemptions” means the exemption from the Continuous Disclosure Requirements in section 13.4 of NI 51-102 and the exemption from the Certification Requirements in section 8.5 of NI 52-109;

“Current Indicated Yield” means, at any time, in respect of the current Distribution Period, an amount per SLEECs – Series B equal to the Indicated Yield pro-rated for the number of days elapsed from and including the first day of the Distribution Period to but excluding the date of redemption, provided that there has not been a Distribution Diversion Event with respect to such Distribution Period;

“Debt Guarantee” means the subordinated guarantee dated November 15, 2007 by SLF of SLA’s payment obligations in respect of the SLA 6.30% Subordinated Debentures, as amended and restated on January 12, 2012 and January 13, 2017;

“Deficiency Payment” means a payment calculated as follows:

- (a) if at the date of determination a winding-up order has been made with respect to SLF, then the Deficiency Payment shall be the amount that, when paid to the holders of the SLA Preferred Shares outstanding as of the Triggering Event, will result in:
 - (i) the holders of SLA’s Class A Shares, Class B Shares, Class C Shares and Class E Shares outstanding as of the Triggering Event receiving payment of the same proportion of the unpaid amounts on such shares as the holders of such shares would have received had their claim to such unpaid amounts on the final distribution of surplus of SLF, if any, pursuant to section 95(1) of the WURA ranked on a parity with the claims of the holders of SLF’s Class A Shares; and
 - (ii) the holders of SLA’s Class D Shares outstanding as of the Triggering Event receiving payment of the same proportion of the unpaid amounts on such shares as the holders of such shares would have received had their claim to such unpaid amounts on the final distribution of surplus of SLF, if any, pursuant to section 95(1) of the WURA ranked on a parity with the claims of the holders of SLF’s Class B Shares; and
- (b) in all circumstances other than those listed above, the Deficiency Payment shall be the amount equal to the aggregate unpaid amounts attributable to all classes of SLA Preferred Shares outstanding as of the Triggering Event;

“Designated Credit Support Securities” has the meaning given to such term in NI 51-102;

“Distribution Date” means the last day of June and December of each year that the Trust distributes its Net Distributable Funds;

“Distribution Diversion Event” means either (i) SLA fails to declare Dividends on the SLA Class B Non-Cumulative Preferred Shares Series A or (ii) if there are Public Preferred Shares outstanding, SLA fails to declare Dividends on any of the Public Preferred Shares in accordance with their respective terms, in either case, during the Dividend Reference Period;

“Distribution Period” means the periods commencing on and including June 25, 2002 to but excluding the next Distribution Date;

“Dividend Reference Period” means the three-month period immediately prior to the commencement of the Distribution Period ending on the day preceding the Distribution Date;

“Dividend Stopper Undertaking” means the covenant of SLA and SLF for the benefit of holders of SLEECs – Series B that, if the Trust fails on any Regular Distribution Date to pay the Indicated Yield on the SLEECs – Series B in full, SLA will not pay Dividends on the SLA Dividend Restricted Shares, being the Public Preferred Shares, or, if SLA Dividend Restricted Shares are not outstanding, SLF will not pay Dividends on the SLF Dividend Restricted Shares, in each case, until the 12th month following the Trust’s failure to pay the Indicated Yield in full on the SLEECs – Series B, unless the Trust first pays such Indicated Yield (or the unpaid portion thereof) to holders of SLEECs – Series B;

“Dividends” means cash dividends declared in the ordinary course by (i) SLA on the SLA Class B Preferred Shares Series A or on the Public Preferred Shares, if any such shares are outstanding, or (ii) SLF on the SLF Preferred Shares, if any such shares are outstanding, and on the SLF Common Shares;

“Early Redemption Price” means a price per SLEECs – Series B calculated to provide an annual yield thereon to June 30, 2032;

“Form 44-101F1” means Form 44-101F1 Short Form Prospectus Distributions of NI 44-101;

“full and unconditional credit support” has the meaning given to such term in National Instrument 41-101 *General Prospectus Requirements*;

“Holder Exchange Right” means the right of holders of SLEECs — Series B to exchange their SLEECs — Series B for SLA Preferred Shares Series X;

“ICA” means the *Insurance Companies Act* (Canada);

“Indicated Yield” means each fixed, semi-annual, non-cumulative cash distribution distributed to holders of a particular series of SLEECs;

“Insider Reporting Requirements” means the requirements for an insider of a reporting issuer to file:

- (a) insider reports required by section 107 of the Act and sections 3.2 and 3.3 of NI 55-104 in respect of securities of the reporting issuer; and
- (b) insider reports required under any provisions of securities legislation of any of the provinces or territories of Canada substantially similar to section 107 of the Act and sections 3.2 and 3.3 of NI 55-104 in respect of securities of the reporting issuer;

“Interim Certificates” has the meaning given to such term in NI 52-109;

“Interim Filings” means an issuer’s interim financial reports and interim MD&A filed pursuant to NI 51-102;

“Jurisdictions” means each of the provinces and territories of Canada;

“Liquidation Preference” means any amount to which holders of a particular class or series of SLA Preferred Shares are entitled in priority to any amounts which may be payable in respect of any class of shares of SLA which rank junior to such class or series in the event of a distribution of assets upon the liquidation, dissolution or winding-up of SLA;

“MD&A” means management’s discussion and analysis of the financial condition and results of operations;

“Net Distributable Funds” means, at any time, the amount by which the sum of (i) income and gains derived by the Trust and the Trust Assets, and (ii) amounts received by the Trust from SLA that are designated by SLA as such, in each case that have not previously been distributed to holders of SLEECs or the holder of the Special Trust Securities, exceeds expenses of the Trust and any required liability for expenses established by the Trust;

“New Debt Guarantee” has the meaning given to such term in paragraph 32;

“NI 44-101” means National Instrument 44-101 *Short Form Prospectus Distributions*;

“NI 44-102” means National Instrument 44-102 *Shelf Distributions*;

“NI 45-106” means National Instrument 45-106 *Prospectus and Registration Exemptions*;

“NI 51-102” means National Instrument 51-102 *Continuous Disclosure Obligations*;

“NI 52-109” means National Instrument 52-109 *Certification of Disclosure in Issuers’ Annual and Interim Filings*;

“NI 55-102” means National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)*;

“NI 55-104” means National Instrument 55-104 *Insider Reporting Requirements and Exemptions*;

“Preferred Share Guarantee” means the subordinated preferred share guarantee dated November 15, 2007 by SLF of the amount of any declared and unpaid dividends on the SLA Preferred Shares, the Redemption Price of the SLA Preferred Shares, and the Liquidation Preference of the SLA Preferred Shares, as amended and restated on January 12, 2012 and January 13, 2017;

“Prospectus Disclosure Requirements” means the requirements contained in section 6 (Earnings Coverage Ratio) and section 11.1, other than section 11.1(1)(5), (Incorporation by Reference) of Form 44-101F1 that issuers must satisfy to distribute securities pursuant to a short form prospectus or a base shelf prospectus, as applicable;

“Prospectus Qualification Requirements” means the requirements contained in Part 2 of NI 44-101 and Part 2 of NI 44-102 that issuers must satisfy to distribute securities pursuant to a short form prospectus or a base shelf prospectus, as applicable;

“Public Preferred Shares” means, at any time, preferred shares of SLA which, at that time (i) have been issued to the public (excluding any preferred shares of SLA held beneficially by affiliates of SLA), (ii) are listed on a recognized stock exchange, and (iii) have an aggregate liquidation entitlement of at least \$200 million;

“Redemption Price” means the amount payable by SLA following presentation and surrender of any SLA Preferred Shares which have been redeemed by SLA or which are then redeemable by the holder pursuant to the terms of such SLA Preferred Shares;

“Regular Distribution Date” means a Distribution Date except (i) if SLA fails to declare Dividends on the SLA Class B Non-Cumulative Preferred Shares Series A or (ii) if there are Public Preferred Shares outstanding, SLA fails to declare Dividends on any of the Public Preferred Shares in accordance with their respective terms, in either case, during the Dividend Reference Period;

“Resulting SLA Preferred Shares” has the meaning given to such term in paragraph 10;

“SEDAR” means the System for Electronic Document Analysis and Retrieval;

“Series B Share Exchange Agreement” means the share exchange agreement between the Trust, SLF, SLA and CIBC Mellon Trust Company, as exchange trustee, with respect to the SLEECs — Series B;

“SLA 6.30% Subordinated Debentures” means the \$150,000,000 principal amount of 6.30% subordinated debentures of SLA due 2028;

“SLA B Debenture” means the senior debenture issued by SLA to the Trust in respect of the SLEECs — Series B;

“SLA Dividend Restricted Shares” means the Public Preferred Shares;

“SLA Preferred Shares” means the Class A Shares, Class B Shares, Class C Shares, Class D Shares and Class E Shares of SLA outstanding from time to time, in each case of any series, whether or not such shares are outstanding as of the date hereof, other than shares issued to and held by SLF or its Affiliates;

“SLA Preferred Shares Series V” means the Class A Shares — Series V of SLA;

“SLA Preferred Shares Series W” means the Class A Shares — Series W of SLA;

“SLA Preferred Shares Series X” means the Class A Shares — Series X of SLA;

“SLA Subordinated Debentures” means any non-convertible debt securities issued by SLA and outstanding in the future (other than (i) debt securities issued to and held by SLF or its Affiliates, (ii) debt securities issued to the types of entities described in section 13.4(2)(c)(iii) of NI 51-102, and (iii) debt securities issued under exemptions from the prospectus requirement in section 2.35 of NI 45-106);

“SLEECs” means the Sun Life Exchangeable Capital Securities of the Trust;

“SLEECs Redemption Price” means \$1,000 per SLEECs – Series B, together with any Unpaid Indicated Yield to the date of redemption;

“SLEECs — Series B Prospectus” means the final prospectus of the Trust dated June 18, 2002;

“SLF” means Sun Life Financial Inc.;

“SLF Common Shares” means common shares of SLF;

“SLF Dividend Restricted Shares” means, collectively the SLF Preferred Shares and SLF Common Shares;

“SLF Guarantees” means collectively, the Debt Guarantee, any New Debt Guarantee and the Preferred Share Guarantee;

“SLF Preferred Shares” means, collectively, the outstanding Class A Shares and Class B Shares of SLF from time to time;

“Special Trust Securities” means the Special Trust Securities of the Trust;

“summary financial information” has the meaning given to such term in NI 51-102;

“Sun Life Debenture” means a senior debenture issued in respect of the SLEECs – Series B by SLA, together with other senior debentures of SLA held by the Trust from time to time;

“Superintendent” means the Superintendent of Financial Institutions (Canada);

“Triggering Event” means if SLA:

- (a) fails to make full payment of any dividend declared on any SLA Preferred Shares on the date required for such payment;
- (b) fails to make full payment of the Redemption Price when due; or

- (c) becomes subject to a winding-up order (as defined in the WURA or any order of similar effect made under applicable laws for the winding-up, liquidation or dissolution of SLA);

“**Trust Assets**” means the Sun Life Debentures and any securities into which the Sun Life Debentures are converted, cash, amounts receivable from third parties and other eligible investments;

“**Trust Securities**” means the Special Trust Securities and the SLEECs;

“**TSX**” means the Toronto Stock Exchange;

“**Unpaid Indicated Yield**” means, at any time, the sum of the Accumulated Unpaid Indicated Yield and the Current Indicated Yield; and

“**WURA**” means the *Winding-up and Restructuring Act* (Canada).

Representations

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

SLF

1. SLF was incorporated on August 5, 1999 under the ICA and became the sole shareholder of SLA in 2000 pursuant to SLA’s demutualization. SLF is a reporting issuer or the equivalent in each province and territory of Canada that provides for a reporting issuer regime and is not, to the best of its knowledge, in default of any applicable requirement under the securities legislation of the Jurisdictions. SLF’s head office is located in Ontario.
2. SLF’s authorized capital consists of unlimited numbers of Class A Shares and Class B Shares, each issuable in series, and an unlimited number of Common Shares.
3. As of June 30, 2021, SLF had outstanding 585,613,843 Common Shares, 16,000,000 Class A Shares Series 1, 13,000,000 Class A Shares Series 2, 10,000,000 Class A Shares Series 3, 12,000,000 Class A Shares Series 4, 10,000,000 Class A Shares Series 5, 6,217,331 Class A Shares Series 8R, 4,982,669 Class A Shares Series 9QR, 6,919,928 Class A Shares Series 10R, 1,080,072 Class A Shares Series 11QR, 12,000,000 Class A Shares Series 12R and 1,000,000 Class A Shares Series 14. As of June 30, 2021, SLF also had outstanding one series of senior unsecured debentures in an aggregate principal amount of \$300,000,000, seven series of subordinated unsecured debentures in an aggregate principal amount of \$4,433,000,000 and one series of limited recourse capital notes (subordinated indebtedness) in the aggregate principal amount of \$1,000,000,000.
4. SLF is qualified to use the short form prospectus system provided by NI 44-101.

SLA

5. SLA was formed by the amalgamation of its predecessor, Sun Life Assurance Company of Canada, and Clarica Life Insurance Company on December 31, 2002 and its governing statute is the ICA. SLA is a reporting issuer or the equivalent in each province and territory of Canada that provides for a reporting issuer regime and is not, to the best of its knowledge, in default of any applicable requirement under the securities legislation of the Jurisdictions. SLA’s head office is located in Ontario.
6. SLA’s authorized capital consists of unlimited numbers of Class A Shares, Class B Shares, Class C Shares, Class D Shares and Class E Shares, each issuable in series, and an unlimited number of common shares.
7. As of December 31, 2020, SLA had outstanding 427,179,546 common shares, 40,000 Class B Shares — Series A, 28,000,000 Class C Shares — Series 1, 14,000,000 Class C Shares — Series 2, 29,669,000 Class C Shares — Series 10, 14,000,000 Class C Shares — Series 11, 50,000,000 Class C Shares — Series 12 and 32,000,000 Class C Shares — Series 14, all of which are held by SLF. None of SLA’s outstanding shares are SLA Dividend Restricted Shares or Public Preferred Shares.
8. SLA has created and authorized the issuance of up to 8,000,000 SLA Preferred Shares Series W and 8,000,000 SLA Preferred Shares Series X for issuance if the Holder Exchange Right is exercised or the Automatic Exchange is triggered. The terms of these shares each provide, among other things, that they are exchangeable at the option of the holder into Common Shares of SLF in certain circumstances and after certain dates.
9. As of December 31, 2020, SLA had outstanding (i) senior and subordinated debentures in the aggregate principal amount of \$200,000,000 all held by affiliates of SLA, and (ii) one series of publicly-held subordinated debentures in the aggregate principal amount of \$150,000,000 (the SLA 6.30% Subordinated Debentures).

10. SLA satisfies each of the alternative qualification criteria listed in sections 2.4 and 2.5 of NI 44-101, other than sections 2.4(1)(a), 2.5(a) and 2.4(1). SLA will not satisfy the requirements under sections 2.4(1)(a) and 2.5(a) because the Preferred Share Guarantee is not a full and unconditional guarantee (as discussed below). In addition, SLA will not satisfy the requirements under section 2.4(1) for distributions of rate reset SLA Preferred Shares because rate reset SLA Preferred Shares will be convertible into another series of SLA Preferred Shares (the “**Resulting SLA Preferred Shares**”).

The Trust

11. The Trust is an open-end trust established under the laws of Ontario by The Canada Trust Company as trustee pursuant to a declaration of trust dated as of August 9, 2001. The Trust is a reporting issuer or the equivalent in each province and territory of Canada that provides for a reporting issuer regime and is not, to the best of its knowledge, in default of any applicable requirement under the securities legislation of the Jurisdictions.
12. The capital of the Trust consists of an unlimited number of units divided into one class of voting Special Trust Securities issuable in series and one class of non-voting SLEECs issuable in series.
13. As of December 31, 2020, the outstanding Trust Securities consisted of 2,000 Special Trust Securities, and 200,000 SLEECs — Series B. The outstanding Special Trust Securities are all held by SLA. The outstanding SLEECs — Series B were issued pursuant to a public offering in June 2002 and are not listed on any exchange. All of the outstanding SLEECs — Series A were redeemed by the Trust on December 31, 2011.
14. The Trust is a special purpose issuer established solely for the purpose of offering the SLEECs in order to provide SLA (and, indirectly, SLF) with a cost-effective means of raising capital for Canadian insurance company regulatory purposes by creating and selling the Trust Securities and acquiring and holding trust assets. The trust assets consist primarily of the SLA B Debenture. The Trust used the proceeds of the offering of SLEECs — Series B to purchase the SLA B Debenture. The SLA B Debenture generates income for distribution to holders of the Trust Securities on a semi-annual, non-cumulative basis.
15. The Trust does not have any material assets other than the SLA B Debenture. The Trust Securities are the only outstanding securities of the Trust. The Trust has no material liabilities other than the Credit Facilities. The purpose of the Credit Facilities was to provide the Trust with funds to settle the expenses incurred at the time of issuance. As of December 31, 2020 an aggregate of \$3.9 million was outstanding under the Credit Facilities.
16. The SLA B Debenture bears interest that is distributed to holders of SLEECs — Series B, by way of payment of the Indicated Yield and any excess net income, after such distributions are made, is distributed to SLA as the holder of the Special Trust Securities.
17. The Indicated Yield payable on the SLEECs — Series B is \$35.465 per \$1,000 initial issue price, which is equivalent to an annual yield of 7.093% and which corresponds to the interest rate payable on the SLA B Debenture.
18. The SLEECs — Series B may be exchanged for SLA Preferred Shares Series W or SLA Preferred Shares Series X in certain circumstances.
19. The Trust will not pay the Indicated Yield on the SLEECs — Series B if:
- (a) SLA has Public Preferred Shares outstanding and fails to declare Dividends on any of the Public Preferred Shares in accordance with their respective terms; or
 - (b) SLA fails to declare Dividends on its Class B Shares — Series A,
- in either case, in the Dividend Reference Period.
20. Pursuant to the Series B Share Exchange Agreement, SLF and SLA have agreed, for the benefit of the holders of SLEECs — Series B, that if the Trust fails, on any applicable Distribution Date, to pay the Indicated Yield on the SLEECs — Series B:
- (a) SLA will not pay Dividends on the SLA Dividend Restricted Shares; or
 - (b) if SLA Dividend Restricted Shares are not outstanding, SLF will not pay Dividends on the SLF Dividend Restricted Shares,
- in either case until a specific period of time has elapsed unless the Trust first pays such Indicated Yield (or the unpaid portion thereof) to holders of the SLEECs — Series B.

21. Pursuant to the terms of the SLEECs — Series B and the Series B Share Exchange Agreement, the SLEECs — Series B:
- (a) may be exchanged at the option of a holder for SLA Preferred Shares Series X pursuant to the Holder Exchange Right; and
 - (b) will be automatically exchanged for SLA Preferred Shares Series W pursuant to the Automatic Exchange.
- Upon the exercise of the Holder Exchange Right or the triggering of the Automatic Exchange, the Trust will convert the corresponding principal amount of the SLA B Debenture into SLA Preferred Shares Series X or SLA Preferred Shares Series W, as the case may be.
22. The SLA Preferred Shares Series X and SLA Preferred Shares Series W will be redeemable after certain dates, at the option of SLA and subject to regulatory approval, by the payment of a cash amount or by the delivery of Common Shares of SLF.
23. On any Distribution Date the Trust has the right, subject to regulatory approval and on not less than 30 nor more than 60 days' prior written notice, to redeem the SLEECs — Series B at the greater of the SLEECs Redemption Price and the Early Redemption Price, if the SLEECs — Series B are redeemed prior to June 30, 2032, and at the SLEECs Redemption Price if the SLEECs — Series B are redeemed on or after June 30, 2032.
24. SLA, as the holder of the Special Trust Securities, may require the termination of the Trust, subject to regulatory approval, provided that holders of SLEECs — Series B receive the Early Redemption Price or the SLEECs Redemption Price, as applicable.
25. Upon the occurrence of certain regulatory or tax events affecting SLA or the Trust, the Trust has an additional right, subject to regulatory approval and on not less than 30 nor more than 90 days' prior written notice, to redeem at any time all but not less than all of the SLEECs — Series B at the Early Redemption Price if the SLEECs — Series B are redeemed prior to June 30, 2032 and at the SLEECs Redemption Price if the SLEECs — Series B are redeemed on or after June 30, 2032.
26. In certain circumstances, including at a time when SLA's financial condition is deteriorating or proceedings for the winding-up of SLA have been commenced, the SLEECs — Series B will be automatically exchanged for SLA Preferred Shares Series W without the consent of the holders.
27. The return to holders of SLEECs is dependent on the financial condition of SLA rather than the Trust. Holders of SLEECs are ultimately concerned about the affairs and financial performance of SLA as opposed to that of the Trust.
28. The SLEECs are treated for insurance regulatory capital purposes as if they are SLA Preferred Shares and, as a result, if any circumstance arose where the solvency or financial strength of SLA was threatened, the Superintendent would be expected to move to ensure that the Automatic Exchange is triggered prior to the occurrence of any potential insolvency event at SLA.
29. The Special Trust Securities entitle the holder thereof (i.e. SLA) to, among other things: (a) vote in respect of certain matters regarding the Trust; (b) on any Regular Distribution Date, receive the Net Distributable Funds, if any, of the Trust remaining after payment of the Indicated Yield on all SLEECs; and (c) in the event of a termination of the Trust, participate *pari passu* with the holders of the SLEECs, in the distribution of the remaining property of the Trust, after discharge of the obligations of the Trust to creditors. In addition, upon prior approval of the Superintendent, the Trust may redeem part, or all if there are no SLEECs outstanding, of the Special Trust Securities.

SLF Guarantees

30. Concurrent with receipt of the 2017 Order, SLA amended and restated the Debt Guarantee and the Preferred Share Guarantee.
31. Under the Debt Guarantee, holders of the SLA 6.30% Subordinated Debentures are entitled to receive payment from SLF within 15 days of any failure by SLA to make a payment due under the SLA 6.30% Subordinated Debentures.
32. SLF will provide a guarantee similar to the Debt Guarantee in respect of any SLA Subordinated Debentures (any such guarantee referred to as the **"New Debt Guarantee"**).
33. The Debt Guarantee provides, and any New Debt Guarantee will provide, full and unconditional credit support in respect of, respectively, the SLA 6.30% Subordinated Debentures and any SLA Subordinated Debentures. The SLA 6.30% Subordinated Debentures are, and any SLA Subordinated Debentures will be, Designated Credit Support Securities.

34. The Preferred Share Guarantee applies in respect of any SLA Preferred Shares outstanding from time to time, including SLA Preferred Shares issued upon a conversion of SLEECs — Series B pursuant to the Holder Exchange Right or the Automatic Exchange.
35. The amount payable by SLF under the Preferred Share Guarantee is limited such that the claims of holders of the SLA Preferred Shares under the Preferred Share Guarantee, in effect, rank equally with the claims of holders of the corresponding class of SLF Preferred Shares. To accomplish this, the Preferred Share Guarantee provides that if a Triggering Event occurs, SLF will pay the Deficiency Payment to SLA in trust for the benefit of holders of SLA Preferred Shares outstanding as of the Triggering Event.
36. The Preferred Share Guarantee ranks subordinate to any and all outstanding liabilities of SLF unless otherwise provided by the terms of the instrument creating or evidencing any such liability. However, since the Preferred Share Guarantee is a debt obligation of SLF and, therefore, ranks ahead of the claims of holders of the SLF Preferred Shares, the calculation of the amount payable under the Preferred Share Guarantee is subject to reduction such that on the distribution of assets upon a winding-up of SLF, claims under the Preferred Share Guarantee will, in effect, rank equally with the claims of holders of the SLF Preferred Shares. Otherwise, the Preferred Share Guarantee would negatively impact the capital treatment of the SLA Preferred Shares for insurance regulatory purposes.
37. The New Debt Guarantee and the Preferred Share Guarantee, as applicable, will be described in the prospectus or prospectus supplement filed by SLA in connection with a distribution of SLA Subordinated Debentures or SLA Preferred Shares.

Termination of Guarantees

38. Each of the SLF Guarantees will terminate (except in respect of any demand previously made on the guarantor) upon the earlier to occur of:
- (a) unless SLF and SLA agree to the contrary, the date that no SLA securities which are the subject of such guarantee (or securities or rights convertible into, exchangeable for or carrying rights to acquire such securities, including, in the case of the Preferred Share Guarantee, SLEECs) are outstanding;
 - (b) the date that SLF no longer owns all of the outstanding common shares of SLA;
 - (c) the date that the relief contemplated by this decision is no longer available to SLA; and
 - (d) the date SLA commences filing its own Continuous Disclosure Filings with the securities regulatory authority in each province and territory in Canada,

provided that SLF may not terminate the Preferred Share Guarantee in respect of the SLA Preferred Shares Series V, the SLA Preferred Shares Series W and the SLA Preferred Shares Series X pursuant to clauses (b), (c) or (d) above at any time after the occurrence of an Automatic Exchange or during a period when SLA has failed to make full payment when due of any dividend declared on any SLA Preferred Shares or has failed to make full payment when due of the Redemption Price and, in either case, such failure has not been remedied by the payment of such amounts in full by SLA or SLF.

Requested Relief

39. The requested relief is to replace the 2017 Order with this order.
40. The relief requested is substantially similar to the Credit Support Issuer Exemptions.
41. Section 13.4(2) of NI 51-102 provides an automatic exemption from the Continuous Disclosure Requirements for a Credit Support Issuer provided that certain conditions are satisfied. SLA will be able to satisfy each of the criteria of section 13.4(2) of NI 51-102 other than the requirement set out in section 13.4(2)(c) due to the terms of the Preferred Share Guarantee.
42. The Preferred Share Guarantee is structured such that, in a circumstance where SLA fails to make payment for 15 days of either declared dividends or the Redemption Price, or there exists insufficient assets to pay the Liquidation Preference upon the liquidation or winding-up of SLA, and at such time a winding-up order has been made in respect of SLF, payment of such amounts to holders of the SLA Preferred Shares will not be made until the final distribution of surplus of SLF, if any, to shareholders of SLF pursuant to section 95(1) of the WURA. This provision of the Preferred Share Guarantee is necessary in order to preserve the appropriate priority of claims (i.e., so claims of holders of the SLA Preferred Shares under the Preferred Share Guarantee do not rank ahead of the claims of holders of SLF Preferred Shares by virtue of such claims crystallizing earlier). In circumstances where SLF is not the subject of a winding-up order, payment will be

made on the date immediately following the 15-day period permitted for the payment of dividends and the Redemption Price and, in the case of the Liquidation Preference, the later of:

- (a) the date of the final distribution of property of SLA to creditors pursuant to section 93 of the WURA; and
 - (b) the date of the final distribution of surplus of SLA to shareholders, if any, pursuant to section 95(1) of the WURA.
43. The only outstanding securities of SLA that will not satisfy the criteria of section 13.4(2)(c) of NI 51-102 are the SLA Preferred Shares because the Preferred Share Guarantee is not a full and unconditional guarantee as required to comply with the definition of Designated Credit Support Securities. In addition, SLA Preferred Shares that are convertible into Resulting SLA Preferred Shares will not satisfy the condition in section 13.4(2)(c) of NI 51-102 because such SLA Preferred Shares will not be non-convertible preferred shares as required by the definition of “designated credit support securities” in section 13.4(1) of NI 51-102.
44. The Trust is not able to rely on section 13.4 of NI 51-102 due to the fact that the SLEECs cannot be guaranteed by SLF without adverse consequences on the capital treatment for Canadian insurance company regulatory purposes.
45. Section 8.5 of NI 52-109 provides an automatic exemption from the Certification Requirements for a Credit Support Issuer provided that it qualifies for, and is in compliance with, the requirements and conditions set out in section 13.4(2) of NI 51-102. For the reasons described above, neither SLA nor the Trust meet all of the conditions of section 13.4(2) of NI 51-102.

Liability for Secondary Market Disclosure

46. SLF has delivered to the Ontario Securities Commission and has filed on its SEDAR profile an undertaking that provides as follows:
- (a) for as long as SLA and the Trust qualify for the Continuous Disclosure Exemption, SLF will be considered a “responsible issuer” for the purposes of determining its liability under Part XXIII.1 of the *Securities Act* (Ontario) as if the SLEECs were an “issuer’s security” of SLF for the purposes of such part; and
 - (b) for the avoidance of doubt, pursuant to the definition of “issuer’s security” in section 138.1 of the *Securities Act* (Ontario), the SLA Preferred Shares, the SLA Subordinated Debentures and Designated Credit Support Securities of SLA guaranteed by SLF constitute issuer’s securities of SLF for purposes of determining its liability under Part XXIII.1 of the *Securities Act* (Ontario).

Insider Reporting Exemption of SLA

47. Section 13.4(3) of NI 51-102 provides an exemption from the requirement to file an insider profile under NI 55-102 and from the Insider Reporting Requirements for an insider of a Credit Support Issuer in respect of securities of the Credit Support Issuer provided that certain conditions are satisfied. With the SLF Guarantees, SLA will satisfy each of the conditions of section 13.4(3) of NI 51-102, other than the requirement set out in section 13.4(3)(a), which requires SLA to comply with section 13.4(2)(c) of NI 51-102.

Prospectus Qualification Exemption and Prospectus Disclosure Exemption of SLA

48. The Prospectus Qualification Exemption is substantially similar to (i) the alternative qualification criteria for issuers of guaranteed non-convertible debt securities, preferred shares and cash settled derivatives under sections 2.4 of NI 44-101 and NI 44-102; and (ii) the alternative qualification criteria for issuers of guaranteed convertible debt securities or preferred shares under sections 2.5 of NI 44-101 and NI 44-102. With the SLF Guarantees, SLA will satisfy each of the conditions of sections 2.4 and 2.5 of NI 44-101 and NI 44-102, other than (i) the requirement set out in sections 2.4(1)(a) and 2.5(a) of NI 44-101 that the Preferred Share Guarantee be full and unconditional; and (ii) in connection with a distribution of rate reset SLA Preferred Shares, the requirement set out in section 2.4(1) of NI 44-101 that the SLA Preferred Shares be non-convertible.
49. The SLA Preferred Shares will not satisfy the conditions in sections 2.4(1)(a) and 2.5(a) of NI 44-101, as applicable, because the Preferred Share Guarantee is not a full and unconditional guarantee, as described in paragraph 42.
50. The Prospectus Disclosure Exemption is substantially similar to the relief available under section 13.2 of Form 44-101F1. With the Preferred Share Guarantee, SLA will satisfy each of the conditions of section 13.2 of Form 44-101F1, other than (i) the requirement set out in section 13.2(a) of Form 44-101F1; and (ii) in connection with a distribution of rate reset SLA Preferred Shares, the requirement set out in section 13.2(c) of Form 44-101F1. SLA will not satisfy the condition in section 13.2(a) of Form 44-101F1 because the Preferred Share Guarantee is not a full and unconditional guarantee, as described in paragraph 42. In addition, in connection with a distribution of rate reset SLA Preferred Shares, SLA will not satisfy the condition in section 13.2(c) of Form 44-101F1 that the SLA Preferred Shares be non-convertible.

51. At the time of the filing of any short form prospectus or prospectus supplement in connection with offerings of SLA Preferred Shares:
- (a) the prospectus will be prepared in accordance with the short form prospectus requirements of NI 44-101 and, if applicable, NI 44-102, other than the Prospectus Disclosure Requirements, except as permitted by the Legislation;
 - (b) SLA will comply with all of the filing requirements and procedures set out in NI 44-101 and, if applicable, NI 44-102, other than the Prospectus Qualification Requirements, except as permitted by the Legislation;
 - (c) the prospectus will incorporate by reference the documents of SLF set forth under Item 11.1 of Form 44-101F1;
 - (d) the prospectus disclosure required by Item 11 (other than 11.1(1)(5) of Form 44-101F1 in respect of SLA) will be addressed by incorporating by reference SLF's public disclosure documents referred to in paragraph 51(c) above;
 - (e) SLF will satisfy all of the criteria in section 2.2 of NI 44-101 and SLA will satisfy the criteria in section 2.2 of NI 44-101 other than sections 2.2(c), (d) and (e); and
 - (f) SLF and SLA will comply with each condition of section 13.2 of Form 44-101F1 in effect as of the date of this decision, other than paragraphs 13.2(a) and (c).

Decision

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

The decision of the principal regulator under the Legislation is that a Continuous Disclosure Exemption be granted to SLA provided that:

- (a) SLF and SLA continue to be regulated by the Office of the Superintendent of Financial Institutions (Canada) or any successor;
- (b) SLF remains the beneficial owner of all the outstanding voting securities (as defined in the Legislation) of SLA;
- (c) SLF and SLA remain reporting issuers or the equivalent thereof under the Legislation;
- (d) SLF continues to provide the Debt Guarantee in respect of the SLA 6.30% Subordinated Debentures that are outstanding;
- (e) SLF provides the New Debt Guarantee in respect of any SLA Subordinated Debentures that are outstanding;
- (f) SLF continues to provide the Preferred Share Guarantee until such date as of which no SLA Preferred Shares (or securities or rights convertible or exchangeable for or carrying rights to acquire SLA Preferred Shares, including SLEECs) are outstanding;
- (g) SLF complies with the requirements of the Legislation and the requirements of the TSX in respect of making public disclosure of material information on a timely basis;
- (h) SLF immediately issues in Canada and files any news release that discloses a material change in its affairs;
- (i) SLF concurrently sends to all holders of SLA Subordinated Debentures and SLA 6.30% Subordinated Debentures, in the manner and at the time required by the Legislation and the TSX, all disclosure materials that are sent to holders of similar debt of SLF;
- (j) SLF concurrently sends to all holders of guaranteed SLA Preferred Shares, and to holders of SLEECs, in the manner and at the time required by the Legislation and the TSX, all disclosure materials that are sent to holders of similar SLF Preferred Shares;
- (k) SLF files, for the periods covered by any annual or interim financial statements of SLF, in or with such SLF financial statements, consolidating summary financial information for SLF presented with a separate column for each of the following:
 - (i) SLF;
 - (ii) SLA;

- (iii) any other subsidiaries of SLF on a combined basis;
 - (iv) consolidating adjustments; and
 - (v) the total consolidated amounts;
- (l) SLA immediately issues in Canada a news release and files a material change report for all material changes in respect of the affairs of SLA that are not also material changes in the affairs of SLF;
- (m) SLA files its audited annual financial statements (prepared in compliance with section 331 of the ICA) concurrently with the filing of such financial statements with the Superintendent in compliance with section 335 of the ICA;
- (n) no person or company other than SLF provides a guarantee or alternative credit support (as defined in NI 51-102) for the payments to be made under any issued and outstanding securities of SLA;
- (o) SLA does not issue or have outstanding any securities other than Designated Credit Support Securities, securities issued to and held by SLF or its Affiliates, debt securities issued to the types of entities described in section 13.4(2)(c)(iii) of NI 51-102, securities issued under exemptions from the prospectus requirement in section 2.35 of NI 45-106, or SLA Preferred Shares that are subject to the Preferred Share Guarantee;
- (p) SLA files a notice indicating it is relying on the Continuous Disclosure Filings of SLF and setting out where those documents can be found for viewing in electronic format;
- (q) SLF and SLA continue to comply with each condition in section 13.4(2) of NI 51-102 in effect as of the date of this decision, other than the condition in paragraph 13.4(2)(c); and
- (r) such Continuous Disclosure Exemption will cease to apply three months after the coming into force of any substantive amendments to section 13.4(2) of NI 51-102 that materially adversely affect the Continuous Disclosure Exemption.

The further decision of the principal regulator under the Legislation is that a Continuous Disclosure Exemption be granted to the Trust provided that:

- (a) SLA qualifies for the relief contemplated by, and SLF and SLA are in compliance with the requirements and conditions set out in, SLA's Continuous Disclosure Exemption;
- (b) for so long as any SLEECs are outstanding, SLF and SLA continue to provide the Dividend Stopper Undertaking;
- (c) the Trust does not issue or have outstanding any securities other than SLEECs – Series B and Special Trust Securities;
- (d) the Trust does not carry on any operating activity other than in connection with the administration and repayment of the Trust Securities;
- (e) the Trust does not have any material assets other than the SLA B Debenture, has minimal assets, operations, revenues or cash flows other than those related to the SLA B Debenture or the issuance, administration and repayment of the Trust Securities and has no material liabilities other than the Credit Facilities;
- (f) the Trust immediately issues in Canada a news release and files a material change report for all material changes in respect of the affairs of the Trust that are not also material changes in the affairs of SLF or SLA;
- (g) all of the outstanding Special Trust Securities are beneficially owned by SLA or any of its Affiliates and all of the outstanding voting securities (as defined in the Legislation) of SLA or of its Affiliates which own the Special Trust Securities are beneficially owned by SLF;
- (h) the Trust files a notice indicating it is relying on the Continuous Disclosure Filings of SLF and setting out where those documents can be found for viewing in electronic format;
- (i) at any time that the Trust is not exempt from making such payment, the Trust pays all filing fees that would otherwise be payable by the Trust in connection with the filing of the continuous disclosure documents under NI 51-102;

- (j) at any time SLA is not exempt from filing such documents, SLA concurrently sends to all holders of the SLEECs all disclosure materials that are sent to holders of SLA Preferred Shares in the manner and at the time required by the Legislation;
- (k) SLA, as holder of the Special Trust Securities, will not propose changes to the terms and conditions of any outstanding SLEECs that would result in the SLEECs being exchangeable for securities other than the SLA Preferred Shares;
- (l) in any circumstances where the SLEECs are voting, the Trust will comply with Part 9 of NI 51-102;
- (m) (i) SLEECs – Series B may be exchanged, at the option of the holder pursuant to the Holder Exchange Right or automatically without the consent of the holder in certain circumstances pursuant to the Automatic Exchange, for SLA Preferred Shares and (ii) the Preferred Share Guarantee applies to SLA Preferred Shares, including the SLA Preferred Shares issuable upon exercise of the Holder Exchange Right or pursuant to an Automatic Exchange; and
- (n) such Continuous Disclosure Exemption will cease to apply three months after the coming into force of any substantive amendments to section 13.4(2) of NI 51-102 that materially adversely affect the Continuous Disclosure Exemption.

The further decision of the principal regulator under the Legislation is that a Certification Exemption be granted to SLA provided that:

- (a) SLA qualifies for the relief contemplated by, and SLF and SLA are in compliance with the requirements and conditions set out in, SLA's Continuous Disclosure Exemption; and
- (b) SLA and the Trust are not required to file, and do not file, their own Annual Filings and Interim Filings.

The further decision of the principal regulator under the Legislation that a Certification Exemption be granted to the Trust provided that:

- (a) the Trust qualifies for the relief contemplated by, and SLF, SLA and the Trust are in compliance with the requirements and conditions set out in, the Trust's Continuous Disclosure Exemption; and
- (b) the Trust is not required to file, and does not file, its own Annual Filings and Interim Filings.

The further decision of the principal regulator under the Legislation is that the Insider Profile Exemption be granted to insiders of SLA provided that:

- (a) SLA qualifies for the relief contemplated by, and SLF and SLA are in compliance with, the requirements and conditions set out in SLA's Continuous Disclosure Exemption;
- (b) the insider does not receive, in the ordinary course, information as to material facts or material changes concerning SLF before the material facts or material changes are generally disclosed;
- (c) the insider is not an insider of SLF in any capacity other than by virtue of being an insider of SLA; and
- (d) if the insider is SLF, SLF does not beneficially own any Designated Credit Support Securities issued by SLA, SLA Subordinated Debentures, SLA Preferred Shares or SLEECs.

The decision of the principal regulator under the Legislation is that the Insider Reporting Exemption be granted to insiders of SLA provided that:

- (a) SLA qualifies for the relief contemplated by, and SLF and SLA are in compliance with, the requirements and conditions set out in SLA's Continuous Disclosure Exemption; and
- (b) the insider qualifies for the relief contemplated by the Insider Profile Exemption.

The further decision of the principal regulator under the Legislation is that the Prospectus Qualification Exemption and Prospectus Disclosure Exemption be granted to SLA, provided that:

- (a) SLA qualifies for the relief contemplated by, and SLF and SLA are in compliance with the requirements and conditions set out in SLA's Continuous Disclosure Exemption;
- (b) SLA and SLF, as applicable, comply with paragraph 51 above;

- (c) any short form prospectus or prospectus supplement of SLA is in respect of an offering of SLA Preferred Shares that are subject to the Preferred Share Guarantee;
- (d) on completion of any offering of SLA Preferred Shares, the SLA Preferred Shares are only convertible into Resulting SLA Preferred Shares or into securities of SLF;
- (e) SLA includes in the short form prospectus or prospectus supplement for the periods covered by any annual or interim financial statements of SLF included in the short form prospectus or prospectus supplement consolidating summary financial information for SLF presented with a separate column for each of the following:
 - (i) SLF;
 - (ii) SLA;
 - (iii) any other subsidiaries of SLF on a combined basis;
 - (iv) consolidating adjustments; and
 - (v) the total consolidated amounts;
- (f) such Prospectus Qualification Exemption will cease to apply three months after the coming into force of any substantive amendments to sections 2.4 or 2.5 of NI 44-101 that materially adversely affect the Prospectus Qualification Exemption; and
- (g) such Prospectus Disclosure Exemption will cease to apply three months after the coming into force of any substantive amendments to section 13.2 of Form 44-101F1 that materially adversely affect the Prospectus Disclosure Exemption.

This decision shall expire 30 days after the date that a material adverse change occurs in the representations of SLF, SLA or the Trust in this decision.

The further decision of the principal regulator is that the 2017 Order is revoked by this decision.

As to the Exemption Sought (other than from the Insider Reporting Requirements in the Act).

“Jo-Anne Matear”
Manager, Corporate Finance
Ontario Securities Commission

As to the Exemption Sought from the Insider Reporting Requirements in the Act.

“Lawrence Haber”
Commissioner
Ontario Securities Commission

“Frances Kordyback”
Commissioner
Ontario Securities Commission

OSC File #: 2021/0505

2.1.5 Kersia Investment

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for relief from the prospectus and registration requirements for certain trades made in connection with an employee share offering by a French issuer – the issuer cannot rely on the employee exemption in section 2.24 of National Instrument 45-106 Prospectus Exemptions as the securities are not being offered to Canadian employees directly by the issuer but rather through special purpose entities – Canadian participants will receive disclosure documents – the special purpose entities are subject to the supervision of the local securities regulator – Canadian employees will not be induced to participate in the offering by expectation of employment or continued employment – there is no market for the securities of the issuer in Canada – the number of Canadian participants and their share ownership are de minimis – relief granted, subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss.25, 53 and 74(1).

National Instrument 45-106 Prospectus Exemptions.

National Instrument 45-102 Resale of Securities.

[TRANSLATION]

November 23, 2021

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

AND

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

AND

IN THE MATTER OF
KERSIA INVESTMENT
(the Filer)

DECISION

Background

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

1. an exemption from the prospectus requirement (the **Prospectus Relief**) so that such requirement does not apply to:
 - (a) trades of units (the **Units**) of a *fonds commun de placement d'entreprise* or "FCPE" named "Kersia Investment" (the **Fund**), which is a form of collective shareholding vehicle commonly used in France for the custody of securities held by employee-investors in employee savings plans, made pursuant to the Employee Offering (as defined herein) to or with Qualifying Employees (as defined herein) resident in the Jurisdictions and the Province of New Brunswick (collectively, the **Canadian Employees**, and Canadian Employees who subscribe for Units, the **Canadian Participants**);
 - (b) trades in Shares (as defined herein) by two of the Filer's shareholders, being IK IX Master Luxco and Kygée International (collectively, the **Selling Shareholders**) to the Fund on behalf of Canadian Participants; and
 - (c) trades of the Shares of the Filer by the Fund to or with Canadian Participants upon the redemption of Units as requested by Canadian Participants; and
2. an exemption from the dealer registration requirement (the **Registration Relief**, and together with the Prospectus Relief, the **Exemption Sought**) so that such requirement does not apply to the Filer and its Local Related Entities (as defined

herein), the Fund, Credit Mutuel Asset Management (the **Management Company**) and the Selling Shareholders in respect of:

- (a) trades in Units made pursuant to the Employee Offering to or with Canadian Employees;
- (b) trades in Shares by the Selling Shareholders to the Fund on behalf of Canadian Participants; and
- (c) trades in Shares by the Fund to or with Canadian Participants upon the redemption of Units as requested by Canadian Participants.

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

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

Interpretation

Terms defined in Regulation 14-101 respecting *Definitions*, CQLR, c. V-1.1, r. 3, Regulation 11-102 and *Regulation 45-106 respecting Prospectus Exemptions*, CQLR, c. V-1.1, r. 21 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The Filer is a corporation formed under the laws of France. It is not, and has no current intention of becoming, a reporting issuer under the securities legislation of any jurisdiction in Canada. The head office of the Filer is located in France.
2. The Filer is a French simplified joint stock company (*société par actions simplifiée*) having its registered office in France. All the subsidiaries of the Filer and its related entities, including related entities that employ Canadian Employees (**Local Related Entities**), and together with the Filer and other related entities of the Filer, the **Kersia Group** where the Fund will be implemented are directly or indirectly majority-owned by the Filer. None of the Shares are listed on any stock exchange and the Filer currently does not intend to list any of its securities on any stock exchange. The Filer is not in default of securities legislation of any jurisdiction of Canada.
3. The share capital of the Filer consists of ordinary shares (**Ordinary Shares**), A preference shares (**A Preference Shares**) and B preference shares (**B Preference Shares**), and collectively with Ordinary Shares and A Preference Shares, the **Shares**). The Shares are privately owned.
4. In the event of (i) the sale of shares of the Filer or its direct subsidiaries, Kersia Holding or Kersia International (collectively with the Filer, the **Kersia Group Parent Entities**), resulting in a change of control of a Kersia Group Parent Entity, (ii) an initial public offering of securities of a Kersia Group Parent Entity, or (iii) a sale of the assets of either of the Kersia Parent Group Entities that comprise 50% or more of the collective EBITDA of the Kersia Group (each, an **Exit Event**), the Shares shall be sold at a price per Share equal to the amount received by the person selling the shares of the Kersia Group Parent Entity, with the aggregate gross proceeds of such sale (the **Exit Amount**) to be distributed amongst the holders of the Shares, as follows:
 - (a) first, the Exit Amount shall be distributed amongst the A Preference Share holders at a price of €1 per A Preference Share, plus an annual capitalised remuneration of 8%, which shall accrue from the date of issue to the date of the Exit Event (the **Accrued Interest**);
 - (b) second, the remaining Exit Amount, if any, shall be distributed amongst the holders of the B Preference Shares, which possess special rights entitling the holder to the Exit Amount that are linked to the achievement of certain performance milestones; and
 - (c) third, the Ordinary Shares are paid following the distributions of the Exit Amount made in respect of the A Preference Shares and B Preference Shares upon the occurrence of the Exit Event.

5. The B Preference Shares entitle the holders to obtain a certain percentage of the capital gain realised by IK Investment Partners, the Filer's principal shareholder (the **Principal Shareholder**), in the event it participates in a sale of Shares of the Filer.
6. The Filer carries on business in Canada through certain related entities and has established a global employee share offering for 2021 (the **Employee Offering**) for Qualifying Employees and its participating related entities, including the Local Related Entities. Each Local Related Entity is a direct or indirect controlled subsidiary of the Filer and is not, and has no current intention of becoming, a reporting issuer under the securities legislation of any jurisdiction of Canada. The head office of the Kersia Group in Canada is located in the Province of Québec, and the greatest number of employees in the Kersia Group in Canada reside in the Province of Québec.
7. As of the date hereof, Local Related Entities include Laboratoires Choisy Ltée, Les Laboratoires Chez-Nous Inc., RMS Équipements Inc., G.D.G. Environnement and C.D.G. Canada.
8. As of the date hereof and after giving effect to the Employee Offering, the Filer is and will be a "foreign issuer" as such term is defined in section 2.15(1) of *Regulation 45-102 respecting Resale of Securities*, CQLR, c. V-1.1, r. 20 (**Regulation 45-102**) and section 2.8(1) of *Ontario Securities Commission Rule 72-503 Distributions Outside Canada* (**OSC Rule 72-503**).
9. The Employee Offering involves an offering of Shares to be acquired through the Fund. The Shares to be subscribed for by the Qualifying Employees are existing Shares that will be purchased by the Fund from the Selling Shareholders.
10. Prior to tendering some of their holdings of Shares under the Employee Offering, the Selling Shareholders beneficially owned or controlled, directly or indirectly, approximately 90.05% of the issued and outstanding Shares. The Selling Shareholders are not and have no current intention of becoming a reporting issuer (or equivalent) under the Legislation.
11. The maximum aggregate number of Shares that may be subscribed for by the Qualifying Employees under the Employee Offering is 1,503,000 (the **Maximum Offering Size**). If subscriptions received from Qualifying Employees under the Employee Offering would result in an acquisition of Shares by the Fund in excess of the Maximum Offering Size, a reduction will be applied to the subscriptions as follows:
 - (a) the largest individual subscription or subscriptions will be reduced to the value of the next largest subscription;
 - (b) if such reduction does not reduce the aggregate number of Shares subscribed for under the Employee Offering below the Maximum Offering Size, the value of the largest subscriptions, including those reduced in value pursuant to step (a) above, will be reduced to the value of the next largest subscription; and
 - (c) if the reduction of the subscriptions described at step (b) does not reduce the aggregate number of Shares subscribed for under the Employee Offering below the Maximum Offering Size, step (b) above will be repeated until the aggregate number of Shares subscribed for under the Employee Offering is below the Maximum Offering Size.
12. Only persons who are employees of an entity forming part of the Kersia Group during the subscription period for the Employee Offering and who meet other employment criteria, including that the persons must have been employed for at least 3 months prior to the close of the subscription period (the **Qualifying Employees**) will be allowed to participate in the Employee Offering.
13. The Fund was established for the purpose of implementing the Employee Offering. There is no current intention for the Fund to become a reporting issuer under the securities legislation of any jurisdiction of Canada.
14. The Fund is registered with, and approved by, the French Autorité des marchés financiers (the **French AMF**).
15. The Employee Offering will be made as follows:
 - (a) Canadian Participants will subscribe for Units in the Fund, which will subscribe for Shares from the Selling Shareholders on behalf of Canadian Participants at a subscription price that is the Canadian dollar equivalent of the fair market value of the Shares (expressed in Euros) as set by an independent expert, Aurys Holding (the **Independent Expert**) in accordance with the regulations from the French AMF and as described in the rules of the Fund. During the life of the plan, the value of the Units will be recalculated 4 times a year, on the last business days of February, May, August and November.

- (b) The Employee Offering provides that the Filer, through the Local Related Entity that employs the Qualifying Employee, will also contribute a matching contribution (the **Matching Contribution**) for the benefit of, and at no cost to, the Canadian Participant, determined according to the personal contribution of the Canadian Participant (the **Employee Contribution**), according to the following terms, for a maximum Employee Contribution of €225:

Employee Contribution	Rate of Matching Contribution
Up to a maximum 100 Euro	100%
Between 101 Euro and 200 Euro	50%
Between 201 Euro and 500 Euro	25%
Between 501 Euro and 5,000 Euro	0%

- (c) Each Unit subscribed for will be comprised of the following: 21.10% of Ordinary Shares, 63.30% of A Preferred Shares and 15.60% of B Preferred Shares. The division between each of the Ordinary Shares, A Preferred Shares and B Preferred Shares will be maintained in order that the ratio remains unchanged.
- (d) Canadian Participants will receive Units in the Fund representing an interest in the Shares subscribed for.
- (e) The Units will be subject to a hold period of approximately five years (the **Lock-Up Period**), subject to certain exceptions provided for under French law (such as a release on death, disability or termination of employment).
- (f) Any dividends paid on the Shares held in the Fund will be contributed to the Fund and reinvested. The net asset value of the Units will be increased to reflect this reinvestment. No new Units (or fractions thereof) will be issued to the Canadian Participants.
- (g) At the end of the Lock-Up Period a Canadian Participant may: (i) request the redemption of his or her Units in the Fund in consideration for cash or Shares, either in whole or in part, in proportions that reflect the value of the Shares measured by the then fair market value of the Shares as set by the Independent Expert, or (ii) continue to hold his or her Units in the Fund and request the redemption of those Units at a later date.
- (h) In the event of an early exit from a Canadian Participant exercising one of the exceptions to the Lock-Up Period and meeting the applicable criteria, the Canadian Participant may request the redemption of Units in the Fund in consideration for a cash payment equal to the then fair market value of the Shares as set by the Independent Expert.
- (i) The Fund has entered into a shareholders' agreement with the Principal Shareholder and the Filer (the Shareholders Agreement), pursuant to which the parties have agreed:
- (i) in the event the Principal Shareholder accepts an offer from a third-party purchaser for 100% of the Shares of the Filer held by the Principal Shareholder, the Fund will agree to transfer all of the Shares of the Filer held by the Fund to this third-party purchaser; and
 - (ii) in the event the Principal Shareholder agrees to sell a portion of the Shares of the Filer held by the Principal Shareholder, the Fund will be irrevocably offered the opportunity to either,
 - (1) if the proposed transfer involves a change of control of the Filer, sell all of the Shares of the Filer held by the Fund; or
 - (2) if the proposed transfer does not involve a change of control of the Filer, sell a portion of the Shares of the Filer held by the Fund, in proportion to the number of Shares transferred by the Principal Shareholder.
16. The subscription price for the Employee Offering will be the Canadian dollar equivalent of the fair market value of the Shares (expressed in Euros) as set by the Independent Expert before the applicable subscription period and will be communicated to Canadian Employees prior to the time that they subscribe for Units under the Employee Offering.
17. Under French law, an FCPE is a limited liability entity. The portfolio of the Fund will consist almost entirely of Shares and may also include cash in respect of dividends paid on the Shares which will be reinvested in Shares purchased from the Selling Shareholders and cash or cash equivalents pending investments in Shares and for the purposes of Unit redemptions.

18. Only Qualifying Employees will be allowed to hold Units issued pursuant to the Employee Offering.
19. The Fund is managed by the Management Company, which is a portfolio management company governed by the laws of France. The Management Company is registered with the French AMF as an investment manager and complies with the rules of the French AMF. To the best of the Filer's knowledge and after reasonable verification, the Management Company is not, and has no current intention of becoming, a reporting issuer under the securities legislation of any jurisdiction of Canada.
20. The Management Company's portfolio management activities in connection with the Employee Offering and the Fund are limited to purchasing Shares of the Filer from the Selling Shareholders, selling such Shares as necessary in order to fund redemption requests and investing available cash in cash equivalents.
21. The Management Company is also responsible for preparing accounting documents and publishing periodic informational documents as provided by the rules of the Fund. The Management Company's activities will not affect the underlying value of the Shares.
22. All management charges relating to the Fund will be paid from the assets of the Fund or by the Filer, as provided by the Fund's regulations. The Management Company and the Depositary (as defined herein) are obliged to act exclusively in the best interests of the unitholders (including Canadian Participants) and are jointly and severally liable to them for any violation of the rules and regulations governing FCPEs, any violation of the rules of the Fund, or for any self-dealing or negligence.
23. None of the entities forming part of the Kersia Group, the Fund or the Management Company is currently in default of securities legislation of any jurisdiction of Canada.
24. None of the entities forming part of the Kersia Group, the Fund, the Management Company or the Selling Shareholders, or any of their directors, officers, employees, agents or representatives will provide investment advice to Canadian Employees with respect to an investment in Shares or Units.
25. Shares subscribed pursuant to the Employee Offering will be deposited in the Fund through Banque Federative Du Credit Mutuel (the **Depositary**), a large French commercial bank subject to French banking legislation. Under French law, the Depositary must be selected by the Management Company from among a limited number of companies identified on a list maintained by the French Minister of the Economy and Finance, and its appointment must be approved by the French AMF. The Depositary carries out orders to purchase, trade and sell Shares in the portfolio and takes all necessary action to allow the Fund to exercise the rights relating to the Shares held in its portfolio.
26. Participation in the Employee Offering is voluntary, and Canadian Employees will not be induced to participate in the Employee Offering by expectation of employment or continued employment. The total amount that may be invested by a Canadian Participant in the Employee Offering cannot exceed the lesser of (i) €5,000 and (ii) 25% of his or her estimated gross annual compensation.
27. For the Employee Offering, annual compensation includes the employee's gross base salary, bonus and/or overtime paid between January 1, 2021 and December 31, 2021.
28. The Unit value of the Fund will be calculated and reported to the French AMF on a regular basis, based on the net assets of the Fund divided by the number of Units outstanding. The value of the Units will be based on the fair market value of the underlying Shares as set by the Independent Expert (the **Annual Valuation**). The underlying value of the Shares will be re-evaluated once a year based on the formula laid out by the Independent Expert in accordance with the regulations from the French AMF and as described in the rules of the Fund. The deemed value of the Shares underlying the Units, for 5 years from the date of the close of the Employee Offering, will correspond to:
 - (a) in the case of the A Preference Shares, the lesser of, (A) the value of the Filer's equity made in accordance with the valuation method determined by the Independent Expert, or (B) the value of the A Preference Shares plus the Accrued Interest, divided by the number of existing A Preference Shares issued and outstanding;
 - (b) in the case of the B Preference Shares, the lesser of, (A) the value of the Filer's equity made in accordance with the valuation method determined by the Independent Expert minus the value of the A Preference Shares determined in paragraph 28(a) above, or (B) the par value of the B Preference Shares, divided by the number of existing B Preference Shares issued and outstanding; and

- (c) in the case of the Ordinary Shares, a residual value equal to the value of the Filer's equity made in accordance with the valuation method determined by the Independent Expert, minus the aggregate valuation of the A Preference Shares and B Preference Shares, all divided by the number of Ordinary Shares issued and outstanding it being understood that if this amount is less than zero, it will be deemed equal to zero.
29. Canadian Employees will receive an information package in the French or English language, according to their preference, which will include a summary of the terms of the Employee Offering and a description of Canadian income tax consequences of subscribing for and holding Units and requesting the redemption of such Units at the end of the applicable Lock-Up Period. Canadian Participants will have access to a copy of the rules of the Fund. Canadian Employees can have access, through their management or their human resources services, to a copy of a presentation of the Filer, its annual consolidated financial statements and audited, as well as a copy of the information documents of the Filer deposited with the French AMF relating to the Shares and the Rules of the Fund. The new value of the Shares and general information on the business of the Filer will also be communicated annually to the Canadian Participants. Canadian Participants will receive an initial statement of their holdings under the Employee Offering together with an updated statement at least once per year.
30. For the Employee Offering, there are approximately 208 Qualifying Employees resident in Canada, with the largest number residing in the Province of Québec (200) and the remainder in the Provinces of Ontario (7) and New Brunswick (1), who represent, in the aggregate, approximately 11.6% of the number of employees in the Kersia Group worldwide.

Decision

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

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

1. With respect to the Employee Offering, the prospectus requirement will apply to the first trade in any Units or Shares acquired by Canadian Participants pursuant to this decision unless the following conditions are met:
 - (a) the issuer of the security was a foreign issuer on the distribution date, as such term is defined in section 2.15 (1) of Regulation 45-102 and section 2.8(1) of OSC Rule 72-503;
 - (b) the issuer of the security:
 - (i) was not a reporting issuer in any jurisdiction of Canada at the distribution date, or
 - (ii) is not a reporting issuer in any jurisdiction of Canada at the date of the trade;
 - (c) the first trade is made:
 - (i) through an exchange, or a market, outside of Canada, or
 - (ii) to a person or company outside of Canada; and
2. In the Province of Ontario, the prospectus exemption above, for the first trade in any Units or Shares acquired by Canadian Participants pursuant to this decision, is not available with respect to any transaction or series of transactions that is part of a plan or scheme to avoid the prospectus requirements in connection with a trade to a person or company in Canada.

"Benoît Gascon"
Directeur principal du financement des sociétés

OSC File #: 2021/0569

2.1.6 Fidelity Clearing Canada ULC

Headnote

Application for time-limited relief from prospectus requirement and trade reporting requirements – relief to allow the Filer to distribute Crypto Contracts to permitted clients – relief granted subject to certain conditions set out in the decision, including disclosure and reporting requirements – relief is time-limited – relief will expire upon two (2) years – relief granted based on the particular facts and circumstances of the application with the objective of fostering innovative businesses in Canada – decision should not be viewed as precedent for other filers.

Applicable Legislative Provisions

Statute cited

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

Instrument, Rule or Policy cited

Multilateral Instrument 11-102 Passport System, s. 4.7.

National Instrument 21-101 Marketplace Operation, s. 1.1.

OSC Rule 91-506 Derivatives: Product Determination, ss. 2 and 4.

OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Part 3.

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

AND

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

AND

IN THE MATTER OF
FIDELITY CLEARING CANADA ULC
(the Filer)

DECISION

Background

As set out in CSA Staff Notice 21-327 *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets (CSA SN 21-327)*, if crypto assets that are securities or derivatives are traded on a platform, such platform would be subject to securities legislation. In addition, securities and/or derivatives legislation may apply to platforms that facilitate the buying and selling of crypto assets, including crypto assets that are commodities, because the user's contractual right to the crypto asset may itself constitute a security and/or a derivative (**Crypto Contract**).

To foster innovation and respond to novel circumstances, the CSA has considered time-limited relief from certain securities law requirements that would allow crypto asset platforms to operate within a regulated environment, with regulatory requirements

tailored to the crypto asset platform's operations. The overall goal of the regulatory framework is to ensure there is a balance between the need to be flexible and facilitate innovation in the Canadian capital markets, while upholding the regulatory mandate of promoting investor protection and fair and efficient capital markets.

The Filer is currently registered as an investment dealer and is a member of IIROC (as defined below) and it wishes to offer to its Clients (as defined below) the ability to deposit, buy, hold, sell, and withdraw bitcoin, ether, and anything commonly considered a crypto asset, digital or virtual currency, or digital or virtual token that itself is not a security or derivative (collectively, **Crypto Assets**) through the Filer. The Filer filed an application to be exempted from certain requirements under applicable securities legislation. This decision (the **Decision**) has been tailored for the specific facts and circumstances of the Filer, and the securities regulatory authority or regulator in the Applicable Jurisdictions (as defined below) will not consider this Decision as constituting a precedent for other filers.

Relief Requested

The securities regulatory authority or regulator in the Jurisdiction has received an application from the Filer (the **Passport Application**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Filer from the prospectus requirements under the Legislation in respect of the Filer entering into Crypto Contracts with Clients to purchase, custody and sell Crypto Assets (the **Prospectus Relief**).

The securities regulatory authority or regulator in the Jurisdiction and each of the other jurisdictions referred to in the definition of Local Trade Reporting Rules (as defined below) (the **Coordinated Review Decision Makers**) have received an application from the Filer (collectively with the Passport Application, the **Application**) for a decision under the securities legislation of those jurisdictions exempting the Filer from certain reporting requirements under the Local Trade Reporting Rules in respect of Crypto Contracts (the **Trade Reporting Relief**, and together with the Prospectus Relief, the **Requested Relief**).

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

- (a) the Ontario Securities Commission is the principal regulator (the **Principal Regulator**) for the Application;
- (b) the Filer has provided notice that, in the jurisdictions where required, section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (the **Non-Principal Jurisdictions**, together with Ontario, the **Applicable Jurisdictions**) in respect of the Prospectus Relief; and
- (c) the decision in respect of the Trade Reporting Relief is the decision of the Principal Regulator and evidences the decision of each Coordinated Review Decision Maker.

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. In addition to the terms defined above, the following terms shall have the following meanings:

Act means the *Securities Act* (Ontario).

Clients means the clients described in representation 6.

Crypto Asset Statement means the statement described in representations 13(v) and 16.

FCC Digital Assets Custody Account means the portion of FDAS' books and records system that records the amount of Crypto Assets held by FDAS in the name of the Filer on behalf of the Filer's Clients.

FCC Sub-Account means the portion of the FDAS Bank Account that is segregated on FDAS' books and records in the name of the Filer.

FDAS means Fidelity Digital Asset Services, LLC.

FDAS Bank Account means the omnibus bank account at a depository institution in the name of FDAS, for the benefit of the FDAS' clients, holding FDAS' clients' cash.

FDAS Service means the service provided by FDAS comprised of the custody of Crypto Assets and facilitating the purchase, sale, and settlement of trades involving Crypto Assets for its clients.

FDAS Wallets means the FDAS omnibus digital wallets holding FDAS clients' Crypto Assets.

IIROC means the Investment Industry Regulatory Organization of Canada.

Local Trade Reporting Rules means: (i) Part 3, Data Reporting of Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting*; (ii) Part 3, Data Reporting of Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting*; and (iii) Part 3, Data Reporting of Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan, and Yukon.

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

New FCC Service means the two new services that the Filer proposes to offer to Clients: the custody of Clients' Crypto Assets and the ability to enter into Crypto Contracts with the Filer to purchase and sell Crypto Assets, which services include the delivery by the Filer to Clients of Crypto Asset account statements and trade confirmations in compliance with IIROC rules.

Notice 21-329 means Joint Canadian Securities Administrators/Investment Industry Regulatory Organization of Canada Staff Notice 21-329 *Guidance for Crypt-Asset Trading Platforms: Compliance with Regulatory Requirements*.

Risk Statement means a statement of risks as described in representation 13.

Specified Foreign Jurisdiction means any of the following: Australia, Brazil, any member country of the European Union, Hong Kong, Japan, Republic of Korea, New Zealand, Singapore, Switzerland, United Kingdom of Great Britain and Northern Ireland, and United States of America.

Representations

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

1. The Filer is registered as an investment dealer in each of the provinces and territories of Canada, a futures commission merchant in Ontario, a dealer (futures commission merchant) in Manitoba and a derivatives dealer in Québec. As an investment dealer, the Filer is a member of IIROC. The Filer is also approved by IIROC to act as a carrying broker.
2. FDAS is a limited liability trust company organized under New York law authorized pursuant to Section 102-a of the New York Banking Law to engage in all activities described in Sections 96 and 100 of the New York Banking Law, with the exception of accepting deposits and making loans (other than pursuant to the exercise of its fiduciary powers). FDAS provides custody and trade execution services for digital assets. As a New York State-chartered trust company, FDAS is regulated by the New York State Department of Financial Services. In addition, FDAS is registered as a "money services business" with Financial Crimes Enforcement Network, a bureau of the U.S. Department of the Treasury. FDAS is not registered in any capacity in Canada.
3. Both the Filer and FDAS are part of the Fidelity group of companies known globally as Fidelity Investments®. The Filer will be a client of FDAS and will be the only Canadian client of FDAS. FDAS will have other non-Canadian clients.
4. The Filer is not in default of securities legislation of any jurisdiction of Canada.

New FCC Service

5. In addition to its current services, the Filer now wishes to offer Clients the New FCC Service, which will consist of two new services: the custody of the Clients' Crypto Assets and the ability of Clients to enter into Crypto Contracts with the Filer to buy and sell Crypto Assets.
6. The Filer will offer the New FCC Service to Clients who are: (i) IIROC investment dealers for whom the Filer acts as carrying broker (**Introducing Brokers**); (ii) financial institutions, pension plans, governmental entities, corporations, trusts and partnerships; and (iii) portfolio managers acting on behalf of managed accounts. Each Client will be (i) an Institutional Customer (as defined under the IIROC rules) and (ii) a Permitted Client (as defined in NI 31-103).
7. A Crypto Contract is a bilateral contract or arrangement between a Client and the Filer. Accordingly, the Filer will be the counterparty to each buy or sell transaction initiated by a Client. To fulfil its obligations under each Crypto Contract, the Filer, in turn, will be a counterparty to a corresponding buy or sell transaction through FDAS. In connection with each Crypto Contract that involves a purchase by a Client, the Filer arranges for such applicable Crypto Assets to be custodied by FDAS.
8. All trading by Clients with the Filer in Crypto Contracts shall be done on a suitability exempt basis in accordance with IIROC rules.
9. The Filer's trading of Crypto Contracts is consistent with activities described in CSA SN 21-327 and constitutes the trading of securities and/or derivatives.

10. The Filer will not hold any proprietary position in Crypto Assets for itself other than in connection with the Crypto Contracts; it will not take a long or short position in a Crypto Asset with any party, including Clients.
11. The Filer does not have any authority to act on a discretionary basis on behalf of Clients and will not manage any discretionary accounts.
12. In addition to any other agreement that a Client may have with the Filer, each Client that will want to access the New FCC Service will have a written agreement with the Filer that will provide, among other things, that the Filer will custody the cash and Digital Assets of the Client deposited with the Filer. This agreement will clearly state that with respect to the custody of any Crypto Asset, the Filer has retained FDAS as a foreign custodian. The agreement will further provide that a Client may enter into Crypto Contracts to purchase and/or sell Crypto Assets from or to the Filer through the New FCC Service. For these services, the Filer will charge Clients a fee based on the amount of Crypto Assets held and a transaction fee for each Crypto Contract to purchase or sell Crypto Assets. The Filer may also charge other fees related to the crypto business. All fees for the New FCC Service will be agreed to with each Client.
13. The agreement with the Client will include a Risk Statement that clearly explains, in plain language:
 - (i) the Crypto Contracts;
 - (ii) the risks associated with the Crypto Contracts;
 - (iii) prominently, that no securities regulatory authority has expressed an opinion about the Crypto Contracts or any of the Crypto Assets made available through the New FCC Service, including any opinion that the Crypto Assets are not themselves securities and/or derivatives;
 - (iv) the due diligence performed by the Filer before making a Crypto Asset available through the New FCC Service, including the due diligence taken by the Filer to assess whether the Crypto Asset is a security and/or derivative under the securities and derivatives laws of each of the jurisdictions of Canada and the jurisdiction with which the Crypto Asset has the most significant connection, and the risks if the Filer has incorrectly determined that the Crypto Asset is not a security and/or derivative;
 - (v) that the Filer has prepared a plain language description of each Crypto Asset made available through the New FCC Service, with instructions as to where the Client may obtain the descriptions (a **Crypto Asset Statement**);
 - (vi) the Filer's policies for halting, suspending and withdrawing a Crypto Asset from trading through the New FCC Service, including criteria that would be considered by the Filer, options available to Clients holding such a Crypto Asset, any notification periods and any risks to Clients;
 - (vii) the location and manner in which Crypto Assets are held for the Client, and the risks and benefits to the Client of the Crypto Assets being held in that manner;
 - (viii) the manner in which the Crypto Assets are accessible by the Filer, and the risks and benefits to the Client arising from the Filer having access to the Crypto Assets in that manner;
 - (ix) that the Filer is a member of the Canadian Investor Protection Fund (**CIPF**), but the Crypto Assets held by the Filer (directly or indirectly) will not qualify for CIPF protection; and
 - (x) a statement that the statutory rights in section 130.1 of the Act, and, if applicable, similar statutory rights under securities legislation of other Applicable Jurisdictions, do not apply in respect of the Risk Statement or a Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in this Decision.
14. Each Client will be required to acknowledge that the Client has received, read and understood the Risk Statement before opening an account with the Filer for Crypto Contracts. Such acknowledgement will be prominent and separate from other acknowledgements provided by the prospective Client as part of the account opening process. A copy of the Risk Statement acknowledged by a Client and each Crypto Asset Statement delivered in the manner contemplated below to a Client will be made available to the Client in the same place as the Client's other statements.
15. Before a Client enters into a Crypto Contract to buy a Crypto Asset for the first time, the Filer will provide instructions for the Client to read the Crypto Asset Statement for the Crypto Asset, which will include a link to the Crypto Asset Statement on the Filer's website.
16. Each Crypto Asset Statement will include:
 - (i) a prominent statement that no securities regulatory authority in Canada has expressed an opinion about the Crypto Contracts or any of the Crypto Assets made available through the New FCC Service, including an opinion that the Crypto Assets are not themselves securities and/or derivatives;

- (ii) a description of the Crypto Asset, including the background of the team that first created the Crypto Asset, if applicable;
 - (iii) a description of the due diligence performed by the Filer with respect to the Crypto Asset;
 - (iv) any risks specific to the Crypto Asset;
 - (v) a direction to the Client to review the Risk Statement for additional discussion of general risks associated with the Crypto Contracts and Crypto Assets made available through the New FCC Service;
 - (vi) a statement that the statutory rights in section 130.1 of the Act, and, if applicable, similar statutory rights under securities legislation of other Applicable Jurisdictions, do not apply in respect of the Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in this Decision; and
 - (vii) the date on which the information was last updated.
17. The Filer will have policies and procedures for updating the Risk Statement and each Crypto Asset Statement to reflect any material change to the disclosure or include any material risk that may develop with respect to the Crypto Contracts, Crypto Assets generally, or a specific Crypto Asset as the case may be. In the event the Risk Statement is updated, Clients will be promptly notified and provided with a copy of the updated Risk Statement. In the event a Crypto Asset Statement is updated, existing Clients of the Filer with Crypto Contracts in respect of that Crypto Asset will be promptly notified, with links provided to the updated Crypto Asset Statement.
18. The Filer will not maintain its own hot or cold storage for Crypto Assets. The Filer will retain FDAS as a foreign custodian in respect of the custody of Crypto Assets and in order to execute the trades with the Filer that relate to the Filer's obligations regarding the purchase and sale of Crypto Assets pursuant to the Crypto Contracts. In that regard, the Filer will enter into a services agreement with FDAS for the FDAS Service. While FDAS will provide services to the Filer, FDAS will have no contractual relationship with the Clients and the only direct interaction that FDAS will have with the Clients will relate solely to the actual transfer of Crypto Assets for custody purposes, as described below. The Filer will be responsible for all applicable "know your client" account opening requirements and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its regulations.
19. The Filer has verified that FDAS is appropriately registered and/or licensed to trade in the Crypto Assets in its home jurisdiction and that it is not in default of securities and banking legislation in any jurisdiction of Canada.
20. Clients will not be able to negotiate the price of the Crypto Assets. The Filer has verified that FDAS has effective policies and procedures to address concerns relating to fair price, fraud and market manipulation in connection with its trading activities in Crypto Assets.
21. The Filer has established and applies policies and procedures to review Crypto Assets and to determine whether to allow Clients to enter into Crypto Contracts to buy and sell the Crypto Asset through the New FCC Service. Such review includes, but is not limited to:
- (i) the creation, governance, usage and design of the Crypto Asset, including, the source code relating to the Crypto Asset, the security protocols connected to the Crypto Asset, any plan for growth in the developer community that is connected to the Crypto Assets and, if applicable, the background of the developer(s) that created the Crypto Asset;
 - (ii) the supply, demand, maturity, utility and liquidity of the Crypto Asset;
 - (iii) material technical risks associated with the Crypto Asset, including any code defects, security breaches and other threats concerning the Crypto Asset and its supporting blockchain (such as the susceptibility to hacking and impact of forking), or the practices and protocols that apply to them; and
 - (iv) legal and regulatory risks associated with the Crypto Asset, including any pending, potential, or prior civil, regulatory, criminal, or enforcement action relating to the issuance, distribution, or use of the Crypto Asset.
22. The Filer wishes to only offer and only allows Clients to enter into Crypto Contracts to buy and sell Crypto Assets that are not each themselves a security and/or a derivative.
23. The Filer is not engaged, and will not engage, in trades that are part of, or designed to facilitate, the creation, issuance or distribution of Crypto Assets by the developer(s) of the Crypto Asset or affiliates or associates of such person.
24. The Filer has established and applies policies and procedures to determine whether a Crypto Asset is a security and/or a derivative and is being offered in compliance with securities laws, which include, but are not limited to:

- (i) consideration of statements made by any regulators or securities regulatory authorities of the Applicable Jurisdictions, other regulators in IOSCO-member jurisdictions, or the regulator with the most significant connection to a Crypto Asset about whether the Crypto Asset, or generally about whether the type of Crypto Asset, is a security and/or a derivative; and
 - (ii) if the Filer determines it to be necessary, obtaining legal advice as to whether the Crypto Asset is a security and/or derivative under Canadian securities legislation.
- 25. The Filer monitors ongoing developments related to the Crypto Assets available on through the New FCC Service that may cause a Crypto Asset's legal status or the assessment conducted by the Filer described in representations 21 and 24 above to change.
- 26. The Filer acknowledges that any determination made by the Filer as set out in representations 21 to 24 of this Decision does not prejudice the ability of the regulators or securities regulatory authorities of any province or territory of Canada to determine that a Crypto Asset that a Client may enter into a Crypto Contract to buy or sell is, in fact, a security or a derivative.
- 27. The Filer has established and applies policies and procedures to promptly stop the trading of any Crypto Asset available through the New FCC Service except to allow Clients to liquidate their positions in Crypto Contracts with underlying Crypto Assets that the Filer ceases to make available through the New FCC Service.

FDAS Service

- 28. The FDAS Service is comprised of two main functions or services: the custody of Crypto Assets; and facilitating the purchase, sale, and settlement of trades involving Crypto Assets for clients. Under this purchase and sale execution and order fulfillment service, client trade orders are either (a) matched internally between clients of FDAS or (b) failing that, routed away and filled based on prices provided by FDAS' approved counterparties. The FDAS Service attempts to provide its clients with the best price for trade orders that is available from its internal order books and its network of approved counterparties through its order handling process. For this purpose, "best price" means the highest available price for sell orders and the lowest available price for buy orders.
- 29. FDAS facilitates trade execution and settlement between its clients and its counterparties in the manner described in paragraph 30 below and by recording appropriate transfers between the FDAS Wallets and the FDAS Bank Account.
- 30. In fulfilling its trade execution and settlement services and to the extent that a trade order cannot be matched internally between clients, FDAS engages in riskless principal trading, insofar as it trades as principal with the applicable counterparty, and then immediately executes the offsetting trade with the applicable client. Each transaction of purchase and sale is fully settled, as the FDAS Service does not currently permit the use of margin or leverage.
- 31. While the FDAS Service only includes services related to bitcoin at this time, FDAS plans to expand the FDAS Service to include ether and, in the future, other Crypto Assets. The FDAS Service does not permit short selling, and currently FDAS does not extend margin to its customers.
- 32. FDAS will act as foreign custodian of the Crypto Assets, which will be held in the FDAS Wallets. Other than the equity requirement, FDAS satisfies the criteria of a "qualified custodian" as defined in NI 31-103.
- 33. FDAS has obtained a SOC 1 Type 2 examination report of its internal controls, and that includes relevant technology general controls, logistical and physical security controls, and cryptographic key management controls that are commonly included in a SOC 2 report. The Filer has conducted due diligence on FDAS, including a review of the SOC 1 Type 2 examination report, and has not identified any material concern. FDAS is currently working towards obtaining a SOC 2 Type 1 examination report and a SOC 2 Type 2 examination report before the expiry of this Decision.
- 34. The Filer and FDAS operate independently of each other and have different directors, officers and employees. The custody services are performed by FDAS's personnel, who are not employees, contractors, agents or officers of the Filer.
- 35. FDAS operates one or more custody accounts, or FDAS Wallets, for the purpose of holding FDAS clients' Crypto Assets. Pursuant to the services agreement between the Filer and FDAS, FDAS will not be permitted to pledge, re-hypothecate or otherwise use any Crypto Assets held for the Filer in the course of its business.
- 36. FDAS has established and applies policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian.
- 37. The Filer has assessed the risks and benefits of using FDAS and has determined that, in comparison to a Canadian custodian (as that term is defined in NI 31-103), it is more beneficial to use FDAS, a U.S. custodian.

38. FDAS currently maintains, or is insured under, professional liability insurance, with coverage for loss of digital assets, including the Crypto Assets held for the Filer.

Operational Details of New FCC Service and FDAS Service

39. The Crypto Assets held by FDAS for the Filer on behalf of the Filer's Clients will be held by FDAS in the FDAS Wallets and treated as fungible with the Crypto Assets owned by other custody clients of FDAS. FDAS' books and records system will record the amount of Crypto Assets held by FDAS in the name of the Filer on behalf of the Filer's Clients, which record is referred to as the "FCC Digital Assets Custody Account".
40. If a Client decides to deposit Crypto Assets for custody, the Client will contact the Filer to request, and receive, deposit instructions. The Filer will then request the applicable deposit instruction from FDAS. FDAS will generate the deposit instruction and will communicate this instruction to the Filer, which the Filer then makes available to its Client. The Client will then transfer the Crypto Assets from his, her, their or its existing digital asset account to the FDAS Wallets in accordance with the FDAS deposit instruction provided to the Client by the Filer. Upon appropriate confirmation of the deposit by FDAS, FDAS will notify the Filer of the updated balance in the FCC Digital Assets Custody Account, and the Filer will record the Client's deposit transaction in its books and records, for display back to the Client.
41. If a Client decides to enter into a Crypto Contract to buy Crypto Assets through the New FCC Service, the Client will enter into a Crypto Contract with the Filer for the purchase. The Filer itself, in turn, will purchase the requested amount of Crypto Assets through FDAS, sell the Crypto Assets to the Client and deduct the amount of the purchase price, which includes all applicable transaction fees, from the Client's account. The Filer will record the Client's purchase transaction in its books and records, for display back to the Client.
42. If a Client decides to withdraw Crypto Assets from custody, the Client will contact the Filer to initiate a withdrawal transaction by indicating the type, quantity and destination instruction for the Crypto Assets. The Filer will relay that information to FDAS to initiate a withdrawal transaction. FDAS will promptly debit the Crypto Asset balance in the FCC Digital Assets Custody Account and will process the withdrawal transaction pursuant to the terms agreed to between FDAS and the Filer and in accordance with the instructions provided to the Filer by the Client and to FDAS by the Filer. FDAS will provide transaction confirmation to the Filer and, in turn, the Filer will reflect the Client's transaction on its books and records, for display back to the Client.
43. If a Client decides to enter into a Crypto Contract to sell some of the Client's Crypto Assets through the New FCC Service, the Client will enter into a Crypto Contract with the Filer for the sale. The Filer itself, in turn, will sell the requested amount of Crypto Assets through FDAS, purchase the Crypto Assets from the Client, deduct any transaction fee and transfer the remaining cash proceeds, at the direction of the Client, to the Client's bank account or to the Client's custody account with the Filer. The Filer will record the Client's sale transaction in its books and records, for display back to the Client.
44. The Filer will maintain books and records that will show, among other things, as at the end of each business day, the particulars of each trade that occurred during that business day, the allocation among its Clients of the Crypto Assets recorded in the FCC Digital Assets Custody Account and the amount of the Filer's cash held in the FCC Sub-Account. Clients will have access to their own accounts and records in accordance with IIROC rules. The Filer and FDAS will perform reconciliations of all relevant accounts on each business day.
45. The Filer will not extend margin, nor will it offer credit, to Clients in connection with the purchase of Crypto Assets.

Marketplace and Clearing Agency

46. To the extent that the Filer will operate a "marketplace" as that term is defined in National Instrument 21-101 *Marketplace Operation* and, in Ontario, subsection 1(1) of the Act, the Filer will seek any authorization or exemption necessary to carry on business as a marketplace.
47. The Filer will not operate a "clearing agency" or a "clearing house" as the terms are defined or referred to in securities or commodities futures legislation. Any clearing or settlement activity conducted by the Filer is incidental to the Filer engaging in the business of entering into Crypto Contracts with its Clients. Any activities of the Filer that may be considered the activities of a clearing agency or clearing house are related to the Filer arranging or providing for settlement of obligations resulting from agreements entered into on a bilateral basis and without a central counterparty.

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 and each Coordinated Review Decision Maker is satisfied that the Decision in respect of the Trade Reporting Relief satisfies the test set out in the securities legislation of that jurisdiction for the Coordinated Review Decision Maker to make the Decision in respect of the Trade Reporting Relief.

The Decision of the Principal Regulator under the Legislation is that the Requested Relief is granted, and the Decision of each Coordinated Review Decision Maker under the securities legislation of its jurisdiction is that the Trade Reporting Relief is granted, provided that:

- (a) with respect to Clients resident in an Applicable Jurisdiction, the Filer remains registered as a dealer in the category of investment dealer with the Principal Regulator and the securities regulators or securities regulatory authority in such Applicable Jurisdiction and a member of IIROC;
- (b) all Crypto Contracts with Clients resident in the Applicable Jurisdictions shall be conducted pursuant to IIROC rules imposed on members seeking to trade in Crypto Contracts and in accordance with any acceptable practices established by IIROC, as amended from time to time;
- (c) the Filer will provide the New FCC Services only to Clients as described in representation 6 and before offering the New FCC Services to an Introducing Broker, the Filer will take reasonable steps to verify that Introducing Broker has received the prior written approval of IIROC to offer Crypto Contracts to the Introducing Broker's clients;
- (d) the Filer will not operate a "marketplace" as the term is defined in National Instrument 21-101 *Marketplace Operation* and, in Ontario, in subsection 1(1) of the Act, unless it has obtained any authorization or exemption necessary to carry on business as a marketplace, and will not operate a "clearing agency" or "clearing house" as the terms are defined or referred to in securities or commodities futures legislation;
- (e) except as set out in condition (f), at all times, the Filer will retain FDAS as its foreign custodian and will custody all of its Clients' Crypto Assets with FDAS;
- (f) the Filer will promptly cease using FDAS as the custodian for the Crypto Assets of its Clients at any time that FDAS ceases to be regulated by the New York State Department of Financial Services as a New York State-chartered trust company, in which case:
 - (i) the Filer will hold the Crypto Assets of its Clients with a custodian that meets the definition of a qualified custodian under NI 31-103;
 - (ii) before the Filer holds Crypto Assets of its Clients with a custodian referred to in (i) above, the Filer will take reasonable steps to verify that the custodian:
 - (A) has appropriate insurance to cover the loss of Crypto Assets held at the custodian;
 - (B) has established and applies written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian; and
 - (C) has obtained a SOC 2 Type 2 report within the last 12 months, unless the Filer has obtained the prior written approval of the Principal Regulator to alternatively verify that the custodian has obtained a SOC 1 Type 1 or Type 2 report or a SOC 2 Type 1 report within the last 12 months;
- (g) the Filer will take reasonable steps to verify that FDAS:
 - (i) has appropriate insurance to cover the loss of Crypto Assets held by it;
 - (ii) has established and applies written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian; and
 - (iii) on or before December 31, 2021, has obtained a SOC 2 Type 1 report and on or before December 31, 2022, has obtained a SOC 2 Type 2 report;
- (h) the Filer will promptly notify the Principal Regulator if the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the Financial Industry Regulatory Authority, the National Futures Association, or the New York State Department of Financial Services makes a determination that the Filer's custodian for its Clients' Crypto Assets is not permitted by that regulatory authority to hold client Crypto Assets;
- (i) the Filer will use the FDAS Service to fulfil its obligations under the Crypto Contracts that the Filer enters into with its Clients so long as FDAS is registered and/or licensed, to the extent required in its home jurisdiction, to execute trades in the Crypto Assets and is not in default of securities legislation in any of the Applicable Jurisdictions;

- (j) before a Client enters into his, her or its first Crypto Contract, the Filer will deliver to the Client a Risk Statement and will require the Client to provide electronic or written acknowledgement of having received, read and understood the Risk Statement;
- (k) the disclosure in condition (j) will be prominent and separate from other disclosures given to the Client at that time, and the acknowledgement will be separate from other acknowledgements by the Client at that time;
- (l) a copy of the Risk Statement acknowledged by a Client will be made available to the Client in the same place as the Client's other statements;
- (m) before a Client enters into a Crypto Contract to buy a Crypto Asset for the first time, the Filer will provide instructions for the Client to read the Crypto Asset Statement for the Crypto Asset, which will include a link to the Crypto Asset Statement and includes the information set out in representation 16;
- (n) the Filer will promptly update the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or to include any material risk that may develop with respect to the Crypto Contracts and/or Crypto Asset and:
 - (i) in the event of any update to the Risk Statement, will promptly notify each Client of the update and deliver to them a copy of the updated Risk Statement, and
 - (ii) in the event of any update to a Crypto Asset Statement, will promptly notify each Client through website disclosures, with links provided to the updated Crypto Asset Statement;
- (o) prior to the Filer delivering a Risk Statement to a Client, the Filer will deliver, or will have previously delivered, a copy of the Risk Statement to the Principal Regulator;
- (p) in each Applicable Jurisdiction, the first trade of a Crypto Contract is deemed to be a distribution under the securities legislation of that jurisdiction;
- (q) the Filer will only trade Crypto Contracts based on Crypto Assets that are not in and of themselves securities or derivatives;
- (r) the Filer will evaluate Crypto Assets as set out in representations 21 and 24;
- (s) The Filer will not trade Crypto Assets or Crypto Contracts based on Crypto Assets with a customer in a Jurisdiction, without the prior written consent of the regulator or securities regulatory authority of the Jurisdiction, where the Crypto Asset was issued by or on behalf of a person or company that is or has in the last five years been the subject of an order, judgment, decree, sanction, or administrative penalty imposed by, or has entered into a settlement agreement with, a government or government agency, administrative agency, self-regulatory organization or court in Canada or in a Specified Foreign Jurisdiction in relation to a claim based in whole or in part on fraud, theft, deceit, aiding and abetting or otherwise facilitating criminal activity, misrepresentation, violation of AML laws, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct;
- (t) except to allow Clients to liquidate their positions in those Crypto Contracts or transfer such Crypto Assets to a blockchain address specified by the Client, the Filer will promptly stop trading Crypto Contracts where the underlying is a Crypto Asset if (i) the Filer determines it to be, (ii) a court, regulator or securities regulatory authority in any jurisdiction of Canada or the foreign jurisdiction with which the Crypto Asset has the most significant connection determines it to be, or (iii) the Filer is made aware or is informed that the Crypto Asset is viewed by a regulator or securities regulatory authority to be, a security and/or derivative;
- (u) the Filer will provide the Principal Regulator with at least 10 days' prior written notice of any:
 - (i) change of or use of a new custodian; and
 - (ii) material changes to the Filer's ownership, its business operations, including its systems, or its business model;
- (v) the Filer will notify the Principal Regulator, promptly, of any material breach or failure in the provision of the New FCC Service, including any material cybersecurity breach of FDAS's or other custodian's systems of controls or supervision that impact the Crypto Assets of a Client held by the custodian, and what steps have been taken by the Filer to address each such breach or failure. The loss of any amount of Crypto Assets in the FCC Digital Asset Custody Account will be considered a material breach or failure in the provision of the New FCC Service;
- (w) upon request by the Principal Regulator, the Filer will provide, on a timely basis, reports to the Principal Regulator setting out, on an aggregate basis, the Client accounts where activity in connection with Crypto Contracts has occurred since

the date of the last report, if any, the aggregate number of trades during that period, and the average value of the trades during that period;

(x) the Filer will provide the following reports to the Principal Regulator within 30 days of the end of each March, June, September and December:

(i) aggregate reporting of activity conducted pursuant to Crypto Contracts that will include the following:

1. number of Client accounts opened each month in the quarter;
2. number of Client accounts closed each month in the quarter;
3. number of trades in each month of the quarter;
4. average value of the trades in each month of the quarter;
5. number of Client accounts with no trades during the quarter;
6. number of Client accounts that have not been funded at the end of each month in the quarter; and
7. number of Client accounts that hold a positive amount of Crypto Assets at the end of each month in the quarter;

(i) the details of any Client complaint received by the Filer during the calendar quarter related to Crypto Contracts and how such complaint was addressed; and

(ii) the details of any fraudulent activity or cybersecurity incident incurred by the Filer during the calendar quarter, any resulting harm and effect on Clients, and the corrective measures taken by the Filer to remediate such activity or incident and prevent similar activities or incidents from occurring in the future;

(y) the Filer will deliver to the regulator or the securities regulatory authority in each of the Applicable Jurisdictions, in a form and format acceptable to the regulator or the securities regulatory authority, a report that includes the following anonymized account-level data for activity conducted pursuant to a Crypto Contract for each Client within 30 days of the end of each March, June, September and December:

(i) unique account number and unique client identifier, as applicable;

(ii) jurisdiction where the Client is located;

(iii) the date the account was opened;

(iv) the amount of fiat held with the Filer at the beginning of the reporting period and at the end of the reporting period;

(v) cumulative realized gains/losses since account opening in CAD;

(vi) unrealized gains/losses as of the report end date in CAD;

(vii) quantity traded, deposited or withdrawn by Crypto Asset during the quarter in number of units;

(viii) Crypto Asset traded by the Client;

(ix) quantity held of each Crypto Asset by the Client as of the report end date in units;

(x) CAD equivalent aggregate value for each Crypto Asset traded by the Client, calculated as the amount in (ix) multiplied by the market price of the asset in (viii) as of the report end date;

(xi) age of account in months.

(z) in addition to any other reporting required by Legislation, the Filer will provide, on a timely basis, any report, data, document or information about the New FCC Service to the Principal Regulator, including any information about the Filer's custodian and the Crypto Assets held by the Filer's custodian, that may be requested by the Principal Regulator from time to time as reasonably necessary for the purpose of monitoring compliance with the Legislation and the conditions in this Decision, in a format acceptable to the Principal Regulator;

Decisions, Orders and Rulings

- (aa) upon request, the Filer will provide the Principal Regulator and the regulators or securities regulatory authorities of each of the Non-Principal Jurisdictions with aggregated and/or anonymized data concerning Client demographics and activity that may be useful to advance the development of the Canadian regulatory framework for trading Crypto Assets;
- (bb) the Filer will promptly make any change to its business practices or policies and procedures that may be required to address investor protection concerns that may be identified by the Filer or by the Principal Regulator, in consultation with IIROC, arising from the New FCC Services;
- (cc) this Decision may be amended by the Principal Regulator upon prior written notice to the Filer in accordance with applicable securities legislation; and
- (dd) this Decision shall expire two years from the date of this Decision.

In respect of the Prospectus Relief

Date: November 16, 2021

"Tim Moseley"
Vice Chair
Ontario Securities Commission

"Wendy Berman"
Vice Chair
Ontario Securities Commission

In respect of the Trade Reporting Relief

Date: November 16, 2021

"Kevin Fine"
Director, Derivatives
Ontario Securities Commission

Application File #: 2020-0375

2.1.7 Glass House Brands 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 equity shares outstanding, as opposed to on a per-class basis – multi-class share structure among equity shares was implemented solely to ensure the issuer's continued status as a "foreign private issuer" under U.S. securities laws; all classes of equity 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 equity 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 equity shares outstanding, as opposed to on a per-class basis – multi-class share structure among equity shares was implemented solely to ensure the issuer's continued status as a "foreign private issuer" under U.S. securities laws; all classes of equity 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 equity 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 equity shares outstanding, as opposed to on a per-class basis – multi-class share structure among equity shares was implemented solely to ensure the issuer's continued status as a "foreign private issuer" under U.S. securities laws; all classes of equity 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 equity shares – relief subject to condition that equity shares not listed on a designated exchange.

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 equity shares outstanding, as opposed to on a per-class basis – multi-class share structure among equity shares was implemented solely to ensure the issuer's continued status as a "foreign private issuer" under U.S. securities laws; all classes of equity 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 equity 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 equity shares, rather than for each class of equity shares – to be calculated based on the aggregate number of equity shares outstanding, as opposed to on a per-class basis – multi-class share structure among equity shares was implemented solely to ensure the issuer's continued status as a "foreign private issuer" under U.S. securities laws; all classes of equity 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 equity 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.

June 29, 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
GLASS HOUSE BRANDS 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 “**Equity 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) (i) 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 41-101F1 *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* (“**NI 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, 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”, “designated exchange” 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 incorporated under the *Business Corporations Act* (British Columbia) (the “**BCBCA**”).
2. On June 29, 2021, the Filer, previously a special purpose acquisition corporation, completed its qualifying transaction (the “**Transaction**”), pursuant to which it merged with GH Group, Inc., a vertically-integrated cultivator, manufacturer and retailer of cannabis products and branded cannabis packaged goods in the State of California.
3. The Filer is a vertically-integrated cultivator, manufacturer and retailer of cannabis products and branded cannabis packaged goods in the State of California.
4. 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 such jurisdiction.
5. The Filer’s head office is located at 3645 Long Beach Blvd., Long Beach, CA.
6. The Filer’s authorized share capital consists of an unlimited number of (a) Subordinate Voting Shares, (b) Restricted Voting Shares, (c) Limited Voting Shares, (d) multiple voting shares (“**Multiple Voting Shares**”), and (e) preferred shares (“**Preferred Shares**”) issuable in series with such terms as are determined by the board of directors of the Filer from time to time. The Filer does not intend that such Preferred Shares will be used for anti-takeover purposes.
7. As of the date hereof, (a) 22,335,908 Equity Shares, (b) 4,754,979 Multiple Voting Shares, and (c) zero (0) Preferred Shares are issued and outstanding.
8. For reasons of tax efficiency, any holder of Multiple Voting Shares that holds at least two (2) Restricted Voting Shares and/or Limited Voting Shares shall be deemed to hold (a) at least one (1) Restricted Voting Share, and (b) at least one (1) Limited Voting Share.
9. The Equity Shares will be listed on the NEO Exchange Inc. (the “**Exchange**”) under the symbol “GLAS.A.U” on or about July 5, 2021.

Aggregation Relief

10. The Filer qualifies as a foreign private issuer (“**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 (the “**Securities Exchange Act**”), as:
 - (a) the Filer is incorporated under the laws of British Columbia; and
 - (b) based on reasonable inquiry, less than 50% of the Filer’s outstanding voting securities are held directly or indirectly of record by United States residents (“**U.S. Persons**”).

11. For these purposes, “voting securities” are defined as those securities that entitle the holders to vote for the election of directors at the time of such determination.
12. 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 (as defined below) at the applicable time.
13. The Filer derives material benefits from its status as an FPI.
14. On June 29, 2021, in connection with the closing of the Transaction, 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 Filer’s previously-existing Subordinate Voting Shares, and (b) amend the terms of its previously-existing Subordinate Voting Shares, including by amending the requirements in respect of who may hold Subordinate Voting Shares.
15. The Filer received the shareholder approvals required under applicable corporate and securities laws to implement the Amendments at the special meeting of the Filer held on June 2, 2021.
16. 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 accomplished pursuant to 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 is exceeded.
17. Under the Amendments, where Subordinate Voting Shares are “held of record” (as such term is defined Rule 12g5-1 of the Securities Exchange Act) by (a) one or more U.S. Persons, and (b) one or more non-United States residents (“**Non-U.S. Persons**”), such Subordinate Voting Shares shall be deemed to be held of record by a U.S. Person.
18. Subject to the Specified Exceptions (as defined below), the Subordinate Voting Shares may only be held of record 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 of record by a U.S. Person.
19. Subject to the Specified Exceptions, (a) the Restricted Voting Shares may be held of record only by U.S. Persons and will carry one (1) vote per share for the election of directors (and for all other purposes), and (b) the Limited Voting Shares may be held of record only by U.S. Persons and will carry one (1) 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.
20. If, at any given time, the Restricted Voting Shares or the Limited Voting Shares are held of record 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.
21. 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 (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:

$$(0.50 \times \text{Aggregate Number of Multiple Voting Shares, Subordinate Voting Shares and Restricted Voting Shares}) - (\text{Aggregate Number of Multiple Voting Shares held of record by U.S. Persons})$$

22. 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 50% of the total voting power of the voting securities of the Filer for the election of directors (assuming 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.
23. 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.

24. The following circumstances will be disregarded in determining whether Equity Shares are held of record by a U.S. Person or by a Non-U.S. Person (collectively, the “**Specified Exceptions**”): (a) where Equity Shares are held of record by one or more underwriters solely for the purposes of a distribution to the public, that fact will be disregarded; and (b) where Equity Shares are held of record 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 Depositary Services Inc., or any successor or assign) without general discretionary authority over the voting or disposition of such Equity Shares, that fact will be disregarded.
25. The Multiple Voting Shares, which are nominal valued preferred shares with a US\$0.001 per share redemption and liquidation value, may be held of record by U.S. Persons or Non-U.S. Persons, carry 50 votes per share (voting together with the other classes of Equity Shares as if they were a single class except where otherwise required by law or stock exchange requirements), have no entitlement to dividends and have no conversion rights. In addition, unless redeemed earlier by the holder, the Multiple Voting Shares are subject to a three (3)-year sunset provision, at which time they would be redeemed.
26. Each class of Equity Shares ranks equally with the other classes of Equity 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 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 Equity Shares 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 Equity Shares are 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.
27. Each class of Equity Shares is subject to coattail provisions contained in the terms of such class of Equity Shares, pursuant to which each class of Equity Shares may be converted into another class of Equity Shares in the event an offer is made to purchase such other class of Equity 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 Equity Shares (assuming that the offeree was resident in Ontario).
28. 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 Equity Shares set out above, the Equity Shares are the same in all respects and are mandatorily inter-convertible (continuously and without formality) based on (x) the holder’s status as a U.S. Person or Non-U.S. Person, and (y) the Filer’s FPI status.
29. The Equity Share structure has been implemented solely to ensure the Filer’s status as an FPI and thereby reduce compliance costs; it has no other purpose.
30. The Equity Shares are 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.
31. An investor does not control or choose which class of Equity Shares it acquires and holds. There are no unique features of any class of Equity 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 is 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 Equity 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 Equity Shares will convert accordingly and automatically, without formality or regard to any other consideration.

Nomenclature Relief

32. 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”.
33. 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.
34. 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 is (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.

35. 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.
36. 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.
37. 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.
38. 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 Equity 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, (i) the Equity Shares are not listed on a designated exchange; and (ii) 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"
Director, Office of Mergers & Acquisitions
Ontario Securities Commission

2.1.8 Brookfield Business Corporation and Brookfield Asset Management Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from the prospectus requirements pursuant to the terms of a rights agreement – relief granted from the requirements of subsection 2.2(e) of National Instrument 44-101 Short Form Prospectus Distributions requiring an issuer's equity securities to be listed and posted for trading on short form eligible exchange – relief granted from the requirements of paragraph 9.3(1)(b) of National Instrument 44-102 Shelf Distributions requiring the securities distributed under an ATM prospectus be equity securities – relief granted on terms and conditions.

Applicable Legislative Provisions

National Instrument 44-101 Short Form Prospectus Distributions, ss. 2.2(e) and 8.1.

National Instrument 44-102 Shelf Distributions, ss. 9.3(1)(b) and 11.1.

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 53 and 74.

November 26, 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
BROOKFIELD BUSINESS CORPORATION AND
BROOKFIELD ASSET MANAGEMENT INC.

DECISION

Background

The principal regulator in the Jurisdiction has received an application from Brookfield Business Corporation (**BBUC**) and Brookfield Asset Management Inc. (**Brookfield**, and together with BBUC, the **Filers**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that:

- (a) the requirements contained in the Legislation to file a preliminary prospectus and a final prospectus and receive receipts therefor (the **Prospectus Requirement**) shall not apply to specific trades in non-voting limited partnership units of Brookfield Business Partners L.P. (**BBU**), to be made in connection with the distribution and exchange of class A exchangeable subordinate voting shares of BBUC (the **Exchangeable Shares**) by Brookfield pursuant to the terms of the Rights Agreement (each as defined below);
 - (b) BBUC be exempt from the requirements contained in section 2.2(e) of National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**) with respect to equity securities (the **Short Form Prospectus Eligibility Requirements**); and
 - (c) BBUC be exempt from requirements contained in section 9.3(1)(b) of National Instrument 44-102 – *Shelf Distributions* (**NI 44-102**), that distributions by way of an at-the-market distribution using the shelf procedures be limited to distributions of equity securities (the **At-the-Market Distribution Eligibility Requirements**),
- (collectively, the **Exemption Sought**).

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

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that 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, Quebec, New

Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Yukon and Nunavut, as applicable.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* (**NI 14-101**), MI 11-102 and NI 44-101 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

Relevant Entities

BBU

1. BBU is an exempted limited partnership established, registered and in good standing under the laws of Bermuda. BBU's registered and head office is located at 73 Front Street, 5th Floor, Hamilton HM 12, Bermuda.
2. BBU is a reporting issuer in all of the provinces and territories of Canada and is an SEC foreign issuer within the meaning of section 1.1 of National Instrument 71-102 — *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (**NI 71-102**) and satisfies its continuous disclosure obligations by complying with U.S. federal securities laws as is permitted under NI 71-102. BBU is not in default of any requirement of securities legislation in the jurisdictions in which it is a reporting issuer.
3. The authorized capital of BBU consists of: (a) non-voting limited partnership units (the **BBU Units**); and (b) general partnership units.
4. The BBU Units are listed on the New York Stock Exchange (**NYSE**) and the Toronto Stock Exchange (**TSX**) under the symbols "BBU" and "BBU.UN", respectively.
5. BBU's only substantial asset is its limited partnership interest in Brookfield Business L.P. (**Holding LP**), a Bermuda exempted limited partnership established, registered and in good standing under the laws of Bermuda.
6. Brookfield Business Partners Limited, a wholly-owned subsidiary of Brookfield, holds the general partner units in BBU.

Brookfield

7. Brookfield is a corporation existing and in good standing under the *Business Corporations Act* (Ontario). Brookfield's registered and head office is located at Suite 300, Brookfield Place, 181 Bay Street, Toronto, Ontario M5J 2T3.
8. Brookfield is a reporting issuer in all of the provinces and territories of Canada and is not in default of any requirement of securities legislation in the jurisdictions in which it is a reporting issuer.
9. The Class A Limited Voting Shares of Brookfield are listed on the NYSE and the TSX under the symbols "BAM" and "BAM.A", respectively.
10. Brookfield holds an approximate 64% economic interest in BBU on a fully-exchanged basis through its indirect ownership of redeemable partnership units of Holding LP (the **Redeemable Partnership Units**).
11. Brookfield indirectly holds a 100% voting interest in BBU through its ownership of the general partner units of BBU.
12. BBU, Holding LP and certain of their subsidiaries have retained Brookfield and its related entities to provide management, administrative and advisory services under a master services agreement (the **Master Services Agreement**).

BBUC

13. BBUC is a corporation existing and in good standing under the *Business Corporations Act* (British Columbia), and was incorporated on June 21, 2021. BBUC's registered office is located at 1500 Royal Centre, 1055 West Georgia Street, P.O. Box 11117, Vancouver, British Columbia, V6E 4N7. BBUC's head office is located at 250 Vesey Street, 15th Floor, New York, New York, 10281, United States of America.
14. The authorized share capital of BBUC currently consists of an unlimited number of common shares (the **BBUC Common Shares**).

15. BBU, indirectly, through its wholly-owned subsidiary, Brookfield BBP Canada Holdings Inc. (**CanHoldCo**), owns 100% of the issued and outstanding BBUC Common Shares.
16. BBUC expects to own and operate, through operating subsidiaries, high-quality businesses that are low-cost producers and/or benefit from high barriers to entry. BBUC's operations are initially expected to consist of business services and industrial operations primarily located in Australia, the United Kingdom, the United States, and Brazil.
17. BBUC is not a reporting issuer in any jurisdiction and is not in default of any applicable requirement of securities legislation.

The Special Distribution

18. On July 30, 2021, (i) BBUC filed a long form prospectus to qualify the distribution of Exchangeable Shares to be distributed by BBU to holders of BBU Units (the **Special Distribution**) and (ii) BBU filed a short form prospectus on the same day for the distribution of BBU Units issuable or deliverable upon the exchange, redemption or purchase of Exchangeable Shares pursuant to their terms.
19. Upon obtaining a receipt for the final prospectus, BBUC will become a reporting issuer in each of the provinces and territories of Canada.
20. BBU and BBUC filed a registration statement on Form F-1 with the U.S. Securities and Exchange Commission (the **SEC**) on August 2, 2021, as thereafter amended, to register the Exchangeable Shares that will be distributed pursuant to the Special Distribution; and BBU filed a registration on Form F-3 with the SEC on August 12, 2021, as thereafter amended, to register the BBU Units issuable or deliverable upon the exchange, redemption or purchase of Exchangeable Shares pursuant to their terms.
21. Prior to the closing of the Special Distribution, BBUC will reclassify its share structure such that, following the reclassification, BBUC's authorized share capital will consist of: (i) an unlimited number of Exchangeable Shares; (ii) an unlimited number of class B multiple voting shares (the **Class B Shares**); (iii) an unlimited number of class C non-voting shares (the **Class C Shares**); (iv) an unlimited number of class A senior preferred shares (issuable in series); and (v) an unlimited number of class B junior preferred shares (issuable in series).
22. The only voting securities of BBUC are the Exchangeable Shares and the Class B Shares. Holders of Exchangeable Shares are entitled to one (1) vote per Exchangeable Share held and holders of Class B Shares are entitled to cast, in the aggregate, a number of votes equal to three (3) times the number of votes attached to the Exchangeable Shares.
23. Neither the Exchangeable Shares nor the Class B Shares carry a residual right to participate in the assets of BBUC upon liquidation or winding-up of BBUC, and accordingly, are not equity securities under the Legislation. The Class C Shares are the only equity securities of BBUC.
24. Prior to the closing of the Special Distribution:
 - (a) the following ownership interests will be contributed or transferred by BBU, or subsidiaries thereof, to BBUC:
 - (i) an approximate 28% economic interest in Healthscope Pty Limited;
 - (ii) an approximate 26% economic interest in BRK Ambiental Participações S.A.;
 - (iii) an approximate 27% economic interest in Westinghouse Electric Company; and
 - (iv) a 100% economic interest in Multiplex Global Limited; and
 - (b) BBU will receive Exchangeable Shares through a distribution in specie by Holding LP of Exchangeable Shares to its unitholders, including BAM through its indirect ownership of Redeemable Partnership Units.
25. The distribution ratio of Exchangeable Shares for each BBU Unit has been determined using: (i) the fair market value of the businesses to be transferred by BBU to BBUC, (ii) the number of the BBU Units outstanding at the time of the Special Distribution (assuming the exchange of all Redemption-Exchange Units into BBU Units) and (iii) the market capitalization of BBU. Holders of BBU Units will receive one (1) Exchangeable Share (less any Exchangeable Shares withheld to satisfy withholding tax obligations) for every two (2) BBU Units held as of the record date of the Special Distribution.
26. No unitholder will be entitled to receive any fractional interest in Exchangeable Shares in connection with the Special Distribution. Unitholders who would otherwise be entitled to a fractional Exchangeable Share will receive a cash payment. BBU will use the volume-weighted average trading price of the Exchangeable Shares for the five (5) trading days immediately following the Special Distribution date to determine the value of the Exchangeable Shares for the purpose of calculating the cash payable in lieu of any fractional interests.

27. BBUC has received conditional approval to have the Exchangeable Shares listed on the NYSE and TSX.
28. BBU believes that certain investors in certain jurisdictions may be dissuaded from investing in BBU because of the tax reporting framework that results from investing in units of a Bermuda exempted limited partnership. With the objective of providing investors that would not otherwise invest in BBU with an opportunity to gain access to BBU's portfolio of infrastructure assets, BBU created BBUC and is distributing Exchangeable Shares pursuant to the Special Distribution.
29. Each Exchangeable Share has been structured with the intention of providing an economic return equivalent to a BBU Unit and the rights, privileges, restrictions and conditions attached to each Exchangeable Share (the **Exchangeable Share Provisions**) are such that each Exchangeable Share is intended to be, as nearly as practicable, functionally and economically, equivalent to a BBU Unit. In particular:
 - (a) each Exchangeable Share will be exchangeable at the option of a holder for one (1) BBU Unit (subject to adjustment to reflect certain capital events) or its cash equivalent (the form of payment to be determined at the election of BBUC) (an **Exchange**);
 - (b) the Exchangeable Shares are redeemable by BBUC at any time (including following a notice requiring redemption having been given by BBU) for BBU Units (or its cash equivalent, at BBUC's election) on a one-for-one basis (subject to adjustment to reflect certain capital events) (a **Redemption**);
 - (c) upon a liquidation, dissolution or winding up of BBUC, holders of Exchangeable Shares will be entitled to receive BBU Units on a one-for-one basis (subject to adjustment to reflect certain capital events) and not any remaining property or assets of BBUC following such payment (a **BBUC Liquidation**);
 - (d) upon a liquidation, dissolution or winding up of BBU, including where substantially concurrent with a BBUC Liquidation, all of the Exchangeable Shares will be automatically redeemed for BBU Units (or its cash equivalent, at BBUC's election) on a one-for-one basis (subject to adjustment to reflect certain capital events) (a **BBU Liquidation**); and
 - (e) subject to applicable law and in accordance with the Exchangeable Share Provisions, each Exchangeable Share will entitle the holder to dividends from BBUC payable at the same time as, and equivalent to, each distribution on a BBU Unit. The Exchangeable Share Provisions also provide that if a distribution is declared on the BBU Units and an equivalent dividend is not declared and paid concurrently on the Exchangeable Shares, then the undeclared or unpaid amount of such dividend accrues and accumulates and is to be paid upon the first to occur of any of the circumstances contemplated by paragraphs (a) to (d) above, if not yet paid.
30. Upon being notified by BBUC that BBUC has received a request for an Exchange, BBU has an overriding call right to purchase (or have one of its affiliates purchase) all of the Exchangeable Shares that are the subject of the Exchange notice from the holder of Exchangeable Shares for BBU Units (or its cash equivalent, at BBU's election) on a one-for-one basis (subject to adjustment to reflect certain capital events).
31. Upon being notified by BBUC that it intends to conduct a Redemption, BBU has an overriding call right to purchase (or have one of its affiliates purchase) all but not less than all of the then outstanding Exchangeable Shares for BBU Units on a one-for-one basis (subject to adjustment to reflect certain capital events).
32. Upon the occurrence of a BBU Liquidation or BBUC Liquidation, BBU will have an overriding liquidation call right to purchase (or have one of its affiliates purchase) all but not less than all of the then outstanding Exchangeable Shares on the day prior to the effective date of such BBU Liquidation or BBUC Liquidation for BBU Units on a one-for-one basis (subject to adjustment to reflect certain capital events).
33. Prior to the Special Distribution, Brookfield will enter into a rights agreement (the **Rights Agreement**) pursuant to which it will agree that, for the five-year period beginning on the date of the Special Distribution, Brookfield will guarantee BBUC's obligation to deliver BBU Units or its cash equivalent in connection with a redemption or Exchange.
34. An investment in Exchangeable Shares is intended to be, as nearly as practicable, functionally and economically, equivalent to an investment in BBU Units. BBU expects that:
 - (a) investors of Exchangeable Shares may purchase Exchangeable Shares as an alternative way of owning BBU Units rather than a separate and distinct investment; and
 - (b) the market price of the Exchangeable Shares will be significantly impacted by (i) the combined business performance of BBUC and BBU as a single economic unit and (ii) the market price of BBU Units, in a manner that should result in the market price of the Exchangeable Shares closely tracking the market price of the BBU Units.

35. A holder of Exchangeable Shares would be able to terminate its investment by either (i) selling the Exchangeable Shares on the TSX or on the NYSE, or (ii) selling the BBU Units received by operation of the Exchangeable Share Provisions on the TSX or on the NYSE.

Issuance of BBU Units Under the Rights Agreement

36. The attributes of the Exchangeable Shares, as set out in the Exchangeable Share Provisions, and the trades contemplated by the Rights Agreement involve or may involve:
- (a) the delivery by Brookfield of BBU Units to a holder of Exchangeable Shares; and
 - (b) the first trade of BBU Units received by a holder of Exchangeable Shares in connection with the Rights Agreement.
37. Under section 2.42 of National Instrument 45-106 *Prospectus Exemptions* and in connection with the conversion, exchange, or exercise of a security, the Prospectus Requirement does not apply to a distribution by an issuer if (a) the issuer distributes a security of its own issue to a security holder of the issuer in accordance with the terms and conditions of a security previously issued by that issuer, or (b) subject to certain notification requirements, the issuer distributes a security of a reporting issuer held by it to a security holder of the issuer in accordance with the terms and conditions of a security previously issued by that issuer.
38. If Brookfield were required to deliver the BBU Units pursuant to the Rights Agreement in the future, it could not rely on paragraph 2.42(b) of NI 45-106, because Brookfield would be delivering BBU Units to a security holder of BBUC, not of Brookfield.
39. In absence of an exemption, the delivery by Brookfield of BBU Units to a holder of Exchangeable Shares, must comply with the Prospectus Requirement under the Legislation in each jurisdiction of Canada where the delivery occurs.
40. The Exchangeable Shares represent part of the equity value of BBU and are intended to be, in all material respects, functionally and economically equivalent to the BBU Units. As a result of the Exchangeable Share Provisions, holders of Exchangeable Shares are able to receive a BBU Unit or its cash equivalent (the form of payment to be determined at the election of BBUC) and will receive identical distributions to the BBU Units. Investors may purchase Exchangeable Shares as an alternative way of owning BBU Units rather than a separate and distinct investment.
41. A key factor in ensuring that an investment in the Exchangeable Shares will be as nearly as practicable, functionally and economically equivalent to an investment in BBU Units is the ability of holders of Exchangeable Shares to (i) exchange their Exchangeable Shares, (ii) receive BBU Units on the exchange, and (iii) sell the BBU Units on the TSX or the NYSE.
42. Relief from the Prospectus Requirement for the delivery by Brookfield of BBU Units to holders of Exchangeable Shares is necessary for the operation of the backstop provided by Brookfield to holders of Exchangeable Shares. As such, granting relief from the Prospectus Requirement is not contrary to the public interest.

Qualification to File Short Form Prospectus

43. BBUC wishes to be eligible to file short form prospectuses under NI 44-101 upon completion of the Special Distribution. While BBUC does not currently intend to complete a distribution immediately following the completion of the Special Distribution, BBUC's eligibility to file short form and shelf prospectuses is critical to its viability as an issuer of a security offering an alternative way of owning BBU Units. In addition, there are short time frames associated with financings undertaken in current market conditions. As a result, the relief from the Short Form Prospectus Eligibility Requirements is being sought in advance of the completion of the Special Distribution and any possible follow on distribution of BBUC securities.
44. The qualification criteria for short form prospectus eligibility are outlined in section 2.2 of NI 44-101. Once BBUC becomes a reporting issuer, it will satisfy all of the qualification criteria for short form prospectus eligibility in section 2.2 of NI 44-101 with the exception of subsection 2.2(e) which requires that an issuer's equity securities are listed and posted for trading on a short form eligible exchange and that an issuer is not an issuer whose (i) operations have ceased, or (ii) whose principal asset is cash, cash equivalents, or its exchange listing (the **Equity Security Requirement**). The term "equity security" is defined under the Legislation as a security that carries a residual right to participate in the earnings of the issuer and, on the liquidation or winding up of the issuer, in its assets. The Exchangeable Shares do not carry a residual right to participate in the assets of BBUC upon liquidation or winding-up of BBUC, and accordingly, are not equity securities under the Legislation.
45. In the event that BBUC undertakes an offering or other distribution of its securities prior to the filing of its audited financial statements for the year ended December 31, 2021, BBUC intends to rely on the exemption in subsection 2.7(1) of NI 44-101 from the requirements to have (i) current annual financial statements and (ii) a current AIF.

46. BBUC is not eligible for the exemption for alternative qualification criteria for conventional preferred shares under Part 2 of NI 44-101 because the Exchangeable Shares are not conventional preferred shares.
47. It is appropriate for the Exchangeable Shares to be treated as equity securities for the purposes of NI 44-101 since the Exchangeable Shares are, in effect, the economic and voting equivalent of the BBU Units and the BBU Units do qualify as equity securities under NI 44-101.
48. Except for not meeting the Equity Security Requirement, BBUC would otherwise be qualified to file a prospectus in the form of a short form prospectus pursuant to, and in accordance with, NI 44-101.

Qualification of At-the-Market Distribution

49. Pursuant to section 9.3(1)(b) of NI 44-102, only equity securities may be distributed by way of an at-the-market distribution using the shelf procedures.
50. Based upon the rationale provided in paragraphs 44, 34, 47, and 48 above, it is not prejudicial to the public interest to exempt the company from the At-the-Market Distribution Requirements.

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 Prospectus Requirement shall not apply to the delivery by Brookfield of BBU Units to holders of Exchangeable Shares for the duration of the Rights Agreement, provided that:
 - (a) such BBU Units are delivered strictly pursuant to Brookfield's agreement to guarantee BBUC's obligation to deliver BBU Units in connection with an Exchange under the terms of the Rights Agreement;
 - (b) BBU is a reporting issuer, as defined in the Legislation, in a jurisdiction of Canada at the time such relief is relied upon for the delivery of BBU Units;
 - (c) the terms of the Rights Agreement are not materially amended; and
 - (d) Brookfield has provided prior written notice of the distribution to the principal regulator;
2. any first trade in BBU Units acquired by a holder of Exchangeable Shares in connection with Brookfield satisfying its obligations under the Rights Agreement shall not be a distribution under the Legislation, provided that:
 - (a) BBU is and has been a reporting issuer, as defined in the Legislation, in a jurisdiction of Canada for the four months immediately preceding the trade;
 - (b) the trade is not in previously issued securities of an issuer from the holdings of any control person, as that term is defined in subsection 1(1) of the *Securities Act* (Ontario);
 - (c) no unusual effort is made to prepare the market or to create a demand for the BBU Units;
 - (d) no extraordinary commission or consideration is paid to a person or company in respect of the trade;
 - (e) if the selling securityholder is an insider or officer of BBU, the selling security holder has no reasonable grounds to believe that BBU is in default of securities legislation; and
 - (f) the terms of the Rights Agreement are not materially amended;
3. the decision as it relates to the Prospectus Requirement shall terminate on the day on which the Rights Agreement is terminated.
4. BBUC does not have to comply with the Short Form Prospectus Eligibility Requirements so long as:
 - (a) BBUC is otherwise qualified to file a preliminary short form prospectus under section 2.2 of NI 44-101;
 - (b) the Exchangeable Shares are listed and posted for trading on a short form eligible exchange (as defined in NI 44-101);
 - (c) BBUC is not an issuer whose operations have ceased; and

- (d) BBUC is not an issuer whose principal asset is cash, cash equivalents, or its exchange listing.
- 5. BBUC does not have to comply with the At-the-Market Distribution Requirements so long as:
 - (a) BBUC otherwise satisfies the conditions set out in section 9.3 of NI 44-102 to distribute securities under an ATM prospectus (as defined in NI 44-102) as part of an at-the-market distribution;
 - (b) the security being distributed is an Exchangeable Share; and
 - (c) the BBU Units qualify as equity securities under NI 44-102.

As to the Prospectus Requirement,

“Mary Anne De Monte-Whelan”
Commissioner
Ontario Securities Commission

“Cecilia Williams”
Commissioner
Ontario Securities Commission

As to the Short Form Eligibility Requirements and the At-the-Market Distribution Requirements,

“Michael Balter”
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2021/0463

2.1.9 Bitbuy Technologies Inc.

Headnote

Application for time-limited relief from the audited financial statement requirement, prospectus requirement, trade reporting requirements and marketplace requirements – relief to allow the Filer to distribute Crypto Contracts and operate a platform that facilitates the buying, selling and holding of crypto assets – relief granted subject to certain conditions set out in the decision, including fair access, transparency, market integrity, investment limits, disclosure and reporting requirements – relief is time-limited to allow the Filer to operate while seeking registration as an investment dealer and membership with IIROC – relief will expire upon two (2) years – relief granted based on the particular facts and circumstances of the application with the objective of fostering innovative businesses in Canada – decision should not be viewed as precedent for other filers.

Applicable Legislative Provisions

Statute cited

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

Instrument, Rule or Policy cited

Multilateral Instrument 11-102 Passport System, s. 4.7.

National Instrument 21-101 Marketplace Operation.

National Instrument 23-101 Trading Rules.

National Instrument 23-103 Electronic Trading and Direct Access to Marketplaces.

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 12(10).

OSC Rule 91-506 Derivatives: Product Determination, ss. 2 and 4.

OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Part 3.

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

AND

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

AND

IN THE MATTER OF
BITBUY TECHNOLOGIES INC.
(the Filer)

DECISION**

Background

As set out in Joint CSA/IIROC Staff Notice 21-329 *Guidance for Crypto-Asset Trading Platforms: Compliance with Regulatory Requirements (Staff Notice 21-329)* and CSA Staff Notice 21-327 *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets (Staff Notice 21-327)*, securities legislation applies to crypto asset trading platforms

(CTPs) that facilitate or propose to facilitate the trading of instruments or contracts involving crypto assets because the user's contractual right to the crypto asset may itself constitute a security and/or a derivative (**Crypto Contract**).

To foster innovation and respond to novel circumstances, the CSA has considered an interim, time-limited registration that would allow CTPs to operate within a regulated framework, with regulatory requirements tailored to the CTP's operations. The overall goal of the regulatory framework is to ensure there is a balance between the need to be flexible and facilitate innovation in the Canadian capital markets, while upholding the regulatory mandate of promoting investor protection and fair and efficient capital markets.

The Filer operates a proprietary platform (the **Platform**) that permits clients to enter into Crypto Contracts with the Filer to purchase, sell and hold crypto assets such as bitcoin, ether and anything commonly considered a crypto asset, digital or virtual currency, or digital or virtual tokens, that are not themselves securities or derivatives (each a **Crypto Asset**, collectively, the **Crypto Assets**). The Filer has applied for registration as a restricted dealer in accordance with Staff Notice 21-329 in each province and territory of Canada. While registered as a restricted dealer, the Filer intends to seek membership with the Investment Industry Regulatory Organization of Canada (**IIROC**). This Decision has been tailored for the specific facts and circumstances of the Filer, and the securities regulatory authority or regulator in the Applicable Jurisdictions (as defined below) will not consider this Decision as constituting a precedent for other filers.

Relief Requested

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

- (1) the prospectus requirement under the Legislation in respect of the Filer entering into Crypto Contracts with clients to purchase, hold and sell Crypto Assets (the **Prospectus Relief**); and
- (2) the requirement in subsection 12.10(2) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) to deliver annual audited financial statements to the regulator (the **Audited Financial Statement Relief**)

The securities regulatory authority or regulator in the Jurisdiction and each of the other jurisdictions that has adopted the rules referred to in Appendix A, as applicable (the **Coordinated Review Decision Makers**), have received an application from the Filer (collectively with the Passport Application, the **Application**) for a decision under the securities legislation of those jurisdictions exempting the Filer from:

- (1) certain reporting requirements under the Local Trade Reporting Rules (as defined in Appendix A) (the **Trade Reporting Relief**); and
- (2) except in British Columbia, New Brunswick and Nova Scotia, the Marketplace Rules (as defined in Appendix A) (the **Marketplace Relief**).

Collectively, the Prospectus Relief, the Audited Financial Statement Relief, the Trade Reporting Relief and the Marketplace Relief are referred to herein as the **Requested Relief**.

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

- (1) the Ontario Securities Commission is the principal regulator for this Application (the **Principal Regulator**);
- (2) in respect of the Prospectus Relief, the Filer has provided notice that, in the jurisdictions where required, subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (the **Non-Principal Jurisdictions**, and, together with the Jurisdiction, the **Applicable Jurisdictions**), and
- (3) the decisions in respect of the Trade Reporting Relief and the Marketplace Relief are the decisions of the Principal Regulator and evidence the decision of each applicable Coordinated Review Decision Maker.

Interpretation

For the purposes of this Decision:

- (a) "Accredited Crypto Investor" means
 - (i) an individual
 - A. who, alone or with a spouse, beneficially owns financial assets (as defined in section 1.1 of National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**)) and crypto assets, if not

- included in financial assets, having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds \$1,000,000,
- B. whose net income before taxes exceeded \$200,000 in each of the 2 most recent calendar years and who reasonably expects to exceed that net income level in the current calendar year,
- C. whose net income before taxes combined with that of a spouse exceeded \$300,000 in each of the 2 most recent calendar years and who reasonably expects to exceed that net income level in the current calendar year, or
- D. who, alone or with a spouse, beneficially owns net assets of at least \$5,000,000,
- (ii) a person or company described in paragraphs (a) to (i) of the definition of “accredited investor” as defined in subsection 73.3(1) of the Act or section 1.1 of NI 45-106, or
- (iii) a person or company described in paragraphs (m) to (w) of the definition of “accredited investor” as defined in section 1.1 of NI 45-106.
- (b) “Act” means the *Securities Act* (Ontario).
- (c) “AML” means anti-money laundering.
- (d) “App” means the Filer’s mobile application.
- (e) “API” means application programming interface.
- (f) “CIPF” means the Canadian Investor Protection Fund.
- (g) “Crypto Asset Statement” means the statement described in representations 26(b)(v) and 32.
- (h) “Eligible Crypto Investor” means
 - (i) a person whose
 - A. net assets, alone or with a spouse, in the case of an individual, exceed \$400,000,
 - B. net income before taxes exceeded \$75,000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year, or
 - C. net income before taxes, alone or with a spouse, in the case of an individual, exceeded \$125,000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year, or
 - (ii) an Accredited Crypto Investor.
- (i) “IOSCO” means the International Organization of Securities Commissions.
- (j) “Platform’s Terms and Conditions” means the terms and conditions that apply to the access and use of the Platform.
- (k) “Prohibited Use” means the violations of the restrictions relating to the use of the Platform as described in representation 26(c)(v).
- (l) “Risk Statement” means the statement of risks described in representation 26(b).
- (m) “Specified Crypto Asset” means the crypto assets, digital or virtual currencies, and digital or virtual tokens listed in Appendix B to this Decision.
- (n) “Specified Foreign Jurisdiction” means any of the following: Australia, Brazil, any member country of the European Union, Hong Kong, Japan, the Republic of Korea, New Zealand, Singapore, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America.
- (o) “Website” means the website <https://bitbuy.ca> or such other website as may be used to host the Platform from time to time.

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

Representations

This decision (the **Decision**) is based on the following facts represented by the Filer:

The Filer

1. The Filer is a corporation existing under the laws of Ontario with its head office in Toronto, Ontario.
2. The Filer is a wholly owned subsidiary of First Ledger Corp. (**FLC**).
3. The Filer operates under the business name “**Bitbuy**”.
4. The Filer is registered with FINTRAC as a Money Services Business and complies with the applicable AML requirements under applicable legislation and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its regulations.
5. Although FLC intends to list its securities on the Neo Exchange Inc., the Filer does not and will not have any securities listed or quoted on an exchange or marketplace in any jurisdiction inside or outside Canada. Although FLC intends to become a reporting issuer in British Columbia, Alberta and Ontario, the Filer is not and will not be a reporting issuer in any jurisdiction.
6. Concurrent with the Application, the Filer has applied for registration as a dealer in the category of restricted dealer with the securities regulatory authority or regulator in each of the Applicable Jurisdictions.
7. The Filer’s personnel consists, and will consist, of compliance professionals, finance professionals and software engineers with experience operating within regulated financial services environments and blockchain technology. All of the Filer’s personnel have passed, and new personnel will have passed, criminal records and credit checks.
8. The Filer is not in default of securities legislation of any of the Applicable Jurisdictions, other than in respect of the subject matter to which this Decision relates.

The Platform

9. The Filer enables clients to enter into Crypto Contracts with the Filer to buy, sell and hold Crypto Assets through the Platform and to deposit or withdraw Crypto Assets through the Platform.
10. The Filer’s trading of Crypto Contracts is consistent with activities described in CSA SN 21-327 and constitutes the trading of securities and/or derivatives.
11. The Filer does not have any authority to act on a discretionary basis on behalf of clients and will not manage any discretionary accounts.
12. The Filer will not be a member firm of the CIPF and the Crypto Assets that are held in custody by one or more third-party custodians will not qualify for CIPF coverage. The Risk Statement will include disclosure that there will be no CIPF coverage for the Crypto Assets and clients must acknowledge that they have received, read and understood the Risk Statement before opening an account with the Filer.
13. The Filer’s books and records, financial controls and compliance systems (including its policies and procedures) are designed to closely resemble in all material respects, except as necessary to address operational differences, those in place at FLC.
14. FLC has audited consolidated financial statements. The Filer is working with the auditor to prepare audited unconsolidated financial statements. The Filer anticipates that it will be able to obtain audited financial statements for the Filer’s 2021 financial year end.
15. During the period of this relief:
 - (a) the Filer will work closely with its auditors to be able to file annual audited financial statements in accordance with subsection 12.10(2) of NI 31-103, and
 - (b) the financial statements of the Filer will be consolidated with the annual audited financial statements of its parent, FLC, and until such time as the Filer can deliver annual audited financial statements, the Filer will file both

annual unaudited financial statements and the annual audited financial statements of FLC with the Principal Regulator.

Crypto Assets Made Available through the Platform

16. The Filer has established and will apply policies and procedures to review Crypto Assets and to determine whether to allow clients on its Platform to enter into Crypto Contracts to buy, sell or hold the Crypto Asset on its Platform. Such review includes, but is not limited to, publicly available information concerning:
 - (a) the creation, governance, usage and design of the Crypto Asset, including the source code, security and roadmap for growth in the developer community and, if applicable, the background of the developer(s) that created the Crypto Asset;
 - (b) the supply, demand, maturity, utility and liquidity of the Crypto Asset;
 - (c) material technical risks associated with the Crypto Asset, including any code defects, security breaches and other threats concerning the Crypto Asset and its supporting blockchain (such as the susceptibility to hacking and impact of forking), or the practices and protocols that apply to them; and
 - (d) legal and regulatory risks associated with the Crypto Asset, including any pending, potential or prior civil, regulatory, criminal or enforcement action relating to the issuance, distribution or use of the Crypto Asset.
17. The Filer only offers and only allows clients the ability to enter into Crypto Contracts to buy, sell and hold Crypto Assets that are not each themselves a security and/or a derivative.
18. The Filer does not allow clients to enter into a Crypto Contract to purchase and sell Crypto Assets unless the Filer has taken steps
 - (a) as set out in representation 16, to review the Crypto Asset, including the information specified in representation 16, to determine whether it is appropriate for its clients,
 - (b) as set out in representation 16, to approve the Crypto Asset and the Crypto Contracts to purchase and sell such Crypto Asset, to be made available to clients,
 - (c) as set out in representation 43 and required under securities laws, to determine that entering into the Crypto Contract to purchase and sell Crypto Assets is suitable for the client, and
 - (d) as set out in representation 21, to monitor the Crypto Asset for significant changes and review its approval under (b) where a significant change occurs.
19. The Filer is not engaged, and will not engage, in trades that are part of, or designed to facilitate, the design, creation, issuance or distribution of Crypto Assets by the developer(s) of the Crypto Asset or affiliates or associates of such persons.
20. The Filer has established and will apply policies and procedures to determine whether a Crypto Asset available to be bought and sold through a Crypto Contract is a security and/or derivative and is being offered in compliance with securities and derivatives laws, which include but are not limited to:
 - (a) consideration of statements made by any regulators or securities regulatory authorities of the Applicable Jurisdictions, other regulators in IOSCO-member jurisdictions, or the regulator with the most significant connection to a Crypto Asset about whether the Crypto Asset, or generally about whether the type of Crypto Asset, is a security and/or derivative; and
 - (b) if the Filer determines it to be necessary, obtaining legal advice as to whether the Crypto Asset is a security and/or derivative under securities legislation of the Applicable Jurisdictions.
21. The Filer monitors ongoing developments related to Crypto Assets available on its Platform that may cause a Crypto Asset's legal status or the assessment conducted by the Filer described in representations 16 and 20 above to change.
22. The Filer acknowledges that any determination made by the Filer as set out in representations 16 to 20 of this Decision does not prejudice the ability of any of the regulators or securities regulatory authorities of any province or territory of Canada to determine that a Crypto Asset is a security and/or derivative.
23. The Filer has established and will apply policies and procedures to promptly halt the trading of any Crypto Asset available on its Platform and to allow clients to liquidate their positions in Crypto Contracts with underlying Crypto Assets that the Filer ceases to make available on its Platform.

Account Opening

24. Subject to the Filer determining that it is appropriate for an account to be opened, the Filer currently makes the Platform available to any person who is resident in Canada, has reached the age of majority in the jurisdiction in which they are resident and has the legal capacity to open an account.
25. Clients open an account on the Platform via the Website or the App.
26. As part of the account opening process:
 - (a) the Filer will collect know-your-client information to verify the identity of the client, and collects information necessary for the Filer to conduct a trade-by-trade suitability assessment for each client;
 - (b) the Filer will provide a prospective client with a separate Risk Statement that clearly explains the following in plain language:
 - (i) the Crypto Contracts;
 - (ii) the risks associated with the Crypto Contracts;
 - (iii) a prominent statement that no securities regulatory authority has expressed an opinion about the Crypto Contracts or any of the Crypto Assets made available for purchase or sale through the Platform, including an opinion that the Crypto Assets are not themselves securities and/or derivatives;
 - (iv) the due diligence performed by the Filer before making a Crypto Asset available through the Platform, including the due diligence taken by the Filer to assess whether the Crypto Asset is a security and/or derivative under the securities legislation of each of the jurisdictions of Canada and the securities and derivatives laws of the foreign jurisdiction with which the Crypto Asset has the most significant connection, and the risks if the Filer has incorrectly determined that the Crypto Asset is not a security and/or derivative;
 - (v) that the Filer has prepared a plain language description of each Crypto Asset made available through the Platform, with instructions as to where on the Platform the client may obtain the descriptions (each, a Crypto Asset Statement);
 - (vi) the Filer's policies for halting, suspending and withdrawing a Crypto Asset from trading on the Platform, including criteria that would be considered by the Filer, options available to clients holding such a Crypto Asset, any notification periods and any risks to clients;
 - (vii) the location and manner in which Crypto Assets are held for the client, the risks and benefits to the client of the Crypto Assets being held in that manner;
 - (viii) the manner in which the Crypto Assets are accessible by the Filer, and the risks and benefits to the client arising from the Filer having access to the Crypto Assets in that manner;
 - (ix) that the Filer is not a member of the CIPF and the Crypto Assets held by the Filer (directly or indirectly through third parties) will not qualify for CIPF protection; and
 - (x) a statement that the statutory rights in section 130.1 of the Act, and, if applicable, similar statutory rights under securities legislation of other Applicable Jurisdictions, do not apply in respect of the Risk Statement or a Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in this Decision.
 - (c) the Filer will require clients to agree to the Platform's Terms and Conditions, which are publicly available on the Filer's website, and wherein it will require and/or disclose (either directly in the agreement or in schedules appended thereto):
 - (i) the trading hours for the Platform;
 - (ii) that the Filer is responsible for conducting suitability and will do so in the manner set out in representation 30;
 - (iii) procedures for funding purchases and for withdrawing funds held by a client in its account with the Platform;
 - (iv) the various fees charged to a client of the Platform;

- (v) that a client must comply with restrictions relating to its use of the Platform, including complying with the Trading Requirements (as defined below) and applicable securities laws (any violation of these requirements, a **Prohibited Use**);
 - (vi) confirmation that a client's access to the Platform does not affect that client's access to any other marketplace;
 - (vii) that the potential consequences for a client's Prohibited Use may include:
 - a. withdrawing the client's right to make any further trades on the Platform,
 - b. requiring the client to liquidate its Crypto Asset holdings on the Platform in an orderly fashion and/or requiring that all of its subsequent proposed sell trades receive the Filer's prior approval,
 - c. when all Crypto Assets have been sold, require that the client provide the Filer with wire transfer instructions (to a Canadian financial institution) so that the Filer can return its funds and close its account, and
 - d. reporting the client's trading activity to relevant securities and law enforcement authorities;
 - (viii) the Filer's conflict of interest policies and procedures; and
 - (ix) if applicable, the Filer's referral arrangements disclosure (included in the Filer's conflicts policies and procedures and relationship disclosure information statement).
- 27. In order for a prospective client to open and operate an account with the Filer, the Filer will obtain an electronic acknowledgment from the prospective client confirming that the prospective client has received, read and understood the Risk Statement. Such acknowledgment will be prominent and separate from other acknowledgments provided by the prospective client as part of the account opening process.
- 28. A copy of the Risk Statement acknowledged by a client will be made available to the client in the same place as the client's other statements on the Platform.
- 29. The Filer has policies and procedures for updating the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts, Crypto Assets generally, or a specific Crypto Asset, as the case may be. In the event the Risk Statement is updated, existing clients of the Filer will be promptly notified and provided with a copy of the updated Risk Statement. In the event a Crypto Asset Statement is updated, existing clients of the Filer will be promptly notified through in-App and website disclosures, with links provided to the updated Crypto Asset Statement.
- 30. For clients with pre-existing accounts with the Filer at the time of this Decision, the Filer will:
 - (a) within three months of the time of this Decision, require such pre-existing clients to provide the information necessary for the Filer to satisfy its obligations under securities law to verify the identity of the client and to conduct a trade-by-trade suitability assessment for the client; and
 - (b) deliver to the client a Risk Statement and will require the client to provide electronic acknowledgement of having received, read and understood the Risk Statement at the earlier of (i) before placing their next trade or deposit of Crypto Assets on the Platform and (ii) the next time they log in to their account with the Filer. The Risk Statement must be prominent and separate from other disclosures given to the client at that time, and the acknowledgement must be separate from other acknowledgements by the client at that time.
- 31. Before a client enters into a Crypto Contract to buy a Crypto Asset, the Filer will provide instructions for the client to read the Crypto Asset Statement for the Crypto Asset, which will include a link to the Crypto Asset Statement on the Website or the App.
- 32. Each Crypto Asset Statement will include:
 - (a) a prominent statement that no securities regulatory authority in Canada has expressed an opinion about the Crypto Contracts or any of the Crypto Assets made available through the Platform, including an opinion that the Crypto Assets are not themselves securities and/or derivatives,
 - (b) a description of the Crypto Asset, including the background of the team that first created the Crypto Asset, if applicable,

- (c) a description of the due diligence performed by the Filer with respect to the Crypto Asset,
 - (d) any risks specific to the Crypto Asset,
 - (e) a direction to the client to review the Risk Statement for additional discussion of general risks associated with the Crypto Contracts and Crypto Assets made available through the Platform,
 - (f) a statement that the statutory rights in section 130.1 of the Act, and, if applicable, similar statutory rights under securities legislation of other Applicable Jurisdictions, do not apply in respect of the Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in this Decision, and
 - (g) the date on which the information was last updated.
33. The Filer will also periodically prepare and make available to its clients educational materials and other informational updates about trading on the Platform and the ongoing development of Crypto Assets and Crypto Asset trading markets. The Filer will also monitor client activity and engage clients to discuss their trading behaviour if it indicates a lack of knowledge or understanding of Crypto Asset trading, in an effort to identify and deter behaviours that may indicate that trading a Crypto Contract is not appropriate for the client, or that additional education is required. The outcome of the engagement with a client may result, in some cases, in a decision by the Filer to close a client's account.

Platform Operations

34. The Platform is a facility for trading securities and/or derivatives and, in some jurisdictions, is a marketplace under applicable securities legislation.
35. An affiliate of the Filer, Twenty One Digital Inc. (**21D**), participates on the Platform as a registered user of the Platform's API. 21D's primary business purpose is to support and enhance liquidity and price discovery on the Platform. 21D gathers pricing data from third-party liquidity providers, aggregates that external pricing data and, in turn, places bids and offers across the Platform's order books. 21D's trading strategies are designed to provide liquidity around the prevailing market trading price and to offset any purchases or sales simultaneously through third-party liquidity providers. No compensation is provided to 21D for participating on the Platform, although it may earn a spread through its offsetting transactions through third-party liquidity providers by using its capital to perform arbitrage strategies. In keeping with the "Fair Access" requirements set out in applicable securities laws, the Filer does not provide any preferences, priority, benefits, information or special pricing to 21D.
36. The Filer has taken and will take reasonable steps to verify that its liquidity providers are appropriately registered and/or licensed to transact in the Crypto Assets in their home jurisdiction, or that their activities do not require registration in their home jurisdiction, and that they are not in default of securities legislation in the Applicable Jurisdictions.
37. All transactions entered into by clients to buy and sell Crypto Assets are placed with the Platform through the Website or the App. Clients are able to submit buy and sell orders 24 hours a day, 7 days a week.
38. Clients may place buy and sell orders using either the Platform's pro feature (the **Pro Feature**) or express feature (the **Express Feature**).
39. The Pro Feature is comprised of an interface system that allows clients to place and execute limit or market buy and sell orders in units of the applicable Crypto Asset or in Canadian dollars in an order book displaying orders entered by clients of the Platform (the **Order Book**).
40. The Express Feature allows clients to place market buy or sell orders in units of the applicable Crypto Asset or in Canadian dollars after receiving a quote that provides indicative trade terms and fees associated with the prospective order. The orders placed using the Express Feature are filled through the Order Book in substantially the same manner as market orders that are placed using the Pro Feature.
41. In addition to access to the Platform through the Pro Feature and the Express Feature via the Website and the App, the Filer provides access to the API to clients that wish to integrate the API into their own internal interface. API clients have the ability to request information from the order book and view or perform actions (e.g., bid, offer, cancel, etc.) in a method desired by the API client. The API client has no preferential access to information or order priority. Clients seeking access to the API are required to complete a questionnaire (the **API User Questionnaire**). The API User Questionnaire asks prospective API clients to discuss their level of sophistication, planned trading strategies, experience with API tech algo strategies and understanding of the Prohibited Uses. The Filer will only provide access to the API if a client's responses to the API User Questionnaire demonstrate a sufficient level of sophistication and experience.
42. The Filer also offers over-the-counter (**OTC**) trading services. The OTC trading services offered by the Filer allow clients to place orders "off Platform" through one of the Filer's designated representatives. The OTC trading services provides

clients with more liquidity sources and a personalized service and are intended to primarily service institutions and high net-worth individuals.

43. The Filer uses technology to facilitate the determination of whether entering into a Crypto Contract is suitable for a client before accepting an instruction from that client to enter into the Crypto Contract.
44. Each transaction a client undertakes that results from the matching of orders on the Platform, or from its use of the OTC trading services described in representation 42 results in a bilateral contract between the client and the Filer.
45. An internal ledger records all of the transactions executed via the Platform. In order for a client to place an order, their account must be pre-funded with the applicable asset (fiat currency or Crypto Asset). When a client's order is matched through the Platform's with another client's order, the internal ledger is updated in real-time. Because all assets are already verified as being available from both the buyer and the seller prior to order entry, all Crypto Contracts are settled as between the Filer and each of the buyer and seller when matching takes place. There is no obligation for buyers and sellers to settle bilaterally.
46. The Platform is an "open loop" system. Clients are permitted to deposit Crypto Assets acquired outside the Platform into their accounts with the Filer. Crypto Assets deposited will be promptly delivered to the custodian to be held for the benefit of the client. Clients also have the right to obtain delivery of Crypto Assets to which they have an interest in pursuant to their Crypto Contracts with the Filer by requesting that the Filer deliver the Crypto Assets to the Client.
47. Clients can transfer fiat currency to or withdraw fiat currency from their account by Interac e-transfer, electronic funds transfer or bank wire.
48. The Filer is compensated through trading fees, deposit and withdrawal fees on deposits and withdrawals of fiat currency and withdrawal fees on withdrawals of Crypto Assets at rates disclosed on the Platform and incorporated by reference into the Platform's Terms and Conditions.
49. The Filer does not, and will not extend margin, credit or otherwise offer leverage to clients, and will not offer derivatives based on Crypto Assets, other than Crypto Contracts, to clients.
50. The Filer will send electronic trade confirmations and monthly statements setting out the details of their transaction history in their account with the Filer. Clients will also be able to view records of all of their transactions (i.e., trades, deposits and withdrawals of both cash and Crypto Assets) which are continuously available to them via the Platform and may be downloaded by them at anytime.
51. In order to manage the risks associated with potential instances of abusive trading on the Platform, the Filer will, among other things:
 - (a) publish information about how trading works and what is expected of clients on its website;
 - (b) review and analyze trades on a post-trade, daily basis to test that the technology performed as expected and that trades or trading patterns that might reasonably be related to incidents of non-compliance with securities legislation in any jurisdiction of Canada or the Platform's Terms and Conditions (which include prohibitions on fraud, market manipulation, and activity that mimics illegal insider trading, tipping and recommending, and frontrunning – collectively, the **Trading Requirements**) are escalated for action to the chief compliance officer (**CCO**) and, where deemed advisable, to the ultimate designated person (**UDP**);
 - (c) maintain effective controls, including:
 - (i) conducting investigations to determine whether a trade or trading pattern breached the Trading Requirements or the Platform's Terms and Conditions,
 - (ii) escalating non-compliant trading activity to the CCO, the UDP, the Filer's board of directors and the applicable securities regulatory authority, as appropriate,
 - (iii) ensuring that the UDP and CCO perform a quarterly review of (A) the Filer's trading supervision activities, (B) the Filer's conflict of interest tracking and reporting mechanism and (C) the Filer's complaints tracking and reporting mechanism to test that the Filer's policies and procedures are effective to test that its policies and procedures are effective and make recommendations on improvements, as necessary,
 - (iv) providing quarterly and annual reports to the Principal Regulator in a matter satisfactory to the Principal Regulator (A) summarizing the activities and findings in the period of the Filer's trading compliance program and (B) assessing the effectiveness of the Filer's trading compliance program,

- (v) prior to the terms and conditions expiring, prepare new processes to operate under the marketplace regulation that will replace the terms and conditions, as applicable, and
 - (vi) tracking, reviewing and taking appropriate action in the context of complaints and reports from clients of potential instances of abusive trading on the Platform; and
 - (d) terminate all or a portion of a client's access should they breach the Platform's Terms and Conditions, including by violating applicable securities laws, as described in representation 26(c)(vii).
52. The Filer offers full depth of book visibility insofar as its order-entry systems make available order and trade information in real-time and electronically to all clients simultaneously. The same order and trade information available to clients through the Pro Feature interface is also made accessible to non-clients concurrently through the Website.
53. The Filer:
- (a) has effective information technology controls, including (without limitation) controls for systems operations, security, problem management, network support and systems software support;
 - (b) has effective security controls to prevent, detect and respond to security threats and cyber-attack on its systems that support distribution, trading and settlement services;
 - (c) has effective business continuity and disaster recovery plans;
 - (d) in accordance with prudent business practice, and on a reasonably frequent basis (at least annually) it:
 - (i) makes reasonable current and future systems capacity estimates,
 - (ii) conducts capacity stress tests to determine the ability of its order entry and execution systems to process transactions in an accurate, timely and efficient manner,
 - (iii) tests its business continuity and disaster recovery plans, and
 - (iv) reviews system vulnerability and its cloud-hosted environment to mitigate internal and external cyber threats; and
 - (e) continuously monitors and maintains internal controls over its systems.
54. The Filer has policies, procedures, and internal controls covering operational risk, custody risk and liquidity risk.
55. The Filer has filed with the Principal Regulator completed exhibits to the Form 21-101F2 – *Information Statement Alternative Trading System* for each of the following:
- (a) Exhibit E – Operations of the Marketplace;
 - (b) Exhibit F – Outsourcing;
 - (c) Exhibit G – Systems and Contingency Planning;
 - (d) Exhibit H – Custody of Assets;
 - (e) Exhibit I – Securities;
 - (f) Exhibit J – Access to Services; and
 - (g) Exhibit L – Fees.
56. The Filer has established written standards for access to the Platform and related services, and will establish, maintain and ensure compliance with policies and procedures to ensure participants are onboarded to the Platform and related services in accordance with those written standards.
57. The Filer has established price and volume thresholds as necessary in order to ensure trading on the Platform does not interfere with fair and orderly markets, which include limits on the ability to place large market orders via the Express Feature and automated warnings sent to clients attempting to place large market orders or limit orders outside market context via the Pro Feature. The Filer maintains and ensures compliance with appropriate policies and procedures governing the cancellation of trades on the Platform and situations in which it may vary or correct a trade, including in relation to trades where the Filer or its affiliate acting as principal was a counterparty to the trade.

58. The Filer has established and maintains and ensures compliance with policies and procedures that identify and address material conflicts of interest arising from the operation of the Platform and the related services it provides, including conflicts between the interests of its owners, its commercial interests and the responsibilities and sound functioning of the Platform and related services.
59. The policies and procedures identified in representation 58 also address conflicts of interest that arise from the trading activities on the Platform of the Filer or its affiliates, including 21D, as principal. These policies and procedures include the establishment of controls to mitigate the conflict in a way that is fair and does not conflict with the interest of the client, one of the controls being an appropriate level of disclosure of these specific conflicts to clients against whom the Filer or its affiliates may trade, and the circumstances in which they may arise.
60. The Filer keeps books, records and other documents to accurately record its business activities, financial affairs and client transactions and to demonstrate the extent of the firm's compliance with applicable requirements of securities legislation including, but not limited to:
- (a) records of all investors granted or denied access to the Platform;
 - (b) daily trading summaries of all Crypto Assets traded, with transaction volumes and values; and
 - (c) records of all orders and trades, including the price, volume, times when the orders are entered, matched, cancelled or rejected and the identifier of the client that entered the order or that was counterparty to the trade.

Custody of Crypto Assets

61. The Filer has established accounting practices, internal controls and safekeeping and segregation procedures intended to protect clients' assets.
62. The Filer holds Crypto Assets for the benefit of clients separate and apart from its own assets and from the assets of any custodial service provider. The Filer is not permitted to pledge, re-hypothecate or otherwise use any Crypto Assets owned by its clients.
63. The Filer has and will retain the services of third-party custodians to hold not less than 80% of the total value of Crypto Assets held on behalf of clients. As of the date hereof, a third-party custodian, BitGo Trust Company, Inc. (**BitGo**), acts as the custodian of the Crypto Assets underlying the Crypto Contracts traded through the Platform via "cold storage". Up to 20% of the Filer's total client Crypto Assets may be held online in "hot wallets".
64. BitGo is licensed as a trust company with the South Dakota Division of Banking. BitGo is a foreign custodian, as defined in section 1.1 of NI 31-103.
65. BitGo has completed a Service Organization Controls (**SOC**) report under the SOC 1 – Type 1 standards from a leading global audit firm. The Filer has conducted due diligence on BitGo, including reviewing a copy of the SOC 1 – Type 1 audit report prepared by the Custodian's auditors, and has not identified any material concerns. The Filer has also reviewed the SOC 2 – Type 2 audit report prepared by BitGo Inc.'s auditors regarding BitGo Inc.'s multi-signature wallet services system (i.e., hot wallets), and have not identified any material concerns. BitGo has advised the Filer that it relies on technology licensed from BitGo Inc., which technology was audited pursuant to the SOC 2 – Type 2 audit report prepared by BitGo Inc.'s auditors.
66. BitGo maintains US\$100 million of insurance for Crypto Assets held in BitGo's cold storage system. The coverage covers losses of assets held by BitGo on behalf of its customers due to third-party hacks, copying or theft of private keys, insider theft or dishonest acts by BitGo employees or executives and loss of keys. The Filer has assessed BitGo's insurance policy and has determined, based on information that is publicly available and on information provided by BitGo and considering the scope of BitGo's business, that the amount of insurance is appropriate.
67. BitGo holds all Crypto Assets in omnibus accounts in the name of the Filer, separate and distinct from the assets of the Filer, the Filer's affiliates and all of BitGo's other clients.
68. BitGo has established and applies policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian.
69. The Filer has assessed the risks and benefits of using BitGo and, has determined that in comparison to a Canadian custodian (as that term is defined in NI 31-103) it is more beneficial to use BitGo, a U.S. custodian, to hold client assets than using a Canadian custodian. The Filer has established, and will maintain and apply, policies and procedures that are reasonably designed to ensure BitGo's records related to Crypto Assets that BitGo holds for clients of the Filer are accurate and complete.

70. The Filer will maintain its own hot wallets to hold limited amounts of Crypto Assets that will be used to facilitate client deposit and withdrawal requests. The Filer does so through the hot wallet services offered by BitGo Inc.
71. Where the Filer holds Crypto Assets for operational purposes, it does so separate and distinct from the assets held for its clients.
72. The Filer is proficient and experienced in holding Crypto Assets and has established and applied policies and procedures that manage and mitigate custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets. The Filer also maintains appropriate policies and procedures related to IT security, cyber-resilience, disaster recovery capabilities, and business continuity plans.
73. The Filer has licensed software from Digital Assets Services Limited (operating as Coincover) (**Coincover**) to provide additional security for keys to Crypto Assets held by the Filer, including key pair creation, key pair storage, device access recovery and account access recovery. Coincover is based in the United Kingdom and is regulated by the U.K. Financial Conduct Authority.
74. In respect of Crypto Assets held in its hot wallets, the Filer has obtained a guarantee through Coincover and will supplement the guarantee by setting aside cash that will be held in an account at a Canadian financial institution, separate from the Filer's operational accounts and the Filer's client accounts, in an amount agreed upon with its Principal Regulator. Depending on the circumstances, either funds from the guarantee or the bank account would be available in the event of loss of Crypto Assets held in the Filer's hot wallet.

Clearing Agency

75. The Filer will not operate a "clearing agency" or "clearing house".

Decision

The Principal Regulator is satisfied that the Decision satisfies the test set out in the Legislation for the Principal Regulator to make the Decision and each Coordinated Review Decision Maker is satisfied that the Decision in respect of the Trade Reporting Relief and the Marketplace Relief, as applicable, satisfies the tests set out in the securities legislation of its jurisdiction for the Coordinated Review Decision Maker to make the Decision in respect of the Trade Reporting Relief and the Marketplace Relief, as applicable.

The Decision of the Principal Regulator under the Legislation is that the Requested Relief is granted, and the Decision of each Coordinated Review Decision Maker under the securities legislation in its jurisdiction is that the Trade Reporting Relief and the Marketplace Relief, as applicable, is granted, provided that:

Dealer Activities

- I. Unless otherwise exempted by a further decision of the Principal Regulator, the Filer complies with all of the terms, conditions, restrictions and requirements applicable to a registered dealer under securities legislation, including the Legislation, and any other terms, conditions, restrictions or requirements imposed by a securities regulatory authority or regulator on the Filer.
- II. The Filer is registered as a restricted dealer or investment dealer in the Jurisdiction and the jurisdiction in which the client is resident.
- III. The Filer will only engage in business activities governed by securities legislation as described in the representations above. The Filer will seek the appropriate approvals from the Principal Regulator and, if required under securities legislation, the regulator or securities regulatory authority of any other Applicable Jurisdiction, prior to undertaking any other business activity governed by securities legislation.
- IV. At all times, the Filer will hold not less than 80% of the total value of all Crypto Assets held on behalf of clients with a custodian that meets the definition of a qualified custodian under NI 31-103, unless the Filer has obtained the prior written approval of the Principal Regulator to hold a different percentage with a qualified custodian.
- V. Before the Filer holds Crypto Assets with a custodian referred to in condition IV, the Filer will take reasonable steps to verify that the custodian:
 - (a) has appropriate insurance to cover the loss of Crypto Assets held at the custodian,
 - (b) has established and applies written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian, and

- (c) has obtained a SOC 2 - Type 2 report within the last 12 months, unless the Filer has obtained the prior written approval of the Principal Regulator to alternatively verify that the custodian has obtained a SOC 1 - Type 1 or Type 2 report or a SOC 2 - Type 1 report within the last 12 months.
- VI. The Filer will promptly notify the Principal Regulator if the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the Financial Industry Regulatory Authority, the National Futures Association, the Division of Banking of the State of South Dakota, or the New York State Department of Financial Services make a determination that the Filer's custodian is not permitted by that regulatory authority to hold client Crypto Assets.
- VII. For the Crypto Assets held by the Filer, the Filer:
 - (a) will hold the Crypto Assets for its clients separate and distinct from the assets of the Filer;
 - (b) will ensure there is appropriate insurance for the loss of Crypto Assets held by the Filer; and
 - (c) will have established and apply written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian.
- VIII. When the Filer trades with its clients on a principal basis in its capacity as a dealer, the Filer will provide fair and reasonable prices to its clients.
- IX. Before each prospective client opens an account, the Filer will deliver to the client a Risk Statement and will require the client to provide electronic acknowledgement of having received, read and understood the Risk Statement.
- X. For clients with pre-existing accounts with the Filer at the time of this Decision, the Filer will:
 - (a) within three months of the time of this Decision, require such pre-existing clients to provide the information necessary for the Filer to satisfy its obligations under securities law to verify the identity of the client and to conduct a trade-by-trade suitability assessment for the client; and
 - (b) deliver to the client a Risk Statement and will require the client to provide electronic acknowledgement of having received, read and understood the revised Risk Statement at the earlier of (i) before placing their next trade or deposit of Crypto Assets on the Platform and (ii) the next time they log in to their account with the Filer.
- XI. The Risk Statement delivered as set out in conditions IX and X to new clients or clients with pre-existing accounts on the date of this Decision will be prominent and separate from other disclosures given to the client at the time the Risk Statement is delivered, and the acknowledgement will be separate from other acknowledgements given by the client at that time.
- XII. A copy of the Risk Statement acknowledged by a client will be made available to the client in the same place as the client's other statements on the Website and in the App.
- XIII. Before a client enters into a Crypto Contract to buy a Crypto Asset, the Filer will provide instructions for the client to read the Crypto Asset Statement for the Crypto Asset, which will include a link to the Crypto Asset Statement on the Website or the App and the information set out in representation 32.
- XIV. The Filer will promptly update the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts and/or Crypto Asset, and,
 - (a) in the event of any update to the Risk Statement, will promptly notify each existing client of the update and deliver to them a copy of the updated Risk Statement; and
 - (b) in the event of any update to a Crypto Asset Statement, will promptly notify clients through in-App and website disclosures, with links provided to the updated Crypto Asset Statement.
- XV. Prior to the Filer delivering a Risk Statement to a client, the Filer will deliver, or will have previously delivered, a copy of the Risk Statement delivered to the client to the Principal Regulator.
- XVI. The Filer will monitor client activity, and contact clients to discuss their trading behaviour if it indicates a lack of knowledge or understanding of Crypto Asset trading, in an effort to identify and deter behaviours that may indicate that trading a Crypto Contract is not appropriate for the client, or that additional education is required.
- XVII. The Filer will ensure that the maximum amount of Crypto Assets, excluding Specified Crypto Assets, that a client, except those clients that are residents of Alberta, British Columbia, Manitoba and Québec, may enter into Crypto Contracts to

purchase and sell on the Platform (calculated on a net basis and in an amount not less than \$0) in the preceding 12 months:

- (a) in the case of a client that is not an Eligible Crypto Investor, does not exceed a net acquisition cost of \$30,000;
- (b) in the case of a client that is an Eligible Crypto Investor, but is not an Accredited Crypto Investor, does not exceed a net acquisition cost of \$100,000; and
- (c) in the case of an Accredited Crypto Investor, is not limited.

XVIII. In the jurisdictions where the Prospectus Relief is required, the first trade of a Crypto Contract is deemed to be a distribution under securities legislation of that jurisdiction.

XIX. The Filer will provide the Principal Regulator with at least 10 days' prior written notice of any:

- (a) change of or use of a new custodian; and
- (b) material changes to the Filer's ownership, its business operations, including its systems, or its business model.

XX. The Filer will provide at least 45 days advance notice to the Principal Regulator for any material changes to the Form 21-101F2 information filed as described in representation 55, except in relation to changes to Exhibit L – Fees, in which case the Filer will provide at least 15 days advance notice.

XXI. The Filer will notify the Principal Regulator, promptly, of any material breach or failure of its custodian's system of controls or supervision, and what steps have been taken by the Filer to address each such breach or failure. The loss of any amount of Crypto Assets will be considered a material breach or failure.

XXII. Further to condition XXI, the Filer will promptly notify the Principal Regulator of any material systems failure, malfunction, delay or security breach of the systems or controls relating to the operation of the marketplace functions.

XXIII. The Filer will only trade Crypto Contracts based on Crypto Assets that are not in and of themselves securities or derivatives.

XXIV. The Filer will evaluate Crypto Assets as set out in representations 16 to 20.

XXV. The Filer will not trade Crypto Assets or Crypto Contracts based on Crypto Assets with a client in a Jurisdiction, without the prior written consent of the regulator or securities regulatory authority of the Jurisdiction, where the Crypto Asset was issued by or on behalf of a person or company that is or has in the last five years been the subject of an order, judgment, decree, sanction, fine or administrative penalty imposed by, or has entered into a settlement agreement with, a government or government agency, administrative agency, self-regulatory organization, administrative tribunal or court in Canada or in a Specified Foreign Jurisdiction in relation to a claim based in whole or in part on fraud, theft, deceit, aiding and abetting or otherwise facilitating criminal activity, misrepresentation, violation of AML laws, conspiracy, breach of trust, breach of fiduciary duty, insider trading, market manipulation, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar or analogous conduct.

XXVI. Except to allow clients to liquidate their positions in those Crypto Contracts or transfer such Crypto Assets to a blockchain address specified by the client, the Filer will promptly stop trading Crypto Contracts where the underlying is a Crypto Asset if (i) the Filer determines it to be, (ii) a court, regulator or securities regulatory authority in any jurisdiction of Canada or the foreign jurisdiction with which the Crypto Asset has the most significant connection determines it to be or (iii) the Filer is made aware or is informed that the Crypto Asset is viewed by a regulator or securities regulatory authority to be, a security and/or a derivative.

Financial Viability

XXVII. The Filer will maintain sufficient financial resources for the proper operation of the marketplace and for its performance of its marketplace functions in furtherance of its compliance with these terms and conditions.

XXVIII. The Filer will notify the principal regulator immediately upon becoming aware that the Filer does not or may not have sufficient financial resources in accordance with the requirements of condition XXVII.

Data Reporting

XXIX. The Filer will provide the following information to the Principal Regulator and to the securities regulatory authority or regulator in each of the Non-Principal Jurisdictions with respect to clients in those jurisdictions individually, within 30 days of the end of each March, June, September and December:

- (a) aggregate reporting of activity conducted pursuant to Crypto Contracts that will include the following:
 - (i) number of client accounts opened each month in the quarter,
 - (ii) number of client accounts closed each month in the quarter,
 - (iii) number of client accounts rejected each month in the quarter,
 - (iv) number of trades in each month in the quarter,
 - (v) number of client directed trades each month in the quarter,
 - (vi) average value of the trades in each month in the quarter,
 - (vii) number of client accounts with a net acquisition cost greater than \$30,000 of Crypto Assets at the end of each month in the quarter,
 - (viii) number of client accounts with no trades during the quarter,
 - (ix) number of client accounts that have not been funded at the end of each month in the quarter, and
 - (x) number of client accounts that hold a positive amount of Crypto Assets at the end of each month in the quarter;
- (b) the details of any client complaints received by the Filer during the calendar quarter and how such complaints were addressed;
- (c) the details of any fraudulent activity or cybersecurity incidents on the Platform during the calendar quarter, any resulting harms and effects on clients, and the corrective measures taken by the Filer to remediate such activity or incident and prevent similar activities or incidents from occurring in the future;
- (d) the amount of crypto assets held in hot storage as of the end of the quarter
- (e) the amount of the guarantee described in paragraph 72 as of the end of the quarter; and
- (f) the name of the financial institution and the amount of money held at the end of the quarter in an account with the financial institution, separate from the Filer's operational accounts and Filer's client accounts, to supplement any insurance policy or guarantee relating to the Filer's hot wallets.

Trade Reporting Data

- XXX. The Filer will deliver to the regulator or the securities regulatory authority in each of the Applicable Jurisdictions, in a form and format acceptable to the regulator or the securities regulatory authority, a report that includes the following anonymized account-level data for activity conducted pursuant to a Crypto Contract for each client within 30 days of the end of each March, June, September and December:
- (a) unique account number and unique client identifier, as applicable;
 - (b) jurisdiction where the client is located;
 - (c) the date the account was opened;
 - (d) the amount of fiat held at the beginning of the reporting period and at the end of the reporting period;
 - (e) cumulative realized gains/losses since account opening in CAD;
 - (f) unrealized gains/losses as of the report end date in CAD;
 - (g) quantity traded, deposited and withdrawn by Crypto Asset during the quarter in number of units;
 - (h) Crypto Asset traded by the client;
 - (i) quantity held of each Crypto Asset by the client as of the report end date in units;
 - (j) CAD equivalent aggregate value for each Crypto Asset traded by the client, calculated as the amount in (i) multiplied by the market price of the asset in (h) as of the report end date;

- (k) age of account in months.
- XXXI. Until such time as the Filer can deliver annual financial statements in accordance with subsection 12.10(2) of NI 31-103, the Filer will deliver annual unaudited financial statements of the Filer and the annual audited financial statements of FLC for each financial year to the Principal Regulator as soon as they are available.
- XXXII. The Filer will deliver to the regulator or the securities regulatory authority in each of the Applicable Jurisdictions, in a form and format acceptable to the regulator or the securities regulatory authority, a report that includes the following aggregated quarterly information relating to trading activity on the Platform within 30 days of the end of each March, June, September and December:
- (a) total number of trades and total traded value on a by pair basis, with each such reported value further broken out by the proportion of trades and traded value that were a result of trades between two clients compared to trades between a client and the Filer or affiliate of the Filer.
 - (b) total number of executed client orders and total value of executed client orders on a by pair basis, with each such reported value further broken out by the proportion of executed market orders compared to executed limit orders.
- XXXIII. The Filer will provide to the Principal Regulator quarterly summary statistics on its trade monitoring and complaint handling activities in relation to the Platform, including the following:
- (a) the number of instances of improper trading activity identified, by category, and the proportion of each such category that arose from client complaints/reports;
 - (b) the number of instances in (a) that were further investigated or reviewed, by category;
 - (c) the number of investigations in (b), by category, that were closed with no action;
 - (d) a summary of each investigation in (c) that was escalated for action to be taken, including a description of the action taken in each case; and
 - (e) a summary of the status of any open investigations.
- XXXIV. The Filer will deliver to the Principal Regulator, within 30 days of the end of each March, June, September and December, either:
- (a) blackline copies of changes made to the policies and procedures on the operations of its wallets (including, but not limited to, establishment of wallets, transfer of Crypto Assets into and out of the wallets and authorizations to access the wallets) previously delivered to the Principal Regulator; or
 - (b) a nil report stating no changes have been made to its policies and procedures on the operations of its wallets in the quarter.
- XXXV. In addition to any other reporting required by Legislation, the Filer will provide, on a timely basis, any report, data, document or information to the Principal Regulator, including any information about the Filer's custodian(s) and the Crypto Assets held by the Filer's custodian(s) that may be requested by the Principal Regulator from time to time as reasonably necessary for the purpose of monitoring compliance with the Legislation and the conditions in the Decision, in a format acceptable to the Principal Regulator.
- XXXVI. Upon request, the Filer will provide the Principal Regulator and the securities regulators or securities regulatory authorities of each of the Non-Principal Jurisdictions with aggregated and/or anonymized data concerning client demographics and activity on the Platform that may be useful to advance the development of the Canadian regulatory framework for trading crypto assets.

Marketplace Activities – Fair Access

- XXXVII. The Filer will not unreasonably prohibit, condition or limit access to the Platform and related services.
- XXXVIII. The Filer will not permit unreasonable discrimination among clients of the Platform.

Marketplace Activities – Market Integrity

- XXXIX. The Filer will take reasonable steps to ensure its operations do not interfere with fair and orderly markets in relation to the Platform.

Decisions, Orders and Rulings

- XL. The Filer will not provide access to the Platform unless it has the ability to terminate all or a portion of a client's access, if required.
- XLI. The Filer will maintain accurate records of all of its trade monitoring and complaint handling activities in relation to the Platform, and of the reasons for actions taken or not taken. The Filer will make such records available to the Principal Regulator upon request.
- XLII. The Filer must monitor each client's compliance with restrictions relating to its use of the Platform, including complying with the Trading Requirements and applicable securities laws (any violation of these requirements, a Prohibited Use) and report breaches of securities law, as appropriate, to the applicable securities regulatory authority or regulator.

Marketplace Activities – Conflicts of Interest

- XLIII. The Filer will annually review compliance with the policies and procedures that identify and manage conflicts of interest described in representations 58 and 59 and will document in each review any deficiencies that were identified and how those deficiencies were remedied.

Marketplace Activities – Transparency of Operations and of Order and Trade Information

- XLIV. The Filer will publicly disclose information reasonably necessary to enable a person or company to understand the marketplace operations or services, including at a minimum:
- (a) access criteria, including how access is granted, denied, suspended or terminated and whether there are differences between clients in access and trading;
 - (b) risks related to operation and trading on the Platform, including loss and cyber risk;
 - (c) hours of trading;
 - (d) all fees and any compensation provided to the Filer or its affiliate, including foreign exchange rates, spreads, etc.;
 - (e) how orders are entered, handled and interact including:
 - (i) the circumstances where orders trade with the Filer or an affiliate acting as principal or a liquidity provider, including any compensation provided, and
 - (ii) where entered onto the Order Book, the types of orders, how orders interact, are matched and are executed;
 - (f) policies and procedures relating to error trades, cancellations, modifications and dispute resolution;
 - (g) a list of all crypto assets and products available for trading on the Platform, along with associated Crypto Asset Statements;
 - (h) conflicts of interest and the policies and procedures to manage them;
 - (i) process for payment and settlement of transactions;
 - (j) how the Filer safeguards client assets, including the extent to which the Platform self- custodies client assets, along with the identity of any third-party custodians relied on by the platform to hold client assets;
 - (k) access arrangements with third-party services providers, if any; and
 - (l) rules governing trading, including prevention of manipulation and other market abuse.
- XLV. For orders and trades entered to and executed on the Platform, the Filer will make available to clients of the Platform an appropriate level of information regarding those orders and trades in real-time to facilitate clients' investment and trading decisions, as described in representation 52.
- XLVI. The Filer will make publicly available on its website, on a timely basis, an appropriate level of information about trades that have occurred on the Platform, as described in representation 52.

Marketplace Activities – Confidentiality

- XLVII. The Filer will not release a client's order or trade information to a person or company, other than the client, a securities regulatory authority or a regulation services provider unless:

- (a) the client has consented in writing to the release of the information;
- (b) the release is made under applicable law; or
- (c) the information has been publicly disclosed by another person or company and the disclosure was lawful.

Clearing Agency

XLVIII. The Filer will not operate a “clearing agency” or “clearing house” as the terms are defined or referred to in securities or commodities futures legislation. For any clearing or settlement activity conducted by the Filer incidental to the Filer engaging in the business of a Crypto Asset dealer and marketplace, the Filer will:

- (a) maintain adequate procedures and processes to ensure the provision of accurate and reliable settlement services in connection with Crypto Assets; and
- (b) maintain appropriate risk management policies and procedures and internal controls to minimize the risk that settlement will not take place as expected.

Marketplace Activities – Time-Limited Relief

XLIX. The Filer will disclose to clients that the Filer has been registered as a restricted dealer in the Applicable Jurisdictions subject to specified terms and conditions that are the subject of a specific order and as such may not be subject to all requirements otherwise applicable to an investment dealer and IIROC member, including those that apply to marketplaces and to trading on marketplaces.

Changes to and Expiration of Decision

- L. The Filer will promptly make any changes to its business practices or policies and procedures that may be required to address investor protection concerns that may be identified by the Filer or by the Principal Regulator arising from the operation of the Platform.
- LI. The Filer will, if it intends to operate the platform in Ontario and Québec after the expiry of the Decision, take the following steps:
 - (a) submit an application to the OSC and the Autorité des marchés financiers (**AMF**), to become registered as an investment dealer no later than 12 months after the date of the Decision;
 - (b) submit an application with IIROC to become a dealer member no later than 12 months after the date of the Decision; and
 - (c) work actively and diligently with the OSC, the AMF and IIROC to transition the Platform to investment dealer registration and obtain IIROC membership.
- LII. This Decision shall expire on the date that is two years from the date of this Decision.
- LIII. This Decision may be amended by the Principal Regulator upon prior written notice to the Filer in accordance with applicable securities legislation.

DATED this 30th day of November, 2021.

In respect of the Prospectus Relief,

“Wendy Berman”
Vice Chair
Ontario Securities Commission

“Lawrence P. Haber”
Commissioner
Ontario Securities Commission

In respect of the Requested Relief other than the Prospectus Relief,

“Susan Greenglass”
Director, Market Regulation
Ontario Securities Commission

APPENDIX A

LOCAL TRADE REPORTING RULES AND MARKETPLACE RULES

In this Decision,

- a) the “Local Trade Reporting Rules” collectively means each of the following:
- (1) Part 3, Data Reporting of Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting (**OSC Rule 91-507**);
 - (2) Part 3, Data Reporting of Manitoba Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting (**MSC Rule 91-507**); and
 - (3) Part 3, Data Reporting of Multilateral Instrument 96-101 Trade Repositories and Derivatives Data Reporting in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan, and Yukon (**MI 96-101**); and
- b) the “Marketplace Rules” collectively means each of the following:
- (1) National Instrument 21-101 – *Marketplace Operation* (**NI 21-101**) in whole;
 - (2) National Instrument 23-101 – *Trading Rules* (**NI 23-101**) in whole; and
 - (3) National Instrument 23-103 – *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**) in whole

APPENDIX B

LIST OF SPECIFIED CRYPTO ASSETS

- Bitcoin
- Ether
- Bitcoin Cash
- Litecoin

2.1.10 CI Private Counsel LP et al.

Headnote

Application for relief for individual already registered from registration in Ontario and/or Québec – relief granted in relation to the operation of a charitable program – relief granted subject to certain conditions set out in the decision.

Applicable Legislative Provisions

Statute cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(1), 25 and 74.

Instrument, Rule or Policy cited

Multilateral Instrument 11-102 Passport System, s. 4.7.

November 29, 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
CI PRIVATE COUNSEL LP
CIBC ASSET MANAGEMENT INC.
CIBC INVESTOR SERVICES INC.
CIBC WORLD MARKETS INC.
ASSANTE FINANCIAL MANAGEMENT LTD.
ASSANTE CAPITAL MANAGEMENT LTD.
(the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that certain of the Filers' registered individuals, who are specified on a list maintained by the Filers and available upon request to the principal regulator, be exempt from the requirement to be registered in Ontario, Québec or both in connection with the trading of securities for, or the provision of advice about securities to, Benefaction Foundation (**Benefaction**), a not-for-profit charitable corporation registered as a foundation under the *Income Tax Act* (Canada) that is resident in and operating out of Ontario and Québec (the **Exemption Sought**) and operates a charitable giving program offered by Filers to the Filers' clients.

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

- (a) the Ontario Securities Commission (the **Commission**) is the principal regulator for this application, and
- (b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 Passport System (**MI 11-102**) is intended to be relied upon in Québec.

Representations of the Filers

The Filers

- 1. CI Private Counsel LP is a limited partnership subsisting under the laws of the Province of Manitoba. CI Private Counsel LP is registered as an adviser in the category of portfolio manager and as a dealer in the category of exempt market dealer in each jurisdiction of Canada. The principal business of CI Private Counsel LP is discretionary portfolio management and wealth management advisory services, and on occasion the firm may trade in securities under an

exemption from the prospectus exemption. Subject to paragraph 7 below, CI Private Counsel LP is not in default of securities legislation in any jurisdiction of Canada.

2. CIBC Asset Management Inc. is a corporation established under the laws of Canada and is a wholly-owned subsidiary of The Canadian Imperial Bank of Commerce. CIBC Asset Management Inc. is registered as a portfolio manager in all of the Canadian jurisdictions, an investment fund manager in Ontario, Québec and Newfoundland and Labrador, a derivatives portfolio manager in Québec, and a commodity trading manager in Ontario. CIBC Asset Management Inc.'s registration as a portfolio manager also covers services provided to individuals and families by CIBC Private Investment Counsel (a division of CIBC Asset Management Inc.) or under the CIBC Private Wealth Management banner. Subject to paragraph 7 below, CIBC Asset Management Inc. is not in default of securities legislation in any jurisdiction of Canada.
3. CIBC Investor Services Inc. is a corporation incorporated pursuant to the laws of Canada and is a wholly-owned subsidiary of The Canadian Imperial Bank of Commerce. CIBC Investor Services Inc. is a member of IIROC and is registered in as an investment dealer in each jurisdiction of Canada and as a derivatives dealer in Québec. CIBC Investor Services Inc. provides investment accounts with on-line access combined with the availability of obtaining advice from a CIBC advisor. Subject to paragraph 7 below, CIBC Investor Services Inc. is not in default of securities legislation in any jurisdiction of Canada.
4. CIBC World Markets Inc. is a corporation incorporated pursuant to the laws of Ontario and it is the investment banking and full-service retail brokerage subsidiary of The Canadian Imperial Bank of Commerce. CIBC World Markets Inc. is a member of IIROC and is registered in each jurisdiction of Canada as an investment dealer, in Ontario and Manitoba as a futures commission merchant, and in Québec as a derivatives dealer. Subject to paragraph 7 below, CIBC World Markets Inc. is not in default of securities legislation in any jurisdiction of Canada.
5. Assante Financial Management Ltd. is a corporation incorporated pursuant to the laws of Ontario that operates primarily as a mutual fund dealer. Assante Financial Management Ltd. is a subsidiary of Assante Wealth Management (Canada) Ltd., which itself is a subsidiary of CII Investments Inc. Assante Financial Management Ltd. is an MFDA member and is registered as a mutual fund dealer and exempt market dealer in each jurisdiction of Canada. Assante Financial Management Ltd. offers its clients mutual funds, guaranteed investment certificates ("GICs") and government bonds. Subject to paragraph 7 below, Assante Financial Management Ltd. is not in default of securities legislation in any jurisdiction of Canada.
6. Assante Capital Management Ltd. is a corporation incorporated pursuant to the laws of Canada. Assante Capital Management Ltd. is a subsidiary of Assante Wealth Management (Canada) Ltd., which itself is a subsidiary of CII Investments Inc. Assante Capital Management Ltd. is a member of IIROC and is registered in each jurisdiction of Canada as an investment dealer. Assante Capital Management Ltd. offers its clients public-equity securities, bonds, mutual funds, GICs and other securities that are available on a prospectus-exempt, private placement basis. Subject to paragraph 7 below, Assante Capital Management Ltd. is not in default of securities legislation in any jurisdiction of Canada.
7. Through inadvertence, a small number of Representatives (as such term is defined at paragraph 9 below) who have been providing services to Benefaction from time-to-time have not been registered in Ontario and/or Québec.

Benefaction Foundation Program

8. The Filers have partnered with Benefaction, a registered charitable public foundation specializing in "donor-advised funds". Benefaction was registered as a charitable public foundation by the Canada Revenue Agency on May 22, 2008 and exists under the *Canada Not-for-profit Corporations Act*. Benefaction's mission is to encourage philanthropy by helping Canadians maximize charitable giving while minimizing tax burdens. It is governed by a Board of Directors currently comprised of 4 members, and it currently has three executives, a Chief Executive Officer, Chief Investment Officer and Vice-President, Growth Initiatives. Currently, charitable assets held by Benefaction total approximately \$200 million.
9. Clients of the Filers are informed by their dealing representative or advising representative (the **Representative**) about the program which allows them to establish donor-advised funds (the **Program**). Information about the Program is also provided to clients in writing at the time they are informed about the Program and is always available online via Benefaction's website.
10. From time-to-time, a client of the Filers (the **Donor**) may choose to pursue specific philanthropic and tax objectives through a donor-advised fund offered by Benefaction.
11. The Donor is provided with an agreement between the Donor and Benefaction (the **Donor Agreement**) which the Donor must sign.
12. The Representative for the Donor opens a new account for Benefaction (the **Account**). Benefaction is now the client of the Representative and the Filer who sponsors the Representative.

13. The Donor makes a charitable donation to Benefaction, primarily in the form of cash or publicly listed securities. The Donor signs a Letter of Authorization for the Representative to transfer the Donor's donated property into the Account. This donation is irrevocable. A welcome kit is sent to the Donor after the Account is opened and funded.
14. The Donor receives a donation receipt from Benefaction for the donation made which the Donor can use to apply for a tax credit at tax filing time.
15. The Donor continues to work with the Representative who manages the Account for Benefaction.
16. The Donor Agreement entitles the Donor to make annual grant recommendations to Benefaction on the disbursement of grants from the Account to the Donor's chosen charities.
17. Donors may also make subsequent donations to Benefaction under the Program from time-to-time.
18. Benefaction provides a quarterly report to Donors which: (i) provides account opening and closing balances for the relevant period, and (ii) outlines fund details, including a financial summary over the period and since inception, a list of donation and grant activity over the period, a summary of the fund's grants by charitable sector, and the annual disbursement quota.

Filers' Relationship with Benefaction

19. Benefaction retains the Filers to provide investment management and advisory services to Benefaction with respect to the Accounts, and the Filers retain Benefaction to facilitate and administer the Program for the Donors.
20. Benefaction is responsible for carrying out all management and administrative processes required to operate the Program including accepting donations, opening and maintaining Accounts, directing the investing of the proceeds of each donation in accepted investments including completing and executing any account opening and/or other documents as may be required to open, trade and/or advise in respect to an Account, redeeming investments to pay fees associated with the Program and grant payments, and responding to specific Account questions as well as those related to Benefaction's role and responsibilities.
21. The Filers agree to manage each account opened by Benefaction in accordance with the provisions of the corresponding Donor Agreement.
22. Once the donation is made, Benefaction instructs the Representative to sell the donated assets. The proceeds of the donations are invested in a balanced portfolio or other investments approved by Benefaction, such as a mutual fund or exchange-traded fund. Discretionary accounts are sometimes opened for larger donor advised funds in instances where the Filer is approved in the category of portfolio manager, or by an appropriately licensed sub-adviser with which the Dealer has entered into a written sub-adviser agreement.
23. In regard to the investment of the assets in the Account, the investments must be made in compliance with the "prudent investment principles" set out in the *Income Tax Act* (Canada).
24. Benefaction does not permit a Donor to make decisions on the investment of the assets held in the Account. Unless the Account is a managed account as further detailed below, Benefaction has final authority over all investment decisions in each of the Accounts. After receiving a recommendation from the Representative, Benefaction will make a final decision on the investment for that Account and will send trading instructions to the Representative servicing that Account.
25. Where an Account is a managed account, investment decisions will be made by the Representative responsible for the Account, in accordance with Benefaction's Investment Policy and the investment objectives of the Account pursuant to the portfolio mandate(s) selected by Benefaction.
26. The Filers charge Benefaction the standard fees and charges applicable to such services as it would any other client.

The Representatives

27. In order to facilitate the relationship between the Donors and Benefaction, the Representative responsible for managing the Accounts will be the registered individual of the Filer that has the pre-existing relationship with the Donor. However, Benefaction has the ability to select another Representative to manage the Account.
28. Benefaction has senior representatives located in both Ontario and Quebec. The firm's Chief Executive Officer and founder resides in Quebec. The firm's Chief Investment Officer resides in Ontario. Each of the Chief Executive Officer or the Chief Investment Officer can authorize investment decisions and trades for Benefaction Accounts.
29. Each of the Filers' Representatives will be registered in the Donor's jurisdiction of residence. However, certain Representative may not be registered in Ontario, in Québec, or both if the Representative does not have any clients resident in Ontario or in Québec.

30. Absent the Exemption Sought, any Representative would be required to be appropriately registered in Ontario or in Québec in order to conduct registrable activities on behalf of an Account.
31. The Filers submit that the Exemption Sought would not be prejudicial to the public interest because:
- the arrangement between the Donor, Benefaction, and the Filers is to allow for the engagement of the Donor in a fund established by the Donor for their charitable giving while Benefaction manages and administers the requirements for the Donor's charitable fund under the *Income Tax Act* (Canada);
 - Benefaction is required to manage the Account assets in compliance with prudent investment principles under the *Income Tax Act* (Canada);
 - each of the Filers will be registered in both Ontario and Québec; and
 - the Exemption Sought is limited to certain Representatives who are not registered in Ontario, in Québec or both to trade in securities for, or provide advice about securities to, Benefaction, but the Representative relying on the relief granted will be registered in one or more provinces and territories of Canada, including in the appropriate category in the jurisdiction where the Donor is resident.

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:

- Benefaction is a charitable public foundation under the *Income Tax Act* (Canada) that operates a charitable giving program focused on "donor advised funds";
- Benefaction is a "permitted client" as defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;
- each Filer offers the Program to its clients;
- each Filer is registered in both Ontario and Québec;
- each Representative is trading for or advising Benefaction in relation to an Account that was established under the Program from the donation of a Donor, and the Donor makes annual grant recommendations to Benefaction on the disbursement of grants from the Account to the Donor's chosen charities;
- each Representative that trades for or advises Benefaction is registered in one or more provinces or territories in Canada, including in the appropriate category in the jurisdiction to trade for or advise the Donor;
- each Filer will maintain and keep up-to-date a list of Representatives that are not registered in Ontario and/or Québec and for whom Benefaction is a client;
- each Filer will provide the list of Representatives referred to in condition (g) to the principal regulator within 10 days of any such request;
- each Representative that is not registered in Ontario does not solicit, trade for or advise any client that is resident in Ontario (other than Benefaction);
- each Representative that is not registered in Québec does not solicit, trade for or advise any client that is resident in Québec (other than Benefaction);
- each Filer will disclose all fees, expenses and commissions related to the Program in writing to every Donor by the applicable Filer or the applicable Representative prior to the Donor making a donation to Benefaction; and
- Benefaction provides a quarterly report to its Donors which: (i) provides account opening and closing balances for the relevant period, and (ii) outlines fund details, including a financial summary over the period and since inception, a list of donation and grant activity over the period, a summary of the fund's grants by charitable sector, and the annual disbursement quota.

"Wendy Berman"
Vice Chair
Ontario Securities Commission

"Tim Moseley"
Vice Chair
Ontario Securities Commission

OSC File #: 2020/0279

2.2 Orders

2.2.1 Ontario Instrument 52-502 Exemption from National Instrument 52-112 Non-GAAP and Other Financial Measures Disclosure (Interim Class Order)

Ontario Securities Commission

Ontario Instrument 52-502

***Exemption from
National Instrument 52-112 Non-GAAP and Other Financial Measures Disclosure
(Interim Class Order)***

The Ontario Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that effective December 2, 2021, Ontario Instrument 52-502 entitled "Exemption from National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure* (Interim Class Order)" is made.

December 2, 2021

"Grant Vingoe"

Chair

Ontario Securities Commission

"Timothy Moseley"

Vice-Chair

Ontario Securities Commission

Authority under which the order is made:

Act and section: *Securities Act*, subsection 143.11(2)

Ontario Securities Commission

Ontario Instrument 52-502

**Exemption from
National Instrument 52-112 Non-GAAP and Other Financial Measures Disclosure
(Interim Class Order)
(the Order)**

Interpretation

1. In this Order:

“**Act**” means the *Securities Act*, RSO 1990, c S.5;

“**Bank Act**” means the *Bank Act*, SC 1991, c 46;

“**eligible issuer**” means a reporting issuer that is, or that has a subsidiary or an affiliate that is, a federal financial institution subject to OSFI Guidelines;

“**federal financial institution**” has the same meaning as in the Bank Act;

“**OSFI**” means the Office of the Superintendent of Financial Institutions of the Government of Canada;

“**OSFI Guideline**” means any guideline or advisory guidance of OSFI that includes “best” or “prudent” practices that OSFI expects a federal financial institution to follow, clarifies OSFI’s position regarding certain policy issues applicable to the federal financial institution or describes how OSFI administers and interprets provisions of the Bank Act or other applicable federal financial institution legislation;

2. Terms defined in the Act, National Instrument 14-101 *Definitions* and National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure* (the **Instrument**) have the same meaning if used in this Order, unless otherwise defined.

Background

3. Under paragraph 4(1)(e) of the Instrument, an exception to the application of the Instrument is provided to issuers, in respect of disclosure of a specified financial measure that is required under law, or by an SRO of which the issuer is a member, if
- (i) the law or the SRO’s requirement specifies the composition of the measure and the measure was determined in compliance with that law or requirement, and
 - (ii) in proximity to the measure, the issuer discloses the law or the SRO’s requirement under which the measure is disclosed.
4. The OSFI Guidelines are used to set expectations to govern industry activities and behaviour. Although OSFI supervises their implementation and expects compliance, the OSFI Guidelines are not laws and as such, an issuer that is, or that has a subsidiary or an affiliate that is, subject to and complies with the OSFI Guidelines is unable to rely on the exception in paragraph 4(1)(e) of the Instrument.
5. The Commission is satisfied that because the OSFI Guidelines include specifications on the composition of certain financial measures that would include certain specified financial measures and contain specific disclosure requirements related to those measures, eligible issuers already provide sufficient disclosure. Providing an exemption from the Instrument to eligible issuers will minimize the regulatory burden on those issuers while maintaining market integrity and without impacting investor protection.

Class Orders under the Securities Act

6. Under subsection 143.11(2) of the Act, if the Commission considers that it would not be prejudicial to the public interest to do so, the Commission may, on application by an interested person or company or on its own initiative, make an order exempting a class of persons or companies, trades, intended trades, securities or derivatives from any requirement of Ontario securities law on such terms or conditions as may be set out in the order, effective for a period of no longer than 18 months after the day on which it comes into force unless extended pursuant to paragraph (b) of subsection 143.11(3) of the Act.
7. The Commission is satisfied that it would not be prejudicial to the public interest to provide, on an interim basis, the exemption set out below.

Exemption from the Instrument

8. Consequently, this Order provides for the temporary exemption listed below.
9. The Instrument does not apply to an eligible issuer in respect of disclosure of a specified financial measure pursuant to an OSFI Guideline, if
 - (a) the OSFI Guideline specifies the composition of the measure and the measure was determined in compliance with that OSFI Guideline, and
 - (b) in proximity to the measure, the eligible issuer discloses the OSFI Guideline under which the measure is disclosed.

Effective Date and Term

10. This Order comes into effect on December 2, 2021, and will cease to be effective on the earlier of the following:
 - (a) June 2, 2023
 - (b) the effective date of any amendment to the Instrument that includes the addition of an exception to the application of the Instrument based on disclosure of a specified financial measure pursuant to an OSFI Guideline.

2.2.2 Abitibi Royalties Inc.

Headnote

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

Applicable Legislative Provisions

Securities Act, CQLR, c. V-1.1, s. 69.

DECISION N° 2021-IC0035
File N°: 32911

November 22, 2021

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

AND

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

AND

**IN THE MATTER OF
ABITIBI ROYALTIES INC.
(the Filer)**

ORDER

Background

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

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

- (a) the Autorité des marchés financiers is the principal regulator for this application,
- (b) the Filer has provided notice that subsection 4C.5(1) of *Regulation 11-102 respecting Passport System* (Regulation 11-102) is intended to be relied upon in Alberta and British Columbia;
- (c) this order is the order of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

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

Representations

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

1. the Filer is not an OTC reporting issuer under *Regulation 51-105 respecting Issuers Quoted in the U.S. Over-the-Counter Markets*;
2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in *Regulation 21-101 respecting Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and
5. the Filer is not in default of securities legislation in any jurisdiction.

Order

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

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

"Marie-Claude Brunet-Ladrie"
Director, Continuous Disclosure

OSC File #: 2021/0658

2.2.3 Sean Daley and Kevin Wilkerson

File No. 2019-39

IN THE MATTER OF
SEAN DALEY AND
KEVIN WILKERSON

M. Cecilia Williams, Commissioner and Chair of the Panel

November 24, 2021

ORDER

WHEREAS on November 23, 2021, the Ontario Securities Commission held a hearing by teleconference;

ON HEARING the submissions of the representatives for Staff of the Commission and Sean Daley, and no one appearing on behalf of Kevin Wilkerson, although properly served (collectively, the **Respondents**);

IT IS ORDERED THAT:

1. Staff shall serve and file written submissions on sanctions and costs by 4:30 p.m. on January 7, 2022;
2. the Respondents shall serve and file written submissions on sanctions and costs by 4:30 p.m. on February 4, 2022;
3. Staff shall serve and file written reply submissions on sanctions and costs, if any, by 4:30 p.m. on February 17, 2022; and
4. the hearing with respect to sanctions and costs is scheduled for March 3, 2022 at 10:00 a.m., by videoconference, or on such other date and time as may be agreed to by the parties and set by the Office of the Secretary.

"M. Cecilia Williams"

2.2.4 Strike Holdings Inc. et al. – ss. 127(8), 127(1)

File No. 2021-13

IN THE MATTER OF
STRIKE HOLDINGS INC.,
KM STRIKE MANAGEMENT INC.,
MICHAEL AONSO AND
KEVIN CARMICHAEL

Lawrence P. Haber, Commissioner and Chair of the Panel

November 25, 2021

ORDER

(Subsections 127(8) and 127(1) of
the *Securities Act*, RSO 1990 c S.5)

WHEREAS on November 25, 2021, the Ontario Securities Commission held a hearing by videoconference to consider a motion by Staff of the Commission (**Staff**) to further extend a temporary order dated April 21, 2021, and extended on May 3, 2021 and May 31, 2021 (the **Temporary Order**), against Strike Holdings Inc., KM Strike Management Inc., Michael Aonso and Kevin Carmichael (together, the **Respondents**);

ON READING the materials filed by Staff and hearing the submissions of the representative of Staff, no one appearing on behalf of the Respondents, although properly served, and on considering that the Respondents consent or are not opposed to an extension of the Temporary Order;

IT IS ORDERED THAT:

1. pursuant to subsection 127(8) and paragraph 2 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**), all trading in any securities by the Respondents shall cease until June 2, 2022;
2. pursuant to subsection 127(8) and paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to the Respondents until June 2, 2022; and
3. notwithstanding paragraph 1 above, the Respondent, Michael Aonso, shall be permitted to trade securities in any registered retirement savings plan (as defined in the *Income Tax Act*, RSC, 1985, c 1 (5th Supp)) in which he has sole legal and beneficial ownership, provided that such trading is carried out through a registered dealer in Canada to whom he has given a copy of this Order.

"Lawrence P. Haber"

2.2.5 Trevor Rosborough et al.

File No. 2020-33

**IN THE MATTER OF
TREVOR ROSBOROUGH,
TAYLOR CARR AND
DMITRI GRAHAM**

Timothy Moseley, Vice-Chair and Chair of the Panel
Frances Kordyback, Commissioner
Cathy Singer, Commissioner

November 26, 2021

ORDER

WHEREAS the Ontario Securities Commission held a hearing in writing to consider a request from Dmitri Graham for an extension of time to serve and file his written closing submissions for the merits hearing in this proceeding, previously set by order of the Commission dated November 12, 2021;

ON READING Graham's request, and on considering that Staff does not oppose this request;

IT IS ORDERED THAT the parties shall adhere to the following timeline for the delivery of outstanding written submissions:

- a. by 4:30 p.m. on December 31, 2021, Graham shall serve and file his written closing submissions, if any; and
- b. by 4:30 p.m. on January 10, 2022, Staff shall serve and file its written reply closing submissions, if any.

"Timothy Moseley"

"Frances Kordyback"

"Cathy Singer"

2.2.6 Fidelity Investments Canada ULC and FIL Limited – s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) – Relief from the adviser registration requirement of paragraph 22(1)(b) of the CFA granted to a sub-adviser headquartered in a foreign jurisdiction in respect of advice regarding trades in commodity futures contracts and commodity futures options, subject to certain terms and conditions – Relief mirrors exemption available in section 8.26.1 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations made under the Securities Act (Ontario) – Relief is subject to a sunset clause.

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, s. 8.26.1.

Ontario Securities Commission Rule 35-502 Non-Resident Advisers, s. 7.11.

Ontario Securities Commission Rule 13-502 Fees.

Applicable Orders

In the Matter of Fidelity Investments Canada ULC et al., (2016), 39 OSCB 9841.

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

AND

**IN THE MATTER OF
FIDELITY INVESTMENTS CANADA ULC**

AND

FIL LIMITED

ORDER

(Section 80 of the CFA)

UPON the application (the **Application**) of Fidelity Investments Canada ULC (**Fidelity** or the **Principal Adviser**) and FIL Limited (**FIL** or the **Sub-Adviser**) to the Ontario Securities Commission (the **Commission**) for an order, pursuant to section 80 of the CFA, that the Sub-Adviser (and individuals engaging in, or holding themselves out as engaging in, the business of advising others when acting on behalf of the Sub-Adviser in respect of the Sub-Advisory Services (as defined below) (the **Representatives**)) be exempt, for a specified period of time, from the adviser registration requirements in paragraph 22(1)(b) of the CFA when acting as a sub-adviser for the Principal Adviser in respect of the Clients (as defined below) regarding commodity futures contracts and commodity futures options (the **Contracts**) traded on commodity futures exchanges and cleared through clearing corporations;

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

AND UPON the Principal Adviser and the Sub-Adviser having represented to the Commission that:

1. Fidelity was incorporated under the laws of Canada and has subsequently continued under the laws of Alberta. Fidelity is resident in Canada, with a head office in Toronto, Ontario.
2. Fidelity is registered as a mutual fund dealer and portfolio manager under the relevant securities legislation of each of the provinces and territories of Canada. Fidelity is also registered as an adviser in the category of commodity trading manager under the CFA. Further, Fidelity is registered as an investment fund manager under the relevant securities legislation of the provinces of Ontario, Québec and Newfoundland and Labrador.
3. FIL is a corporation organized under the laws of Bermuda and is resident in Bermuda. FIL is registered with the Bermuda Monetary Authority. FIL engages in the business of an adviser in respect of Contracts in Bermuda. FIL is registered in a category of registration, or operates under an exemption from registration under the commodity futures or other applicable legislation of Bermuda that permits it to carry on the activities in that jurisdiction that registration as an adviser under the CFA would permit it to carry on in Ontario. As such, it is authorized and permitted to carry on the Sub-Advisory Services.
4. The Sub-Adviser is not registered in any capacity under the CFA or the *Securities Act* (Ontario) (OSA). The Sub-Adviser acts in reliance on the exemption from the requirement to register as an adviser under the OSA available to it pursuant to section 8.26.1 of NI 31-103.
5. The Principal Adviser and the Sub-Adviser are not in default of securities legislation, commodity futures legislation or derivatives legislation in any jurisdiction of Canada. The Sub-Adviser is in compliance in all material respects with securities laws, commodity futures laws and derivatives laws in Bermuda.
6. The Principal Adviser provides, or may in the future provide, investment advice and/or discretionary portfolio management services in Ontario to (i) investment funds, the securities of which are qualified by prospectus for distribution to the public in Ontario and the other provinces and territories of Canada (the **Investment Funds**); (ii) pooled funds, the securities of which are sold on a private placement basis in Ontario and certain other provinces and territories of Canada pursuant to prospectus exemptions contained in National Instrument 45-106 *Prospectus Exemptions* (the **Pooled Funds**); (iii) clients who have entered into investment management agreements with the

Principal Adviser to establish managed accounts (the **Managed Account Clients**); and (iv) other Investment Funds, Pooled Funds and Managed Account Clients that may be established or retained in the future and in respect of which the Principal Adviser engages the Sub-Adviser to provide portfolio advisory services (the **Future Clients**) (each of the Investment Funds, Pooled Funds, Managed Account Clients and Future Clients being referred to individually as a **Client** and collectively as the **Clients**).

7. Certain of the Clients may, as part of their investment program, invest in Contracts. The Principal Adviser acts as a commodity trading manager in respect of such Clients.
8. In connection with the Principal Adviser acting as an adviser to Clients in respect of the purchase or sale of securities and Contracts, the Principal Adviser, pursuant to a written agreement made between the Principal Adviser and the Sub-Adviser, has retained the Sub-Adviser to act as a sub-adviser to the Principal Adviser in respect of securities and Contracts in which the Sub-Adviser has experience and expertise by exercising discretionary authority on behalf of the Principal Adviser, in respect of all or a portion of the assets of the investment portfolio of the respective Client, including discretionary authority to buy or sell Contracts for the Client (the **Sub-Advisory Services**), provided that:
 - (a) in each case, the Contracts must be cleared through an "acceptable clearing corporation" (as defined in National Instrument 81-102 *Investment Funds*, or any successor thereto (**NI 81-102**)) or a clearing corporation that clears and settles transactions made on a futures exchange listed in Appendix A of NI 81-102, or any successor thereto; and
 - (b) such investments are consistent with the investment objectives and strategies of the applicable Client.
9. 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.
10. By providing the Sub-Advisory Services, the Sub-Adviser will be engaging in, or holding itself out as engaging in, the business of advising others with respect to Contracts and, in the absence of being granted the requested relief, would be required to register as an adviser under the CFA.
11. There is presently no rule or regulation under the CFA, nor interim class order, that provides an exemption from the adviser registration

- requirement in paragraph 22(1)(b) of the CFA that is similar to the exemption from the adviser registration requirement in subsection 25(3) of the OSA which is provided under section 8.26.1 of NI 31-103 and that is applicable to the Adviser.
12. The relationship among the Principal Adviser, the Sub-Adviser and any Client is consistent with the requirements of section 8.26.1 of NI 31-103.
 13. The Sub-Adviser will only provide the Sub-Advisory Services as long as the Principal Adviser is, and remains, registered under the CFA as an adviser in the category of commodity trading manager.
 14. As would be required under section 8.26.1 of NI 31-103:
 - (a) the obligations and duties of the Sub-Adviser are set out in a written agreement with the Principal Adviser; and
 - (b) the Principal Adviser has entered into a written contract with each Client, agreeing to be responsible for any loss that arises out of the failure of the Sub-Adviser:
 - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Principal Adviser and each Client; or
 - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances (together with (i), the **Assumed Obligations**).
 15. The written agreement between the Principal Adviser and the Sub-Adviser sets out the obligations and duties of each party in connection with the Sub-Advisory Services and permits the Principal Adviser to exercise the degree of supervision and control it is required to exercise over the Sub-Adviser in respect of the Sub-Advisory Services.
 16. The Principal Adviser will deliver to the Clients all required reports and statements under applicable securities, commodity futures and derivatives legislation.
 17. The prospectus or other offering document, if any, (in either case, the **Offering Document**) for each Client that is an Investment Fund or a Pooled Fund and for which the Principal Adviser engages the Sub-Adviser to provide the Sub-Advisory Services will include the following disclosure (the **Required Disclosure**):
 - (a) a statement that the Principal Adviser is responsible for any loss that arises out of
- the failure of the Sub-Adviser to meet the Assumed Obligations; and
- (b) a statement that there may be difficulty in enforcing any legal rights against the Sub-Adviser (or any of its Representatives) because the Sub-Adviser is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.
18. Prior to purchasing any securities of one or more of the Clients that are Investment Funds or Pooled Funds directly from the Principal Adviser, all investors in the Investment Funds or Pooled Funds who are Ontario residents will receive, or have received, the Required Disclosure in writing (which may be in the form of an Offering Document).
 19. Each Client that is a Managed Account Client for which the Principal Adviser engages the Sub-Adviser to provide the Sub-Advisory Services will receive, or has received, the Required Disclosure in writing prior to the purchasing of any Contracts for such Client.
- Previous Order*
20. On November 29, 2016, the Commission granted FIL, FMR Investment Management (UK) Limited (**FMR IM**), and Geode Capital Management LLC (**Geode** and, together with FIL and FMR IM, the **Previous Sub-Advisers**) an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA in respect of Sub-Advisory Services provided to and Fidelity and FIAM LLC (**FIAM** and, together with Fidelity, the **Previous Principal Advisers**) (the **Previous Order**). The Previous Order was granted for a period of five years.
 21. The need for the relief requested is triggered by the impending expiration of the Previous Order. Except for FIL, the Previous Sub-Advisers no longer require exemptive relief as they can now rely on the exemption under Ontario Instrument 32-507 (Commodity Futures Act) *Exemptions for International Dealers, Advisers and Sub-Advisers (Interim Class Order)*.
 22. The Principal Adviser and the Sub-Adviser have complied with, and are currently in compliance with, all of the terms and conditions of the Previous Order.
- AND UPON** being satisfied that it would not be prejudicial to the public interest for the Commission to grant the relief requested;
- IT IS ORDERED**, pursuant to subsection 78(1) of the CFA, that the Previous Order is revoked;
- AND IT IS FURTHER ORDERED**, pursuant to section 80 of the CFA, that the Sub-Adviser and its Representatives are exempt from the adviser registration

requirements in paragraph 22(1)(b) of the CFA when acting as a sub-adviser to the Principal Adviser in respect of the Sub-Advisory Services provided that at the time that such activities are engaged in:

- (a) the Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager;
- (b) the Sub-Adviser's head office or principal place of business is in a jurisdiction outside of Canada;
- (c) the Sub-Adviser is registered in a category of registration, or operates under an exemption from registration, under the commodity futures or other applicable legislation of the jurisdiction outside of Canada in which its head office or principal place of business is located, that permits it to carry on the activities in that jurisdiction that registration as an adviser under the CFA would permit it to carry on in Ontario;
- (d) the Sub-Adviser engages in the business of an adviser in respect of Contracts in the jurisdiction outside of Canada in which its head office or principal place of business is located;
- (e) the obligations and duties of the Sub-Adviser are set out in a written agreement with the Principal Adviser;
- (f) the Principal Adviser has entered into a written agreement with each Client, agreeing to be responsible for any loss that arises out of any failure of the Sub-Adviser to meet the Assumed Obligations;
- (g) the Offering Document of each Client that is an Investment Fund or Pooled Fund for which the Principal Adviser engages the Sub-Adviser to provide the Sub-Advisory Services will include the Required Disclosure;
- (h) prior to purchasing any securities of one or more of the Clients that are Investment Funds or Pooled Funds directly from the Principal Adviser, all investors in the Investment Funds or Pooled Funds who are Ontario residents will receive, or have received, the Required Disclosure in writing; and
- (i) each Client that is a Managed Account Client for which the Principal Adviser engages the Sub-Adviser to provide the Sub-Advisory Services will receive, or has received, the Required Disclosure in writing prior to the purchasing of any Contracts for such Client; 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 Sub-Adviser to act as a sub-adviser to the Principal Adviser in respect of the Sub-Advisory Services; and
- (c) five years after the date of this Order.

DATED at Toronto, Ontario, this **26th** day of **November, 2021**.

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

"Cecilia Williams"
Commissioner
Ontario Securities Commission

OSC File #: 2020/0433

2.2.7 Richardson Wealth Limited and Richardson Wealth (USA) Limited – ss. 74(1), 144(1)

Headnote

Application for an order pursuant to section 74 of the Securities Act (Ontario) that a registered U.S. investment adviser, affiliated with an Ontario registered investment dealer, be exempted, subject to certain conditions, from requirements of subsection 25(3) of the Act in respect of advice provided by its representatives in respect of the U.S. tax-advantaged retirement savings, education or disability savings plans of clients formerly resident in the U.S.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25, 74 and 144.

**IN THE MATTER OF
THE SECURITIES ACT,
RSO 1990, C S.5, AS AMENDED
(THE ACT)**

AND

**IN THE MATTER OF
RICHARDSON WEALTH LIMITED AND
RICHARDSON WEALTH (USA) LIMITED**

**ORDER
(SUBSECTION 74(1) AND SUBSECTION 144(1) OF THE ACT)**

WHEREAS the Ontario Securities Commission (the “**Commission**”) has received a renewal application from Richardson Wealth Limited (“**RWL Canada**”), previously known as Richardson GMP Limited, and Richardson Wealth (USA) Limited (“**RWL USA**”), previously known as Richardson GMP (USA) Limited (RWL USA, together with RWL Canada, the “**Filers**”) for an order pursuant to subsection 74(1) of the Act for the Requested Exemptive Relief, as defined below.

AND WHEREAS the Filers seek an order, pursuant to subsection 74(1) of the Act, exempting RWL USA, and those of its individual representatives who are also registered under the Act as dealing representatives and approved by the Investment Industry Regulatory Organization of Canada (“**IIROC**”) in the category of portfolio management of RWL Canada (the “**Dual Representatives**”), from the adviser registration requirement in subsection 25(3) of the Act in respect of advice provided by the Dual Representatives, acting on behalf of RWL USA, to an individual (the “**Ex-U.S. Client**”) if the advice is in respect of the Ex-U.S. Client’s tax-advantaged retirement savings, education savings, or disability savings plan (the “**U.S. Plan**”), and (i) the U.S. Plan is located in the United States of America (the “**U.S.**”), (ii) the Ex-U.S. Client is a holder of or contributor to the U.S. Plan, and (iii) the Ex-U.S. Client was previously resident in the U.S. and is now resident in Ontario (the “**Requested Exemptive Relief**”).

AND WHEREAS the Filers seek an order, pursuant to subsection 144(1) of the Act, revoking the Ontario Order (defined below).

AND WHEREAS terms defined in National Instrument 14-101 – *Definitions* have the same meaning if used in this Application, unless otherwise defined.

AND WHEREAS the Filers having represented to the Commission that:

1. On December 2, 2016, the Commission issued an order (the “**Ontario Order**”) that granted to the Filers relief that is similar to the Requested Exemptive Relief for a period of five years.
2. The Filers have complied with, and are currently in compliance with, all of the terms and conditions of the Ontario Order.
3. RWL Canada is a wholly owned subsidiary of RF Capital Group Inc. (“**RF Capital**”) incorporated under the federal laws of Canada. RF Capital is a public company and has its shares traded on the Toronto Stock Exchange. In addition to RWL Canada, RF Capital wholly owns RF Securities Clearing LP and CQI Capital Management L.P. Its head office is located in Toronto, Ontario.
4. RWL Canada carries on business in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan, and the Yukon (collectively, the “**Jurisdictions**”), with offices located in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Prince Edward Island, Saskatchewan and Québec.
5. RWL Canada provides wealth management services to residents of Canada, including financial planning, wills and estates planning, tax planning, insurance planning, and brokerage services.

6. RWL Canada is registered as an investment dealer in each of the Jurisdictions, and as a derivatives dealer in Québec. RWL Canada is also a dealer member of IIROC.
7. RWL Canada is not in default of securities, commodity futures, or derivatives legislation in any Jurisdiction.
8. RWL Canada does not trade, or provide advice with respect to the trading, in securities to, with, or on behalf of clients that are resident in the U.S. ("**U.S. Clients**"), other than in respect of Canadian-domiciled retirement savings plans, registered retirement savings plans, registered retirement income funds, education savings, or disability savings plans (collectively, "**Canadian RSPs**") held by U.S. Clients who were formerly resident in Canada and who have moved to the U.S. with Canadian RSPs. RWL Canada conducts this activity pursuant to an exemption from registration in the U.S.
9. RWL Canada does not carry on the business of a registered broker-dealer or registered investment adviser in the U.S. and therefore is not, and is not required to be, registered under U.S. securities law.
10. RWL USA is a wholly-owned subsidiary of RWL Canada incorporated under the federal laws of Canada. Its head office is located in Toronto, Ontario.
11. RWL USA has no physical presence in the U.S., but carries on business out of the same offices as RWL Canada in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Prince Edward Island, Saskatchewan and Québec.
12. The only physical presence or office that RWL USA has, or will have, in any Jurisdiction, are the premises that it shares with RWL Canada.
13. RWL USA provides wealth management services to U.S. Clients in reliance upon OSC Rule 32-505 – *Conditional Exemption from Registration for United States Broker-Dealers and Advisors Servicing U.S. Clients from Ontario*, including financial planning, wills and estates planning, tax planning, insurance planning, and brokerage services.
14. RWL USA is registered with the U.S. Securities and Exchange Commission (the "**SEC**") as an investment adviser under the Investment Advisers Act of 1940 (United States) (the "**1940 Act**").
15. RWL USA, and the Dual Representatives acting on its behalf, are in compliance with any applicable adviser licensing or registration requirements under applicable U.S. securities law.
16. RWL USA is not in default of securities, commodity futures, or derivatives legislation in any Jurisdiction or U.S. securities law.
17. RWL USA is not registered under the securities, commodity futures, or derivatives legislation of any Jurisdiction.
18. RWL USA has engaged Pershing Advisor Solutions LLC ("**Pershing Advisor Solutions**"), a Delaware limited liability company, to provide for its clients' prime brokerage services directly or through its affiliate, Pershing LLC ("**Pershing**"), a Delaware limited liability company.
19. Pershing Advisor Solutions is registered with the SEC as a broker-dealer and is a member of the Financial Industry Regulatory Authority ("**FINRA**"). Pershing is registered with the SEC as a broker-dealer and is a member of FINRA and the New York Stock Exchange.
20. Each Dual Representative acts on behalf of both Filers from the Filers' joint office in the Jurisdiction in which the Dual Representative is resident.
21. Each Dual Representative is registered as a dealing representative of RWL Canada, and approved by IIROC for portfolio management, in one or more of the Jurisdictions.
22. None of the Dual Representatives are in default of securities, commodity futures, or derivatives legislation in any Jurisdiction or U.S. securities law.
23. Each Dual Representative, when acting on behalf of RWL Canada, only trades to, with, or on behalf of, or advises clients of RWL Canada resident in the Jurisdiction(s) where he or she is registered as a dealing representative and U.S. Clients formerly resident in Canada in respect of their Canadian RSPs.
24. RWL USA, and each Dual Representative when acting on behalf of RWL USA, advise Ex-U.S. Clients and U.S. Clients.
25. RWL USA, and each Dual Representative when acting on behalf of RWL USA, advise Ex-U.S. Clients pursuant to the Ontario Order, and desire to continue to advise Ex-U.S. Clients pursuant to the Requested Exemptive Relief with respect to the trading of securities in their U.S. Plans despite the residency of such Ex-U.S. Clients in Ontario.

26. The advice that RWL USA provides pursuant to the Ontario Order, and will provide to Ex-U.S. Clients pursuant to the Requested Exemptive Relief, will be ancillary to RWL USA's principal business of advising U.S. Clients. RWL USA expects that the amount of revenue derived from Ex-U.S. Clients will not exceed 10% of its total revenue.
27. The Dual Representatives have the requisite proficiency, education, and experience to provide advice to Ex-U.S. Clients with respect to the trading of securities in their U.S. Plans.
28. Neither RWL USA, nor the Dual Representatives on its behalf, will advertise for, or solicit, new clients in Ontario.
29. It is currently intended that Pershing Advisor Solutions and Pershing will continue to provide trading, custody, clearing, and settlement services for all Ex-U.S. Clients of RWL USA in respect of their U.S. Plans pursuant to the exemption from the dealer registration requirement in section 25(1) of the Act (the "**dealer registration requirement**") that is provided in section 8.18 of National Instrument 31-103 – Registration Requirements, Exemptions and Ongoing Registrant Obligations.
30. In any case, the execution of each trade identified or recommended by RWL USA (and each Dual Representative acting on its behalf) for an Ex-U.S. Client resident in Ontario will be conducted by a person that is: (i) registered as a dealer under the Act in a category that would permit the person to execute the trade; or (ii) exempt from the dealer registration requirement for the purposes of the trade.
31. When providing advice to Ex-U.S. Clients with respect to the trading of securities in their U.S. Plans pursuant to the Requested Exemptive Relief, RWL USA, and the Dual Representatives acting on its behalf, will comply with U.S. securities law.
32. All Ex-U.S. Clients of RWL USA will have entered into, or will enter into, customer agreements and associated account opening documentation with RWL USA. All communications with Ex-U.S. Clients pursuant to the Requested Exemptive Relief will be through RWL USA, and the Dual Representatives acting on its behalf, and will be under RWL USA branding.
33. To avoid client confusion, all Ex-U.S. Clients of RWL USA will have received, or will receive, disclosure that explains the relationship between RWL USA and RWL Canada.
34. As a market participant, each of the Filers will keep, pursuant to subsection 19(1) of the Act: (i) such books, records, and other documents as are necessary for the proper recording of its business transactions and financial affairs, and the transactions that it executes on behalf of others; and (ii) such books, records, and documents as may otherwise be required under the Act.
35. RWL USA confirms that there are not currently any regulatory actions of the type contemplated by the Notice of Regulatory Action attached as Appendix A hereto in respect of RWL USA, or any predecessors or specified affiliates of RWL USA.

AND WHEREAS section 74 of the Act provides that the Commission may, upon the application of an interested person or company, make a ruling that a person or company is not subject to section 25 of the Act, subject to such terms and conditions as the Commission considers necessary, where the Commission is satisfied that to do so would not be prejudicial to the public interest;

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest for the Commission to grant the Requested Exemptive Relief on the basis of the terms and conditions proposed;

IT IS ORDERED that, pursuant to subsection 74(1) of the Act, the Requested Exemptive Relief is granted, provided that:

- (a) the advice is for an individual who is ordinarily resident in Canada but previously resident in the U.S. if such advice is in respect of the individual's U.S. Plan, and
 - (i) the U.S. Plan is located in the U.S.,
 - (ii) the individual is a holder of or contributor to the U.S. Plan, and
 - (iii) the individual was previously resident in the U.S.;
- (b) the only physical presence or offices that RWL USA has in any jurisdiction of Canada are the premises that it shares with RWL Canada;
- (c) RWL USA does not advertise for or solicit new clients in Ontario;
- (d) RWL USA remains registered as an investment adviser under the 1940 Act;

- (e) RWL Canada remains registered under the Act as an investment dealer and is a dealer member of IIROC;
- (f) RWL USA and each of the Dual Representatives are in compliance with and remain in compliance with any applicable adviser licensing or registration requirements under applicable securities legislation of the U.S.;
- (g) each Dual Representative providing advice on behalf of RWL USA is registered under the Act as a dealing representative in a category that would permit it to advise Ex-U.S. Clients with respect to the trading of securities in their U.S. Plans in compliance with the Act, if the U.S. Plans were instead tax-advantaged retirement savings plan located in Canada;
- (h) RWL USA will have entered into customer agreements and associated account opening documentation with all Ex-U.S. Clients and all communications with Ex-U.S. Clients will be through RWL USA, and the Dual Representatives acting on its behalf, and will be under RWL USA branding;
- (i) RWL USA provides all Ex-U.S. Clients with disclosure that explains the relationship between RWL USA and RWL Canada;
- (j) RWL USA discloses to the Ex-U.S. Clients that it (and the Dual Representatives providing advice on its behalf) is not subject to full regulatory requirements otherwise applicable under the Act;
- (k) RWL USA and the Dual Representatives, in the course of their dealings with Ex-U.S. Clients, act fairly, honestly and in good faith;
- (l) RWL USA notifies the Commission of any regulatory action after the date of this order in respect of the Filer, or any predecessors or specified affiliates of the Filer by completing and filing Appendix A hereto with the Commission within 10 days of the commencement of such action;
- (m) RWL Canada complies with its obligations under applicable securities laws to report actions relating to RWL Canada and its specified affiliates to securities regulators and/or self-regulatory organizations having jurisdiction over RWL Canada;
- (n) the execution of each trade identified or recommended by RWL USA (and each Dual Representative providing the advice on its behalf) for an Ex-U.S. Client resident in Ontario will be conducted by a person registered as a dealer under the Act in a category that would permit them to execute the trade or otherwise exempt them from the dealer registration requirement of the Act for purposes of the trade;
- (o) if the amount of revenue derived from Ex-U.S. Clients exceed 10% of RWL USA's total revenue as at the end of each quarter, then RWL USA will promptly submit a letter to the Commission advising of the same. The letter will refer to this Order and this requirement, and will also provide details with respect to the percentage of the revenue derived from Ex-U.S. Clients and the date on which the revenue exceeded 10% of its total revenue;
- (p) this Order will terminate on the earlier of:
 - (i) five years after the date of this Order; and
 - (ii) the coming into force of a change in Ontario securities law (as defined in the Act) that exempts RWL USA from the registration requirement in the Act in connection with the advice it provides to an Ex-U.S. Client with respect to the U.S. Plan on terms and conditions other than those set out in this Order.

AND WHEREAS section 144 of the Act provides that the Commission may, upon the application of a person or company affected by the decision, make an order revoking or varying a decision of the Commission, if, in the Commission's opinion, the order would not be prejudicial to the public interest;

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

IT IS ORDERED that, pursuant to subsection 144(1) of the Act, the Ontario Order is revoked.

DATED at Toronto this 26th day of **November, 2021**.

"Cecilia Williams"	"Mary Anne De Monte-Whelan"
Ontario Securities Commission	Ontario Securities Commission

OSC File #: 2021/0499

APPENDIX "A"

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 affiliate is the subject?

Yes _____ No _____

If yes, provide the following information for each investigation:

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

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

Witness

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

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

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

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

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
Old API Wind-down Ltd.	November 23, 2021	
Star Navigation Systems Group Ltd.	November 1, 2019	November 24, 2021

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

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

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Expire	Date of Issuer Temporary Order
Performance Sports Group Ltd.	19 October 2016	31 October 2016	31 October 2016		

Company Name	Date of Order	Date of Lapse
Akumin Inc.	August 20, 2021	
Agrios Global Holdings Ltd.	September 17, 2020	
Reservoir Capital Corp.	May 5, 2021	
Helix BioPharma Corp.	November 1, 2021	
KetamineOne Capital Limited	November 2, 2021	
Cronos Group Inc.	November 16, 2021	
NextPoint Financial Inc.	November 16, 2021	

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as in Thomson Reuters Canada's internet service SecuritiesSource (see www.westlawnextcanada.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 11

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:

Horizons Global Metaverse Index ETF
Principal Regulator – Ontario

Type and Date:

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

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3302746

Issuer Name:

Power Sustainable China Ascent Fund
Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus dated Nov 25, 2021
NP 11-202 Preliminary Receipt dated Nov 26, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3307763

Issuer Name:

Fidelity Advantage Bitcoin ETF
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Nov 22, 2021
NP 11-202 Final Receipt dated Nov 23, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3302878

Issuer Name:

DMP Power Global Growth Class
DMP Resource Class
DMP Value Balanced Class
Dynamic Active Core Bond Private Pool
Dynamic Active Credit Strategies Private Pool
Dynamic Advantage Bond Class
Dynamic Advantage Bond Fund
Dynamic Alternative Managed Risk Private Pool Class
(formerly Dynamic Alternative Investments Private Pool Class)
Dynamic Alternative Yield Class
Dynamic Alternative Yield Fund
Dynamic American Class (formerly Dynamic American Value Class)
Dynamic American Fund (formerly Dynamic American Value Fund)
Dynamic Asia Pacific Equity Fund (formerly Dynamic Far East Value Fund)
Dynamic Asset Allocation Private Pool
Dynamic Blue Chip Balanced Fund (formerly Dynamic Focus+ Balanced Fund)
Dynamic Blue Chip Equity Fund (formerly Dynamic Focus+ Equity Fund)
Dynamic Canadian Bond Fund (formerly Dynamic Income Fund)
Dynamic Canadian Dividend Fund
Dynamic Canadian Equity Private Pool Class
Dynamic Canadian Value Class
Dynamic Conservative Yield Private Pool
Dynamic Conservative Yield Private Pool Class
Dynamic Corporate Bond Strategies Class
Dynamic Corporate Bond Strategies Fund
Dynamic Credit Spectrum Fund (formerly Dynamic High Yield Credit Fund)
Dynamic Diversified Real Asset Fund
Dynamic Dividend Advantage Class
Dynamic Dividend Advantage Fund (formerly Dynamic Dividend Value Fund)
Dynamic Dividend Fund
Dynamic Dividend Income Class
Dynamic Dividend Income Fund
Dynamic Dollar-Cost Averaging Fund
Dynamic Emerging Markets Equity Fund
Dynamic Energy Evolution Fund
Dynamic Energy Income Fund (formerly Dynamic Focus+ Energy Income Trust Fund)
Dynamic Equity Income Fund (formerly Dynamic Focus+ Diversified Income Fund)
Dynamic European Equity Fund (formerly Dynamic European Value Fund)
Dynamic Financial Services Fund (formerly Dynamic Focus+ Wealth Management Fund)
Dynamic Global All-Terrain Fund
Dynamic Global Asset Allocation Class

Dynamic Global Asset Allocation Fund (formerly Dynamic Global Value Balanced Fund)
 Dynamic Global Balanced Fund
 Dynamic Global Discovery Class
 Dynamic Global Discovery Fund
 Dynamic Global Dividend Class (formerly Dynamic Global Dividend Value Class)
 Dynamic Global Dividend Fund (formerly Dynamic Global Dividend Value Fund)
 Dynamic Global Equity Fund
 Dynamic Global Equity Income Fund
 Dynamic Global Equity Private Pool Class
 Dynamic Global Infrastructure Class
 Dynamic Global Infrastructure Fund
 Dynamic Global Real Estate Fund (formerly Dynamic Focus+ Real Estate Fund)
 Dynamic Global Strategic Yield Fund
 Dynamic Global Yield Private Pool
 Dynamic Global Yield Private Pool Class
 Dynamic High Yield Bond Fund
 Dynamic International Discovery Fund
 Dynamic International Dividend Private Pool
 Dynamic International Equity Fund (formerly Dynamic Global Value Fund)
 Dynamic Investment Grade Floating Rate Fund
 Dynamic Money Market Class
 Dynamic Money Market Fund
 Dynamic North American Dividend Private Pool
 Dynamic Power American Growth Class
 Dynamic Power American Growth Fund
 Dynamic Power Balanced Fund
 Dynamic Power Canadian Growth Fund
 Dynamic Power Global Balanced Class
 Dynamic Power Global Growth Class
 Dynamic Power Global Growth Fund
 Dynamic Power Global Navigator Class
 Dynamic Power Small Cap Fund
 Dynamic Precious Metals Fund
 Dynamic Preferred Yield Class
 Dynamic Premium Bond Private Pool
 Dynamic Premium Bond Private Pool Class
 Dynamic Premium Yield Class
 Dynamic Premium Yield Fund
 Dynamic Short Term Bond Fund
 Dynamic Small Business Fund (formerly Dynamic Focus+ Small Business Fund)
 Dynamic Strategic Energy Class (formerly Dynamic Global Energy Class)
 Dynamic Strategic Gold Class
 Dynamic Strategic Resource Class
 Dynamic Strategic Yield Class
 Dynamic Strategic Yield Fund
 Dynamic Tactical Bond Private Pool
 Dynamic Total Return Bond Class (formerly Dynamic Aurion Total Return Bond Class)
 Dynamic Total Return Bond Fund (formerly Dynamic Aurion Total Return Bond Fund)
 Dynamic U.S. Balanced Class (formerly Dynamic Blue Chip U.S. Balanced Class)
 Dynamic U.S. Dividend Advantage Fund (formerly Dynamic U.S. Dividend Advantage Class)
 Dynamic U.S. Equity Income Fund
 Dynamic U.S. Equity Private Pool Class

Dynamic U.S. Monthly Income Fund (formerly Dynamic U.S. Value Balanced Fund)
 Dynamic U.S. Sector Focus Class
 Dynamic U.S. Strategic Yield Fund
 Dynamic Value Balanced Class
 Dynamic Value Balanced Fund
 Dynamic Value Fund of Canada
 DynamicEdge Balanced Class Portfolio
 DynamicEdge Balanced Growth Class Portfolio
 DynamicEdge Balanced Growth Portfolio
 DynamicEdge Balanced Income Portfolio (formerly Dynamic Strategic Income Portfolio)
 DynamicEdge Balanced Portfolio
 DynamicEdge Conservative Class Portfolio
 DynamicEdge Defensive Portfolio
 DynamicEdge Equity Class Portfolio
 DynamicEdge Equity Portfolio
 DynamicEdge Growth Class Portfolio
 DynamicEdge Growth Portfolio
 Marquis Balanced Class Portfolio
 Marquis Balanced Growth Class Portfolio
 Marquis Balanced Growth Portfolio
 Marquis Balanced Income Portfolio
 Marquis Balanced Portfolio
 Marquis Equity Portfolio
 Marquis Growth Portfolio
 Marquis Institutional Balanced Growth Portfolio
 Marquis Institutional Balanced Portfolio
 Marquis Institutional Bond Portfolio
 Marquis Institutional Canadian Equity Portfolio
 Marquis Institutional Equity Portfolio
 Marquis Institutional Global Equity Portfolio
 Marquis Institutional Growth Portfolio
 Principal Regulator – Ontario

Type and Date:

Combined Preliminary and Pro Forma Simplified Prospectus dated Nov 23, 2021

NP 11-202 Final Receipt dated Nov 26, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3287695

Issuer Name:

Desjardins SocieTerra American Equity ETF
Principal Regulator – Quebec

Type and Date:

Preliminary Long Form Prospectus dated Nov 25, 2021
NP 11-202 Preliminary Receipt dated Nov 26, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3307785

Issuer Name:

Mackenzie North American Balanced Fund
Mackenzie North American Equity Fund
Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus dated Nov 25, 2021
NP 11-202 Preliminary Receipt dated Nov 25, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3307523

Issuer Name:

Purpose Bitcoin Yield ETF
Purpose Crypto Opportunities ETF
Purpose Ether Yield ETF
Principal Regulator – Ontario

Type and Date:

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

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3289533

Issuer Name:

Mackenzie Betterworld Canadian Equity Fund
Mackenzie Betterworld Global Equity Fund
Mackenzie Canadian Bond Fund
Mackenzie Canadian Growth Balanced Fund
Mackenzie Canadian Growth Fund
Mackenzie Canadian Money Market Fund
Mackenzie Canadian Short Term Income Fund
Mackenzie Corporate Bond Fund
Mackenzie Floating Rate Income Fund
Mackenzie Global Dividend Fund
Mackenzie Global Resource Fund
Mackenzie Global Sustainable Balanced Fund
Mackenzie Global Sustainable Bond Fund
Mackenzie Global Tactical Bond Fund
Mackenzie Global Women's Leadership Fund
Mackenzie Greenchip Global Environmental All Cap Fund
Mackenzie Greenchip Global Environmental Balanced Fund
Mackenzie Income Fund
Mackenzie Ivy Canadian Fund
Mackenzie Ivy International Fund
Mackenzie Monthly Income Balanced Portfolio
Mackenzie Monthly Income Conservative Portfolio
Mackenzie Monthly Income Growth Portfolio
Mackenzie Private Canadian Focused Equity Pool
Mackenzie Private Global Conservative Income Balanced Pool
Mackenzie Private Global Equity Pool
Mackenzie Private Global Fixed Income Pool
Mackenzie Private Global Income Balanced Pool
Mackenzie Private Income Balanced Pool
Mackenzie Private US Equity Pool
Mackenzie Strategic Bond Fund
Mackenzie Strategic Income Fund
Mackenzie Unconstrained Fixed Income Fund
Mackenzie US All Cap Growth Fund
Symmetry Balanced Portfolio
Symmetry Conservative Income Portfolio
Symmetry Conservative Portfolio
Symmetry Fixed Income Portfolio
Symmetry Growth Portfolio
Symmetry Moderate Growth Portfolio
Principal Regulator – Ontario

Type and Date:

Combined Preliminary and Pro Forma Simplified
Prospectus dated Nov 25, 2021
NP 11-202 Final Receipt dated Nov 26, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3286843

Issuer Name:

IG Climate Action Portfolios - Betterworld Canada I
IG Climate Action Portfolios - Betterworld Canada II
IG Climate Action Portfolios - Betterworld Canada III
IG Climate Action Portfolios - Betterworld Canada IV
Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus dated Nov 25, 2021
NP 11-202 Preliminary Receipt dated Nov 26, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3307741

Issuer Name:

Fidelity Advantage Bitcoin ETF Fund
Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus dated Nov 22, 2021
NP 11-202 Final Receipt dated Nov 23, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3302880

Issuer Name:

CST Spark 2041 Education Portfolio
Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus dated Nov 25, 2021
NP 11-202 Preliminary Receipt dated Nov 25, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3307487

Issuer Name:

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

Type and Date:

Preliminary Simplified Prospectus dated Nov 24, 2021
NP 11-202 Preliminary Receipt dated Nov 24, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3306273

Issuer Name:

Lysander TDV Fund
Principal Regulator – Ontario

Type and Date:

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

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3289133

Issuer Name:

Evolve Metaverse ETF
Principal Regulator – Ontario

Type and Date:

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

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3301220

Issuer Name:

Dynamic Active Canadian Dividend ETF
Dynamic Active Crossover Bond ETF
Dynamic Active Global Dividend ETF
Dynamic Active Preferred Shares ETF
Dynamic Active U.S. Dividend ETF
Dynamic Active Tactical Bond ETF
Dynamic Active U.S. Mid-Cap ETF
Dynamic Active Global Financial Services ETF
Dynamic Active Investment Grade Floating Rate ETF
Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Long Form Prospectus dated
November 17, 2021
NP 11-202 Final Receipt dated Nov 23, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3152760

Issuer Name:

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

Type and Date:

Amendment #1 to Final Long Form Prospectus dated
November 19, 2021
NP 11-202 Final Receipt dated Nov 24, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3250634

Issuer Name:

Fidelity NorthStar Class
Fidelity NorthStar Currency Neutral Class
Fidelity Global Intrinsic Value Class
Fidelity Global Intrinsic Value Currency Neutral Class
Fidelity Global Growth and Value Class
Fidelity Global Growth and Value Currency Neutral Class
Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
November 24, 2021
NP 11-202 Final Receipt dated Nov 29, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3187283

Issuer Name:

Fidelity NorthStar Fund
Fidelity Global Intrinsic Value Fund
Fidelity Global Growth and Value Investment Trust
Fidelity Global Intrinsic Value Investment Trust
Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
November 24, 2021
NP 11-202 Final Receipt dated Nov 29, 2021

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3281899

Issuer Name:

TDb Split Corp.
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus (NI 44-102) dated November
26, 2021
NP 11-202 Preliminary Receipt dated November 26, 2021

Offering Price and Description:

Maximum Offerings: \$150,000,000 - Priority Equity
Shares and Class A Shares
Price: \$10.53 of the Priority Equity Shares and \$5.32 of the
Class A Shares

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3308725

NON-INVESTMENT FUNDS

Issuer Name:

Beyond Minerals Inc.
Principal Regulator - Manitoba

Type and Date:

Preliminary Long Form Prospectus dated November 26, 2021

NP 11-202 Preliminary Receipt dated November 26, 2021

Offering Price and Description:

OFFERING: \$450,000.00 (3,000,000 COMMON SHARES)

Price: \$0.15 per Offered Share

Underwriter(s) or Distributor(s):

Haywood Securities Inc.

Promoter(s):

Craig Gibson

Project #3308608

Issuer Name:

BSR Real Estate Investment Trust
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated November 23, 2021

NP 11-202 Preliminary Receipt dated November 23, 2021

Offering Price and Description:

US\$500,000,000 Units Debt Securities Warrants

Subscription Receipts

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3305604

Issuer Name:

Carson River Ventures Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary Long Form Prospectus dated November 25, 2021

NP 11-202 Preliminary Receipt dated November 26, 2021

Offering Price and Description:

0.00

Underwriter(s) or Distributor(s):

-

Promoter(s):

Jeffrey Cocks

Project #3308188

Issuer Name:

Cayenne Capital Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary Long Form Prospectus dated November 25, 2021

NP 11-202 Preliminary Receipt dated November 25, 2021

Offering Price and Description:

5,150,000 Common Shares issuable on conversion of
Special Warrants issued at a price of \$0.05 per Special
Warrant

Underwriter(s) or Distributor(s):

-

Promoter(s):

Michael Dake

Project #3307353

Issuer Name:

Cuspi Capital III Ltd.
Principal Regulator - Ontario

Type and Date:

Preliminary CPC Prospectus dated November 23, 2021

NP 11-202 Preliminary Receipt dated November 24, 2021

Offering Price and Description:

Minimum of \$2,000,000.00 - 10,000,000 Common Shares

Maximum of \$5,000,000.00 - 25,000,000 Common Shares

Price: \$0.20 per Common Share

Underwriter(s) or Distributor(s):

IA PRIVATE WEALTH INC.

ECHELON WEALTH PARTNERS INC.

Promoter(s):

-

Project #3305852

Issuer Name:

Eguana Technologies Inc.
Principal Regulator - Alberta

Type and Date:

Preliminary Shelf Prospectus dated November 25, 2021

NP 11-202 Preliminary Receipt dated November 25, 2021

Offering Price and Description:

C\$150,000,000.00 - Common Shares, Preferred Shares,
Debt Securities, Subscription Receipts, Units, Warrants ,
Share Purchase Contracts

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3307926

Issuer Name:

Gemina Laboratories Ltd.
Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated November 22, 2021
NP 11-202 Preliminary Receipt dated November 26, 2021

Offering Price and Description:

\$50,000,000.00 - COMMON SHARES, WARRANTS,
UNITS, SUBSCRIPTION RECEIPTS, DEBT SECURITIES

Underwriter(s) or Distributor(s):

-

Promoter(s):

ECOMINE TECHNOLOGIES CORPORATION

Project #3307941

Issuer Name:

Gensource Potash Corporation
Principal Regulator - Saskatchewan

Type and Date:

Preliminary Shelf Prospectus dated November 26, 2021
NP 11-202 Preliminary Receipt dated November 26, 2021

Offering Price and Description:

\$200,000,000.00 - Common Shares, Debt Securities,
Warrants, Subscription Receipts, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3308852

Issuer Name:

Grosvenor CPC I Inc.
Principal Regulator - Quebec

Type and Date:

Preliminary CPC Prospectus dated November 26, 2021
NP 11-202 Preliminary Receipt dated November 26, 2021

Offering Price and Description:

Minimum Offering: \$500,000.00 or 5,000,000 Common
Shares
Maximum Offering: \$900,000.00 or 9,000,000 Common
Shares

Price: \$0.10 per Common Share

Underwriter(s) or Distributor(s):

Leede Jones Gable Inc.

Promoter(s):

-

Project #3308604

Issuer Name:

Hi-View Resources Inc.
Principal Regulator - British Columbia

Type and Date:

Preliminary Long Form Prospectus dated November 22,
2021

NP 11-202 Preliminary Receipt dated November 23, 2021

Offering Price and Description:

4,950,000 Units issuable upon deemed exercise of
4,950,000 outstanding Special Unit Warrants 3,443,000
Common Shares issuable upon deemed exercise of
3,443,000 outstanding Special Share Warrants

Underwriter(s) or Distributor(s):

-

Promoter(s):

Steve Mathiesen
Howard Milne

Project #3305630

Issuer Name:

Kobo Resources Inc.
Principal Regulator - Quebec

Type and Date:

Preliminary Long Form Prospectus dated November 25,
2021

NP 11-202 Preliminary Receipt dated November 26, 2021

Offering Price and Description:

Minimum: \$5,000,000.00 or ●
Units Maximum: \$10,000,000.00 or ●
Units PRICE: \$● PER UNIT

Underwriter(s) or Distributor(s):

ECHELON WEALTH PARTNERS INC.

Promoter(s):

EDOUARD GOSSELIN
PAUL SARJEANT

Project #3307914

Issuer Name:

Morguard Real Estate Investment Trust
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated November 23,
2021

NP 11-202 Preliminary Receipt dated November 24, 2021

Offering Price and Description:

\$150,000,000.00 - 5.25% Convertible Unsecured
Subordinated Debentures
Price: \$1,000 per Debenture

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3303336

Issuer Name:

Nova Net Lease REIT
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated November 26, 2021
NP 11-202 Preliminary Receipt dated November 29, 2021

Offering Price and Description:

Minimum Offering: US\$3,500,000 or 2,800,000 Units
Maximum Offering: US\$6,000,000 or 4,800,000 Units
US\$1.25 per Unit

Underwriter(s) or Distributor(s):

CANACCORD GENUITY CORP.

Promoter(s):

-

Project #3308974

Issuer Name:

Open Text Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated November 23, 2021
NP 11-202 Preliminary Receipt dated November 24, 2021

Offering Price and Description:

U.S. \$2,000,000,000 Common Shares Preference Shares
Debt Securities Depositary Shares Warrants Purchase
Contracts Subscription Receipts Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3305777

Issuer Name:

Origin Therapeutics Holdings Inc. (formerly, 1278700 B.C. Ltd.)

Principal Regulator - British Columbia

Type and Date:

Amendment dated November 26, 2021 to Preliminary Long Form Prospectus dated August 30, 2021
NP 11-202 Preliminary Receipt dated November 26, 2021

Offering Price and Description:

0.00

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3273115

Issuer Name:

Talon Metals Corp.
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated November 29, 2021
NP 11-202 Preliminary Receipt dated November 29, 2021

Offering Price and Description:

\$90,000,000.00 - Common Shares, Debt Securities,
Subscription Receipts, Warrants, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3310565

Issuer Name:

Theratechnologies Inc.
Principal Regulator - Quebec

Type and Date:

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

Offering Price and Description:

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

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3305334

Issuer Name:

DIRTT Environmental Solutions Ltd.
Principal Regulator - Alberta

Type and Date:

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

Offering Price and Description:

\$35,000,000.00 - 6.25% Convertible Unsecured
Subordinated Debentures
Price: \$1,000.00 per Debenture

Underwriter(s) or Distributor(s):

NATIONAL BANK FINANCIAL INC.
RAYMOND JAMES LTD.
PARADIGM CAPITAL INC.

Promoter(s):

-

Project #3302154

Issuer Name:

Dream Industrial Real Estate Investment Trust
Principal Regulator - Ontario

Type and Date:

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

Offering Price and Description:

\$2,500,000,000.00 - Units Subscription Receipts Debt Securities

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3296380

Issuer Name:

Exchange Income Corporation
Principal Regulator - Manitoba

Type and Date:

Final Short Form Prospectus dated November 29, 2021
NP 11-202 Receipt dated November 29, 2021

Offering Price and Description:

\$100,000,000.00 7 YEAR 5.25% CONVERTIBLE
UNSECURED SUBORDINATED DEBENTURES
Price: \$1,000 per Debenture

Underwriter(s) or Distributor(s):

NATIONAL BANK FINANCIAL INC.

CIBC WORLD MARKETS INC.

RAYMOND JAMES LTD.

RBC DOMINION SECURITIES INC.

SCOTIA CAPITAL INC.

TD SECURITIES INC.

BMO NESBITT BURNS INC.

CANACCORD GENUITY CORP.

CORMARK SECURITIES INC.

LAURENTIAN BANK SECURITIES INC.

WELLINGTON-ALTUS PRIVATE WEALTH INC.

ATB CAPITAL MARKETS INC.

IA PRIVATE WEALTH INC.

Promoter(s):

-

Project #3302932

Issuer Name:

Luxxfolio Holdings Inc.
Principal Regulator - British Columbia

Type and Date:

Final Shelf Prospectus dated November 26, 2021
NP 11-202 Receipt dated November 29, 2021

Offering Price and Description:

\$40,000,000.00 - Common Shares / Preferred Shares /
Warrants / Subscription Receipts / Units / Debt Securities

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3276826

Issuer Name:

Nevada Copper Corp.
Principal Regulator - British Columbia

Type and Date:

Final Short Form Prospectus dated November 23, 2021
NP 11-202 Receipt dated November 23, 2021

Offering Price and Description:

\$114,037,000.00 - 148,100,000 Units
Price \$0.77 per Offered Unit

Underwriter(s) or Distributor(s):

Scotia Capital Inc.

Promoter(s):

-

Project #3299396

Issuer Name:

Nextleaf Solutions Ltd.
Principal Regulator - British Columbia

Type and Date:

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

Offering Price and Description:

\$20,000,000.00 - Common Shares Warrants Options
Subscription Receipts Debt Securities Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3302191

Issuer Name:

Tribe Property Technologies Inc.
Principal Regulator - British Columbia

Type and Date:

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

Offering Price and Description:

\$40,000,000.00 - Common Shares Debt Securities
Subscription Receipts Warrants Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3289108

Issuer Name:

TripSitter Clinic Ltd. (formerly, 1284684 B.C. Ltd.)
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated November 22, 2021
NP 11-202 Receipt dated November 23, 2021

Offering Price and Description:

1,262,331 Common Shares issued upon deemed exercise
of 1,262,331 outstanding Subscription Receipts
Price: \$1.15 per Subscription Receipt

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3266525

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Brooks & West Inc.	Portfolio Manager	November 25, 2021
Voluntary Surrender	Espresso Capital Ltd.	Exempt Market Dealer	November 29, 2021
New Registration	Espresso Capital EMD Ltd.	Exempt Market Dealer	November 29, 2021
Consent to Suspension (Pending Surrender)	HMW Capital Inc.	Exempt Market Dealer	November 29, 2021
Name Change	From: INTL FCStone Financial (Canada) Inc. To: StoneX Financial (Canada) Inc.	Futures Commission Merchant	September 20, 2021

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 Alpha Exchange Inc. – Housekeeping Amendments to the Rules of Alpha Exchange Inc. – Notice of Housekeeping Rule Amendments

ALPHA EXCHANGE INC.

NOTICE OF HOUSEKEEPING RULE AMENDMENTS

HOUSEKEEPING AMENDMENTS TO THE RULES OF ALPHA EXCHANGE INC.

In accordance with the Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 (the “Protocol”), Alpha Exchange Inc. has adopted, and the Ontario Securities Commission has approved, amendments (the “Amendments”) to the Alpha Trading Policy Manual (the “Alpha Trading Policy”). The Amendments are Housekeeping Rules under the Protocol and therefore have not been published for comment. The Ontario Securities Commission has not disagreed with the categorization of the Amendments as Housekeeping Rules.

Reasons for the Amendments

The Amendments are being made to correct typographical errors, correct formatting errors, and standardize terminology.

Summary of the Amendments

The following sections of the Alpha Trading Policy will be amended:

	Section of Alpha Trading Policy	Amendment	Rationale
1.	English and French Manuals: footer on every page	Remove “Alpha Trading Systems Limited Partnership” disclaimer from footer.	Remove an outdated disclaimer that is no longer applicable.
2.	English Manual: PART I. Definitions and Interpretations, Section 1.1- Definitions	Correct capitalization in the definition of Member Related Person by replacing “A” with “a” before “Member Related Entity”. Correct article uses in the definition of Member Related Person by replacing “A” with “an” before “employee” and before “Approved Trader”. Correct article use in the definition of Member Related Person by replacing “A” with “any” before “other Person” Correct article use in the definition of Sponsoring Member by replacing “a” with “an”.	Correct typographical errors.
3.	English Manual: Part V. Governance of Trading Sessions, Division 2 — Order Entry, Sections 5.11.2 and 5.11.3	Correct incorrect numbering for subsections 5.11.2 and 5.11.3.	Correct formatting error. Ensure French and English Trading Policy Manuals match.

	Section of Alpha Trading Policy	Amendment	Rationale
4.	English Manual: PART VII. Clearing and Settlement, Section 7.4 - Failed Trades in Rights, Warrants and Installment Receipts.	Insert space in subsection 7.4(2) and subsection 7.4(3) between "Section" and "7.3(2)". Delete the second comma in subsection 7.4(3) after "Section 7.3(2)".	Correct typographical errors.

Text of the Amendments

The Amendments are set out as blacklined text in Appendix A.

Timing

The Amendments will become effective December 2, 2021.

APPENDIX A

HOUSEKEEPING AMENDMENTS TO THE ENGLISH ALPHA TRADING POLICY AND FRENCH ALPHA TRADING POLICY

Footer of English Alpha Trading Policy Manual

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Footer of French Alpha Trading Policy Manual

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English Alpha Trading Policy Manual PART I. Definitions and Interpretations

1.1 DEFINITIONS

[...]

Member Related Person² A Member Related Person is [a](#) ~~A~~ Member Related Entity, ~~A~~[an](#) employee, agent or contractor acting as an employee of a Member or a Member Related Entity, Partners, directors and officers of a Member or Member Related Entity, ~~A~~[an](#) Approved Trader; and ~~A~~[any](#) other Person designated by Alpha.

[...]

Sponsoring Member A Member that provides [an](#) Electronic Access Client with access to the Alpha Systems.

[...]

English Alpha Trading Policy Manual PART V. Governance of Trading Sessions

DIVISION 2 — ORDER ENTRY

PART 5 - Definitions and Interpretations

[...]

5.11 CROSSES

[...]

5.11.~~1~~[2](#) SPECIALTY PRICE CROSSES

(a) Basis Cross

[...]

5.11.~~2~~[3](#) BYPASS CROSSES

[...]

English Alpha Trading Policy Manual
PART VII. Clearing and Settlement

[...]

7.4 FAILED TRADES IN RIGHTS, WARRANTS AND INSTALMENT RECEIPTS

(1) [...]

(2) Where a demand has been made in accordance with Section 7.3(2), payment by purchasing Members for:

(a) [...]

(b) [...]

(3) Where a demand has not been made in accordance with Section 7.3(2),⁷ settlement shall be in accordance with normal settlement procedures, but delivery of the rights, warrants or instalment receipts, as the case may be, is not required.

[...]

13.2.2 Toronto Stock Exchange – Housekeeping Amendments to the Toronto Stock Exchange Rule Book – Notice of Housekeeping Rule Amendments**TORONTO STOCK EXCHANGE****NOTICE OF HOUSEKEEPING RULE AMENDMENTS****HOUSEKEEPING AMENDMENTS TO THE TORONTO STOCK EXCHANGE RULE BOOK**

In accordance with the Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 (the “Protocol”), TSX Inc. has adopted, and the Ontario Securities Commission has approved, amendments (the “Amendments”) to the Toronto Stock Exchange Rule Book (the “TSX Rulebook”). The Amendments are Housekeeping Rules under the Protocol and therefore have not been published for comment. The Ontario Securities Commission has not disagreed with the categorization of the Amendments as Housekeeping Rules.

Reasons for the Amendments

The Amendments are being made to correct formatting errors and standardize terminology in the TSX Rulebook.

Summary of the Amendments

The following section of the TSX Rule Book will be amended:

	Section of the TSX Rule Book	Amendment	Rationale
1.	Rule 1-101 - Definitions	Amend the definitions for TSX Last Ask Price and TSX Last Bid Price to replace “Last” with “Closing”.	Standardize the terminology for TSX Last Bid Price and TSX Last Ask Price with the terminology being used for TSX Closing Price, and re-formatting to ensure that the definitions appear in alphabetical orders with other definitions in the TSX Rule book.

Text of the Amendments

The Amendments are set out as blacklined text in Appendix A.

Timing

The Amendments will become effective December 2, 2021.

APPENDIX A

HOUSEKEEPING AMENDMENTS TO
THE TSX RULE BOOK

PART 1 - INTERPRETATION

Rule 1-101 Definitions (Amended)

[...]

2) In all Exchange Requirements, unless the subject matter or context otherwise requires:

[...]

“TSX ~~Closing~~ ~~Last~~ Ask Price” means the derived last ask price calculated in the manner determined by the Exchange.

~~Added September 27~~ Amended December 2, 2021

“TSX ~~Closing~~ ~~Last~~ Bid Price” means the derived last bid price calculated in the manner determined by the Exchange.

~~Added September 27~~ Amended December 2, 2021

[...]

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