

The Ontario Securities Commission

OSC Bulletin

October 12, 2023

Volume 46, Issue 41

(2023), 46 OSCB

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The Ontario Securities Commission exercises its regulatory oversight function through the administration and enforcement of Ontario's *Securities Act* (R.S.O. 1990, c. S.5) and *Commodity Futures Act* (R.S.O. 1990, c. C.20), and administration of certain provisions of the *Business Corporations Act* (R.S.O. 1990, c. B.16).

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Published under the authority of the Commission by:

Thomson Reuters

19 Duncan Street
Toronto, Ontario
M5H 3H1
416-609-3800 or 1-800-387-5164



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ISSN 0226-9325
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A. Capital Markets Tribunal

A.2 Other Notices

A.2.1 Bridging Finance Inc. et al.

FOR IMMEDIATE RELEASE
October 4, 2023

**BRIDGING FINANCE INC.,
DAVID SHARPE,
NATASHA SHARPE AND
ANDREW MUSHORE,
File No. 2022-9**

TORONTO – Take notice that the merits hearing in the above-named matter scheduled to be heard on October 5, 2023 will not proceed as scheduled.

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A.2.2 Xiao Hua (Edward) Gong

FOR IMMEDIATE RELEASE
October 4, 2023

**XIAO HUA (EDWARD) GONG,
File No. 2022-14**

TORONTO – Take notice that an attendance in the above named matter is scheduled to be heard on October 27, 2023 at 2:00 p.m.

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A.2.3 Mark Edward Valentine

**FOR IMMEDIATE RELEASE
October 4, 2023**

**MARK EDWARD VALENTINE,
File No. 2022-7**

TORONTO – Take notice of the following merits hearing date changes in the above-named matter:

- (1) the hearing on October 5, 2023 will not proceed as scheduled; and
- (2) the hearing on October 10, 2023, scheduled to commence at 10:00 a.m. will instead commence at 12:30 p.m.

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A.2.4 Go-To Developments Holdings Inc. et al.

**FOR IMMEDIATE RELEASE
October 5, 2023**

**GO-TO DEVELOPMENTS HOLDINGS INC.,
GO-TO SPADINA ADELAIDE SQUARE INC.,
FURTADO HOLDINGS INC., AND
OSCAR FURTADO,
File No. 2022-8**

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

A copy of the Order dated October 5, 2023 is available at capitalmarketstribunal.ca.

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A.2.5 Mark Edward Valentine

**FOR IMMEDIATE RELEASE
October 6, 2023**

**MARK EDWARD VALENTINE,
File No. 2022-7**

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

A copy of the Reasons for Decision dated October 5, 2023 is available at capitalmarketstribunal.ca.

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**A.2.6 Highland Capital Management, L.P. and
NexPoint Hospitality Trust**

**FOR IMMEDIATE RELEASE
October 10, 2023**

**HIGHLAND CAPITAL MANAGEMENT, L.P. AND
NEXPOINT HOSPITALITY TRUST,
File No. 2023-25**

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

A copy of the Order dated October 10, 2023 is available at capitalmarketstribunal.ca.

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Ontario Securities Commission

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A.2.7 Mark Edward Valentine

**FOR IMMEDIATE RELEASE
October 10, 2023**

**MARK EDWARD VALENTINE,
File No. 2022-7**

TORONTO – Take notice that the merits hearing in the above-named matter scheduled to be heard on October 11, 2023 will not proceed as scheduled.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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A.3 Orders

A.3.1 Go-To Developments Holdings Inc. et al.

IN THE MATTER OF
GO-TO DEVELOPMENTS HOLDINGS INC.,
GO-TO SPADINA ADELAIDE SQUARE INC.,
FURTADO HOLDINGS INC., AND
OSCAR FURTADO

File No. 2022-8

Adjudicators: M. Cecilia Williams (chair of the panel)
Sandra Blake

October 5, 2023

ORDER

WHEREAS on October 2, 2023, the Capital Markets Tribunal held a hearing by videoconference to consider a motion brought by Oscar Furtado on September 7, 2023 to, adjourn the merits hearing and order Staff to make further disclosure, amongst other things.

ON READING the Notice of Motion, and motion records and written submissions of each of Furtado and Staff, and on hearing the submissions of the representatives for Furtado, Staff, and the receiver of Go-To Developments Holdings Inc., Go-To Spadina Adelaide Square Inc., and Furtado Holdings Inc.;

IT IS ORDERED, for reasons to follow, that:

1. Furtado's motion to adjourn the merits hearing is dismissed;
2. Furtado's motion for further disclosure from Staff is dismissed;
3. Furtado's motion for Staff to serve a further and better witness summary is dismissed; and
4. pursuant to subsection 2(2) of the *Tribunal Adjudicative Records Act*, 2019 SO 2019, c 7, Sch 60 and Rule 22(4) of the *Rules of Procedure*, the exhibits filed in connection with this motion and the transcript of the confidential portion of the hearing shall be kept as confidential pending further order of the Tribunal.

"M. Cecilia Williams"

"Sandra Blake"

A.3.2 Highland Capital Management L.P. and NexPoint Hospitality Trust – s. 127

**IN THE MATTER OF
HIGHLAND CAPITAL MANAGEMENT L.P.**

AND

**IN THE MATTER OF
NEXPOINT HOSPITALITY TRUST**

File No. 2023-25

Adjudicator: James Douglas (chair of the panel)

October 10, 2023

ORDER

(Section 127 of the *Securities Act*, RSO 1990, c S.5)

WHEREAS on October 4, 2023, the Capital Markets Tribunal held a hearing by videoconference regarding an application brought by Highland Capital Management in respect of the proposed annual and special shareholders' meeting of NexPoint Hospitality Trust;

ON READING the application record of Highland and on hearing the submissions of the representatives for Highland, NexPoint, and Staff of the Ontario Securities Commission;

IT IS ORDERED THAT:

1. the merits hearing shall take place on October 24, 2023 at 10:00 a.m. at the Capital Markets Tribunal located at 20 Queen Street West, 17th floor, Toronto, Ontario, or on such date and time as may be agreed to by the parties and set by the Governance & Tribunal Secretariat; and
2. the parties shall adhere to the following mutually agreed upon schedule for the delivery of materials:
 - a. NexPoint shall serve and file its responding record by 4:30 p.m. on October 10, 2023;
 - b. Highland shall serve and file its memorandum of fact and law by 4:30 p.m. on October 12, 2023;
 - c. NexPoint shall serve and file its memorandum of fact and law by 4:30 p.m. on October 17, 2023;
 - d. Staff shall serve and file its memorandum of fact and law by 4:30 p.m. on October 20, 2023;
 - e. Highland shall serve and file its reply memorandum of fact and law, if any, by 4:30 p.m. on October 23, 2023.

"James Douglas"

A.4

Reasons and Decisions

A.4.1 Mark Edward Valentine – Rule 29 of Capital Markets Tribunal Rules of Procedure and Forms

Citation: *Valentine (Re)*, 2023 ONCMT 33

Date: 2023-10-05

File No. 2022-7

IN THE MATTER OF MARK EDWARD VALENTINE

REASONS FOR DECISION (Rule 29 of the *Capital Markets Tribunal Rules of Procedure and Forms*)

Adjudicators: Cathy Singer (chair of the panel)
Dale R. Ponder
James Douglas

Hearing: September 6, 2023, by videoconference

Appearances: Andrew Faith For Staff of the Ontario Securities Commission
Ryan Lapensée
Sean Grouhi
Greg Temelini For Mark Edward Valentine

REASONS FOR DECISION

1. OVERVIEW

- [1] Staff of the Ontario Securities Commission brought a motion to adjourn the merits hearing in this proceeding set to commence on September 29, 2023.
- [2] Staff seeks an adjournment because its lead counsel for this proceeding left the Commission and no longer represents Staff at the merits hearing. Staff retained new counsel, but that counsel is unavailable for the first five scheduled merits hearing dates. The respondent opposes delaying the start of the merits hearing.
- [3] We heard Staff's motion on September 6, 2023, and dismissed the motion with reasons to follow. These are our reasons.

2. BACKGROUND

- [4] On March 23, 2022, the Commission issued a Notice of Hearing in this matter.
- [5] The merits hearing was scheduled to start on September 29, 2023, and to last 15 days.
- [6] On August 23, 2023, the parties attended the final interlocutory attendance in this matter. At that attendance Staff requested that the first five merits hearing dates be vacated and that five additional dates be scheduled in November or December of this year.
- [7] Senior Litigation Counsel assigned to this matter gave notice on July 21, 2023 and left the Commission on August 24, 2023. On August 9, 2023, Staff retained Polley Faith LLP (Andrew Faith and Ryan Lapensée) to act as external counsel for the merits hearing in this matter. Mr. Faith is unavailable for the first five hearing dates scheduled, and his unavailability was known at the time his firm was engaged.
- [8] The respondent objected to Staff's request and submitted that such a request required an adjournment motion, with attendant notice and filings, and further submitted that Staff must establish exceptional circumstances to justify the adjournment.
- [9] The Tribunal agreed that a motion was required to adjourn the scheduled dates for the merits hearing and ordered that Staff's request proceed by way of an adjournment motion on September 6, 2023.

3. ISSUE AND ANALYSIS

- [10] The issue for this panel to determine is whether Staff's grounds for the adjournment constitute "exceptional circumstances".
- [11] Rule 29(1) of the Tribunal's *Rules of Procedure and Forms* provides that every merits hearing shall proceed on the scheduled date unless the party requesting an adjournment satisfies the panel that there are exceptional circumstances requiring an adjournment. The standard set out in rule 29 is a "high bar" that reflects the important objective set out in rule 1, that Tribunal proceedings be conducted in a just, expeditious and cost-effective manner.¹
- [12] Staff submits that the change of counsel in these circumstances constitutes exceptional circumstances justifying an adjournment and notes that this is Staff's first request to adjourn any hearing dates. Staff submits that it is in the public interest and is necessary for procedural fairness that Staff's adjournment request be granted.
- [13] The respondent submits that parties routinely change counsel and that in itself, a change in counsel is not exceptional.
- [14] Staff submits that determining exceptional circumstances is a fact based exercise.² Staff distinguishes the facts of this adjournment request from other decisions of the Tribunal where motions for adjournments were denied on a change of counsel³ on the basis that this adjournment request was brought expeditiously, rather than on the eve of the hearing, and that Staff has provided a full record of the circumstances surrounding its change of counsel. Staff further supports its request by noting that it has narrowed the issues in this matter, which could result in reducing the total hearing days required.
- [15] Staff submits that it would be seriously prejudiced if it were denied the right to counsel of its choice. Staff further submits that it honestly exercised its right to counsel of choice and diligently sought new counsel upon learning of the departure of assigned lead counsel. Staff notes that Mr. Faith was contacted by Staff within three business days of it receiving notice of the departure of its assigned lead counsel in this matter. In reply to questions from the Panel as to any steps taken by Staff to retain counsel with availability for all the scheduled hearing dates, Staff submitted that to provide any such details could be prejudicial and amount to a waiver of privilege.
- [16] The respondent submits that the right to counsel of choice is not absolute and that when the unavailability of chosen counsel is the basis for an adjournment request, the requesting party must explain and justify its decision with evidence to establish exceptional circumstances.⁴ The respondent notes that there is no evidence before the Panel that Staff took any steps to avoid an adjournment. There is no evidence that Staff, among other potential options, considered an internal counsel from the Enforcement Branch of the Commission, asked the departing lead counsel to stay on, nor searched for another qualified external counsel who was available to proceed on the scheduled hearing dates. The Panel agrees that it has no evidence before it of any steps taken by Staff to address the unavailability of Mr. Faith for the commencement of the merits hearing.
- [17] Staff further submits that because it narrowed the issues in this matter, it anticipates that the evidence to be adduced at the hearing will be significantly reduced such that five of the total hearing dates would likely be unnecessary. The respondent does not agree that this is a likely nor assured outcome.
- [18] In the absence of agreement by the respondent to reduce the number of hearing days, the Tribunal proceeded on the basis that the hearing would still require 15 hearing days. The parties mutually agreed to five hearing dates in December should the adjournment request be granted by the Tribunal.
- [19] We conclude that the facts in this instance do not support exceptional circumstances warranting an adjournment of the merits hearing. It is our view that, in the circumstances, it was incumbent upon Staff to consider alternatives so that an adjournment could be avoided and that if no alternatives were available or acceptable, to provide an explanation to the Tribunal on this motion as to why that was the case. We believe that this could have been accomplished without providing information constituting a waiver of privilege. Absent such evidence, we cannot make a finding of exceptional circumstances warranting an adjournment.

¹ *Money Gate Mortgage Investment Corporation (Re)*, 2019 ONSC 40 (**Money Gate**) at para 54; *First Global Data Ltd (Re)*, 2022 ONCMT 23 (**First Global Data**) at para 7

² *Money Gate* at para 54

³ See *Money Gate*; *First Global Data*

⁴ *Money Gate* at paras 52-64; *First Global Data* at paras 13-15; *Debus (Re)*, 2020 ONSC 20 at paras 23-24; *Bridging Finance Inc. (Re)*, 2023 ONCMT 17 at para 19

4. CONCLUSION

[20] For these reasons, we dismissed Staff's motion with the result that the merits hearing commenced as scheduled on September 29, 2023.

Dated at Toronto this 5th day of October, 2023

"Cathy Singer"

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B. Ontario Securities Commission

B.1 Notices

B.1.1 CSA Staff Notice 21-333 Crypto Asset Trading Platforms: Terms and Conditions for Trading Value-Referenced Crypto Assets with Clients



Canadian Securities
Administrators

Autorités canadiennes
en valeurs mobilières

CSA STAFF NOTICE 21-333 CRYPTO ASSET TRADING PLATFORMS: TERMS AND CONDITIONS FOR TRADING VALUE-REFERENCED CRYPTO ASSETS WITH CLIENTS

October 5, 2023

Background

On February 22, 2023, the Canadian Securities Administrators (**CSA** or **we**) published CSA Staff Notice 21-332 *Crypto Asset Trading Platforms: Pre-Registration Undertakings – Changes to Enhance Canadian Investor Protection (CSA SN 21-332)*.¹ CSA SN 21-332 expanded upon the CSA staff's views that "Value-Referenced Crypto Assets" or "VRCA" may constitute securities and/or derivatives in several jurisdictions.

A VRCA is a crypto asset that is designed to maintain a stable value over time by referencing the value of a fiat currency or any other value or right, or combination thereof.

The purpose of this Notice is to provide further guidance to crypto asset trading platforms (**CTPs**) on our interim approach in respect of VRCA, as referenced in CSA SN 21-332.

Although registered CTPs, and CTPs that provided a pre-registration undertaking (**PRU**) to the CSA in accordance with CSA SN 21-332, are prohibited from allowing clients either to trade crypto assets that are securities and/or derivatives, or to enter into crypto contracts in respect of crypto assets that are securities and/or derivatives, CSA SN 21-332 recognized that there may be uses for VRCA by clients of CTPs. Accordingly, CSA SN 21-332 contemplated that the CSA may provide written consent for CTPs to allow their clients to continue trading, on an interim basis, certain VRCA that seek to replicate the value of a single fiat currency where the issuer sets aside an adequate reserve of assets denominated in the fiat currency (**Fiat-Backed Crypto Assets** or **FBCAs**) and that such consent may be subject to terms and conditions imposed on the CTP and the issuer of the VRCA.

The interim approach outlined in this Notice does **not** apply to VRCA that are not FBCAs, nor to any new VRCA that a CTP may wish to offer at a date after the publication date of CSA SN 21-332. Please refer to **Alternative Regulatory Approaches** for information on the CSA's approach to these instruments.

Terms and Conditions

Appendix A sets out the terms and conditions for which the CSA would consent to a registered CTP, or a CTP that provided a PRU, to continue allowing their clients either to buy or deposit FBCAs or to enter into crypto contracts to buy or deposit FBCAs. The terms and conditions for CTPs set out in Appendix A include a requirement that the issuer of the FBCA has filed an undertaking acceptable to the CSA that is substantially in the form of Appendix B. The undertaking includes a requirement that the issuer of the FBCA has filed a submission to jurisdiction and appointment of agent for service in the form of Appendix C.

We caution users of VRCA and VRCA holders that VRCA, including any FBCAs that satisfy the conditions in the Appendices, are subject to various risks and are not the same as fiat currency. The fact that a VRCA satisfies the conditions in the Appendices, should not be viewed as our endorsement or approval of the VRCA, nor an indication that the VRCA is risk-free or that all risks associated with VRCA are adequately mitigated. Further, the fact that a VRCA satisfies the conditions in the Appendices does

¹ <https://www.osc.ca/en/securities-law/instruments-rules-policies/21-332/csa-staff-notice-21-332-crypto-asset-trading-platforms-pre-registration-undertakings-changes>

not mean that it has been distributed in accordance with Canadian securities legislation or that its issuer is otherwise in compliance with Canadian securities legislation.

The CSA will continue to monitor and assess the presence and role of VRCAs in Canadian financial markets and to work collaboratively with other Canadian regulatory authorities, as well as international organizations and standard-setting bodies, to respond to the regulatory implications and risks of such crypto assets.²

This approach in respect of VRCAs is intended to be an interim approach only, as the CSA continues its work in this area. We will consider whether any modifications to this approach are required both on an interim basis and for a longer-term framework. If there are elements of the interim approach that are impracticable for market participants, we are open to considering alternative proposals, provided that investor protection concerns are adequately addressed.

Implementation

(a) *Registered CTPs*

If a registered CTP does not intend to allow clients to continue to buy or deposit VRCAs, or to enter into crypto contracts to buy or deposit VRCAs, we expect the CTP will no longer allow clients to do so by December 29, 2023.

If a registered CTP would like to continue allowing clients to buy or deposit VRCAs, or to enter into crypto contracts to buy or deposit VRCAs, we expect the CTP will do all of the following:

- As soon as possible, contact its Principal Regulator to discuss the process for implementing the terms and conditions in Appendix A;
- by December 29, 2023, no longer allow clients to buy or deposit VRCAs, or to enter into crypto contracts to buy or deposit VRCAs, that are not FBCAs that satisfy the conditions set out in paragraph (1) of Appendix A; and
- by April 30, 2024, no longer allow clients either to buy or deposit FBCAs, or to enter into crypto contracts to buy or deposit FBCAs, that do not comply with the terms and conditions set out in Appendix A.

(b) *CTPs that provided a PRU*

If a CTP that provided a PRU does not intend to allow clients to continue to buy or deposit VRCAs, or to enter into crypto contracts to buy or deposit VRCAs, we expect the CTP will no longer allow clients to do so by December 29, 2023.

If a CTP that provided a PRU would like to continue allowing clients to buy or deposit VRCAs, or to enter into crypto contracts to buy or deposit VRCAs, the Principal Regulator would provide consent for it to do so subject to terms and conditions in substantially the same form as in Appendix A. The steps for obtaining consent will include the following:

- As soon as possible, the CTP should contact their Principal Regulator to discuss the process for obtaining consent. The Principal Regulator may ask the CTP to provide an updated PRU with the terms and conditions in Appendix A.
- By December 29, 2023, the CTP will no longer allow clients either to buy or deposit VRCAs, or to enter into crypto contracts to buy or deposit VRCAs, that are not FBCAs that satisfy the conditions set out in paragraph (1) of Appendix A.
- By April 30, 2024, the CTP will no longer allow clients either to buy or deposit FBCAs, or to enter into crypto contracts to buy or deposit FBCAs, that do not comply with the terms and conditions set out in Appendix A.

(c) *Issuers of Fiat-Backed Crypto Assets*

The terms and conditions for CTPs set out in Appendix A include a requirement that the issuer of the FBCA has filed an undertaking acceptable to the CSA that is substantially in the form of Appendix B.³ We expect issuers to provide such an undertaking to the CSA by December 1, 2023. If an issuer of an FBCA is interested in providing an undertaking, it should contact the CSA as soon as possible to discuss.

² For instance, the Financial Stability Board has published on July 17, 2023, its [revised High-level Recommendations for the Regulation, Supervision and Oversight of Global Stablecoin Arrangements](#) and the International Organization of Securities Commission (IOSCO) has published for consultation on May 23, 2023, its [Policy Recommendations for Crypto and Digital Asset Markets](#).

³ We would not expect to accept an undertaking from an issuer that commenced distributions of a VRCA after February 22, 2023 (*i.e.*, after the issuance of CSA SN 21-332). Issuers in this situation, or that propose to distribute a VRCA, should contact their Principal Regulator to discuss compliance with Canadian securities laws.

The CSA will post acceptable undertakings on the CSA website⁴ and the undertakings may also be posted on local websites maintained by members of the CSA.

The December 1, 2023, deadline does not preclude an issuer of a VRCA from giving an undertaking at a later date. However, if the issuer has not provided an acceptable undertaking, registered CTPs and CTPs that provided a PRU will be required to cease making the VRCA available to clients by December 29, 2023, or April 30, 2024, as outlined in sections (a) and (b) above.

Alternative Regulatory Approaches

We intend to implement the interim approach as outlined above. However, we welcome submissions regarding the appropriate longer-term regulation of VRCAs that would address the investor protection concerns identified in CSA SN 21-332 or alternative criteria for trading of other VRCAs by CTPs. For example, such concerns might be satisfied if a VRCA is distributed in compliance with Canadian securities legislation, including the prospectus and dealer registration requirements or under exemptions from those requirements, or an alternative regulatory regime with a comprehensive framework for the regulation of the VRCA.

Further, the terms and conditions outlined in Appendix A have been developed for FBCAs that reference the Canadian or United States Dollar and that are fully backed by a reserve of assets in the same currency. If a CTP or VRCA issuer wishes to offer a VRCA that references another currency and otherwise meets the substance of the terms and conditions, the CSA is open to considering appropriate adjustments to elements of the terms and conditions and form of undertaking to accommodate the difference in currency, such as the composition of the reserve assets or the applicable accounting principles or audit standards.

The definition of VRCA encompasses all crypto assets that are designed to maintain a stable value over time by referencing any value or right, or combination thereof. This broad definition encompasses not only crypto assets commonly referred to as “stablecoins” (including FBCAs), but also other types of crypto assets such as wrapped tokens⁵. These other crypto assets may be collateralized by non-traditional assets such as crypto assets, be used for different purposes or give rise to different risks than FBCAs. While we continue to monitor and assess the presence and role of VRCAs in Canadian capital markets and international regulatory developments, we invite CTPs or VRCA issuers that wish to offer a VRCA that is not a FBCA, to provide relevant analysis and data on the uses and the risks related to such VRCA. This analysis should include sufficient details on the due diligence that a CTP offering such a VRCA must perform to ensure that the applicable risks related to the VRCA are effectively addressed and that the CTP has sufficiently taken into account the interests of Canadian investors. The CSA will consider submissions received in developing any future regulatory changes or interim policy statements regarding VRCAs.

CTPs or VRCA issuers should contact their Principal Regulator using the contacts below to discuss further.

Questions

Please refer your questions to any of the following CSA staff:

David Surat

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Melissa Taylor

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⁴ <https://www.securities-administrators.ca/>

⁵ In the *IOSCO Decentralized Finance Report* (March 2022), IOSCO highlighted that “wrapped tokens” are tokens that “are a subset of [crypto assets] created on a blockchain as a synthetic for a given token on another blockchain, thereby enabling the reference token to be used on a different blockchain. These tokens are often treated as if they are the equivalent of the original token, but they are technologically distinct and require either third-party custodians or the creation and operation of smart contracts on each blockchain.”

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APPENDIX A

TERMS AND CONDITIONS FOR CTP TRADING VRCAs WITH CLIENTS

Despite the requirement that [the CTP] is not permitted either to allow a client to trade crypto assets that are securities and/or derivatives, or to enter into Crypto Contracts in respect of crypto assets that are securities and/or derivatives, [the CTP] may permit a client to trade a VRCA or enter into a Crypto Contract in respect of a VRCA, subject to the following terms and conditions:

- (1) The CTP establishes that all of the following conditions are met:
 - (a) The VRCA references, on a one-for-one basis, the value of a single fiat currency (the “reference fiat currency”).
 - (b) The reference fiat currency is the Canadian dollar or United States dollar.
 - (c) The VRCA entitles a VRCA holder who maintains an account with the issuer of the VRCA to a right of redemption, subject only to reasonable publicly disclosed conditions, on demand directly against the issuer of the VRCA or against the reserve of assets, for the reference fiat currency on a one-to-one basis, less only any fee that is publicly disclosed by the issuer of the VRCA, and payment of the redemption proceeds within a reasonable period as disclosed by the issuer of the VRCA.
 - (d) The issuer of the VRCA maintains a reserve of assets that is:
 - (i) in the reference fiat currency and is comprised of any of the following:
 1. cash;
 2. investments that are evidence of indebtedness with a remaining term to maturity of 90 days or less and that are issued, or fully and unconditionally guaranteed as to principal and interest, by the government of Canada or the government of the United States;
 3. securities issued by one or more Money Market Funds licensed, regulated or authorized by a regulatory authority in Canada or the United States of America; or
 4. such other assets that the principal regulator of the CTP and the regulator or securities regulatory authority in each Canadian jurisdiction where clients of the CTP reside has consented to in writing;
 - (e) all of the assets that comprise the reserve of assets are:
 - (i) measured at fair value in accordance with Canadian GAAP for publicly accountable enterprises or U.S. GAAP at the end of each day;
 - (ii) held with a Qualified Custodian;
 - (iii) held in an account clearly designated for the benefit of the VRCA holders or in trust for the VRCA holders;
 - (iv) held separate and apart from the assets of the issuer of the VRCA and its affiliates and from the reserve of assets of any other Crypto Asset, so that, to the best of the knowledge and belief of the CTP after taking steps that a reasonable person would consider appropriate, including consultation with experts such as legal counsel, no creditors of the issuer other than the VRCA holders in their capacity as VRCA holders, will have recourse to the reserve of assets, in particular in the event of insolvency; and
 - (v) not encumbered or pledged as collateral at any time; and
 - (f) the fair value of the reserve of assets is at least equal to the aggregate nominal value of all outstanding units of the VRCA at least once each day.
- (2) The issuer of the VRCA makes all of the following publicly available:
 - (a) details of each type, class or series of the VRCA, including the date the VRCA was launched and key features and risks of the VRCA;
 - (b) the quantity of all outstanding units of the VRCA and their aggregate nominal value at least once each business day;

- (c) the names and experience of the persons or companies involved in the issuance and management of the VRCA, including the issuer of the VRCA, any manager of the reserve of assets, including any individuals that make investment decisions in respect of the reserve of assets, and any custodian of the reserve of assets;
- (d) the quantity of units of the VRCA held by the issuer of the VRCA or any of the persons or companies referred to in paragraph (c) and their nominal value at least once each business day;
- (e) details of how a VRCA holder can redeem the VRCA, including any possible restrictions on redemptions such as the requirement for a VRCA holder to have an account with the issuer of the VRCA and any criteria to qualify to have an account;
- (f) details of the rights of a VRCA holder against the issuer of the VRCA and the reserve of assets, including in the event of insolvency or winding up;
- (g) all fees charged by the issuer of the VRCA for distributing, trading or redeeming the VRCA;
- (h) whether VRCA holders are entitled to any revenues generated by the reserve of assets;
- (i) details of any instances of any of the following:
 - (i) the issuer of the VRCA has suspended or halted redemptions for all VRCA holders;
 - (ii) the issuer of the VRCA has not been able to satisfy redemption rights at the price or in the time specified in its public policies;
- (j) within 45 days of the end of each month, an assurance report from a public accountant that is authorized to sign such a report under the laws of a jurisdiction of Canada or the United States of America, and that meets the professional standards of that jurisdiction, that complies with all of the following:
 - (i) provides reasonable assurance in respect of the assertion by management of the issuer of the VRCA that the issuer of the VRCA has met the requirements in paragraphs (1)(d)-(f) as at the last business day of the preceding month and at least one randomly selected day during the preceding month;
 - (ii) the randomly selected day referred to in subparagraph (i) is selected by the public accountant and disclosed in the assurance report;
 - (iii) for each day referred to in subparagraph (i), management's assertion includes all of the following:
 - 1. details of the composition of the reserve of assets;
 - 2. the fair value of the reserve of assets in paragraph (1)(e)(i);
 - 3. the quantity of all outstanding units of the VRCA in paragraph (b);
 - (iv) the assurance report is prepared in accordance with the Handbook, International Standards on Assurance Engagements or attestation standards established by the American Institute of Certified Public Accountants;
- (k) starting with the first financial year ending after December 1, 2023, within 120 days of the issuer of the VRCA's financial year end, annual financial statements of the issuer of the VRCA that comply with all of the following:
 - (i) the annual financial statements include all of the following:
 - 1. a statement of comprehensive income, a statement of changes in equity and a statement of cash flows, each prepared for the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, if any;
 - 2. a statement of financial position, signed by at least one director of the issuer of the VRCA, as at the end of the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, if any;
 - 3. notes to the financial statements;
 - (ii) the statements are prepared in accordance with one of the following accounting principles:
 - 1. Canadian GAAP applicable to publicly accountable enterprises;

2. U.S. GAAP;
 - (iii) the statements are audited in accordance with one of the following auditing standards:
 1. Canadian GAAS;
 2. International Standards on Auditing;
 3. U.S. PCAOB GAAS;
 - (iv) the statements are accompanied by an auditor's report that,
 1. if (iii)(1) or (2) applies, expresses an unmodified opinion,
 2. if (iii)(3) applies, expresses an unqualified opinion,
 3. identifies the auditing standards used to conduct the audit, and
 4. is prepared and signed by a public accountant that is authorized to sign such a report under the laws of a jurisdiction of Canada or the United States of America.
- (3) The Crypto Asset Statement includes all of the following:
- (a) a prominent statement that no securities regulatory authority or regulator in Canada has evaluated or endorsed the Crypto Contracts or any of the Crypto Assets made available through the platform;
 - (b) a prominent statement that the VRCA is not the same as and is riskier than a deposit in a bank or holding cash with the CTP;
 - (c) a prominent statement that although VRCA's may be commonly referred to as "stablecoins", there is no guarantee that the VRCA will maintain a stable value when traded on secondary markets or that the reserve of assets will be adequate to satisfy all redemptions;
 - (d) a prominent statement that, due to uncertainties in the application of bankruptcy and insolvency law, in the event of the insolvency of [VRCA issuer], there is a possibility that creditors of [VRCA issuer] would have rights to the reserve assets that could outrank a VRCA holder's rights, or otherwise interfere with a VRCA holder's ability to access the reserve of assets in the event of insolvency;
 - (e) a description of the VRCA and its issuer;
 - (f) a description of the due diligence performed by the CTP with respect to the VRCA;
 - (g) a brief description of the information in section (2) and links to where the information in that section is publicly available;
 - (h) a link to where on its website the issuer of the VRCA will disclose any event that has or is likely to have a significant effect on the value of the VRCA or on the reserve of assets.
 - (i) a description of the circumstances where the secondary market trading value of the VRCA may deviate from par with the reference fiat currency and details of any instances where the secondary market trading value of the VRCA has materially deviated from par with the reference fiat currency during the last 12 months on the CTP's platform;
 - (j) a brief description of any risks to the client resulting from the trading of a VRCA or a Crypto Contract in respect of a VRCA that may not have been distributed in compliance with securities laws;
 - (k) any other risks specific to the VRCA, including the risks arising from the fact that the CTP may not, and a client does not, have a direct redemption right with the issuer of the VRCA;
 - (l) 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;
 - (m) [for a registered CTP]

a statement that the statutory rights in section 130.1 of the *Securities Act* (Ontario), 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 the decision dated [●];

[for a CTP that provided a PRU]

a prominent statement that the CTP has submitted an application for registration and an application for relief under securities legislation of certain jurisdictions of Canada but there is no guarantee these applications will be granted and the CTP is not currently registered under the securities or derivatives legislation of any jurisdiction of Canada and has not been granted an exemption from any requirements of securities or derivatives legislation of any jurisdiction of Canada;

(n) the date on which the information was last updated.

- (4) If the CTP uses the term “stablecoin” or “stablecoins” in any information, communication, advertising or social media related to the CTP’s platform and targeted at or accessible by Canadian investors, the CTP will also include the following statement (or a link to the following statement when impractical to include):

“Although the term “stablecoin” is commonly used, there is no guarantee that the asset will maintain a stable value in relation to the value of the reference asset when traded on secondary markets or that the reserve of assets, if there is one, will be adequate to satisfy all redemptions.”

- (5) The issuer of the VRCA has filed an undertaking acceptable to the CSA in substantially the same form as set out in Appendix B of CSA Notice 21-333 *Crypto Asset Trading Platforms: Terms and Conditions for Trading Value-Referenced Crypto Assets with Clients* (**CSA SN 21-333**).
- (6) The KYP Policy of the CTP requires the CTP to assess whether the VRCA or the issuer of the VRCA satisfies the criteria in sections (1), (2) and (5) on an ongoing basis.
- (7) The CTP has policies and procedures to facilitate halting or suspending deposits or purchases of the VRCA, or Crypto Contracts in respect of the VRCA, as quickly as is commercially reasonable, if the VRCA no longer satisfies the criteria in sections (1), (2) and (5).
- (8) The VRCA will be offered in a manner consistent with the representations in [description and date of CTP’s exemptive relief decision (the **Decision**)] [description of and date of CTP’s PRU (the **PRU**)] and in accordance with the terms and conditions of the [Decision] [PRU], for the purposes of which the VRCA will be treated as a “Crypto Asset” and a “Specified Crypto Asset”.
- (9) In these terms and conditions, terms have meanings set out in Appendix D of CSA SN 21-333.

APPENDIX B

UNDERTAKING FROM VRCA ISSUER

To: [CSA member to which Issuer has the most substantial connection] (the **Principal Regulator**) and the other members of the Canadian Securities Administrators (collectively, the **CSA**)

From: [Issuer of the VRCA] (the **Issuer**)

Re: Undertaking in respect of [name of VRCA] (the **Undertaking**)

Date: [●], 2023

Background

The Issuer is the issuer of [name of VRCA], which is a Value-Referenced Crypto Asset as described in CSA Notice 21-333 *Crypto Asset Trading Platforms: Terms and Conditions for Trading Value-Referenced Crypto Assets with Clients* (**CSA SN 21-333**).

The provisions of this Undertaking are representations of and commitments by the Issuer to the Principal Regulator and to the CSA.

The Issuer understands that the Principal Regulator will disclose the names of the Issuer, its applicable affiliates and this Undertaking or the fact that the Issuer has provided this Undertaking on the CSA website and/or the website of the Principal Regulator or other members of the CSA.

Definitions

In this Undertaking, the following terms have the following meanings:

[insert definitions from Appendix D of CSA SN 21-333 as applicable];

“securities legislation” has the meaning ascribed to that term in National Instrument 14-101 *Definitions*.

Representations

The Issuer makes the following representations with respect to [name of VRCA]:

- (1) [Name of VRCA] is a value-referenced crypto asset that references, on a one-for-one basis, the value of [the Canadian dollar][the United States dollar] (the “reference currency”).
- (2) [Name of VRCA] entitles a [name of VRCA] holder who maintains an account with the Issuer to a right of redemption, subject only to reasonable publicly disclosed conditions, on demand directly against the Issuer or against the reserve of assets, for the reference fiat currency on a one-to-one basis, less only any fee that is publicly disclosed by the Issuer, and payment of the redemption proceeds within a reasonable period as disclosed by the Issuer.
- (3) The Issuer maintains a reserve of assets that is:
 - (a) in the reference fiat currency and is comprised of any of the following:
 - (i) cash;
 - (ii) investments that are evidence of indebtedness with a remaining term to maturity of 90 days or less and that are issued, or fully and unconditionally guaranteed as to principal and interest, by the government of Canada or the government of the United States;
 - (iii) securities issued by one or more Money Market Funds licensed, regulated or authorized by a regulatory authority in Canada or the United States of America;
 - (iv) such other assets that the Principal Regulator and the other members of the CSA have consented to in writing;
 - (b) all of the assets that comprise the reserve of assets are:
 - (i) measured at fair value in accordance with Canadian GAAP for publicly accountable enterprises or U.S. GAAP at the end of each day;

- (ii) held with a Qualified Custodian;
 - (iii) held in an account clearly designated for the benefit of [name of VRCA] holders or in trust for [name of VRCA] holders;
 - (iv) held separate and apart from the assets of the Issuer and its affiliates and from the reserve of assets of any other Crypto Asset so that, to the best of the knowledge and belief of the Issuer after taking steps that a reasonable person would consider appropriate, including consultation with experts such as legal counsel, no creditors of the Issuer other than [name of VRCA] holders in their capacity as [name of VRCA] holders, will have recourse to the reserve of assets, in particular in the event of insolvency; and
 - (v) not encumbered or pledged as collateral at any time; and
- (c) the fair value of the reserve of assets is at least equal to the aggregate nominal value of all outstanding units of [name of VRCA] at least once each day.
- (4) In the last five years, the Issuer has not been the subject of a publicly announced order, judgment, decree, sanction, fine, or administrative penalty imposed by, or has entered into a publicly announced 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 anti-money laundering 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 a similar or analogous conduct.
- (5) The Issuer has written policies, procedures and controls in respect of all of the following:
 - (a) prudent management of the reserve of assets, including with respect to concentration of the investments that comprise the reserve of assets, to ensure that the fair value of the reserve of assets is at least equal to the nominal value of outstanding units of [name of VRCA] and the maintenance of effective liquidity risk management tools to be employed under normal and stressed market conditions;
 - (b) recovery and an orderly wind-up in the cases of a crisis or failure by the Issuer, the manager of the reserve of assets or the custodian of the reserve of assets;
 - (c) identification, management, avoidance and public disclosure of conflicts of interest between any of the following:
 - (i) [name of VRCA] holders;
 - (ii) the Issuer;
 - (iii) any person that is responsible for the minting, distributing, burning, redeeming or administering of the VRCA or the management of the reserve of assets;
 - (iv) any affiliate of a person referred to in subparagraphs (ii) or (iii);
 - (d) the minting, issuance, redemption and burning of units of [name of VRCA], including controls that units of [name of VRCA] are not issued until funds are received and units of [name of VRCA] are burned after a redemption is fulfilled.
- (6) The Issuer has filed a submission to jurisdiction and appointment of agent for service with each member of the CSA in the form set out in Appendix C of CSA SN 21-333.

Undertaking

Unless this Undertaking is otherwise withdrawn by the Issuer in accordance with the manner described below, the Issuer hereby undertakes to comply with the provisions of this Undertaking:

- (A) The Issuer will make all of the following publicly available:
 - (a) details of each type, class or series of [name of VRCA], including the date [name of VRCA] was launched and key features and risks of [name of VRCA];

- (b) the quantity of all outstanding units of [name of VRCA] and their aggregate nominal value at least once each business day;
- (c) the names and experience of the persons or companies involved in the issuance and management of [name of VRCA], including the Issuer, any manager of the reserve of assets, including any individuals that make investment decisions in respect of the reserve of assets, and any custodian of the reserve of assets;
- (d) the quantity of units of [name of VRCA] held by the Issuer or any of the persons or companies referred to in paragraph (c) and their nominal value at least once each business day;
- (e) details of how a [name of VRCA] holder can redeem [name of VRCA], including any possible restrictions on redemptions, such as the requirement for a [name of VRCA] holder to have an account with the Issuer and any criteria to qualify to have an account;
- (f) details of the rights of a [name of VRCA] holder against the Issuer and the reserve of assets, including in the event of insolvency or winding up;
- (g) all fees charged by the Issuer for distributing, trading or redeeming [name of VRCA];
- (h) whether [name of VRCA] holders are entitled to any revenues generated by the reserve of assets;
- (i) details of any instances of any of the following:
 - (i) the Issuer has suspended or halted redemptions for all [name of VRCA] holders;
 - (ii) the Issuer has not been able to satisfy redemption rights at the price or in the time specified in its public policies;
- (j) within 45 days of the end of each month, an assurance report from a public accountant that is authorized to sign such a report under the laws of a jurisdiction of Canada or the United States of America, and that meets the professional standards of that jurisdiction, that complies with all of the following:
 - (i) provides reasonable assurance in respect of the assertion by management of the Issuer that the Issuer has met the criteria in representation (3)(a)-(c) as at the last business day of the preceding month and at least one randomly selected day during the preceding month;
 - (ii) the randomly selected day referred to in subparagraph (i) is selected by the public accountant and disclosed in the assurance report;
 - (iii) for each day referred to in subparagraph (i), management's assertion includes all of the following:
 - 1. details of the composition of the reserve of assets;
 - 2. the fair value of the reserve of assets in representation (3)(b)(i);
 - 3. the quantity of all outstanding units of the VRCA in paragraph (b);
 - (iv) the assurance report is prepared in accordance with the Handbook, International Standards on Assurance Engagements or attestation standards established by the American Institute of Certified Public Accountants;
- (k) starting with the first financial year ending after December 1, 2023, within 120 days of the Issuer's financial year end, annual financial statements of the Issuer that comply with all of the following:
 - (i) the annual financial statements include all of the following:
 - 1. a statement of comprehensive income, a statement of changes in equity and a statement of cash flows, each prepared for the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, if any;

2. a statement of financial position, signed by at least one director of the Issuer, as at the end of the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, if any;
 3. notes to the financial statements;
 - (ii) the statements are prepared in accordance with one of the following accounting principles:
 1. Canadian GAAP applicable to publicly accountable enterprises;
 2. U.S. GAAP;
 - (iii) the statements are audited in accordance with one of the following auditing standards:
 1. Canadian GAAS;
 2. International Standards on Auditing;
 3. U.S. PCAOB GAAS;
 - (iv) the statements are accompanied by an auditor's report that,
 1. if (iii)1 or 2 applies, expresses an unmodified opinion,
 2. if (iii)3 applies, expresses an unqualified opinion,
 3. identifies the auditing standards used to conduct the audit, and
 4. is prepared and signed by a public accountant that is authorized to sign such a report under the laws of a jurisdiction of Canada or the United States of America.
- (B) The Issuer will promptly update any information in (A) if it is no longer true or does not contain information necessary so that it is not misleading.
- (C) The Issuer will as soon as possible and in a clear, accurate and transparent manner disclose, in a publicly and easily accessible place, on its website at the following page [link to webpage], any event that has or is likely to have a significant effect on the value of [name of VRCA] or on the reserve of assets.
- (D) The Issuer will promptly inform the Principal Regulator in writing if any of the following events occur:
 - (a) any of the representations in this Undertaking are no longer true;
 - (b) the Issuer, an affiliate of the Issuer or a control person of the Issuer or an affiliate of the Issuer becomes subject to any of the following under the laws of any jurisdiction including any foreign jurisdiction:
 - (i) a bankruptcy, a filing for bankruptcy or a proceeding governing an event similar to a bankruptcy;
 - (ii) a proposal, including a consumer proposal, or restructuring under any legislation relating to bankruptcy or insolvency or any similar proceeding;
 - (iii) proceedings under any legislation relating to the winding up or dissolution of the entity, or under the *Companies' Creditors Arrangement Act* (Canada);
 - (iv) any proceedings, arrangement or compromise with creditors, including the appointment of a receiver, receiver-manager, administrator or trustee.
- (E) The Issuer acknowledges that the giving of this Undertaking does not mean that distributions of [name of VRCA], or the activities of the Issuer otherwise, are in compliance with securities legislation.
- (F) The Issuer further acknowledges that the Principal Regulator or other members of the CSA may examine the business, conduct, financial affairs, books, records and other documents of the Issuer and its applicable affiliates and control persons for the purpose of determining if the Issuer is complying with this Undertaking, securities or other applicable legislation in Canada, or acting contrary to the public interest.
- (G) The Issuer will provide not less than 30 days' prior written notice to the Principal Regulator and the other members of the CSA if the Issuer wishes to withdraw this Undertaking. Where such notice is given, the Issuer

B.1: Notices

will cease distributions of [name of VRCA] in Canada at the time the Undertaking is withdrawn. All obligations respecting the provision of information relevant to the period in which the Issuer was in operation will survive the withdrawal of this Undertaking.

For [the Issuer]

Signature: _____

Name:

Title:

"I have authority to bind the firm"

Date: [●], 2023

APPENDIX C

SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE FOR ISSUER OF A VRCA

1. Name of issuer (the "Issuer"):
2. Name of value-referenced crypto asset (the "VRCA"):
3. Jurisdiction of incorporation of the Issuer:
4. Address of principal place of business of the Issuer:
5. Name of agent for service of process (the "Agent"):
6. Address for service of process of Agent in Canada (the address may be anywhere in Canada):
7. The Issuer designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (a "Proceeding") arising out of or relating to or concerning the obligations of the Issuer under Canadian securities legislation or the undertaking to the members of the Canadian Securities Administrators dated [●] (the "Undertaking"), including but not limited to the distribution or trading of the VRCA, and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring such Proceeding.
8. The Issuer irrevocably and unconditionally submits to the non-exclusive jurisdiction of
 - (a) the judicial, quasi-judicial and administrative tribunals of each of the provinces and territories of Canada; and
 - (b) any Proceeding in any such province or territory,in any Proceeding arising out of or related to or concerning the obligations of the Issuer under Canadian securities legislation or the Undertaking, including but not limited to the distribution or trading of the VRCA.
9. Until 6 years after the Issuer has withdrawn the Undertaking, the Issuer must submit to the regulator or securities regulatory authority
 - (a) a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated;
 - (b) an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent; and
 - (c) a notice detailing a change to any information submitted in this form, other than the name or above address of the Agent, no later than the 30th day after the change.
10. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

Dated: _____

(Signature of the Issuer or authorized signatory)

(Name of signatory)

(Title of signatory)

Acceptance

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

Dated: _____

(Signature of the Agent or authorized signatory)

(Name of signatory)

(Title of signatory)

APPENDIX D

DEFINED TERMS

“aggregate nominal value” means the price of the outstanding units of the VRCA where each unit of the VRCA has a price equal to one dollar, or one of the similar monetary units, of the reference fiat currency;

“Canadian GAAP” means generally acceptable accounting principles determined with reference to the Handbook;

“Canadian GAAS” means generally accepted auditing standards determined with reference to the Handbook;

“Crypto Asset” means anything commonly considered a crypto asset, digital or virtual currency, or digital or virtual token;

“Crypto Asset Statement” has the meaning ascribed to that term in the [Decision][PRU];

“Crypto Contract” has the meaning ascribed to that term in the [Decision][PRU];

“Handbook” means:

- (a) the Chartered Professional Accountants of Canada Handbook - Accounting, as amended from time to time, and
- (b) the Chartered Professional Accountants of Canada Handbook - Assurance, as amended from time to time;

“International Standards on Assurance Engagements” means the International Standards on Assurance Engagements set by the International Auditing and Assurance Standards Board, as amended from time to time;

“International Standards on Auditing” means auditing standards set by the International Auditing and Assurance Standards Board, as amended from time to time;

“KYP Policy” means the policies and procedures that the CTP has established and applies to review Crypto Assets and to determine whether to allow clients to enter into Crypto Contracts to buy and sell the Crypto Assets on the CTP’s platform;

“Money Market Fund” has the meaning ascribed to that term in National Instrument 81-102 *Investment Funds* or in Rule 12d1-1 of the United States *Investment Company Act of 1940*, as the case may be;

“outstanding units of the VRCA” or “outstanding units of [name of VRCA]” means units of the VRCA that have been minted and issued in exchange for funds less any units for which a request for redemption has been fulfilled;

“publicly accountable enterprise” means a publicly accountable enterprise as defined in the Handbook;

“Qualified Custodian” has the meaning ascribed to that term in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

“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;

“U.S. GAAP” means generally accepted accounting principles in the United States of America that the SEC has identified as having substantial authoritative support, as supplemented by Regulation S-X under the 1934 Act, as amended from time to time;

“U.S. PCAOB GAAS” means auditing standards of the Public Company Accounting Oversight Board (United States of America), as amended from time to time;

“Value-Referenced Crypto Asset” or “VRCA” means a Crypto Asset that is designed to maintain a stable value over time by referencing the value of a fiat currency or any other value or right, or combination thereof; and

“VRCA holder” or “[name of VRCA] holder” means a person or company with ownership or control or possession of a unit of a VRCA, including a CTP holding a unit of a VRCA pursuant to a Crypto Contract with a client.

B.1.2 CSA Staff Notice 31-364 OBSI Joint Regulators Committee Annual Report for 2022



CSA STAFF NOTICE 31-364
OBSI JOINT REGULATORS COMMITTEE ANNUAL REPORT FOR 2022

October 2023

Introduction

This notice is being published jointly by the Canadian Securities Administrators (**CSA**) and the Canadian Investment Regulatory Organization (**CIRO**) to serve as the Annual Report of the Joint Regulators Committee (**JRC**) of the Ombudsman for Banking Services and Investments (**OBSI**).

Members of the JRC are representatives from the CSA and CIRO. In 2022, CSA designated representatives were from British Columbia, Alberta, Ontario and Québec. In 2022, the JRC also included representatives from the two self-regulatory organizations (**SROs**) that amalgamated on January 1, 2023, and are predecessors to CIRO, the Investment Industry Regulatory Organization of Canada (**IIROC**) and the Mutual Fund Dealers Association of Canada (**MFDA**).

The JRC believes that a fair and effective independent dispute resolution service is important for investor protection in Canada and is vital to the integrity and confidence of the capital markets. The JRC supports a fair, accessible and effective OBSI dispute resolution process. The JRC meets regularly with OBSI to discuss governance and operational matters and other significant issues that could influence the effectiveness of the dispute resolution system.

The purpose of this notice is to provide an overview of the JRC and to highlight the major activities conducted by the JRC in 2022.

Background to Establishment of the JRC

In May 2014, amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the **Amendments**) came into force requiring all registered dealers and advisers to make OBSI available to their clients as their dispute resolution service, except in Québec where the dispute resolution services administered by the Autorité des marchés financiers (**AMF**) would continue to apply. In Québec, the AMF provides dispute resolution services to those clients of all registered dealers and advisers who reside in Québec. The Québec regime remains unchanged, and firms registered in Québec have to inform clients residing in Québec of the availability of the AMF's dispute resolution services. Investors in Québec are nevertheless entitled to use the services of OBSI for disputes that fall within OBSI's mandate, in lieu of the dispute resolution services provided by the AMF.

Memorandum of Understanding / Amendments: In conjunction with the passing of the Amendments, the CSA and OBSI signed a Memorandum of Understanding (**MOU**) which provides an oversight framework intended to ensure that OBSI continues to meet the standards set by the CSA.¹ The MOU also provides a framework for the CSA members and OBSI to cooperate and communicate constructively.

In 2015, the MOU was amended to include the AMF as a signatory, with it joining all other CSA members.² The amended MOU also clarifies certain provisions, including those relating to information sharing and the requirement for an independent evaluation of OBSI.³

JRC Mandate: The CSA jurisdictions and OBSI agreed with the SROs to form the JRC with a mandate to:

- facilitate a holistic approach to information sharing and monitor the dispute resolution process with an overall view to promoting investor protection and confidence in the external dispute resolution system;
- support fairness, accessibility and effectiveness of the dispute resolution process; and
- facilitate regular communication and consultation among JRC members and OBSI.

¹ The MOU sets out the standards that OBSI is expected to meet on: governance, independence and standard of fairness, processes to perform functions on a timely and fair basis, fees and costs, resources, accessibility, systems and controls, core methodologies, information sharing, and transparency.

² The AMF became a party to the MOU effective as of December 1, 2015.

³ For a copy of the MOU, please see the [Amended and Restated Memorandum of Understanding concerning oversight of the Ombudsman for Banking Services and Investments among the Canadian Securities Administrators and OBSI](#).

Overview of JRC Activities in 2022

In 2022, four regularly scheduled meetings were held in March, June, September and December. The JRC also held an *ad hoc* meeting in May, met with OBSI's Board of Directors (the **OBSI Board**) in September and engaged with OBSI throughout the year. These meetings provided OBSI with an opportunity to update the JRC on specific matters as contemplated by the MOU.

The following matters were considered and advanced by the JRC, and include matters on which OBSI provided updates to the JRC throughout 2022:

1. **OBSI's 2021 independent evaluation:** The MOU requires that an independent evaluation of OBSI's operations and practices on the investment side of its mandate commence every five years. OBSI delivered the 2021 *Independent Evaluation of the Ombudsman for Banking Services and Investments (OBSI) Investments Mandate (Investments Report)* to the JRC in 2022, and published it on June 13, 2022. As the JRC noted in its 2021 Annual Report, the independent evaluators found that, overall, OBSI met and exceeded its obligations under the MOU. The Investments Report includes 22 recommendations for improvements regarding governance, strategy, operations, additional value and awareness, and includes the recommendation that OBSI be empowered to make awards that are binding.

As noted in the 2021 Annual Report, the JRC met with the independent evaluators in 2022 to discuss the Investments Report. The JRC received regular updates from OBSI staff on the status of the evaluation process and met with the OBSI Board on September 28, 2022, to learn more about OBSI's position on the Investments Report's findings and recommendations.

The JRC receives ongoing updates from OBSI staff regarding OBSI's response to the Investments Report and related action plans. The JRC is collaborating with OBSI and considering stakeholder input on next steps in response to the Investments Report.

2. **CSA's project to strengthen OBSI:** In 2022, the JRC continued to receive quarterly progress updates about the CSA's continued policy work to strengthen OBSI as an independent dispute resolution service, including its progress toward creating a binding authority framework for OBSI that is fair, efficient, accessible, and more closely aligned with international best practices among OBSI's international financial ombuds service counterparts.

3. **Continuous monitoring of OBSI quarterly reports, compensation refusals and settling for lower amounts than recommended by OBSI:** The JRC continued to monitor data on investment-related complaints, including compensation refusals and settlements below OBSI's recommendations, through the review of OBSI's quarterly reporting. The JRC believes this data can sometimes provide risk-based indications of potential problems with a firm's complaint handling practices, or raise questions about whether a firm is participating in OBSI's services in good faith or consistently with the applicable standard of care.

There were no compensation refusals in 2022.

Overall, since OBSI's 2018 fiscal year, clients received approximately \$1.6 million less than what OBSI recommended. Low settlements continue to be an area of concern for the JRC. For OBSI's fiscal years 2018 to 2022, out of 844 cases that ended with monetary compensation, 42 cases (approximately 5%) involving 24 firms settled below OBSI recommendations. In the same five-year period, 10 of the 24 firms settled below OBSI's recommended amount more than once. Subsequent to follow up efforts by CSA jurisdictions and SROs regarding low settlement cases, 2 of these firms made additional payments on 3 cases in 2021 to align compensation amounts with OBSI recommendations.

About 57% of all low settlement cases involved recommendations over \$50,000. On average, low settlement cases settled for 60% of OBSI's recommended amount of compensation. In terms of the dollar amount, where OBSI made a recommendation for compensation of \$50,000 or less, the complainant received an average of \$8,373 less than what OBSI recommended. Where OBSI made a recommendation for compensation above \$50,000, the complainant received an average of \$59,373 less than what OBSI recommended.

The JRC recognizes the impact on complainants when firms refuse to compensate clients consistent with OBSI recommendations or settle for lower amounts than recommended by OBSI. Complainants rely on OBSI to help achieve a fair resolution to their complaint through a dispute resolution process that requires both engagement and resources from the parties involved. When a firm refuses to settle or makes a lower settlement offer, complainants may feel they are unable to pursue the matter further due to the time and cost involved, including to obtain legal representation and initiate a civil action against the firm. Settlement refusals and low settlements erode confidence in the fairness and effectiveness of the dispute resolution process for investors.

The JRC continues to monitor low settlements and supports the ongoing work of the CSA to provide OBSI with the authority to make binding awards.

4. **Systemic issues:** Under the MOU, the Chair of the OBSI Board is to inform the CSA Designates of any issues that appear likely to have significant regulatory implications, including issues that appear to affect multiple clients of one or more firms (referred to as **Systemic Issues**). In 2015, the JRC finalized with OBSI a protocol to define potential Systemic Issues and to set out a regulatory approach to address these issues when reported by OBSI under the MOU. Information sharing about individual complaints relating to Systemic Issues allows for evaluation of whether a systemic issue exists and assessment of its impact on the applicable registrant, the registrant category and/or investors. Please see [OBSI and JRC Protocol for Handling Systemic Issues](#) for further information.

In 2022, one new Systemic Issue was reported to the JRC by OBSI or by the Chair of the OBSI Board:

- An order execution-only (OEO) dealer received two complaints regarding a system issue impacting Canadian investors purchasing certain US derivatives. The dealer resolved the issue shortly after discovering it. The matter was referred to the relevant SRO, which determined that the issue was limited to the two complainants.

The JRC also continued to receive updates on a previously reported Systemic Issue:

- A portfolio manager was the subject of multiple complaints alleging understating and misrepresenting the risk of a fund and disregarding documented investor risk tolerance in multiple cases. The issue was referred to the relevant CSA jurisdiction which, as a result of the jurisdiction's ongoing review, applied conditions of registration to the portfolio manager in 2022.

5. **Emerging and ongoing complaint trends:** The JRC worked with OBSI to identify and monitor emerging and ongoing trends in complaint volumes, as well as the nature of complaints received. On a quarterly basis, OBSI provided the JRC with detailed aggregate data relating to products, issues and outcomes, as well as anonymized case outcomes and summaries to assist with the identification of these trends.

In 2022, the JRC observed a rise in complaints regarding restricted dealers pertaining to crypto assets. Most of these cases (85%) were related to fraudulent activities whereby the client was coerced or tricked into granting a third party access to the client's account and crypto assets were transferred to a third-party wallet. To date, OBSI has observed that despite warnings and fraud reduction steps taken by firms, such instances of fraud continue to be common. The JRC continues to monitor this trend and discuss opportunities for risk reduction, including with OBSI.

Within the final quarter of 2022, OBSI staff apprised the JRC of an increase in complaint volumes pertaining to mutual funds and issues of suitability. OBSI staff indicated that increases in complaints appear predominantly related to recent market conditions. For example, CIRO has noted an increase in complaints relating to certain fixed income mutual funds, some of which have recently experienced losses due to the current interest rate environment. The JRC and OBSI continue to monitor this trend.

In 2022, the JRC observed a reduction in a previously reported complaint trend relating to OEO dealers. Complaints about OEO dealers had previously corresponded with an overall increase in newly opened accounts and trading activities in 2020 and 2021, with top complaint issues relating to margin, transaction errors and service issues relating to the trading platforms. CIRO provided updates to JRC on its efforts relating to this increase in complaints. These complaints decreased significantly over the year.

6. **Review and consideration of stakeholder feedback:** The JRC receives stakeholder feedback predominantly through its dedicated inbox (ContactJRC-CMOR@acvm-csa.ca). The JRC regularly discusses the feedback, considers opportunities to enhance the effectiveness of its oversight in accordance with its mandate, and implements changes where appropriate. Where feedback falls outside of the JRC's mandate and areas of oversight, it is referred to OBSI, the relevant CSA project or committee, or the relevant jurisdiction or to CIRO for consideration.
7. **Industry communication regarding complaint escalation processes:** Continuing a review started in 2020, the JRC was apprised of websites of registered firms that presented complaint escalation processes in a manner that may be unclear or confusing for investors. Specifically, the websites were unclear that clients do not need to use a registered firm's internal complaint escalation services prior to approaching OBSI when they are dissatisfied with a firm's responses to their complaint. Following communication from a CSA member jurisdiction and SROs, all firms contacted revised their websites and other related investor-facing material accordingly.
8. **IROC proposed amendments regarding Reporting, Internal Investigation and Client Complaint Requirements:** IROC provided the JRC with updates on proposed amendments to its Dealer Rules which would codify regulatory expectations around reporting to IROC and certain complaint-handling best practices observed in dealers and internationally. IROC received comments from stakeholders and kept the JRC apprised of next steps.

9. **Consultation regarding the IIROC Arbitration Program:** The JRC reviewed the recommendations IIROC received from an external working group established to explore improvements to the IIROC Arbitration Program. The JRC provided the working group and IIROC with feedback, noting in particular the complexity of the overall complaint handling landscape, the potential for investor confusion and how potential overlap between claims that can be pursued through either OBSI or IIROC Arbitration could impact consumer decision-making. IIROC published the working group's recommendations for public comment in December 2022, and JRC continues to receive updates. OBSI discussed its concerns with the JRC, including that application of the Arbitration Program to lower value, unrepresented complainants would increase the complexity of the dispute resolution system and investor confusion. On publishing the recommendations, IIROC encouraged commenters to address the Arbitration Program's coexistence with OBSI within the current dispute resolution framework and indicated that consideration is being given to making the Arbitration Program available only for claims that fall outside of OBSI's compensation limit, given the Arbitration Program is designed to be an alternative to litigation with a focus on complex and large claims.
10. **Federal developments relating to external complaint handling in banking:** The JRC discussed key themes and comments emerging from the federal consultation on external complaint handling bodies, and the federal government's proposal to introduce legislative amendments to provide for a single, non-profit external complaints handling body for banking complaints. On June 30, 2022, the federal government introduced a new financial consumer protection framework into the *Bank Act*, intended to strengthen complaint-handling procedures for banking consumers. These amendments, which, among other things, require banks to deal with consumer complaints within 56 days, have resulted in reduced complainant attrition, leading to record high overall banking and investment case volumes for OBSI. OBSI has also kept the JRC apprised of initiatives launched in response to the *Bank Act* changes, including the launch of a banking case disclosure webpage. Additionally, on September 1, 2022, OBSI published the *Independent Evaluation of the Ombudsman for Banking Services and Investments' (OBSI) Banking Mandate (Banking Report)*. The JRC has reviewed the Banking Report for information purposes and continues to monitor ongoing federal developments relating to external complaint handling in banking.

JRC Meeting with OBSI's Board of Directors

As required by the MOU, an annual meeting of the JRC with the OBSI Board was held on September 28, 2022. In addition to broader discussions on operating and governance issues and the effectiveness of OBSI's processes, discussion focused on the recommendations made in the Investments Report, particularly relating to systemic issues reporting, OBSI's planned public consultations for 2023, as well as the CSA's work underway to strengthen OBSI's powers to secure redress for investors.

OBSI Annual Report

For additional information on OBSI, readers may wish to review [OBSI's Annual Report for its fiscal year ending October 31, 2022](#).

Comments

We appreciate the feedback received on previous annual reports from various stakeholders and welcome comments on this annual report and any matter relating to the JRC's oversight of OBSI. Please send your comments to ContactJRC-CMOR@acvm-csa.ca.

Questions

Please refer your questions regarding this CSA Staff Notice to any of the following CSA staff:

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B.1.3 OSC Staff Notice 11-739 (Revised) – Policy Reformulation Table of Concordance and List of New Instruments**OSC STAFF NOTICE 11-739 (REVISED)****POLICY REFORMULATION TABLE OF CONCORDANCE AND LIST OF NEW INSTRUMENTS**

The following revisions have been made to the Table of Concordance and List of New Instruments. A full version of the Table of Concordance and List of New Instruments as of September 30, 2023, has been posted to the OSC Website at www.osc.gov.on.ca.

Table of Concordance

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

Reformulation

Instrument	Title	Status
81-336	Crypto Asset Investment Funds That Are Reporting Issuers	Published July 6, 2023
13-932	Exemptions from certain filing requirements in connection with the launch of the System for Electronic Data Analysis and Retrieval	Published July 20, 2023
13-933	Temporary exemption from the requirement to transmit a report of exempt distribution through SEDAR+ in connection with distributions of eligible foreign securities to permitted clients	Published July 20, 2023
31-363	Client Focused Reform: Review of Registrants' Conflicts of Interest Practices and Additional Guidance	Published August 3, 2023
33-755	Compliance and Registrant Regulation Branch – Summary Report for Dealers, Advisers and Investment Fund Managers	Published August 3, 2023
24-319	Regarding NI 24-101 Institutional Trade Matching and Settlement Update and Staff Recommendation	Published August 10, 2023
81-509	Extension to Ontario Instrument 81-508 Temporary Exemptions from the OEO Trailer Ban to Facilitate Dealer Rebates of Training Commissions and Client Transfers	Board Approval Published August 31, 2023
81-104	Repeal of NI 81-104 Alternative Mutual Funds	Board Approval Published August 31, 2023
81-734	Summary Report for Investment Fund and Structured Product Issuers	Published September 14, 2023
25-102	Designated Benchmarks and Benchmark Administrators – Amendments	Ministerial approval published September 14, 2023
14-101	Definitions – Amendments	Notice of Coming into Force published September 14, 2023
25-501	(Commodity Futures Act) Designated Benchmarks and Benchmark Administration	Ministerial approval published September 14, 2023
31-103	Registration Requirements, Exemptions and Ongoing Registrant Obligations – Amendments	Notice of Coming into Force published September 14, 2023
33-109	Registration Information – Amendments	Notice of Coming into Force published September 14, 2023

B.1: Notices

45-106	Prospectus Exemptions – Amendments	Notice of Coming into Force published September 14, 2023
52-107CP	Acceptable Accounting Principles and Auditing Standards - Amendments	Notice of Coming into Force published September 14, 2023
62-103	The Early Warning System and Related Take-Over Bid and Insider Reporting Issues - Amendments	Notice of Coming into Force published September 14, 2023
81-102	Investment Funds - Amendments	Notice of Coming into Force published September 14, 2023
94-102	Derivatives: Customer Clearing and Protection of Customer Collateral and Positions – Amendments	Notice of Coming into Force published September 14, 2023
14-501	Definitions – Amendments	Notice of Coming into Force published September 14, 2023
45-501	Ontario Prospectus and Registration Exemptions	Notice of Coming into Force published September 14, 2023
52-503	Exemption from Disclosure of Specified Financial Measure	Notice of Ministerial Approval published September 21, 2023
44-102	Shelf Distributions Relating to Well-Known Seasoned Issuers	Request for Comment published September 21, 2023
93-101	Derivatives – Business Conduct	Final instrument published September 28, 2023

For further information, contact:

Darlene Watson
Business and Corporate Project Manager
Ontario Securities Commission
416-593-8148

October 12, 2023

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B.2 Orders

B.2.1 Voyager Metals Inc. – s. 1(6) of the OBCA

Headnote

Applicant deemed to have ceased to be offering its securities to the public under the Business Corporations Act (Ontario).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 1(6).

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

AND

IN THE MATTER OF
VOYAGER METALS INC.
(the Applicant)

ORDER
(Subsection 1(6) of the OBCA)

UPON the application of the Applicant to the Ontario Securities Commission (the **Commission**) for an order pursuant to subsection 1(6) of the OBCA to be deemed to have ceased to be offering its securities to the public;

AND UPON the Applicant representing to the Commission that:

1. The Applicant is an “offering corporation” as defined in subsection 1(1) of the OBCA;
2. The Applicant has no intention to seek public financing by way of an offering of securities;
3. On June 28, 2023, the Applicant was granted an order (the **Reporting Issuer Order**) pursuant to subclause 1(10)(a)(ii) of the *Securities Act* (Ontario) that it is not a reporting issuer in Ontario and is not a reporting issuer or equivalent in any other jurisdiction in Canada in accordance with the simplified procedure set out in National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications*; and
4. The representations set out in the Reporting Issuer Order continue to be true.

AND UPON the Commission being satisfied that to grant this order would not be prejudicial to the public interest;

IT IS HEREBY ORDERED pursuant to subsection 1(6) of the OBCA, that the Applicant be deemed to have ceased to be offering its securities to the public.

DATED at Toronto this 4th day of July, 2023.

“David Surat”
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2023/0272

B.2.2 Japan Securities Clearing Corporation – s. 147

Headnote

Application under section 147 of the Securities Act (Ontario) (Act) for an order to exempt on an interim basis Japan Securities Clearing Corporation from recognition as a clearing agency under subsection 21.2(0.1) of the Act.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21.2(0.1), 147.

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

AND

**IN THE MATTER OF
JAPAN SECURITIES CLEARING CORPORATION**

**ORDER
(Section 147 of the OSA)**

WHEREAS the Ontario Securities Commission (**Commission**) has received an application (**Application**) from the Japan Securities Clearing Corporation (**JSCC**) pursuant to section 147 of the OSA requesting an interim order exempting JSCC from the requirement to be recognized as a clearing agency under subsection 21.2(0.1) of the OSA in order to provide its central counterparty (**CCP**) clearing service for interest rate swaps (**IRS**) to Ontario-resident entities (**Interim Order**);

AND WHEREAS JSCC has represented to the Commission that:

- 1.1 JSCC is a joint-stock company formed under the *Companies Act* of Japan on July 1, 2002, and is a majority-owned subsidiary of the Japan Exchange Group, Inc., a publicly traded company listed on the Tokyo Stock Exchange, Inc.
- 1.2 JSCC is licensed as a CCP to perform clearing services (“Financial Instruments Obligation Assumption Services”), including IRS clearing services, under the *Financial Instruments and Exchange Act* (Japan) (**FIEA**). JSCC is obligated under the FIEA to conduct its IRS clearing business in accordance with its IRS Business Rules, which are subject to approval by the Prime Minister of Japan. The IRS Business Rules set out the rights and obligations in relation to the IRS clearing business, including the risk-management framework, to ensure the stable performance of JSCC’s clearing operations. The FIEA and Cabinet Office Order on the Regulation of Over-the-Counter Derivatives Transactions requires certain types of IRS and credit default swaps denominated in Japanese yen to be cleared in a licensed clearinghouse. In addition, these laws and regulations require certain over-the-counter (**OTC**) derivative contracts to be reported to (i) trade repositories licensed in Japan or (ii) those incorporated in a foreign jurisdiction and designated by the Prime Minister.
- 1.3 JSCC is regulated and supervised by the Japanese Financial Services Agency (**JFSA**) and is subject to the oversight of the Bank of Japan in respect of its IRS clearing activities. Pursuant to the FIEA, changes to JSCC’s articles of incorporation, reductions to its stated capital and the acquisition by any person of 20% or more of the outstanding shares of JSCC are subject to the approval by the JFSA. The FIEA also imposes on JSCC a duty of confidentiality and a prohibition on unfairly differential treatment of its clearing participants. The JFSA has the power under the FIEA to take certain actions in respect of JSCC as a regulated CCP, including to conduct inspections, to require reporting, to make business improvement orders and to rescind the CCP’s license in certain circumstances. JSCC is also subject to oversight by the Bank of Japan of financial market infrastructures, as provided in the *Bank of Japan Act*.
- 1.4 JSCC is of the opinion that it fully observes the international standards applicable to financial market infrastructures described in the April 2012 report named *Principles for financial market infrastructures* (**PFMIs**) as discussed in its PFI Disclosure Report dated as of March 31, 2023.
- 1.5 JSCC is recognized by the European Securities and Markets Authority as a Third Country CCP under the European Market Infrastructure Regulation and is subject to an order issued by the U.S. Commodity Futures Trading Commission that exempts JSCC from the requirement to register as a Derivatives Clearing Organization under the U.S. *Commodity Exchange Act*. In Australia, JSCC has received designation as a “prescribed facility” under the Corporations Amendment (Central Clearing and Single Sided Reporting) Regulation 2015. JSCC has obtained from the Hong Kong Securities and Futures Commission authorization to provide Automated Trading Services, as well as designation as a central

counterparty, which can be used for the observance of mandatory clearing obligations under the Securities and Futures Ordinance. JSCC has obtained recognition as a Foreign Central Counterparty under the Financial Market Infrastructure Act from the Swiss Financial Market Supervisory Authority to offer IRS Clearing Services to those trading entities. JSCC has obtained temporary recognition from the Bank of England for the provision of all its clearing services in the U.K. as a Third Country CCP under the *Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018*, to provide services to clearing participants and trading facilities established in the U.K.

- 1.6 Entities that satisfy the participant criteria set forth in JSCC's Interest Rate Swap Clearing Business Rules (**IRS Business Rules**) are eligible to apply for qualification as clearing participants in JSCC's IRS clearing business (**Clearing Participants**). Each Clearing Participant must enter into a Clearing Participant Agreement with JSCC, and the IRS Business Rules are binding on Clearing Participants by virtue of the Clearing Participant Agreement.
- 1.7 JSCC has a single clearing model for IRS and a single category of IRS Clearing Participant. JSCC's participation criteria cover financial integrity, regulated status of an applicant, and structure for management and appropriate business execution to meet and continue to meet the standards set out by JSCC. The IRS Business Rules impose additional obligations on a Clearing Participant that engages in clearing on behalf of its customers.
- 1.8 JSCC proposes to offer customer clearing services in respect of certain OTC IRS derivatives to "local customers" defined in National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions (NI 94-102)*. These "local customers" are limited to banks listed on Schedule I to the *Bank Act (Canada)* (each an **Ontario Customer**) who will be clearing their IRS transactions through Clearing Participants that are resident outside of Ontario and that are "clearing intermediaries" as defined in NI 94-102 and that are permitted to rely on substituted compliance under Part 9 of NI 94-102 to clear IRS through JSCC. Pursuant to NI 94-102, JSCC may only offer its clearing services to Ontario Customers if it is a "regulated clearing agency" in Ontario as defined in NI 94-102. This means that JSCC must be recognized as a clearing agency in Ontario under s. 21.2 of the OSA or otherwise exempt from recognition under the OSA in order to offer its clearing services to Ontario Customers.
- 1.9 Each Clearing Participant is required to provide JSCC with, and maintain on a daily basis for so long as it is a Clearing Participant, eligible collateral with a collateral value sufficient to satisfy its margin and clearing fund requirements as calculated by JSCC in accordance with the IRS Business Rules.
- 1.10 JSCC will only offer Ontario Customers an individual segregated account structure for client clearing. JSCC segregates each Clearing Participant's proprietary positions and margin from the positions and margin of each customer of the Clearing Participant. The positions and margin of each Ontario Customer will be segregated in individual customer accounts with JSCC at all times, regardless of whether or not the Ontario Customer is an affiliate of the Clearing Participant. A Clearing Participant must deposit the full amount of customer margin with JSCC without delay when it receives margin from a customer unless otherwise agreed by the customer. The IRS Business Rules do not allow for the netting of positions recorded in different customer accounts. JSCC will not permit any Ontario Customer to clear through any "indirect intermediary" as defined in NI 94-102 or permit any Ontario Customer to on-board any indirect client that would clear through the Ontario Customer.
- 1.11 The IRS Business Rules (including in particular the default procedures contained within them) govern the processes that apply to Clearing Participants in the case of a Clearing Participant default. Clearing Participants remain responsible for the credit risk of their customers. JSCC has established a financial safeguards system to provide optimal risk management protections including the establishment of a segregated financial safeguard waterfall for cleared IRS that is designed to ensure that JSCC has sufficient resources to cover defaulting Clearing Participant losses in a wide range of potential stress scenarios including the extreme scenario where the two largest Clearing Participants (including any affiliated entities) default at the same time.
- 1.12 Upon the default of a Clearing Participant, JSCC will take actions to contain losses by halting clearing of new transactions from the defaulter and liquidating the defaulter's positions. JSCC's methods for disposing of positions vary according to the nature of the product cleared. For JSCC's IRS clearing business, an auction involving non-defaulting Clearing Participants is used. In addition, hedge transactions may be promptly executed for the defaulter's portfolio to minimize the risk of losses prior to the disposal of the defaulter's positions. For the IRS clearing business, hedge transactions are executed based on the advice of the IRS Default Management Committee.
- 1.13 A Clearing Participant must successfully complete simulated default tests to demonstrate they have the appropriate expertise and operational processes in place prior to beginning clearing operations. Once live, all Clearing Participants are required to participate in fire drills regularly to confirm their operational readiness to manage a Clearing Participant default.
- 1.14 JSCC currently offers portfolio margining (also known as cross-margining) of (a) cleared IRS and (b) certain Japanese Government Bond futures contracts (**JGB Futures**), in each case, in customer accounts in accordance with the IRS Business Rules. JSCC proposes to make its portfolio-margining service available to Ontario Customers that use JSCC's IRS clearing services and JGB Futures clearing services.

- 1.15 By combining positions in both IRS and JGB Futures into a single portfolio for margin purposes, JSCC's portfolio-margining service allows the overall risk of that portfolio to be determined. Because IRS and JGB Futures experience pricing changes that are correlated with variations in Japanese yen interest rates, which may result in offsetting changes in the aggregate potential future exposure of a portfolio of positions, portfolio-margining can result a margin requirement that is more proportionate to the aggregate risk of the portfolio. Thus, the benefit of JSCC's portfolio-margining of IRS and JGB Futures for Ontario Customers, through the margin savings on the same basis as is available to entities outside Ontario, may be significant.
- 1.16 JSCC would provide its services to Ontario Customers without establishing an office or having a physical presence or employees in Ontario or elsewhere in Canada.
- 1.17 JSCC has been approached by an Ontario Customer proposing to clear Japanese yen (**JPY**) denominated IRS transactions through JSCC via a Clearing Participant resident outside of Ontario as soon as possible in order to reduce its risk exposure on such transactions, as such proposed Ontario Customer believes that clearing such transactions through JSCC will allow it to access more liquid markets, particularly in times of market stress.
- 1.18 JSCC submits that it does not pose a significant risk to the Ontario capital markets and is subject to an appropriate regulatory and oversight regime in a foreign jurisdiction.
- 1.19 JSCC has filed a full application with the Commission for a subsequent order exempting it from the requirement to be recognized as a clearing agency in order to provide its CCP clearing service for IRS to Ontario-resident entities as Clearing Participants or customers of Clearing Participants under section 147 of the OSA (**Subsequent Order**).

AND WHEREAS based on JSCC's representations above, an Ontario Customer wishes to clear JPY denominated IRS transactions at JSCC through a Clearing Participant resident outside of Ontario as soon as possible;

AND WHEREAS JSCC has agreed to the terms and conditions as set out in Schedule "A" to this order;

AND WHEREAS JSCC is required to comply with National Instrument 24-102 *Clearing Agency Requirements*;

AND WHEREAS the requested relief is temporary, limited and conditional;

AND WHEREAS based on the Application and the representations that JSCC has made to the Commission, in the Commission's opinion the granting of the Interim Order to exempt JSCC from the requirement to be recognized as a clearing agency would not be prejudicial to the public interest;

AND WHEREAS JSCC has acknowledged to the Commission that the scope of and the terms and conditions imposed by the Commission attached hereto as Schedule "A" to this Interim Order, or the determination whether it is appropriate that JSCC continue to be exempted from the requirement to be recognized as a clearing agency, may change as a result of the Commission's monitoring of developments in international and domestic capital markets, JSCC's activities, or as a result of any changes to the laws in Ontario affecting trading in or clearing and settlement of derivatives or securities;

IT IS HEREBY ORDERED by the Commission that pursuant to section 147 of the OSA, JSCC is exempt on an interim basis from the requirement to be recognized as a clearing agency under subsection 21.2(0.1) of the OSA;

PROVIDED THAT

1. This Interim Order terminates on the earlier of (i) September 28th, 2024 and (ii) the effective date of the Subsequent Order; and
2. JSCC complies with the terms and conditions attached hereto as Schedule "A".

DATED this 29th day of September, 2023.

"Susan Greenglass"
Director, Market Regulation
Ontario Securities Commission

SCHEDULE "A"

Terms and Conditions

Definitions:

For the purposes of this Schedule "A":

"**customer clearing**" means the ability of a Clearing Participant to clear transactions on JSCC for and on behalf of a customer.

"**Ontario Customer**" means as defined in paragraph 1.8 of JSCC's representations set out above in this Interim Order.

Unless the context requires otherwise, other terms used in this Schedule "A" have the meanings ascribed to them in Ontario securities law (including terms defined elsewhere in this order).

COMPLIANCE WITH ONTARIO LAW

1. JSCC must comply with Ontario securities law (as defined in the OSA).
2. JSCC's IRS clearing services must comply with National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions* (**NI 94-102**), except where and to the extent that JSCC has obtained an order exempting JSCC from the requirements of NI 94-102 and complies with the terms of such order.

SCOPE OF PERMITTED CLEARING SERVICES IN ONTARIO

3. JSCC's activities in Ontario will be limited to providing customer clearing services for IRS transactions for and on behalf of Ontario Customers clearing IRS transactions through a Clearing Participant that is a resident outside of Ontario and a "clearing intermediary" that is a "direct intermediary" as defined in NI 94-102 (**Permitted Clearing Services**).

REGULATION OF JSCC

4. JSCC must maintain its license as a CCP to perform clearing services ("Financial Instruments Obligation Assumption Services"), including IRS clearing services under the FIEA. JSCC is regulated and supervised by the JFSA and is subject to the oversight of the Bank of Japan in respect of its IRS clearing activities and will continue to be subject to the regulatory oversight of the JFSA and the Bank of Japan or any successors.
5. JSCC must continue to comply with its ongoing regulatory requirements as an entity licensed to perform IRS clearing services under the FIEA or any comparable successor legislation, and with the ongoing regulatory requirements of the JFSA, as applicable. For so long as JSCC maintains its existing licenses, authorizations, and recognition or exemption orders in certain jurisdictions outside Japan as described in representation 1.5 above, JSCC must continue to comply with its ongoing regulatory requirements as a CCP in such jurisdictions pursuant to such licenses, authorizations, and recognition or exemption orders.

GOVERNANCE

6. JSCC must promote within JSCC a governance structure that minimizes the potential for any conflict of interest between JSCC and its shareholders that could adversely affect the Permitted Clearing Services or the effectiveness of JSCC's risk management policies, controls and standards.

REPORTING REQUIREMENTS

Reporting with JFSA

7. JSCC must promptly provide staff of the Commission with the following information, to the extent that it is required to provide or submit such information to JFSA or any successor:
 - (a) details of any material legal proceeding instituted against JSCC;
 - (b) notification that JSCC has failed to comply with an undisputed obligation to pay money or deliver property to an Ontario Customer for a period of thirty days after receiving notice from the applicable Clearing Participant of JSCC's past due obligation;
 - (c) notification that JSCC has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate JSCC or has a proceeding for any such petition instituted against it;

- (d) notification that JSCC has initiated its recovery plan;
- (e) the appointment of a receiver or the making of any voluntary arrangement with creditors;
- (f) the entering of JSCC into any resolution regime or the placing of JSCC into resolution by a resolution authority;
- (g) material changes to the IRS Business Rules where such changes would impact the Permitted Clearing Services used by Ontario Customers;
- (h) new services or clearing of new types of products in the Permitted Clearing Services to be offered to Ontario Customers or services or types of products that will no longer be available to Ontario Customers;
- (i) any new category of membership in respect of the Permitted Clearing Services if JSCC expects that category of membership would be available to Ontario Customers;

Financial Statements

8. JSCC must promptly provide staff of the Commission with the following information:
- (a) English translations of interim financial statements, if available; and
 - (b) English translations of annual audited financial statements, within 30 days of providing the Japanese version of any such statements to the JFSA.

Prompt Notice

9. JSCC must promptly notify staff of the Commission of any of the following:
- (a) any material change to its business or operations;
 - (b) any material change or proposed material change in JSCC's status as an entity licensed to perform "Financial Instruments Obligation Assumption Services" under the FIEA or in its regulation and supervision by JFSA or any successor;
 - (c) any material problems with the clearing and settlement of transactions that could materially affect the safety and soundness of JSCC;
 - (d) the admission of any new Ontario Customer;
 - (e) any event of default by, or removal from Permitted Clearing Services of, an Ontario Customer; and
 - (f) any material system failure of a Permitted Clearing Service used by an Ontario Customer, including cybersecurity breaches.

Quarterly Reporting

10. JSCC must maintain and submit the following information to the Commission in a manner and form acceptable to the Commission on a quarterly basis within 30 days of the end of each calendar quarter, and at any time promptly upon the request of staff of the Commission:
- (a) current lists of all Ontario Customers and the legal entity identifier (**LEI**), if any, of each such Ontario Customer;
 - (b) a list of all Ontario Customers against whom disciplinary or legal action has been taken in the quarter by JSCC with respect to activities at JSCC, or to the best of JSCC's knowledge, by JFSA or any other authority in Japan that has or may have jurisdiction with respect to the relevant Ontario Customer's clearing activities at JSCC, provided that the Commission will maintain the confidentiality of the identity of any such Ontario Customer, unless (i) required by a court of competent jurisdiction, law, regulation or memorandum of understanding with a regulatory authority to release such identity, (ii) disclosure is permitted or consistent with the purposes of the OSA, or (iii) such identity is publicly available;
 - (c) a list of all investigations by JSCC in the quarter relating to Ontario Customers, provided that the Commission will maintain the confidentiality of the identity of any such Ontario Customer, unless (i) required by a court of competent jurisdiction, law, regulation or memorandum of understanding with a regulatory authority to release such identity, (ii) disclosure is permitted or consistent with the purposes of the OSA, or (iii) such identity is publicly available;

- (d) quantitative information in respect of the Permitted Clearing Services used by the Ontario Customers broken down by each Clearing Participant (identified by LEI) who provides the Permitted Clearing Services, including the following:
 - i. the end of quarter level, maximum and average daily open interest, number of transactions and notional value of transactions cleared during the quarter for each Ontario Customer, by product type;
 - ii. the percentage of end of quarter level and average daily open interest, number of transactions and the notional value cleared during the quarter for all Clearing Participants that represents the end of quarter and average daily open interest, number of transactions and the notional value of transactions cleared during the quarter for each Ontario Customer, by product type;
 - iii. the aggregate total margin amount required by JSCC on the last trading day during the quarter for each Ontario Customer; and
 - iv. the percentage of the total margin required by JSCC, on the last trading day of the quarter, for all Clearing Participants that represents the total margin required for each Ontario Customer.
- (e) a summary of risk management analysis related to the adequacy of the required margins and the IRS clearing fund requirement, including but not limited to stress testing and back testing results.

INFORMATION SHARING

- 11. JSCC must promptly provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws that would prevent the sharing of such information and subject to the application of solicitor-client privilege.
- 12. Unless otherwise prohibited under applicable law, JSCC must share information relating to regulatory and enforcement matters and otherwise cooperate with other recognized and exempt clearing agencies on such matters, as appropriate.

B.2.3 Fire & Flower Holdings Corp.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications and National Policy 11-207 Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions – application for order that issuer is not a reporting issuer and for full revocation of failure-to-file cease trade order – issuer cease traded due to failure to file interim financial statements, management's discussion and analysis and related certifications – issuer has completed reorganization under the Companies' Creditors Arrangement Act – issuer has applied for a full revocation of the cease trade order – issuer has applied to cease to be a reporting issuer in each jurisdiction where it is a reporting issuer – full revocation of the failure-to-file cease trade order and cease to be reporting issuer application granted.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(10)(a)(ii) and 144.

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications.

National Policy 11-207 Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdiction.

IN THE MATTER OF THE SECURITIES LEGISLATION OF ONTARIO

AND

IN THE MATTER OF A REVOCATION OF A FAILURE-TO-FILE CEASE TRADE ORDER AND IN THE PROCESS FOR CEASE TO BE A REPORTING ISSUER APPLICATIONS

AND

IN THE MATTER OF FIRE & FLOWER HOLDINGS CORP. (the Issuer)

Background

The Issuer is subject to a failure-to-file cease trade order (the **FFCTO**) issued by the Ontario Securities Commission (the **Decision Maker**) on August 28, 2023.

The Issuer has applied to the Decision Maker under National Policy 11-207 *Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions* (**NP 11-207**) for a revocation of the FFCTO (**FFCTO Revocation Order**) pursuant to section 144 of the *Securities Act* (Ontario) (the **Legislation**).

The Decision Maker also received an application (**Cease to be a Reporting Issuer Application**) from the Issuer for an order (the **Cease to be a Reporting Issuer Order**) under section 1(10)(a)(ii) of the Legislation that the Issuer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer pursuant to section 21 of

National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* (**NP 11-206**).

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

- (a) the Decision Maker is the principal regulator for this application; and
- (b) the Issuer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Québec, Saskatchewan, and Yukon.

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, NP 11-206, NP 11-207 and MI 11-102 have the same meaning if used in this order, unless otherwise defined.

Representations

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

1. The Issuer is a "reporting issuer" in each of Ontario, Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Québec, Saskatchewan, and Yukon (the **Reporting Jurisdictions**).
2. The Issuer was incorporated under the *Business Corporations Act* (Ontario) on December 12, 2017, and continued under the *Canada Business Corporations Act* on February 12, 2019.
3. The Issuer's registered and head office is located at 2 Bloor Street West, Suite 2006, Toronto, ON, M4W 3E2.
4. The Issuer is a technology-powered, adult-use cannabis retailer with retail locations in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, and Yukon.
5. The authorized capital of the Issuer consists of an unlimited number of Class "A" Common shares (the **New Common Shares**). As at the date hereof, there are 1,000,000,000 Class "A" Common shares issued and outstanding. The Issuer has no other outstanding securities (including debt securities).
6. In light of ongoing financial difficulties, the Issuer and its subsidiaries (the **F&F Group**) filed for creditor protection under the *Companies' Creditors Arrangement Act* (the **CCAA**) and received an order (the **Initial Order**) for creditor protection under the CCAA from the Ontario Superior Court of

- Justice (Commercial List) (the **Court**) on June 5, 2023 (the **CCAA Proceedings**).
7. Pursuant to the Initial Order, the Court, inter alia, appointed FTI Consulting Canada Inc. as monitor (in such capacity, the Monitor) of the F&F Group under the CCAA Proceedings and authorized the Issuer to obtain a debtor-in-possession loan from 2707031 Ontario Inc. in the amount of \$9,800,000 in order to fund the CCAA Proceedings and other short-term working capital requirements of the F&F Group.
 8. On June 21, 2023, the Court granted an order (the **SISP Order**) authorizing the Monitor to conduct, with the assistance of the Issuer, a sale and investment solicitation process (the **SISP**) intended to solicit interest in the opportunity for a sale of or investment in all or part of the Issuer's assets and business operations.
 9. On August 17, 2023, the Issuer announced that the bid by 2759054 Ontario Inc., operating as FIKA Cannabis (**FIKA**), had been designated as the successful bid under the SISP (the **Successful Bid**) and that in accordance with the SISP Order the Issuer would seek Court approval of the Successful Bid and authority to consummate the transactions provided for therein.
 10. On August 29, 2023, the Court granted an order under the CCAA (the **Sale Approval and Vesting Order**) pursuant to which, inter alia, the Court (i) approved the subscription agreement, dated August 17, 2023 with 2759054 Ontario Inc. (the **Subscription Agreement**) and the transaction (the **Transaction**) contemplated therein, including the sale and issuance by the Issuer of 1,000,000,000 Class "A" Common shares (the **Purchased Shares**) to FIKA for the aggregate purchase price of \$36,000,000, (ii) authorized the transfer and vesting of all of F&F Group's right, title and interest in certain excluded assets and excluded liabilities to "Residual Co.", (iii) authorized and directed the Issuer to issue the Purchased Shares to FIKA, and vest in FIKA, all right title and interest in and to the Purchased Shares, (iv) authorized the termination and cancellation all capital shares, capital stock, partnership, membership, joint venture or other ownership or equity interest, participation or securities (whether voting or non-voting, whether preferred, common or otherwise, and including share appreciation, contingent interest or similar rights) of the Issuer other than the Purchased Shares, and (v) approved a claims process pursuant to which claimants may file claims against the F&F Group.
 11. The Transaction included the filing of articles of amendment of the Issuer's articles with Corporations Canada (the **Amended Articles**) to, inter alia, effect the redemption and cancellation of the common shares of the Issuer (the **Old Common Shares**) outstanding immediately prior to effective date of the Transaction, and authorized the issuance of New Shares to FIKA. The principal items in the Amended Articles include the:
 - (i) amendment to the rights, privileges, restrictions and conditions attached to the Old Common Shares to include the redemption of all Old Common Shares for no consideration and without notice to the holders (the **Redemption**);
 - (ii) amendment to the authorized share capital of the Issuer to create an unlimited number of New Common Shares;
 - (iii) following the Redemption, the deletion of the previously authorized but unissued Old Common Shares so that the maximum number of shares that the Issuer is authorized to issue shall consist of an unlimited number of New Common Shares;
 - (iv) following the Redemption, the cancellation of any and all agreements, contracts, plans, indentures, deeds, certificates, subscription rights, conversion rights, pre-emptive rights, options (including stock option or share purchase or equivalent plans), warrants, or other documents or instruments governing, convertible or exchangeable into, and/or having been created or granted in connection with the share capital of the Issuer, and for greater certainty excluding the New Common Shares
 - (v) restrictions on transfer in order to qualify it as a "private issuer" for the purposes of National Instrument 45-106 *Prospectus Exemptions*, which limitations will provide that no securities shall be transferred without either: (A) the consent of the directors of the Issuer expressed by a resolution passed or by an instrument in writing signed by the majority of the directors; or (B) the consent of the holders of shares of the Issuer to which are attached at least a majority of the votes attaching to the shares;
 12. In connection with carrying out the SISP Order and obtaining the Sale Approval and Vesting Order, the Issuer has engaged in certain acts in furtherance of trades in the securities of the Issuer, including its entry into the Subscription Agreement (the **Acts**), which Acts were taken at the direction of, and with the approval of, and under the supervision of, the Court. Accordingly, the Issuer applied for and obtained a partial revocation order from the Decision Maker on September 6, 2023 in order to complete the Transaction.

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| <p>13. The effective date of the Transaction was September 15, 2023 (the Effective Date).</p> <p>14. Immediately prior to the Effective Date, the authorized capital of the Issuer consisted of an unlimited number of Old Common Shares, of which approximately 45,154,000 Old Common Shares were outstanding, including approximately 1,935,529 options and 17,796,284 Series C Warrant units outstanding. Immediately prior to the Effective Date, the Issuer had no other outstanding securities (including debt securities).</p> <p>15. As of and since the Effective Date, the authorized share capital of the Issuer consists solely of an unlimited number of shares of New Common Shares, of which 1,000,000,000 New Common Shares are issued and outstanding as of the date hereof.</p> <p>16. As of and since the Effective Date, the Issuer only has one registered and beneficial securityholder, namely FIKA.</p> <p>17. The rights of the shareholders of the Issuer are governed by and subject to the Issuer's share terms, which are set forth in the Amended Articles.</p> <p>18. There is no obligation in the Sale Approval and Vesting Order or the Amended Articles for the Issuer to maintain its status as a reporting issuer and no prohibition on ceasing to be a reporting issuer.</p> <p>19. The prior holders of Old Common Shares ceased to have any economic interest in the Issuer upon completion of the Transaction.</p> <p>20. The Old Common Shares were previously listed for trading on the Toronto Stock Exchange (the TSX) under the symbol "FAF". The Old Common Shares were delisted from the TSX effective as of the close of markets on July 14, 2023, as a result of the failure of the Issuer to meet the continued listing requirements of the TSX. The Common Shares were also quoted for trading on the OTCQX in the United States under the symbol "FFLWF". The Old Common Shares were delisted from the OTCQX effective as of the close of markets on June 14, 2023.</p> <p>21. On the Effective Date, no securities of the Issuer have been traded in Canada, the United States or another country on a marketplace as defined in National Instrument 21-101 <i>Marketplace Operation</i> (NI 21-101), or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported.</p> <p>22. The Issuer has no current intention to seek public financing by way of an offering of securities in Canada or elsewhere or to make or maintain a market in securities of the Issuer.</p> | <p>23. The securities of the Issuer are subject to a FFCTO issued by the Decision Maker on August 28, 2023 that is applicable in certain other Reporting Jurisdictions for its failure to file the Filings (as defined below) under applicable securities laws.</p> <p>24. The Issuer is applying for an order revoking the FFCTO and an order that the Issuer has ceased to be a reporting issuer in all of the Reporting Jurisdictions.</p> <p>25. As of the date hereof, the Issuer is not in default of any of the requirements of securities legislation in the Reporting Jurisdictions, or the rules and regulations made pursuant thereto, except (the following, the Defaults):</p> <ul style="list-style-type: none"> (i) the obligation to file the following continuous disclosure documents (the Filings): <ul style="list-style-type: none"> (A) interim financial statements for the period ended June 30, 2023; (B) management's discussion and analysis relating to the interim financial statements for the period ended June 30, 2023; and (C) certification of the foregoing filings as required by National Instrument 52-109 <i>Certification of Disclosure in Issuers' Annual and Interim Filings</i>. <p>26. But for the Defaults, the Issuer would qualify for the simplified procedure set out in NP 11206 on the basis that:</p> <ul style="list-style-type: none"> (i) it is not an OTC reporting issuer under Multilateral Instrument 51-105 <i>Issuers Quoted in the U.S. Over-the-Counter Markets</i>; (ii) the outstanding securities of the Issuer, 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; and (iii) the Issuer's outstanding securities, including debt securities, are not traded in Canada or another country on a marketplace, as defined in NI 21-101, or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported. <p>27. The Issuer acknowledges that, in granting the relief sought, the Decision Maker is not expressing any opinion or approval as to the terms of the Transaction.</p> |
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Order

The Decision Maker is satisfied that FFCTO Revocation Order and the Cease to be a Reporting Issuer Order meet the tests set out in the Legislation for the Decision Maker to make the order

The decision of the Decision Maker under the Legislation is that the FFCTO Revocation Order and the Cease to be a Reporting Issuer Order are granted.

DATED this 3rd day of October, 2023

“Lina Creta”
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2023/0432

B.2.4 Rockcliff Metals Corporation – s. 1(6) of the OBCA

Headnote

Applicant deemed to have ceased to be offering its securities to the public under the Business Corporations Act (Ontario).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 1(6).

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

AND

**IN THE MATTER OF
ROCKCLIFF METALS CORPORATION
(the Applicant)**

**ORDER
(Subsection 1(6) of the OBCA)**

UPON the application of the Applicant to the Ontario Securities Commission (the **Commission**) for an order pursuant to subsection 1(6) of the OBCA to be deemed to have ceased to be offering its securities to the public;

AND UPON the Applicant representing to the Commission that:

1. The Applicant is an “offering corporation” as defined in subsection 1(1) of the OBCA;
2. The Applicant has no intention to seek public financing by way of an offering of securities;
3. On September 27, 2023, the Applicant was granted an order (the **Reporting Issuer Order**) pursuant to subclause 1(10)(a)(ii) of the *Securities Act* (Ontario) that it is not a reporting issuer in Ontario and is not a reporting issuer or the equivalent in any jurisdiction of Canada in accordance with the simplified procedure set out in National Policy 11-206 – *Process for Cease to be a Reporting Issuer Applications*; and
4. The representations set out in the Reporting Issuer Order continue to be true.

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

IT IS HEREBY ORDERED by the Commission pursuant to subsection 1(6) of the OBCA that the Applicant be deemed to have ceased to be offering its securities to the public for the purpose of the OBCA.

DATED at Toronto this 5th day of October, 2023.

“Erin O'Donovan”
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2023/0434

B.2.5 CNH Capital Canada Wholesale Trust**Headnote**

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

Applicable Legislative Provisions

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

October 5, 2023

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

AND

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

AND

**IN THE MATTER OF
CNH CAPITAL CANADA WHOLESALE TRUST
(the Filer)**

ORDER

Background

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

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

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

Interpretation

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

Representations

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

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

Order

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

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

“Marie-France Bourret”
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2023/0391

B.3

Reasons and Decisions

B.3.1 Fulcra Asset Management Inc. and The Fulcra Credit Opportunities Fund

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

National Instrument 81-102 Investment Funds (NI 81-102), s. 19.1 – Exemption from requirements of past performance data in sales communications in Part 15 of NI 81-102 – Before becoming a reporting issuer, the fund did not deviate from NI 81-102 investment restrictions and its past performance is reflective of how the fund would have performed as a reporting fund; the fund's prior cost expenses are not materially different from a reporting fund; the fund discloses in the sales communications, fund facts document and MRFP that the past performance data is from a period when the fund was not a reporting issuer and that its expenses would have been higher had it been a reporting issuer; the manager posts on its website and makes available to investors the financial statements of the fund for all periods for which it is using the past performance.

National Instrument 81-101 Mutual Fund Prospectus Disclosure (NI 81-101), s. 6.1 – Exemption from the fund facts form requirement in order to include past performance data – Before becoming a reporting issuer, the fund did not deviate from NI 81-102 investment restrictions and its past performance is reflective of how the fund would have performed as a reporting fund; the fund's prior cost expenses are not materially different from a reporting fund; the fund discloses in the sales communications, fund facts document and MRFP that the past performance data is from a period when the fund was not a reporting issuer and that its expenses would have been higher had it been a reporting issuer; the manager posts on its website and makes available to investors the financial statements of the fund for all periods for which it is using the past performance.

National Instrument 81-106 Investment Fund Continuous Disclosure (NI 81-106), s. 17.1 – Exemption from the MRFP form requirement in order to include past performance data – Before becoming a reporting issuer, the fund did not materially deviate from NI 81-102 investment restrictions and its past performance is reflective of how the fund would have performed as a reporting fund; the fund's prior cost expenses are not materially different from a reporting fund; the fund discloses in the sales communications, fund facts document and MRFP that the past performance data is from a period when the fund was not a reporting issuer and that its expenses would have been higher had it been a reporting issuer; the manager posts on its website and makes available to investors the financial statements of the fund for all periods for which it is using the past performance.

Exemption from requirements to calculate risk ratings – An alternative mutual fund wants relief to be able to use its past performance data to calculate its investment risk rating in its simplified prospectus – The fund has been operating for more than 10 years; before becoming a reporting issuer, the fund did not deviate from NI 81-102 investment restrictions; the fund will be managed substantially similar in the period after becoming a reporting issuer as it was becoming a reporting issuer.

Exemption from Purchase and Redemption Requirements – An investment fund wants relief from the purchase and redemption restrictions in NI 81-102 to permit consolidated processing of purchase and redemption orders – The fund's purchase and redemption orders are consolidated into monthly orders; the fund's simplified prospectus and fund facts will describe the purchase/redemption structure.

Exemption from Custodial Requirements for Short Sale Collateral – An alternative mutual fund wants relief from the custodial requirement in subsection 6.1(1) of NI 81-102 to permit the fund to deposit portfolio assets exceeding 25% of the fund's NAV with a single borrowing agent that is not the fund's custodian or sub-custodian – prime brokers often retain short sale proceeds as collateral; the relief is needed to permit funds to deposit portfolio assets with a single prime broker; alternative mutual funds typically use strategies that more heavily use short selling

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, ss. 2.1 and 6.1.

National Instrument 81-102 Investment Funds, ss. 6.1, 15.3, 15.6, 15.8, 15.1.1 and 19.1.

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 4.4 and 17.1.

Citation: 2023 BCSECCOM 467

September 26, 2023

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

AND

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

AND

IN THE MATTER OF
FULCRA ASSET MANAGEMENT INC.
(the Filer)

AND

IN THE MATTER OF
THE FULCRA CREDIT OPPORTUNITIES FUND
(the FCO Fund)

DECISION

Background

¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (each, a Decision Maker) has received an application from the Filer on behalf of the Fulcra Credit Opportunities Fund (the FCO Fund) and each other alternative mutual fund established in the future and managed by the Filer or an affiliate of the Filer (each, a Future Fund and, together with the FCO Fund, the Funds, where a Fund shall mean any one of the Funds) for a decision under the securities legislation of the Jurisdictions (the Legislation) for the following relief:

In respect of the FCO Fund, exempting the FCO Fund from:

- (a) sections 15.3(2), 15.3(4)(c), 15.6(1)(a)(i), 15.6(1)(d), 15.8(2)(a.1), and 15.8(3)(a.1) of National Instrument 81-102 – *Investment Funds* (NI 81-102) to permit the FCO Fund to include performance data in sales communications notwithstanding that: (i) the performance data will relate to a period prior to the FCO Fund offering its securities under a simplified prospectus; and (ii) the FCO Fund has not distributed its securities under a prospectus for 12 consecutive months;
- (b) section 15.1.1(a) of NI 81-102 and Items 2 and 4 of Appendix F - *Investment Risk Classification Methodology* to NI 81-102 (Appendix F) to permit the FCO Fund to include its past performance data in determining its investment risk level in accordance with Appendix F;
- (c) section 15.1.1(b) of NI 81-102 and Item 4(2)(a) and Instruction (1) of Item 4 of Form 81-101F3 - *Contents of Fund Facts Document* (Form 81-101F3) to permit the FCO Fund to disclose its investment risk level as determined by including its past performance data in accordance with Appendix F;
- (d) Item 10(b) of Part B of Form 81-101F1 - *Contents of Simplified Prospectus* (Form 81-101F1) to permit the FCO Fund to use its past performance data to calculate its investment risk rating in its simplified prospectus;
- (e) section 2.1 of National Instrument 81-101 – *Mutual Fund Prospectus Disclosure* (NI 81-101) for the purposes of the relief requested from Form 81-101F1 and Form 81-101F3;
- (f) items 5(2), 5(3), and 5(4), and Instruction (1) of Part I of Form 81-101F3 in respect of the requirement to comply with Sections 15.3(2), 15.3(4)(c), 15.6(1)(a)(i), 15.6(1)(d), 15.8(2)(a.1), and 15.8(3)(a.1) of NI 81-102 to permit the FCO Fund to include in its fund facts documents past performance data of the FCO Fund even though: (i) the performance data relates to a period prior to the FCO Fund offering its securities under a simplified prospectus; and (ii) the FCO Fund has not distributed its securities under a simplified prospectus for 12 consecutive months;

- (g) section 4.4 of National Instrument 81-106 – *Investment Fund Continuous Disclosure* (NI 81-106) for the purposes of the relief requested from Form 81-106F1 - *Contents of Annual and Interim Management Report of Fund Performance* (Form 81-106F1); and
- (h) items 3.1(7) and 4.1(1) in respect of the requirement to comply with Sections 15.3(2) and 15.3(4)(c) of NI 81-102, 4.1(2), 4.2(1), 4.3(1), and 4.3(2) of Part B of Form 81-106F1 and Items 3(1) and 4 of Part C of Form 81-106F1 to permit the FCO Fund to include in its annual and interim management reports of fund performance (individually, an MRFP and, collectively, the MRFPs) past performance data and financial highlights despite such performance data and financial highlights relating to a period prior to the FCO Fund offering its securities under a simplified prospectus.

(collectively, the Past Performance Relief)

- (i) section 9.3(1) in order to permit the FCO Fund to process purchase orders for its units, as described in its simplified prospectus and fund facts documents, on a monthly basis at their class net asset value per unit calculated as at the last Valuation Date (as defined below) of the calendar month in which the purchase order for such units is received or deemed to be received (the Purchase Relief); and
- (j) section 10.3(1) in order to permit the FCO Fund to process redemption orders for its units, as described in its simplified prospectus and fund facts documents on at least 20 business days' prior written notice, on a monthly basis, redeeming such units at their class net asset value per unit as at the time the redemption order is processed, which shall be the next Valuation Date after such 20 business day notice period that falls on the last day of a calendar month (the Redemption Relief).

In respect of each Fund, exempting each Fund from:

- (k) the requirement in subsection 6.1(1) of NI 81-102 that, except as provided, all portfolio assets of a Fund be held under the custodianship of one qualified custodian, to permit each Fund to deposit portfolio assets with a borrowing agent that is not the Fund's custodian or sub-custodian in connection with a short sale of securities, if the aggregate market value of the portfolio assets held by the borrowing agent after such deposit, excluding the aggregate market value of the proceeds from outstanding short sales of securities held by the borrowing agent, does not exceed 25% of the net asset value (NAV) of the Fund at the time of deposit (the Short Sale Collateral Relief).

(the Past Performance Relief, the Purchase Relief, the Redemption Relief, and the Short Sale Collateral Relief, collectively, the Exemption Sought).

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

- (a) the British Columbia Securities Commission (BCSC) is the principal regulator for the application;
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 - *Passport System* (MI 11-102) is intended to be relied upon in each of the other provinces and territories of Canada other than the Jurisdictions; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory or regulator in Ontario.

Interpretation

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

Representations

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

The Filer and the FCO Fund

1. the Filer is a corporation organized under the laws of British Columbia with a head office in Vancouver, British Columbia;
2. the Filer is registered as an investment fund manager, exempt market dealer, and portfolio manager in British Columbia and Ontario;

3. the Filer initially launched the Fulcra Credit Opportunities Fund Limited Partnership (the Limited Partnership), a limited partnership established under the laws of British Columbia, on July 1, 2009 (the Inception Date);
4. the Filer initially launched the FCO Fund, an open-end investment fund established as a trust under the laws of British Columbia, on April 26, 2011 pursuant to a master trust agreement, as amended, restated, and/or supplemented from time to time;
5. effective April 29, 2011, the assets of the Limited Partnership were transferred to the FCO Fund and its limited partners received units of the FCO Fund in exchange for their limited partnership units of the Limited Partnership, and the Limited Partnership was wound up;
6. the investment objective of the Limited Partnership was the same as the investment objective of the FCO Fund;
7. each Fund is, or will be, an alternative mutual fund to which NI 81-102 applies;
8. the Filer is the manager, portfolio advisor, and promoter of the FCO Fund; Computershare Trust Company of Canada is the trustee of the FCO Fund;
9. the Filer or an affiliate thereof will be the promoter and manager of each Future Fund; and
10. the Filer and the FCO Fund are not in default of securities legislation in any Canadian jurisdiction.

The Past Performance Relief

11. since the Inception Date, units of the FCO Fund have been offered to investors on a private placement basis in accordance with National Instrument 45-106 – *Prospectus Exemptions* in one or more Jurisdictions other than Ontario and in accordance with the *Securities Act* (Ontario) in Ontario;
12. the FCO Fund intends to offer units of the FCO Fund to the public in one or more Jurisdictions pursuant to a simplified prospectus and fund facts documents (the Public Offering); the FCO Fund filed a preliminary simplified prospectus and preliminary fund facts documents with the securities regulator or regulatory authority in one or more Jurisdictions on or about August 29, 2023, and expects to file a final simplified prospectus and final fund facts documents as soon as practicable thereafter; upon issuance of a receipt for the final simplified prospectus, the FCO Fund will become a reporting issuer in the applicable Jurisdictions, and will become subject to the requirements of NI 81-102 and NI 81-106;
13. since the Inception Date, the FCO Fund has prepared audited annual financial statements and unaudited interim financial statements in accordance with NI 81-106;
14. since the Inception Date, the FCO Fund has complied with the investment restrictions and practices contained in NI 81-102 applicable to alternative mutual funds;
15. the FCO Fund will be managed substantially similarly after it becomes a reporting issuer as it was prior to becoming a reporting issuer; as a result of the FCO Fund becoming a reporting issuer:
 - (a) the FCO Fund's investment objective will not change;
 - (b) the management fees and performance fees charged to the classes of the FCO Fund offered under the Public Offering will not change;
 - (c) the day-to-day administration of the FCO Fund will not change, other than to comply with the additional regulatory requirements associated with being a reporting issuer (none of which will impact the portfolio management of the FCO Fund) and to provide additional features that are available to investors of mutual funds managed by the Filer, as described in the FCO Fund's simplified prospectus and fund facts documents; and
 - (d) the management expense ratio of the FCO Fund is not expected to increase by more than 0.10%, which the Filer considers to be an immaterial amount.
16. the Filer proposes to present the performance data of the FCO Fund for the time period since the Inception Date in sales communications pertaining to the FCO Fund; without the Exemption Sought, sales communications pertaining to the FCO Fund cannot include performance data of the FCO Fund that relate to a period prior to it becoming a reporting issuer, and the FCO Fund cannot provide performance data in its sales communications until the FCO Fund has distributed securities under a simplified prospectus for at least 12 consecutive months;
17. as a reporting issuer, the FCO Fund will be required under NI 81-101 to prepare and file fund facts documents;

18. the Filer proposes to use the FCO Fund's past performance data to determine its investment risk level and to disclose that investment risk level in the simplified prospectus and the fund facts documents for each class of the FCO Fund; without the Exemption Sought, the Filer, in determining and disclosing the FCO Fund's investment risk level in the simplified prospectus and the fund facts documents for each class of the FCO Fund, cannot use performance data of the FCO Fund that relates to a period prior to the FCO Fund becoming a reporting issuer;
19. the Filer proposes to include in the fund facts documents for each class of the FCO Fund past performance data in the disclosure required by Items 5(2), 5(3) and 5(4) under the sub-headings Year-by-year returns, Best and worst 3-month returns and Average return, respectively, related to periods prior to the FCO Fund becoming a reporting issuer; without the Exemption Sought, the fund facts documents for each class of the FCO Fund cannot include performance data of the FCO Fund that relate to a period prior to it becoming a reporting issuer;
20. as a reporting issuer, the FCO Fund will be required under NI 81-106 to prepare and send MRFPs to all holders of its securities on an annual and interim basis; without the Exemption Sought, the MRFPs of the FCO Fund cannot include financial highlights and performance data of the FCO Fund that relate to a period prior to it becoming a reporting issuer;
21. the performance data and other financial data of the FCO Fund for the time period before it became a reporting issuer is significant and meaningful information for existing and prospective investors in the FCO Fund;

The Purchase Relief and Redemption Relief

22. the FCO Fund's NAV will be calculated at the close of regular trading, normally 4:00 p.m. (Eastern time) on each day the Toronto Stock Exchange is open (a Valuation Date);
23. the Filer will calculate the NAV for the FCO Fund on a daily basis in order to meet its obligations under NI 81-106 regarding the use of derivatives, including the obligation to daily mark-to-market the value of its derivatives;
24. subsections 9.3(1) and 10.3(1) of NI 81-102 require that the purchase price and redemption price of a security of a mutual fund to which a purchase order and redemption order pertains, respectively, be the net asset value per security next determined after receipt by the mutual fund of the purchase order and redemption order, respectively;
25. as will be described in the FCO Fund's simplified prospectus and fund facts documents, the FCO Fund will:
 - (a) process purchase orders monthly; subscriptions received by the Filer by 1:00 p.m. (Pacific Standard time) on the last business day of each month will be processed on that business day at the class net asset value per unit calculated on that day; and
 - (b) process redemption orders for its units on at least 20 business days' prior written notice, on a monthly basis, redeeming such units at their class net asset value per unit as at the time the redemption order is processed, which shall be the next Valuation Date after such 20 business day notice period that falls on the last business day of a calendar month.
26. the FCO Fund will pay the redemption proceeds for units that are the subject of a redemption order no later than 5 business days after the date on which the redemption price is processed;
27. the Filer has structured its mutual fund operations so that it can consolidate all purchase orders into one efficient monthly processing transaction and all redemption orders into one efficient monthly transaction; the Filer has determined that effecting such purchases and redemptions on a monthly basis strikes the best balance between the needs of a unitholder to invest or access its assets in a timely and orderly manner, and the need to minimize the impact of such transactions on other unitholders in the FCO Fund;
28. the Filer believes that monthly redemptions will mitigate the cost of excessive portfolio turnovers due to lower transaction costs in the form of brokerage commissions and the bid-ask spread; further, it has determined that monthly redemptions will protect the FCO Fund from having to reduce positions at less than ideal times during potentially challenging market conditions; this will ensure that all unitholders of the FCO Fund will be treated fairly in instances where the FCO Fund is not able to unwind its portfolio holdings in an orderly manner to honour the redemption requests at the time;

The Short Sale Collateral Relief

29. as part of its investment strategies, each Fund is or will be permitted to grant a security interest in favour of and to deposit pledged portfolio assets with its prime broker; if a Fund engages as its prime broker an entity that is

- not its custodian or sub-custodian, then the Fund may only deliver to its prime broker portfolio assets having a market value, in the aggregate, of not more than 25% of the NAV of the Fund at the time of deposit;
30. a prime broker may not wish to act as the borrowing agent for a Fund that has the ability to sell securities short that have an aggregate market value of up to 50% of the Fund's NAV if the prime broker is only permitted to hold, as security for such transactions, portfolio assets having an aggregate market value that is not in excess of 25% of the NAV of the Fund;
 31. prime brokers that are qualified to act as a custodian or sub-custodian under NI 81-102 are not widely appointed as custodians or sub-custodians under NI 81-102 as it can be both operationally challenging and costly to appoint them to act in such capacity; and
 32. given the typical collateral requirements that prime brokers impose on their customers who engage in the short sale of securities, if the short sale collateral limits apply, the Funds would need to retain multiple prime brokers in order to sell short securities to the extent permitted under Section 2.6.1 of NI 81-102; managing and overseeing relationships with multiple prime brokers introduces unnecessary operational and administrative complexities and additional costs of operation for the Funds.

Decision

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

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

In respect of the Past Performance Relief:

- (a) any sales communication, fund facts document, and MRFP that contains performance data of units of the FCO Fund relating to a period prior to when the FCO Fund was a reporting issuer discloses:
 - (ii) that the FCO Fund was not a reporting issuer during such period;
 - (iii) that the expenses of the FCO Fund would have been higher during such period had the FCO Fund been subject to the additional regulatory requirements applicable to a reporting issuer;
 - (iv) the Filer obtained exemptive relief on behalf of the FCO Fund to permit the disclosure of performance data of the units of the FCO Fund relating to a period prior to when the FCO Fund was a reporting issuer; and
 - (v) with respect to any MRFP, that the financial statements of the FCO Fund for such period are posted on the FCO Fund's website and are available to investors upon request.
- (b) the Filer posts the annual financial statements of the FCO Fund since the Inception Date on the FCO Fund's designated website and makes those financial statements available to investors upon request;

In respect of the Purchase Relief:

- (c) the FCO Fund processes, and discloses in its simplified prospectus and in the Quick Facts section of its fund facts that it processes, purchase orders for its units on a monthly basis at their class net asset value per unit calculated as at the last Valuation Date of the calendar month in which the purchase order for such units is received (the Purchase Processing Frequency);
- (d) the FCO Fund discloses in the Who should invest in the Fund section of the Part B of its simplified prospectus and in the Who is this Fund for section of its fund facts, the Purchase Processing Frequency and that the Fund is only suitable for investors who can accept the Purchase Processing Frequency;

In respect of the Redemption Relief:

- (e) the FCO Fund processes, and discloses in its simplified prospectus and in the Quick Facts section of its fund facts that it processes, redemption orders for its units (the Redemption Processing Frequency) on at least 20 business days' prior written notice, on a monthly basis, redeeming such units at their class net asset value per unit as at the time the redemption order is processed, which shall be the next Valuation Date after such 20 business day notice period that falls on the last business day of a calendar month;

- (f) the FCO Fund discloses in the Who should invest in the Fund section of the Part B of its simplified prospectus and in the Who is this Fund for section of its fund facts, the Redemption Processing Frequency and that the FCO Fund is only suitable for investors who can accept the Redemption Processing Frequency; and

In respect of the Short Sale Collateral Relief:

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

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

B.3.2 iCapital Network Canada Ltd. and The Top Funds

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Mutual funds that are not reporting issuers granted extensions of the annual financial statement filing and delivery deadlines and the interim financial statement filing and delivery deadlines under NI 81-106 to permit the funds to file and deliver annual financial statements within 183 days of their most recently completed financial year and to file and deliver interim financial statements within 120 days of their most recently completed interim period – Funds invest the majority of their assets in Underlying Funds with later financial reporting deadlines – Funds will have two different financial year end dates – Relief subject to conditions including disclosure of extended financial reporting deadlines in the offering memorandum of the Fund – Relief granted with conditions – Decision includes revocation of prior relief from annual and interim financial statement filing and delivery deadlines under NI 81-106.

Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 2.2, 2.4, 5.1(2) and 17.1.
Securities Act, R.S.O. 1990, c. S.5, as am., s. 144.

October 4, 2023

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

AND

IN THE MATTER OF
ICAPITAL NETWORK CANADA LTD.
(the Filer)

AND

THE TOP FUNDS
(as Defined Below)

DECISION

Background

The principal regulator of the Jurisdiction has received an application from the Filer, as investment fund manager of HarbourVest Global Private Solution Canada Access Fund (the **Global Private Solution Access Fund**) and iDirect Private Markets Access Fund (Canada) (previously, iCapital KKR Private Markets Access Fund (Canada)) (the **Private Markets Access Fund** and together with the Global Private Solution Access Fund, the **Initial Top Funds**) and any other existing or future investment fund that is not and will not be a reporting issuer, that is or will be organized under the laws of a jurisdiction of Canada, and that is, or will be, managed by the Filer and invests or will invest directly or indirectly in underlying funds (**Underlying Funds**) as part of its investment strategy (the **Other Top Funds** and together with the Initial Top Funds, the **Top Funds**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) in respect of the fund-on-fund structures (described below):

- (a) revoking and replacing the Previous Decision (as defined below); and
- (b) exempting the Filer and the Top Funds from the following requirements of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**):
 - (i) the requirement in section 2.2 that the Top Funds file their audited annual financial statements and auditor's report (the **Annual Financial Statements**) on or before the 90th day after the Top Funds' most recently completed financial year (**Annual Filing Deadline**);
 - (ii) the requirement in section 2.4 that the Top Funds file their interim financial statements (the **Interim Financial Statements**) and collectively with the Annual Financial Statements, the **Financial Statements**) on or before the 60th day after the Top Funds' most recently completed interim period (**Interim Filing Deadline**);
 - (iii) the requirement in paragraph 5.1(2)(a) that the Top Funds deliver to the securityholders their Annual Financial Statements by the Annual Filing Deadline (the **Annual Delivery Requirement**); and

- (iv) the requirement in paragraph 5.1(2)(b) that the Top Funds deliver to the securityholders their Interim Financial Statements by the Interim Filing Deadline (the **Interim Delivery Requirement**),

(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 (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 Québec, New Brunswick, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan and Yukon (the **Other Jurisdictions** and, together with the Jurisdiction, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and NI 81-106 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

The Filer

1. The Filer is a corporation incorporated under the *Canada Business Corporations Act* (**CBCA**) with its principal place of business in Toronto, Ontario.
2. The Filer is registered as an Exempt Market Dealer and Portfolio Manager in Alberta, British Columbia, Manitoba, Ontario, Québec and Newfoundland and Labrador, and as an Investment Fund Manager in Ontario, Québec and Newfoundland and Labrador.
3. The Filer is not a reporting issuer in any jurisdiction of Canada and is not in default of securities legislation of any jurisdiction of Canada.
4. The Filer is, or will be, the investment fund manager of the Initial Top Funds, and is, or will be, the investment fund manager of each of the Top Funds.

The Top Funds

5. The Private Markets Access Fund is, and the Global Private Solution Access Fund will be, organized as a trust pursuant to a master declaration of trust.
6. Each Other Top Fund is or will be organized as a trust or a limited partnership under the laws of a jurisdiction of Canada.
7. The Filer has, and will continue to have, its principal place of business in Toronto, Ontario. The Top Funds are not, and will not be, reporting issuers in any jurisdiction of Canada and the Private Markets Access Fund and each existing Other Top Fund is not in default of securities legislation of any jurisdiction of Canada.
8. Each Top Fund is, or will be, a “mutual fund” for the purposes of the Legislation.
9. Securities of the Top Funds are, or will be, offered for sale and distribution to qualified investors in all Canadian provinces and territories pursuant to exemptions from the prospectus requirements under the Legislation or National Instrument 45-106 *Prospectus and Registration Exemptions* (**NI 45-106**).
10. Securities of each Top Fund will only be distributed in Canada pursuant to exemptions from the prospectus requirement in accordance with the Legislation or NI 45-106.
11. The Private Markets Access Fund has a financial year end of March 31 and the Global Private Solution Access Fund will have a financial year end of December 31. Each Other Top Fund has, or will have, a financial year end of December 31 or March 31, as applicable.
12. The investment strategy of each Top Fund is, or will be, to primarily invest, directly or indirectly, in securities, units or other interests of one or more Underlying Funds which are private or other unlisted investment entities managed by an independent manager, the Filer or an affiliate of the Filer.

13. The investment strategy of the Private Markets Access Fund is to primarily invest the Private Markets Access Fund's assets indirectly in an Underlying Fund that is a private investment entity managed by an independent manager. The Private Markets Access Fund seeks to provide long-term capital appreciation by providing exposure to the Underlying Fund's portfolio which consists primarily of private equity investment interests of any type, sponsored or advised by an independent manager, including primary offerings and secondary acquisitions of interests in alternative investment funds that pursue private equity strategies and co-investment opportunities in operating companies.
14. The Global Private Solution Access Fund, through its investment in the applicable Underlying Fund, will seek to provide a private equity-focused solution for holders of units of the Global Private Solution Access Fund, with a mix of investments designed to accelerate capital deployment and to provide cash flow to support limited liquidity in a private portfolio. The Global Private Solution Access Fund intends to achieve this objective by primarily investing the Global Private Solution Access Fund's assets in the applicable Underlying Fund.
15. The Filer believes that the formation and offering of the Top Funds that invest in the Underlying Funds provides Canadian investors access to asset classes and underlying managers that would not otherwise be available to such investors and offers benefits not available through a direct investment in the companies, other issuers or assets held by the Underlying Funds.
16. The Filer engages in a due diligence process when selecting Underlying Funds for each Top Fund.
17. Securities of the Underlying Funds are typically redeemable at various intervals, but in some cases may not be redeemable until the termination of the Underlying Funds. Each Top Fund is able to manage its own liquidity requirements taking into consideration the frequency at which the securities of the Underlying Funds may be redeemed.
18. The net asset value of each Top Fund (**NAV**) is or will be calculated at least on a monthly or quarterly basis, as of the last business day of each month or quarter, as applicable (the **Valuation Date**). Investors of each Top Fund are or will be provided with the NAV on a monthly or quarterly basis within 45 days (where the NAV is provided monthly) or 90 days (where the NAV is provided quarterly) of each Valuation Date.
19. The holdings of each Top Fund in securities of the Underlying Funds will be disclosed in the Financial Statements.
20. The Underlying Funds may be subject to differing financial reporting deadlines, which may arise under the laws of the Underlying Fund's jurisdiction of formation, the constating documents of the Underlying Fund and/or contractual obligations of the Underlying Fund.

The Previous Decision

21. The Filer obtained a previous decision dated February 16, 2023 (the **Previous Decision**) exempting the Filer and the top funds under the Previous Decision, including the Private Markets Access Fund (the **Previous Decision Top Funds**), from the Annual Filing Deadline, the Interim Filing Deadline, the Annual Delivery Requirement and the Interim Delivery Requirement in order to (i) extend the Annual Filing Deadline and Annual Delivery Requirement to permit delivery of the annual financial statements of a Previous Decision Top Fund within 180 days of the Previous Decision Top Fund's most recently completed financial year, and (ii) extend the Interim Filing Deadline and Interim Delivery Requirement to permit delivery of the interim financial statements of a Previous Decision Top Fund within 120 days of the Previous Decision Top Fund's most recently completed interim period.
22. The Global Private Solution Access Fund will invest in an Underlying Fund, being HarbourVest Global Private Solution SICAV S.A. - Diversified Private Equity Fund, a sub-fund of HarbourVest Global Private Solution SICAV S.A., which Underlying Fund makes available its finalized audited annual financial statements within six (6) months of its most recently completed financial year and its finalized unaudited financial statements for the semi-annual period ending on June 30 of each year within three (3) months of its most recently completed semi-annual period.
23. The Underlying Fund in which the Global Private Solution Access Fund will invest is expected to provide substantially final audited annual financial statements to the Filer eight calendar days before the completion of its most recently completed financial year, which would provide the Filer with the time to finalize the Annual Financial Statements of the Global Private Solution Access Fund within six (6) months of its most recently completed financial year (i.e. by June 30). However, such audited annual financial statements of the Underlying Fund cannot be considered final until they have been approved by the securityholders of the Underlying Fund on or before June 30.
24. Accordingly, the Filer wishes to revoke and replace the Previous Decision to extend the Annual Filing Deadline and Annual Delivery Requirement to permit delivery of the Annual Financial Statements of a Top Fund within 183 days of the Top Fund's most recently completed financial year (which exceeds the 180 days required by the Previous Decision) as the Global Private Solution Access Fund will only receive the finalized audited annual financial statements of the applicable Underlying Fund within six (6) months of its most recently completed financial year.

25. The Filer also wishes to revoke and replace the Previous Decision to require that the Underlying Funds be subject to laws of their jurisdictions or have constating documents or contractual obligations that require or permit annual financial statements of the Underlying Funds to be made available within 183 days of their financial year ends and/or interim financial statements to be made available within 92 days of their most recent interim period.

Financial Statements

26. Section 2.2 and subsection 5.1(2)(a) of NI 81-106 require the Top Funds to file and deliver their Annual Financial Statements to the securityholders by the Annual Filing Deadline. As the financial year-end for the Top Funds is or will be December 31 or March 31, the filing and delivery deadline for the Annual Financial Statements would be March 31 or June 29, as applicable.
27. Section 2.4 and subsection 5.1(2)(b) of NI 81-106 require the Top Funds to file and deliver their Interim Financial Statements to the securityholders by the Interim Filing Deadline. As the financial year-end for the Top Funds is or will be December 31 or March 31, the filing and delivery deadline for the Interim Financial Statements would be August 29 or November 29, as applicable.
28. Section 2.11 of NI 81-106 provides an exemption (the **Filing Exemption**) from the obligation to file the Annual Financial Statements within the Annual Filing Deadline and the Interim Financial Statements within the Interim Filing Deadline if, among other things, a mutual fund that is not a reporting issuer delivers its Annual Financial Statements and Interim Financial Statements in accordance with part 5 of NI 81-106.
29. In order to formulate an opinion on the Annual Financial Statements of each Top Fund, the Top Fund's auditor requires audited financial statements of the respective Underlying Funds in order to audit the information contained in the Top Fund's Annual Financial Statements. The auditors of the Top Funds' have advised the Filer that they will be unable to complete the audit of the Top Funds' Annual Financial Statements until the audited financial statements of the Underlying Funds are completed and available to the Top Funds.
30. The Underlying Funds may have varying financial year-ends and may be subject to a variety of financial reporting deadlines. Therefore, in most cases, the Top Funds will not be able to obtain the finalized financial statements of the Underlying Funds prior to the Annual Filing Deadline or the Interim Filing Deadline for filing the Financial Statements and, in all cases, no sooner than other investors in the Underlying Funds receive the financial statements of the Underlying Funds.
31. With respect to Underlying Funds managed by an affiliate of the Filer, the added costs associated with having the Underlying Funds change their financial reporting deadlines in order to provide their financial statements at an earlier date outweigh the expected benefit to the unitholders of the Top Funds.
32. The offering memorandum of each Top Fund that will be provided to investors will disclose that: (i) the Annual Financial Statements for the Top Fund will be filed and delivered within 183 days of the Top Fund's financial year-end, and (ii) the Interim Financial Statements for the Top Fund will be delivered within 120 days following the end of each interim period of the Top Fund.
33. The Top Funds will notify their securityholders that they have received and intend to rely on the Exemption Sought.
34. The Top Funds do not anticipate they will be able to meet the conditions in subsection 2.11(b) of the Filing Exemption given that they do not expect to be able to deliver their Annual Financial Statements by the Annual Filing Deadline and their Interim Financial Statements by the Interim Filing Deadline. The Top Funds expect this timing delay in the completion of their Financial Statements to occur every year for the foreseeable future.
35. Each Top Fund therefore seeks an extension of the Annual Filing Deadline and Annual Delivery Requirement to permit delivery within 183 days of the Top Fund's most recently completed financial year, to enable the Top Fund's auditors to first receive the audited annual financial statements of the Underlying Funds so as to be able to prepare the Top Fund's Annual Financial Statements.
36. Each Top Fund seeks an extension of the Interim Filing Deadline and Interim Delivery Requirement to permit delivery within 120 days of the Top Fund's most recently completed interim period, to enable the Top Fund to first receive the unaudited interim financial statements of the Underlying Funds so as to be able to determine the NAV and prepare the Top Fund's Interim Financial Statements.

Decision

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

B.3: Reasons and Decisions

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted to a Top Fund provided that:

1. The Top Fund has, or will have, a financial year end of December 31 or March 31, as applicable.
2. The Top Fund's investment strategy is to primarily invest its assets directly or indirectly in one or more Underlying Funds that are private or other unlisted investment entities managed by independent managers, the Filer or an affiliate of the Filer.
3. The Top Fund invests the majority of its assets in one or more Underlying Funds.
4. No less than 25% of the total assets of the Top Fund as at its financial year end of December 31 or March 31, as applicable, are invested in Underlying Fund(s) that have financial year ends corresponding to such Top Fund and are subject to laws of their jurisdictions or have constating documents or contractual obligations that require or permit annual financial statements of the Underlying Fund(s) to be made available within 183 days of their financial year ends and/or interim financial statements of the Underlying Fund(s) to be made available within 92 days of their most recent interim period.
5. The offering memorandum provided to securityholders regarding the Top Fund discloses that:
 - a. the Annual Financial Statements of the Top Fund will be filed and delivered on or before the 183rd day after the Top Fund's most recently completed financial year; and
 - b. the Interim Financial Statements of the Top Fund will be filed and delivered on or before the 120th day after the Top Fund's most recently completed interim period.
6. The Top Fund notifies its securityholders that it has received and intends to rely on relief from the filing and delivery requirements under section 2.2, 2.4 and subsections 5.1(2)(a) and 5.1(2)(b) of NI 81-106.
7. The Top Fund is not a reporting issuer and the Filer has the necessary registrations to carry out its operations in each jurisdiction of Canada in which it operates.
8.
 - a. The audited annual financial statements of the Top Fund are filed on or before the 183rd day after the Top Fund's most recently completed financial year and the interim financial statements of the Top Fund are filed on or before the 120th day after the Top Fund's most recently completed interim period; or
 - b. The conditions in section 2.11 of NI 81-106 are met, except for paragraph 2.11(b), and the annual audited financial statements are delivered to securityholders of the Top Fund in accordance with Part 5 of NI 81-106 on or before the 183rd day after the Top Fund's most recently completed financial year and the interim financial statements are delivered to securityholders of the Top Fund in accordance with Part 5 of NI 81-106 on or before the 120th day after the Top Fund's most recently completed interim period.
9. The Exemption Sought terminates within one year of the coming into force of any amendment to NI 81-106 or other rule that modifies how the Annual Filing Deadline, Annual Delivery Requirement, Interim Filing Deadline, or Interim Delivery Deadline Requirement applies in connection with mutual funds under the Legislation.

"Darren McKall"

Manager, Investment Funds and Structured Products
Ontario Securities Commission

Application File #: 2023/0269

B.3.3 Japan Securities Clearing Corporation

Headnote

NI 94-102 – protection of customer cleared derivatives collateral and positions – applicant seeking relief from certain requirements relating to the commingling of customer positions and relief to substitute compliance of certain NI 94-102 requirements with comparable Japanese laws – relief granted, subject to conditions.

Applicable Legislative Provisions

National Instrument 94-102 Derivatives: Customer Clearing and Protection of Customer Collateral and Positions, ss. 30(b), 32(2), 48.

October 2, 2023

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

AND

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

AND

IN THE MATTER OF
JAPAN SECURITIES CLEARING CORPORATION
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) in Ontario and Quebec pursuant to section 49 of National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions* (**NI 94-102**) and in Québec pursuant to section 86 of the *Derivatives Act* (Québec), CQLR, c. I-14.01, for relief from certain requirements applicable to regulated clearing agencies under NI 94-102. More specifically, the Filer

- (i) seeks substituted compliance relief that would permit it to comply with applicable Japanese law in lieu of complying with the Regulated Clearing Agency Provisions (defined below); and
- (ii) seeks relief to commingle customer positions in Japanese Government Bond futures contracts and options on such futures contracts (collectively, **JGB Futures**) as further set out below in the representations at section 20 and cleared-only interest rate swaps (**IRS**), and any money, securities or property used to margin, guarantee or secure such JGB Futures and IRS, in accounts of clearing participants (**Clearing Participants**) offering services to a local customer (**Customer Accounts**) (collectively, the **Exemptive Relief Sought**).

The Exemptive Relief Sought would place the Filer in a similar position to clearing agencies domiciled in the U.S. and in Europe that are currently permitted to rely on substituted compliance under Part 9 of NI 94-102.

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

- (a) the Ontario Securities Commission (the **OSC**) is the principal regulator for this application, and
- (b) the decision is the decision of the principal regulator and evidences the decision of each Decision Maker.

Interpretation

Terms defined in National Instrument 14-101 Definitions and NI 94-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The Filer is a joint-stock company under the *Companies Act* of Japan and is a majority-owned subsidiary of the Japan Exchange Group, Inc., a publicly traded company listed on the Tokyo Stock Exchange, Inc. The Filer's registered and head office is located at 2-1 Nihombashi Kabutocho, Chuo-ku, Tokyo 103-0026 Japan.
2. The Filer is exempt from the requirement to be recognized as a clearing agency in Ontario pursuant to an interim order dated September 29, 2023 (the **OSC Interim Order**). The Filer has filed a full application with the OSC for a subsequent order exempting it from the requirement to be recognized as a clearing agency in Ontario (the **Subsequent Order**).
3. The OSC Interim Order shall terminate on the earlier of (i) September 28, 2024 or (ii) the effective date of the Subsequent Order.
4. The OSC Interim Order provides that the Filer's activities in Ontario will be limited to Permitted Clearing Services (as defined in the OSC Interim Order and as may be redefined in the Subsequent Order).
5. The Filer is a regulated clearing agency under NI 94-102.
6. The Filer is not in any material respect in default of the Legislation and is in compliance in all material respects with applicable Japanese laws.
7. The Filer offers Permitted Clearing Services using the clearing model(s) permitted by the OSC Interim Order and as may be permitted by the Subsequent Order.
8. The Filer is licensed to perform IRS clearing services under the *Financial Instruments and Exchange Act* (Japan) (**FIEA**). The Filer is regulated and supervised by the Japanese Financial Services Agency (**JFSA**) under the FIEA and is subject to the oversight of the Bank of Japan in respect of its IRS clearing services.
9. The Filer is obligated under the FIEA to conduct its IRS clearing business in accordance with its Interest Rate Swap Clearing Business Rules (the **IRS Business Rules**), which are subject to approval by the Prime Minister of Japan.
10. The IRS Business Rules set out the rights and obligations in relation to the IRS clearing business, including the risk-management framework, to ensure the stable performance of the Filer's clearing operations. The FIEA and Cabinet Office Order on the Regulation of Over-the-Counter Derivatives Transactions require certain types of IRS and credit default swaps denominated in Japanese yen to be cleared in a licensed clearinghouse. In addition, these laws and regulations require certain over-the-counter derivative contracts to be reported to trade repositories either (i) licensed in Japan or (ii) incorporated in a foreign jurisdiction and designated by the Prime Minister of Japan.

Regulated Clearing Agency Provisions – Substituted Compliance

11. The JFSA publishes Comprehensive Guidelines for Supervision of Financial Market Infrastructures (**CCP Supervisory Guidelines**), which reflect in its supervisory framework the substance of the international standards applicable to financial market infrastructures described in the April 2012 report named *Principles for Financial Market Infrastructures* (**PFMIs**) published by the Committee on Payments and Market Infrastructures of the International Organization of Securities Commissions (**CPMI-IOSCO**). The Filer observes the PFMIs by complying with the CCP Supervisory Guidelines. The Japanese legal and regulatory framework for CCPs, which covers its margining practices, was assessed by CPMI-IOSCO as fully consistent with the PFMIs.
12. The Filer seeks the Exemptive Relief Sought from the following sections of NI 94-102 (the **Regulated Clearing Agency Provisions**) so that it may, on a substituted compliance basis, comply with the comparable rules applicable to the Filer under Japanese law, as set out on Schedule A, in lieu of complying with the Regulated Clearing Agency Provisions:
 - Section 28 [*Collection of initial margin*]
 - Section 29 [*Segregation of customer collateral – regulated clearing agency*]
 - Section 30 [*Holding of customer collateral – regulated clearing agency*]
 - Section 31 [*Excess margin – regulated clearing agency*]
 - Section 32 [*Use of customer collateral – regulated clearing agency*]
 - Section 33 [*Investment of customer collateral – regulated clearing agency*]

- Section 34 [*Use of customer collateral – clearing agency default*]
- Section 35 [*Risk management – NI 24-102 applies*]
- Section 37 [*Daily records – regulated clearing agency*]
- Section 38 [*Identifying records – regulated clearing agency*]
- Section 39 [*Records of investment of customer collateral – regulated clearing agency*]
- Section 40 [*Records of currency conversion – regulated clearing agency*]
- Section 41 [*Disclosure to direct intermediaries by regulated clearing agency*]
- Section 42 [*Customer information – regulated clearing agency*]
- Section 45 [*Disclosure of investment of customer collateral*]
- Section 46 [*Transfer of customer collateral and positions*]

Regulated Clearing Agency Provisions – Portfolio Margining

13. The Filer currently offers portfolio margining of (a) certain IRS and (b) certain JGB Futures, in each case, in IRS Customer Accounts in accordance with Article 59 of the IRS Business Rules.
14. The Filer states that permitting local customers to portfolio-margin IRS and JGB Futures in IRS Customer Accounts will not make such customers more susceptible to shortfalls in the event of an insolvency of a Clearing Participant or impair their ability to port positions.
15. The Filer offers Ontario resident entities an individual segregated IRS Customer Account structure. Positions and collateral in each IRS Customer Account where JGB Futures and IRS positions are commingled receive a high level of protection since each IRS Customer Account is individually segregated. Because the IRS Customer Accounts are individually segregated, the Filer cannot use the collateral of one customer to pay for the obligations of another customer. Accordingly, this is an account structure that does not introduce fellow customer risk.
16. When a Clearing Participant or a customer who uses the Filer's IRS clearing services and JGB Futures clearing services chooses to portfolio-margin its IRS and JGB Futures positions, the required amount of initial margin for the Clearing Participant or the customer, as applicable, is calculated on a portfolio basis across IRS and JGB futures in the IRS Customer Account. The Filer's Clearing Participants are allowed to apply for netting a part or the whole of their JGB futures positions with their IRS positions upon default and to calculate the required initial margin of the portfolio based on the calculation methodology for IRS.
17. If a Clearing Participant or customer that has elected portfolio-margining defaults, then, pursuant to the IRS Business Rules and corresponding business rules of the Filer in respect of JGB Futures clearing, the relevant JGB Futures positions of the defaulting Clearing Participant or customer would be automatically transferred to the Clearing Participant's or customer's IRS account, so that the default losses of the Clearing Participant or customer with respect to IRS and JGB Futures are netted in a single account for IRS.
18. The Filer also states that the Filer collects initial margin for each Customer Account, which is segregated for each individual customer, on a gross basis, and that each Clearing Participant deposits the full amount of customer margin with JSCC without delay when it receives margin from a customer. These factors increase the likelihood that each Customer Account is fully margined at the time of a Clearing Participant's default and therefore facilitate the rapid and successful porting of customer positions to one or more solvent Clearing Participants.
19. If the Exemptive Relief Sought is granted, the Filer will offer to local customers as defined in NI 94-102:
 - (a) portfolio-margining of JGB Futures and IRS, as conducted in accordance with the IRS Business Rules; and
 - (b) portfolio-margining of JGB Futures, IRS and any other instruments that may in the future be eligible under the IRS Business Rules for portfolio-margining with IRS, provided that the individually segregated IRS Customer Account structure, procedures on default and margin collection practices and rules applicable to such instruments are substantially the same as described under the foregoing Representations 14 to 18.
20. If the Exemptive Relief Sought is granted, the following JGB Futures will be eligible for commingling with IRS in IRS Customer Accounts for the purpose of portfolio margining: 10-year JGB Futures (whether "large" or "mini") with the

nearest and second nearest contract months, and any other JGB Futures that may in the future be eligible under the IRS Business Rules for portfolio-margining with IRS.

21. In order that the Filer is able provide IRS clearing services to local customers in the Jurisdictions without being required to comply with the Regulated Clearing Agency Provisions, provided that such clearing services are provided in accordance with Japanese laws and regulations, including the IRS Business Rules, the Filer requests that the Exemptive Relief Sought be granted.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted, provided that the Filer (i) complies with the terms and conditions of the OSC Interim Order; (ii) upon termination of the OSC Interim Order, is exempt from the requirement to be recognized as a clearing agency in Ontario pursuant to a Subsequent Order and complies with the terms and conditions of the Subsequent Order; and (iii) complies with the laws of Japan applicable to the Filer set out on Schedule A.

“Kevin Fine”
Director, Derivatives Branch
Ontario Securities Commission

Schedule A

Foreign Jurisdiction	Laws, Regulations or Instruments	Provisions of NI 94-102 applicable to a regulated clearing agency despite compliance with the foreign jurisdiction's laws, regulations or instruments
Japan	Interest Rate Swap Clearing Business Rules of Japan Securities Clearing Corporation Japanese Financial Services Agency, <i>Comprehensive Guidelines for Supervision of Financial Market Infrastructures - Clearing Organizations, Fund Clearing Organizations, Book-entry Transfer Institutions, and Trade Repositories</i>, June 2022, as amended	Section 36 [<i>Retention of records – regulated clearing agency</i>] Section 43 [<i>Customer collateral report – regulatory</i>] Section 44 [<i>Customer collateral report – direct intermediary</i>]

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B.4 Cease Trading Orders

B.4.1 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
Fire & Flower Holdings Corp.	August 28, 2023	October 3, 2023
Canntab Therapeutics Limited	October 4, 2023	
Teras Resources Inc.	October 4, 2023	
Molecule Holdings Inc.	October 5, 2023	
Biovaxys Technology Corp.	October 5, 2023	
Veji Holdings Ltd.	May 8, 2023	October 5, 2023
AMPD Ventures Inc.	October 5, 2023	
DGTL Holdings Inc.	October 5, 2023	
Indigenous Bloom Hemp Corp.	October 5, 2023	
Koios Beverage Corp.	October 5, 2023	
Maven Brands Inc.	October 6, 2023	
Neptra Foods Inc.	October 6, 2023	
Boosh Plant-Based Brands Inc.	October 6, 2023	

B.4.2 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
NioCorp Developments Ltd.	September 29, 2023	

B.4.3 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		

B.4: Cease Trading Orders

Company Name	Date of Order	Date of Lapse
Agrios Global Holdings Ltd.	September 17, 2020	
Sproutly Canada, Inc.	June 30, 2022	
iMining Technologies Inc.	September 30, 2022	
Alkaline Fuel Cell Power Corp.	April 4, 2023	
mCloud Technologies Corp.	April 5, 2023	
Element Nutritional Sciences Inc.	May 2, 2023	
CareSpan Health, Inc.	May 5, 2023	
Canada Silver Cobalt Works Inc.	May 5, 2023	
FenixOro Gold Corp.	July 5, 2023	
HAVN Life Sciences Inc.	August 30, 2023	
NioCorp Developments Ltd.	September 29, 2023	

B.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).

B.9

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:

Dynamic Active Balanced ETF Portfolio
Dynamic Active Conservative ETF Portfolio
Dynamic Active Growth ETF Portfolio
Dynamic Active Income ETF Portfolio
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Oct 5, 2023
NP 11-202 Final Receipt dated Oct 5, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06025419

Issuer Name:

Dynamic Active Canadian Bond ETF
Dynamic Active Global Equity Income ETF
Dynamic Active U.S. Equity ETF
Dynamic Active U.S. Investment Grade Corporate Bond ETF
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Oct 5, 2023
NP 11-202 Final Receipt dated Oct 5, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06025418

Issuer Name:

FDP Municipal Bond Portfolio
Principal Regulator – Quebec

Type and Date:

Preliminary Simplified Prospectus dated Oct 4, 2023
NP 11-202 Preliminary Receipt dated Oct 5, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06032907

Issuer Name:

IA Clarington Global Equity Advantage Fund
IA Clarington Global Fixed Income Advantage Fund
IA Clarington Global Macro Advantage Fund
Principal Regulator – Quebec

Type and Date:

Final Simplified Prospectus dated Sep 26, 2023
NP 11-202 Final Receipt dated Oct 5, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06001159

Issuer Name:

Viewpoint Diversified Commodities Trust
Viewpoint Enhanced Global Multi-Asset Trust
Viewpoint Global Multi-Asset Trust
Principal Regulator – Alberta

Type and Date:

Final Simplified Prospectus dated Oct 4, 2023
NP 11-202 Final Receipt dated Oct 5, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #03562029

Issuer Name:

1832 AM Global Completion LP
1832 AM Tactical Asset Allocation LP
Principal Regulator – Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated October 3, 2023

NP 11-202 Final Receipt dated Oct 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #03472080

Issuer Name:

Mackenzie Floating Rate Income ETF
Mackenzie Global High Yield Fixed Income ETF
Principal Regulator – Ontario

Type and Date:

Amendment #1 to Final Long Form Prospectus dated
September 29 2023

NP 11-202 Final Receipt dated Oct 3, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #03545384

Issuer Name:

Mackenzie FuturePath Canadian Sustainable Equity Fund
Principal Regulator – Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
September 29, 2023

NP 11-202 Final Receipt dated Oct 4, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #03527493

Issuer Name:

Vanguard Global Aggregate Bond Index ETF (CAD-
hedged)
Vanguard Global ex-U.S. Aggregate Bond Index ETF
(CAD-hedged)
Vanguard U.S. Aggregate Bond Index ETF (CAD-hedged)
Principal Regulator – Ontario

Type and Date:

Amendment #1 to Final Long Form Prospectus dated
September 29, 2023

NP 11-202 Final Receipt dated Oct 4, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #03537838

Issuer Name:

Educators Dividend Fund
Principal Regulator – Ontario
Type and Date

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
October 1, 2023

NP 11-202 Final Receipt dated Oct 6, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #03520573

NON-INVESTMENT FUNDS

Issuer Name:

Ayr Wellness Inc.
Principal Regulator – Ontario

Type and Date:

Preliminary Amendment No. 1 Base Shelf Prospectus dated October 3, 2023

NP 11-202 Amendment to Preliminary Receipt dated October 4, 2023

Offering Price and Description:

-

Securities

-

Filing # 03558403

Issuer Name:

Delta 9 Cannabis Inc.
Principal Regulator – Manitoba

Type and Date:

Preliminary Shelf Prospectus dated October 5, 2023
NP 11-202 Preliminary Receipt dated October 5, 2023

Offering Price and Description:

\$40,000,000.00

Securities

Common Shares, Debt Securities, Warrants, Subscription Receipts, Units

Filing # 06033373

Issuer Name:

ECN Capital Corp.
Principal Regulator – Ontario

Type and Date:

Final Shelf Prospectus dated Oct 4, 2023
NP 11-202 Final Receipt dated Oct 5, 2023

Offering Price and Description:

-

Securities

Common Shares, Debt Securities, Preferred Shares, Warrants, Subscription Receipts, Units

Filing # 06033037

Issuer Name:

Emera Incorporated
Principal Regulator – Nova Scotia

Type and Date:

Final Shelf Prospectus dated Oct 3, 2023
NP 11-202 Final Receipt dated Oct 4, 2023

Offering Price and Description:

\$600,000,000.00

Securities

Common shares

Filing # 06032571

Issuer Name:

ESSA Pharma Inc.
Principal Regulator – British Columbia

Type and Date:

Final Short Form Base Shelf Prospectus dated October 3, 2023

NP 11-202 Final Receipt dated October 3, 2023

Offering Price and Description:

-

Securities

Common Shares, Preferred Shares, Debt Securities, Subscription Receipts, Warrants, Units

Filing # 6027773

Issuer Name:

Medexus Pharmaceuticals Inc. (formerly Pediapharm Inc.)
Principal Regulator – Ontario

Type and Date:

Final Short Form Prospectus dated October 2, 2023
NP 11-202 Final Receipt dated Oct 3, 2023

Offering Price and Description:

\$10,000,205.00 - 3,389,900 Units

Price: \$2.95 per Unit

Securities

-

Filing # 06023993

Issuer Name:

Planet 13 Holdings Inc.
Principal Regulator – Ontario

Type and Date:

Preliminary MJDS Prospectus dated October 2, 2023
NP 11-202 Preliminary Receipt dated Oct 3, 2023

Offering Price and Description:

\$100,000,000.00

Securities

Common stock, Preferred Stock, Warrants, Subscription Rights, Units

Filing # 06032308

Issuer Name:

Surge Energy Inc.
Principal Regulator – Alberta

Type and Date:

Preliminary Short Form Prospectus dated October 4, 2023
NP 11-202 Preliminary Receipt dated October 4, 2023

Offering Price and Description:

\$42,000,000.00 - Price: \$1,000 per Offered Debenture

Securities

8.50% Series 3 Convertible Unsecured Subordinated Debentures

Filing # 06031002

Issuer Name:

Tiny Ltd. (formerly WeCommerce Holdings Ltd.)

Principal Regulator – British Columbia

Type and Date:

Final Shelf Prospectus dated September 29, 2023

NP 11-202 Final Receipt dated October 3, 2023

Offering Price and Description:

\$150,000,000.00

Securities

Common Shares, Debt Securities, Warrants, Units,
Subscription Receipts

Filing # 06014627

B.10 Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Devlin Capital Inc.	Portfolio Manager, Exempt Market Dealer and Investment Fund Manager	October 5, 2023
New Registration	MCA Cross Border Capital Inc.	Portfolio Manager	October 6, 2023
Amalgamation	Padlock Investment Management Inc. and Dorchester Wealth Management Company To form: Dorchester Wealth Management Company	Portfolio Manager	October 3, 2023

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B.11

CIRO, Marketplaces, Clearing Agencies and Trade Repositories

B.11.2 Marketplaces

B.11.2.1 Tradelogiq Markets Inc. – Lynx ATS – Periodic Matching – Notice of Proposed Amendments and Request for Comment

TRADELOGIQ MARKETS INC.

NOTICE OF PROPOSED AMENDMENTS AND REQUEST FOR COMMENT

LYNX ATS

PERIODIC MATCHING

Tradelogiq Markets Inc. (**Tradelogiq**) is publishing this Notice of Proposed Changes and Request for Comment in accordance with the “Process for the Review and Approval of Rules and the Information Contained in Form 21-101F2 and the Exhibits Thereto” (**Protocol**).

Subject to approval by the Ontario Securities Commission (**OSC**), Tradelogiq intends to implement the changes described below in respect of the implementation of a new trading model for Lynx ATS (**proposed changes**).

Market participants are invited to provide comments on the proposed changes. Comments should be in writing and submitted by November 13, 2023 to:

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

And to:

Jonathan Sylvestre
Chief Compliance Officer & Head of Market Structure
Tradelogiq Markets Inc.
25 York Street, Suite 612
Toronto, ON M5J 2V5
e-mail: jonathan.sylvestre@tradelogiq.com

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

If you have any questions concerning the information below, please contact Travis Felker, Head of Product and Strategy for Tradelogiq at 416-885-1231 or travis.felker@tradelogiq.com.

A. Periodic Matching - A new trading model for Lynx ATS (“Lynx”)

In October 2021, Tradelogiq received regulatory approval to introduce a speedbump that would be applied to orders sent by specified trader types (**speedbump proposal**). Tradelogiq ultimately decided not to proceed with implementation of the speedbump proposal and, in any event, the proposal was deemed to be withdrawn under the Protocol due to the amount of time that had passed since its approval. In accordance with the Protocol, OSC staff has published a separate deemed withdrawal notice in respect of that proposal.¹

¹ https://www.osc.ca/sites/default/files/2023-09/ats_20230928_lynx-ats-notice-of-withdrawal.pdf

Tradelogiq is now proposing to implement a periodic matching model on Lynx, whereby orders will not be matched immediately upon receipt, but will participate in discrete match events (**Match Events**) that will occur on a scheduled recurring basis, with each Match Event occurring every few milliseconds or less.

B. Expected implementation date

Subject to regulatory approval and meeting the specification and testing availability requirements set out in section 12.3 of National Instrument 21-101 *Marketplace Operation*, we expect implementation will occur no earlier than March 2024.

C. Details and rationale for the proposed changes

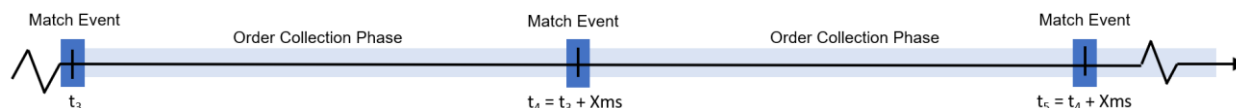
The following provides a general overview of the next generation Lynx trading model. For more details, including details and examples pertaining to order types, features and the matching process, see Appendix A.

The new model will consist of two separate books – a “Visible Book” and a “Midpoint Book” – both of which will be available for order entry and trading from 9:30am to 4:00pm (ET)² and will offer trading in all Canadian listed securities, as currently available on Lynx. The two books will operate on the same platform but will be functionally separated based on order type. More specifically, the Midpoint Book will consist solely of fully hidden Midpoint Peg orders, which are only eligible to interact against other Midpoint Pegs. All other order types participate only in the Visible Book.

Tradelogiq’s current intent is that the two books will be accessible through subscribers’ existing FIX order entry sessions and based on existing session defaults and/or the presence of FIX tags currently used to identify an order as being destined for Lynx.

As noted above, and applicable to both books, Lynx will operate a periodic matching model whereby orders received during the period preceding each Match Event (**Collection Phase**) will be displayed where applicable but will not be matched upon receipt. Orders will only be matched at Match Events that will be scheduled to occur every few milliseconds or less.

The following diagram presents the concept:



a) Visible Book summary

Orders in the Visible Book will, for the most part, be liquidity providing or liquidity taking based on their time-in-force condition. “Event or Cancel” (**EOC**) orders (being orders entered with an “Immediate or Cancel” (**IOC**) time-in-force condition) are generally classified as liquidity taking orders and are eligible to match only during the first Match Event after receipt, with any unfilled volume of an EOC order being cancelled at the end of that Match Event. Orders marked with a “DAY” time-in-force condition are generally classified as liquidity providing orders and will remain eligible for participation in subsequent Match Events until fully filled, cancelled by the subscriber, or cancelled by Lynx at the end of the trading day.

Other key details for the Visible Book are summarized below:

- **Matching process** – Matching will occur in two stages.
 - Stage 1 – EOC-to-DAY – EOC orders will be matched against DAY orders, with trade pricing determined by the executable price of the DAY order, similar to how an IOC order entered to a continuous auction market will execute based on the price of the resting order.
 - Stage 2 – EOC Final Turn – Unfilled EOCs with a limit price that is equal to or better than the Protected National Best Bid and Offer (**Protected NBBO**) midpoint will be matched against each other at the midpoint price. Subscribers will have the ability to choose that their EOC orders not participate in the EOC Final Turn.

Priority of DAY orders in each stage will be price / broker / time.³

As indicated by the above, DAY orders will not interact with each other in the Visible Book.

- **Order display** – DAY orders are always displayed, or are partially displayed in the case of DAY orders entered with an iceberg instruction. EOC orders are never displayed.

² Trading on Omega ATS will continue to operate from 8:00am to 5:00pm.

³ In all cases, whether for Visible Book or Midpoint Book, broker preferencing will not apply where one or both sides are marked as jitney.

Given that DAY orders will be displayed but not executable throughout the Collection Phase, a dynamic display mechanism will be implemented to avoid the potential for displayed prices to be locked or crossed with the Protected NBBO, or to be internally locked or crossed in the event there are resting DAY orders with overlapping prices. A DAY order's display price will therefore be constrained to the least aggressive of: (1) its limit price (2) its pegged price, where applicable, and (3) the Protected NBBO midpoint.

- Order types

- DAY orders will include the "DAY Limit" and "Primary Peg" order types. Primary Peg orders can be entered with an offset. Both order types are visible, but can be entered with an iceberg instruction. Where entered as an iceberg, subscribers can also indicate a minimum interaction size (**MIS**) instruction to be applied when matching contra-side EOC orders against its hidden reserve portion, allowing users to specify the minimum counterparty order size to be met by each contra-side EOC order.
- EOC orders will include the EOC Limit and Market Peg order types. Market Peg order types can be entered with an offset.

- Order processing and market data

- New orders, order amend and order cancel requests will be processed as received during the Collection Phase. The ability to amend or cancel an order during the Collection Phase applies to all orders – whether EOC or DAY.
- New displayed orders and order updates that affect the display price of an order during the Collection Phase (including when there is a change in the Protected NBBO that affects pegged reference prices or the display constraints described above) will be reflected on market data feeds as they are processed in real-time in the Lynx trading system. Trade reports will be generated and published on the market data feeds at each Match Event.
- Lynx market data will be disseminated via the existing market data feed for Lynx, utilizing the existing data specifications.

Through this innovative design, we expect that the key benefits for those providing liquidity in the Visible Book through the use of DAY orders will include improved execution quality as a result of reduced adverse selection risk. In addition, because Lynx will be an unprotected venue, the inclusion of *displayed* Primary Peg DAY orders will extend the above protection to participants regardless of their sophistication level, the amount invested in technology and latency reduction, or the size of the order.

We also expect that the ability for a Primary Peg to include a reserve iceberg quantity, and for the MIS condition to be applied in connection with the reserve quantity of both a DAY Limit iceberg and Primary Peg iceberg, will provide new opportunities for subscribers to trade more effectively in size without having to disclose the entirety of their position.

Liquidity takers in the Lynx Visible Book will have the ability to interact with more stable passive liquidity, to the extent that the protections and features available to liquidity providers contributes to committed visible liquidity in greater size and at improved prices.

The EOC Final Turn will also provide new and novel benefits to liquidity takers by helping to mitigate the risk that DAY volume is no longer available, whether because it faded or was exhausted during the Match Event, while unlocking a new source of liquidity and new opportunities for price improvement.

b) Midpoint Book summary

The Midpoint Book will be a dark order book consisting solely of Midpoint Peg orders. The MIS instruction will be available for use on all Midpoint Peg orders.

New orders, amends and cancel requests will similarly be processed as received during the Collection Phase.

Matching will occur in one stage. Midpoint Peg orders will be traded on a FIFO basis against all eligible contra-side orders,⁴ with broker/time priority applied to the contra-side orders.

At the end of the Match Event, any unfilled EOC Midpoint Peg orders are cancelled.

⁴ Being those contra-side Midpoint Peg orders that not constrained from trading due to a limit price that is less aggressive than the Protected NBBO midpoint.

As with the Visible Book, trade reports will be generated and published on the market data feeds at each Match Event, utilizing the existing data specifications. Midpoint Book trades will be specifically identified on the market data feeds to distinguish a trade from the Midpoint Book from a trade that occurred in the Visible Book.

Based on the design and features of the Midpoint Book, we expect the primary benefits will be better execution quality and reduced market impact relative to standard midpoint offerings. We expect that subscribers will have increased opportunities to trade size as a result of the aggregation of midpoint liquidity during the Collection Phase, and can manage information leakage by limiting interaction against small information-seeking orders through use of MIS.

c) Market data

New orders and order updates affecting displayed orders during the Collection Phase, including when there is a change in the Protected NBBO that affects displayed peg reference prices or the display prices of aggressive DAY orders that have been constrained to the Protected NBBO midpoint, will be reflected in the market data feeds as they are processed by the Lynx trading system.

Similarly, trade reports will be generated and published on the market data feeds as each trade occurs during a Match Event.

Lynx market data will be disseminated using the existing Lynx market data feed, which is a full-depth order and trade feed, and utilizing the existing data specifications and connectivity. Tradelogiq expects that if any changes to data feed specifications are needed, they will be minimal – for example, interested participants will be afforded the capability to identify trades that occurred in the Midpoint Book.

D. Expected impact on market structure, subscribers and, if applicable, investors and capital markets

Tradelogiq expects the Lynx periodic matching model to have a positive impact on the market structure, subscribers and their clients based on the intended benefits of the model described throughout this notice. The model also provides new trading opportunities as a result of the innovative design and enhanced features that may have a positive effect on market-wide liquidity and price discovery.

We do not expect that Lynx will have any negative impact on the markets as a whole. It is our expectation that the Visible Book will not be protected for the purposes of the OPR requirements in Part 6 of National Instrument 23-101 *Trading Rules*.

Tradelogiq is also conscious of the burden associated with the adoption of new markets and features and will seek to minimize those impacts by leveraging existing Lynx connectivity, and the existing order entry and market data specifications. Further, we note that subscribers already accessing and using Lynx today can continue do so through existing order types, and can leverage similar liquidity-taking strategies already deployed in smart order routers for taking liquidity on speedbump markets.

E. Expected impact on Tradelogiq's compliance with Ontario securities law requirements and, in particular, requirements for fair access and maintenance of fair and orderly markets

The Amendments will not impact Tradelogiq's compliance with applicable securities laws and in particular the requirements for fair access and the maintenance of fair and orderly markets.

The order types and features offered are available to all users, and all orders will be (a) subject to delay as a result of the periodic matching mechanism and (b) eligible to be amended or cancelled.

Tradelogiq expects that the model will not be protected for the purposes of the OPR requirements in Part 6 of National Instrument 23-101 *Trading Rules* due to the impact of the periodic matching mechanism on an EOC's ability to immediately execute. The display pricing mechanism and execution pricing constraints applicable to DAY orders entered to the Visible Book, and the availability of OPR features for EOC orders entered to the Visible Book, are intended to ensure that the model does not contribute to the appearance of locked or crossed markets, and is designed to prevent trade-throughs where the responsibilities for compliance for OPR have not otherwise been assumed by the subscriber by marking their order as DAO.

F. Summary of consultations undertaken in formulating the proposed change and the internal governance process followed to approve it

Tradelogiq conducted informal consultations with a number of stakeholders over the course of the development of this proposal, and all necessary internal executive approvals were obtained prior to filing.

G. If the proposed change will require subscribers or service vendors to modify their systems after implementation, the expected impact on the systems of subscribers and service vendors together with an estimate of the amount of time needed to perform the necessary work and how the estimated amount of time was deemed reasonable in light of the expected impact of the proposed change on Lynx ATS, its market structure, subscribers, investors or the Canadian capital markets

From an order entry and FIX messaging perspective, no significant changes are needed. Subscribers and vendors may choose to expend development efforts to take advantage of the Primary Peg and Market Peg orders and the MIS feature, but their usage is optional. Further, the core functionality of these features is generally well understood and will rely on standard and/or existing FIX tags and values, as appropriate.

In terms of market data, as noted above, we anticipate that any changes to our market data specifications will be minimal, and no new connections will be required to access data for users already consuming or receiving a Lynx market data feed. Order updates and trade reports will be generated and disseminated as they occur, following our existing market data specifications and in the same way such events are disseminated today for both Omega ATS and Lynx ATS, thereby fitting into existing downstream data processes and workflows.

Based on our intended implementation date, we expect there will be at least 90 days between regulatory approval and implementation, which should be sufficient for those who wish to implement the new features and model into their trading workflows.

H. Alternatives considered

Consideration had been given to proceeding with the speedbump mechanism that had been previously approved for implementation. As already expressed, it is our view that the periodic matching model offers trade features that should provide opportunities for better outcomes and execution quality than those available under the previously approved speedbump model.

I. If applicable, whether the proposed change would introduce a model or feature that currently exists in other markets or jurisdictions

The periodic matching model being proposed for Lynx ATS incorporates a number of features present in marketplace models in Canada and in other jurisdictions.

For example, the concept of scheduled times for recurring match events (whether fixed or randomized) is present on MATCHNow where matching of dark "LP orders" at the Protected NBBO midpoint occurs on a randomized basis every 1 to 3 seconds. IntelligentCross®, an alternative trading system in the United States, operates a visible periodic matching model, whereby matches occur at a frequency of 900 microseconds or less, and in a manner that has similarities to a continuous auction market. In addition, the application of order execution delays on visible markets is not new. Both Alpha Exchange and CBOE Canada operate visible markets that may impose delays on incoming liquidity-taking orders.

The display mechanism, whereby orders priced more aggressively than the Protected NBBO midpoint will be displayed at prices at or inside the Protected NBBO midpoint price, is unique in the context of how it is deployed for this proposal. However, the notion of displaying volume at prices that do not reflect more aggressive executable prices is not new. For example, NEO-N will aggregate and display volume of midpoint peg orders at the same-side best displayed price. In a sense, a DAY order entered to the Visible Book with an aggressive executable price that is through the Protected NBBO midpoint is akin to a dark order whose volume is displayed at a less aggressive price (like on NEO-N).

The EOC final-turn mechanism, while also unique in the context of its use in this proposal, is similar in concept to a reference price based matching mechanism like that applicable for matches between LP orders on MATCHNow (referred to above), or exchange closing auctions which match orders at an assigned calculated price and then cancel any remaining unfilled orders.

The availability of MIS on the hidden portion of an iceberg is also unique in the context of this proposal, but the concept of applying a condition on hidden liquidity that establishes a minimum size for interaction with contra-side orders is not new for fully hidden orders.

APPENDIX A – ADDITIONAL DETAILS AND RATIONALE**1. Visible Book****a) Order types and features – Visible Book**

Order types for the Visible Book are generally classified into liquidity taking and liquidity providing orders (subject to the exception whereby two liquidity taking orders may execute against each other as described further in the section below regarding “Match Event Process and Match Priority”).

Liquidity providing orders are always displayed, whereas liquidity taking orders are never displayed. The time-in-force condition applied to the order defines whether it is liquidity providing or liquidity taking. The following table summarizes the order types and key attributes available for orders.

	LIQUIDITY TAKING (ACTIVE) (Not Displayed)		LIQUIDITY PROVIDING (PASSIVE) (Displayed / Partially Displayed)	
Time-in-Force	EOC		DAY	
Order Type	EOC Limit	Market Peg	Primary Peg	DAY Limit
Features:				
Peg offset		Y	Y	
Iceberg			Y	Y
MIS			Y	Y

i) Liquidity taking orders

Orders marked IOC (referred to as EOC for the purposes of the periodic matching model) are generally considered to be liquidity taking. An EOC order will behave similarly to an IOC order, except that instead of seeking to execute immediately, they will seek to execute at the first scheduled Match Event after receipt, with any unfilled amount being cancelled at the end of that Match Event.

Except in the EOC Final Turn of matching that is further described in detail in the section titled “Match Event process and match priority – Visible Book”, EOC orders are intended to trade only against liquidity providing (i.e., DAY) orders in the Visible Book.

The Visible Book will offer two liquidity taking EOC order types: “EOC Limit” and “Market Peg” orders.

- **EOC Limit** – An EOC Limit is entered with a limit price and is executable against contra-side orders up to its limit price, subject to any other applicable instruction on the order (e.g., an OPR instruction).
- **Market Peg** – A Market Peg's price will float in reference to the opposite-side Protected National Best Bid and Offer (**Protected NBBO**), subject to the order's limit price. Specifically, a buy Market Peg will be priced in reference to the opposite-side Protected National Best Offer (**Protected NBO**), while a sell Market Peg will be priced in reference to the opposite-side Protected National Best Bid (**Protected NBB**).

Market Pegs can be entered with or without a limit price, and with an offset value that specifies the distance in number of trading increments from the reference price that the Market Peg's price should be set. A positive offset will indicate a more aggressive price relative to the opposite-side Protected NBBO, while a negative offset will indicate a less aggressive price. For example, where the Protected NBO is \$10.05, a buy Market Peg with a positive (negative) offset of 1 (-1) will result in the Market Peg being priced at \$10.06 (\$10.04).

At the time of the Match Event, a Market Peg with a pegged price that is more aggressive than its limit price will remain eligible to trade at prices up to its limit price. A Market Peg will not trade at a Match Event if there is no opposite-side Protected NBBO to serve as a reference price.

ii) Liquidity providing orders

Liquidity providing orders are identified based on the subscriber having applied a “DAY” time-in-force condition to their order. DAY orders will remain eligible to participate in each Match Event until fully filled, cancelled by the subscriber, or cancelled by Lynx at the end of the trading day.

DAY orders will only trade with EOC orders in the Visible Book. DAY orders will therefore never match against each other in the Visible Book.

The Visible Book will offer two liquidity providing order types, being the “DAY Limit” and “Primary Peg”.

- DAY Limit – A DAY Limit is entered with a limit price and can be executed against contra-side liquidity taking orders, subject to any other applicable instruction or pricing constraint applied to the order.⁵
- Primary Peg – A Primary Peg’s price will float in reference to the same-side Protected NBBO, as applicable, subject to the order’s limit price and any other applicable instruction or pricing constraint. Specifically, a buy Primary Peg will be priced in reference to the same-side Protected NBB, while a sell Primary Peg will be priced in reference to the same-side Protected NBO.

Primary Pegs can be entered with or without a limit price, and with an offset value that specifies the distance in number of trading increments from the reference price that the Primary Peg’s price should be set. A positive offset will indicate a more aggressive price relative to the same-side Protected NBBO, while a negative offset will indicate a less aggressive price. For example, where the Protected NBB is \$10.00, a buy Primary Peg with a positive (negative) offset of 1 (-1) will result in the Primary Peg being priced at \$10.01 (\$9.99).

A Primary Peg will be held in a non-executable state (and therefore will not be displayed and will not be participate in a Match Event) at any time where there is no same-side Protected NBBO to serve as a reference price.

- Additional order features available for use with DAY Limit and Primary Peg:
 - Iceberg – Lynx will support iceberg functionality on both the DAY Limit and Primary Peg, providing users with the ability to participate at each Match Event in larger size without disclosing the full size of their order. Used in combination with a Primary Peg, the result is a floating iceberg that allows users to manage both information leakage in relation to the total size of their order while ensuring their execution price is in line with current prices.

The hidden portion of an iceberg will only execute once all displayed volume at that price level has been exhausted. Because matching will occur at scheduled intervals, the hidden portion of an iceberg may be executed against by one or more liquidity taking orders before being refreshed – i.e., a refresh occurs only at the end of a match event to reduce superfluous messaging during Match Event processing. The refreshed amount will always be the lesser of the order’s specified display size or the order’s remaining quantity. A new priority timestamp will be applied at the time of the refresh. (See example of EOC-to-DAY matching in paragraph (c) below regarding Match Event process and matching priority for the Visible Book.)

- Minimum Interaction Size (**MIS**) – Lynx will also support the use of the MIS condition applicable to the reserve portion of either of a DAY Limit iceberg or Primary Peg iceberg. The MIS condition can be used to specify contra-party size and limit exposure to small-sized information seeking orders. The specified MIS value is compared against the entered size of the contra-side order, regardless of the contra-side liquidity taking order’s remaining size after executing first against any displayed resting volume. Where the remaining order size of a liquidity providing order with the MIS condition is less than the MIS specified on the order, the MIS to be applied will be the remaining order size. (See examples in section 4 below.)

b) Order processing during the Collection Phase – Visible Book

i) Handling of new order and amend and cancel requests

Order and amend and/or cancel requests will be processed as received during each Collection Phase. The ability to amend or cancel orders during the Collection Phase applies equally to all orders, and allows all subscribers to manage their exposure during changing market conditions, regardless of whether the subscriber is seeking to provide or take liquidity.

Order and amend/cancel requests received after the commencement of a Match Event will be processed at the commencement of the next Collection Phase to allow for efficient Match Event processing.

⁵ See the section on “Executable prices and effect of changes in executable price on time priority” regarding the application of pricing constraints on the execution price of a liquidity providing order at the time of a match event.

ii) *Order display*

Order updates to DAY orders will be reflected in real-time in the Lynx market data feeds. Displayed prices of Primary Pegs will also update in real-time in response to a change in the reference Protected NBB/NBO price.

Because DAY orders will be displayed but not executable throughout the Collection Phase, a dynamic display mechanism will be implemented to avoid the potential for displayed prices to be locked or crossed with the Protected NBBO, or to be internally locked or crossed in the event there are resting DAY orders with overlapping prices.

A DAY order's display price will therefore be constrained to the least aggressive of: (1) its limit price; (2) its pegged price, as applicable; and (3) the Protected NBBO midpoint (or inside the Protected NBBO midpoint where the midpoint is an invalid increment for display purposes, or the midpoint price is already occupied for display purposes.)

This display mechanism is also intended to provide the ability for subscribers with liquidity providing orders on either side to contribute price improving displayed liquidity on similar terms, including the ability to provide price-improving liquidity at prices that are more aggressive than the midpoint without exposing their true limit.

An example of the display mechanism is set out below.

Assume Protected NBBO is \$10.00 x \$10.03, and there are no orders in the Visible Book at the commencement of the Collection Phase:

Lynx then receives the following three liquidity providing DAY orders (in sequence):

#	Type	Side	Volume	Limit Price	Peg Offset
1	DAY Limit	Buy	500	\$10.03	
2	Primary Peg	Buy	300	\$10.02	+1
3	DAY Limit	Sell	600	\$10.01	

Because each of the above orders is priced at or through the Protected NBBO midpoint of \$10.015, they will be displayed at prices that are constrained to the NBBO midpoint in the manner described above. The order updates sent on the Lynx market data feeds will therefore result in display prices for each as follows:

BUY			SELL		
#	Volume	Display Price	Display Price	Volume	#
1	500	\$10.01	\$10.02	600	3
2	300	\$10.01			

Order 1 (buy) is displayed at \$10.01 despite it having a limit price of \$10.03 because its display price is constrained by the Protected NBBO midpoint. Order #2 (buy) is displayed at its pegged reference price of Primary + 1 – being \$10.01. The display price for Order #3 (sell) is constrained by the Protected NBBO midpoint.

The dynamic display mechanism affects only the display price of an order and does not affect the order's executable price.

iii) *Executable prices and effect of changes in executable price on time priority*

The executable price of an order entered into the Visible Book will generally be determined by its limit price or peg reference price.

An EOC order's executable price will be determined by its limit / peg reference price, and subject to the effect of any OPR instruction. Similar to when a subscriber enters an IOC order on a speedbump market, subscribers can assume responsibility for OPR compliance and identify their order as a Directed Action Order (**DAO**) or can utilize the OPR features offered by Lynx (described in section 3 below).

For a DAY order, the executable price will similarly be determined by its limit / peg reference price, but will in all cases be constrained to the opposite-side NBBO. This will ensure there is no appearance of trade-throughs resulting from the execution of DAY orders entered with a limit price or peg reference price that crosses the opposite-side Protected NBBO at the time of a Match Event. A DAY order's executable price at any given time is therefore the least aggressive of: (i) its limit price; (ii) its peg reference price in the case of a Primary Peg; and (iii) the opposite-side Protected NBBO.

B.11: CRO, Marketplaces, Clearing Agencies and Trade Repositories

As noted above, the dynamic display mechanism will affect the display price of a DAY order but does not affect the order's executable price. This is because the display mechanism is intended to manage the appearance of locked or crossed markets during the Collection Period, and the constraints applied to an order's display price differ from the constraints applied to an order's executable price.

During the Collection Period, Lynx will also update a DAY order's executable price when such price is affected by a change in the Protected NBBO, and will update the order's priority timestamp at any time its executable price changes.

An example of the impact of changes in the executable price is set out below.

Assume Protected NBBO is \$10.00 x \$10.03, time of commencement of Collection Period is 10:02:03.055000 and there are no orders in the Visible Book.

Lynx then receives the following aggressively priced liquidity providing DAY orders to the Visible Book (in sequence):

#	Timestamp	Type	Side	Volume	Limit Price	Peg Offset
1	10:02:03.055200	Primary Peg	Buy	500	\$10.03	+2
2	10:02:03.055400	DAY Limit	Buy	1000	\$10.04	N/A
3	10:02:03.055700	DAY Limit	Buy	200	\$10.02	N/A

After receipt, the order book is as follows:

BUY							
#	Priority Timestamp	Type	Volume	Limit Price	Executable Price	Display Price	
2	10:02:03.055400	DAY Limit	1000	\$10.04	\$10.03	\$10.01	
1	10:02:03.055200	Primary Peg +2	500	\$10.03	\$10.02	\$10.01	
3	10:02:03.055700	DAY Limit	200	\$10.02	\$10.02	\$10.01	

Notes:

- Executable price of Order 2 constrained by opposite-side Protected NBBO.
- Executable price of Order 1 determined by Primary Peg + offset instruction; not constrained by limit or opposite-side Protected NBBO.
- Executable price of Order 3 not constrained by opposite-side Protected NBBO.
- Display price on market data feeds of all three orders constrained by Protected NBBO midpoint.

At 10:02:03.056130, Lynx receives an update of the Protected NBB to \$10.01 – the Protected NBBO is now \$10.01 x \$10.03. The order book updates as follows:

BUY							
#	Priority Timestamp	Type	Volume	Limit Price	Executable Price	Display Price	
2	10:02:03.055400	DAY Limit	1000	\$10.04	\$10.03	\$10.02	
1	10:02:03.056130	Primary Peg +2	500	\$10.03	\$10.03	\$10.02	
3	10:02:03.055700	DAY Limit	200	\$10.02	\$10.02	\$10.02	

Notes:

- Executable price of Order 1 updates to \$10.03 as a result of its peg instruction, which price does not exceed the opposite-side Protected NBBO. Order 1 is assigned a new priority timestamp as a result of the change to its executable price.
- Display price on market data feeds updates accordingly for all three orders and remains constrained by the Protected NBBO midpoint.

At the next Match Event, assuming no further updates occurred during the Collection Period, Order 2 would have time priority over Order 1 at the executable price of \$10.03 due to the change in Order 1's executable price during the Collection Period, and despite Order 2 having a more aggressive limit price.

c) Match Event process and match priority – Visible Book

Matching in the Visible Book will occur in two stages, as described below.

Stage 1 – EOC-to-DAY

During this stage, EOC orders will be matched on a “first in, first out” (**FIFO**) basis against DAY orders, like an EOC order entered to a continuous auction market.

Priority of matching for DAY orders will follow price/broker/time priority. The following also impacts the matching priority for DAY orders:

- Within a given price level, all displayed DAY order volume at price level will be executed before any hidden iceberg volume is executed.
- Broker preferencing will only apply when both sides of are attributed. This applies both when executing visible DAY order volume and when executing hidden iceberg volume.

In the event that the Protected NBBO is locked or crossed at the time of the Match Event, there will be no trades executed during the EOC-to-DAY stage of matching.

An example of the EOC-to-DAY matching stage:

Assume the Protected NBBO is \$10.00 x \$10.03, and the Visible Book consists of the following orders at the commencement of the Match Event.

For simplicity, the Rank assigned to each order below represents the order's position based on its priority timestamp (lowest number / letter = oldest timestamp). “Type” delineates only between DAY and EOC orders, while “Executable Price” represents the order's executable price based on its limit and/or peg reference prices. Orders below are sorted from most aggressive price to least, followed by Rank (i.e., priority timestamp).

BUY						SELL					
Rank	Type	Broker	Total Order Quantity	Displayed Quantity	Executable Price	Executable Price	Displayed Quantity	Total Order Quantity	Broker	Type	Rank
C	EOC	051	1200	N/A	\$10.03	\$10.00	N/A	1500	063	EOC	A
F	EOC	001	900	N/A	\$10.03	\$10.00	N/A	2000	001	EOC	E
2	DAY	001	1000	1000	\$10.01	\$10.01	N/A	500	078	EOC	B
1	DAY	120	2000	500	\$10.00	\$10.01	N/A	1000	001	EOC	D
6	DAY	063	1000	200	\$10.00	\$10.03	1200	1200	037	DAY	5

The following represents the trades that will result from the EOC-to-Day stage of the Match Event.

Trade #	Buy order	Sell Order	Price	Quantity	Notes
①	DAY_2	EOC_A	\$10.01	1000	Sell EOC_A was the first EOC received, and trades 1000 shares against the 1000 shares of Buy DAY_2 displayed at \$10.01.
②	DAY_6	EOC_A	\$10.00	200	Sell EOC_A then trades 200 against the displayed volume of Buy DAY_6 at \$10.00, trading ahead of buy Buy DAY_1 due to broker preferencing (both sides attributed).
③	DAY_1	EOC_A	\$10.00	300	Sell EOC_A then trades its remaining 300 shares against the displayed volume of Buy DAY_1 (displayed before hidden).
④	EOC_C	DAY_5	\$10.03	1200	Sell EOC_B is next in sequence, but there are no buy DAY orders remaining that are executable at its \$10.01 executable price. Buy EOC_C is next in sequence and trades its full 1200 shares against the 1200 shares displayed by Sell DAY_5.
⑤	DAY_1	EOC_E	\$10.00	200	Sell EOC_D is next in sequence, but there are no buy DAY orders remaining that are executable at its \$10.01 executable price. Sell EOC_E is next in sequence and trades 200 shares against the remaining 200 shares displayed by Buy DAY_1.
⑥	DAY_1	EOC_E	\$10.00	1500	Sell EOC_E then trades 1500 shares of its remaining volume against the 1500 share reserve quantity of Buy DAY_1. Sell EOC_E is anonymous, so there is no broker preferencing opportunity.
⑦	DAY_6	EOC_E	\$10.00	300	Sell EOC_E then trades its remaining 300 shares against the reserve quantity of Buy Day_6.

After the EOC-to-DAY stage of matching, the Visible Book is as follows:

BUY							SELL					
Rank	Type	Broker	Total Order QTY	Leaves QTY	Displayed QTY	Executable Price	Executable Price	Displayed QTY	Total Order QTY	Broker	Type	Rank
F	EOC	001	900	N/A	N/A	\$10.03	\$10.01	N/A	500	078	EOC	B
6	DAY	063	1000	200	0	\$10.00	\$10.01	N/A	1000	001	EOC	D

Stage 2 – EOC Final Turn

In this stage, remaining unexecuted EOC orders that are priced at or through the Protected NBBO midpoint have the opportunity to execute against each other at that midpoint price. This will help to mitigate the potential that DAY orders are fully exhausted before EOC demand can be satisfied, including in the case where adjustments / cancels to DAY orders are made by subscribers during the Collection Phase due to changes in market conditions, which would have otherwise resulted in the EOC orders going unfilled.

EOC orders will participate in this matching stage by default, but subscribers with EOC orders will be able to opt-out of the EOC Final Turn stage where desired,⁶ both at the session level and on an order-by-order basis. However, where opted-out, subscribers may miss additional opportunities to obtain price improvement for their client orders.

Remaining EOC orders will be made eligible on a FIFO basis to trade against the remaining eligible contra-side EOC orders. The priority for contra-side orders will follow broker / time for contra-side orders with an executable price that is at or through the Protected NBBO midpoint.

⁶ For example, to avoid fee uncertainty depending on the fee model and fees applicable to trades in the Visible Book.

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At the end of this stage, any unfilled EOC orders will be cancelled, DAY order display quantities for icebergs will be refreshed, and the order book will transition to the next Collection Phase and begin to process received orders (including those received while the matching process was being run).

In the event that there is no valid Protected NBBO midpoint available at the Match Event (i.e., one or both sides of the Protected NBBO is missing, or the Protected NBBO is locked or crossed), no EOCs will trade during the EOC Final Turn.

Continuing from the example above as at the end of the EOC-to-DAY stage of matching:

Protected NBBO midpoint at beginning of Match Event was \$10.015, and the Visible Book consisted of the following orders at the commencement of the EOC final turn stage:

BUY							SELL					
Rank	Type	Broker	Total Order QTY	Leaves QTY	Displayed QTY	Executable Price	Executable Price	Displayed QTY	Total Order QTY	Broker	Type	Rank
F	EOC	001	900	N/A	N/A	\$10.03	\$10.01	N/A	500	078	EOC	B
6	DAY	063	1000	200	0	\$10.00	\$10.01	N/A	1000	001	EOC	D

The following represents the trades that will result from the EOC Final Turn stage of the Match Event.

Trade #	Buy order	Sell Order	Price	Quantity	Notes
8	EOC_F	EOC_B	\$10.015	500	Sell EOC_B is first based on FIFO, and trades its full quantity against the Buy EOC_F at \$10.015. (EOC_B is the active side of the trade.)
9	EOC_F	EOC_D	\$10.015	400	Sell EOC_D is next in sequence, and trades 400 shares against the remaining 400 shares of Buy EOC_F at \$10.015. (EOC_D is the active side of the trade.)

After Trade #9, there are no remaining EOC matching opportunities by virtue of there being no remaining buy EOCs, and so the Match Event ends. Any remaining unfilled EOCs (i.e., the remaining 600 shares of EOC_D in the above example) are cancelled.

Any remaining DAY orders are updated (e.g., display portion of icebergs refreshed) and the Visible Book transitions back to Collection Phase state. The Visible Book at the commencement of the subsequent Collection Phase is as follows:

BUY							SELL					
Rank	Type	Broker	Total Order QTY	Leaves QTY	Displayed QTY	Executable Price	Executable Price	Displayed QTY	Total Order QTY	Broker	Type	Rank
6	DAY	063	1000	200	200	\$10.00						

d) Fee model – Visible Book

Notification regarding the fee model and fee levels for the Visible Book will be made public closer to implementation for competitive reasons, and to allow for further consultations with subscribers after they have had sufficient time to consider the model as described herein.

2. Midpoint Book

The Midpoint Book will be a dark book consisting solely of Midpoint Peg orders. No separate connectivity is required to access the Midpoint Book – the separation is strictly functional, based on order type. Midpoint Peg orders will only trade with other Midpoint Peg orders and will not interact with orders entered to the Visible Book.

a) Order types and features – Midpoint Book

A Midpoint Peg's price will float in reference to the Protected NBBO midpoint, subject to the order's limit price. Midpoint Pegs can be entered with or without a limit price, and can be entered in half-tick increments to reflect the fact that trades can occur at a Protected NBBO midpoint price that is in a half-tick increment.

The MIS condition will be available for use on Midpoint Peg orders (both DAY and EOC) to allow subscribers to specify contra-party size and limit exposure to small-sized information seeking orders. MIS will work in the same way as described earlier in the circumstance where it is applied to the reserve portion of iceberg DAY orders in the Visible Book, except that it could be possible in the Midpoint Book both sides of a potential trade will have a MIS condition attached. In that case, each side must satisfy their respective contra-side's MIS requirement in order for a trade to occur.

A Midpoint Peg will be held in a non-executable state and not participate in a Match Event when the Protected NBBO midpoint is more aggressive than the order's specified limit price. Midpoint Pegs will not trade in a Match Event where a valid Protected NBBO midpoint is not available (i.e., where one or both sides of the Protected NBBO is missing, or where the Protected NBBO is locked or crossed).

b) Order processing during the Collection Phase – Midpoint Book

Similarly to the Visible Book, new order and amend and cancel requests will be processed as received during the Collection Phase.

As all Midpoint Peg orders float with the Protected NBBO midpoint, and are only tradeable against other Midpoint Peg orders at the midpoint price at the time of the Match Event following the FIFO approach described below, Midpoint Peg orders will maintain their relative time priority when the Protected NBBO midpoint changes.

c) Match Event process and match priority – Midpoint Book

Only Midpoint Peg orders that have a limit price that is at or through the Protected NBBO midpoint will be eligible to match during a Match Event.

Matching in the Midpoint Book will occur in one stage. Midpoint Peg orders will be traded on a FIFO basis against all eligible contra-side orders in the Midpoint Book, and regardless of the order's time-in-force conditions. Priority for eligible contra-side Midpoint Peg orders is broker / time, and anonymous broker preferencing will apply.⁷

EOC Midpoint Peg orders will be eligible to participate in multiple trades throughout the Match Event process, and any unfilled EOC Midpoint Peg orders will be cancelled at the end of the Match Event.

As an example:

Assume the Protected NBBO midpoint is \$10.015 (Protected NBBO is \$10.00 x \$10.03), and the Midpoint Book consists of the following orders at the commencement of the Match Event.

For simplicity, the Rank assigned to each order below represents the order's position based on its time priority (lowest number / letter = oldest timestamp). "Type" delineates only between DAY and EOC orders. Orders below are sorted by Rank. "True Broker" identifies the underlying broker on the order, regardless of whether the order was marked as anonymous. "Executable" reflects whether the Midpoint Peg is executable based on the order's limit price – orders that are not executable due to their limit price are shaded grey.

BUY						SELL					
Rank	Type	True Broker	Total Order Quantity	Limit Price	Executable	Executable	Limit Price	Total Order Quantity	True Broker	Type	Rank
A	DAY	165	600	MKT	Y	Y	\$10.015	2000	063	EOC	C
B	DAY	112	900	\$10.03	Y	N	\$10.02	1500	165	EOC	E
D	EOC	097	1000	\$10.01	N	Y	\$10.00	500	078	DAY	F
G	EOC	120	2000	\$10.015	Y	Y	\$10.01	1000	112	DAY	H
J	DAY	063	1000	\$10.02	Y	Y	\$10.01	1200	037	DAY	I

⁷ Meaning broker priority will apply for two contra-side orders from the same subscriber regardless of whether one or both sides is marked as anonymous.

The following represents the trades that will result during the Match Event.

Trade #	Buy order	Sell Order	Price	Quantity	Notes
①	DAY_A	EOC_C	\$10.015	600	Buy DAY_A is first based on FIFO and trades (active) in full against Sell EOC_C based on time. (No broker preferencing applied to Sell EOC_E as it is not executable due to its limit price.)
②	DAY_B	DAY_H	\$10.015	900	Buy DAY_B is next in sequence to trade and trades (active) in full against Sell DAY_H due to broker preferencing.
③	DAY_J	EOC_C	\$10.015	1000	Sell EOC_C is next in sequence to trade and trades (active) 1000 of its remaining 1400 shares against Buy DAY_J due to broker preferencing.
④	EOC_G	EOC_C	\$10.015	400	Sell EOC_C then trades its remaining 400 shares (active) against Buy EOC_G. (Buy EOC_D is non-executable based on limit price.)
⑤	EOC_G	DAY_F	\$10.015	500	Sell DAY_F is next in sequence to trade and trades (active) in full against Buy EOC_G based on time. Both Buy EOC_D and Sell EOC_E would have otherwise been next to trade after Sell EOC_C, but both are non-executable due to their limit price.
⑥	EOC_G	DAY_H	\$10.015	100	Buy EOC_G is next in sequence to trade and trades (active) against the 100 remaining shares of Sell DAY_H based on time.
⑦	EOC_G	DAY_I	\$10.015	1000	Buy EOC_G then trades (active) its remaining 1000 shares against Sell DAY_I.

After Trade #7, there are no further matching opportunities, and the Match Event ends. Any remaining unfilled EOC Midpoint Peg orders (being Buy EOC_D and Sell EOC_E which were both not executable due to limit price) are cancelled.

The Midpoint Book then transitions back to Collection Phase state. The Midpoint Book at the commencement of the subsequent Collection Phase is as follows:

BUY						SELL					
Rank	Type	True Broker	Total Order Quantity	Limit Price	Executable	Executable	Limit Price	Total Order Quantity	True Broker	Type	Rank
						Y	\$10.01	200	037	DAY	A*

* Remaining 200 share balance of Sell DAY_I from the preceding Match Event now has the oldest timestamp, as reflected in the revised rank above.

d) Fee model – Midpoint Book

We intend to implement the Midpoint Book with a symmetrical fee model. This will provide fee certainty to subscribers for each trade regardless of whether their order is considered the active or passive side of the trade.

The fee model and fee levels for the Midpoint Book will be made public closer to implementation.

3. Additional information

a) Match Event frequency

Tradelogiq intends to base Match Event frequency on the combination of a static duration component and a randomization window. The static duration will be set at no more than 5 milliseconds. A window of randomization of no more than 1 millisecond on each side of the static duration may be implemented in order to create some additional uncertainty to reduce the potential for gaming, and to reduce the effectiveness of the most aggressive latency-sensitive liquidity taking strategies.

As an example, if the static duration between Match Events is set at 4 milliseconds, a randomization window with a width of 500 microseconds on each side would result in a subsequent Match Event occurring at a randomized time that is between 3.5 milliseconds and 4.5 milliseconds after the last Match Event.

At launch, Tradelogiq intends for the same single static duration and randomization window size to be applied to all symbols. Tradelogiq will publish a Subscriber Notice at least 2 months prior to launch identifying the static duration and randomization window size.

Depending on subscriber feedback post-launch regarding experience trading in the Match Events, the static duration and randomization window size may be adjusted, and/or apply differently between different symbol groups. For example, user experience may indicate that longer static durations may be needed for securities priced under \$1, or for less liquid securities relative to highly liquid securities, or that different durations should be applied for ETFs. User experience might also indicate that there should be no randomization window. Changes will be communicated by Subscriber Notice at least 2 months in advance.

In the event that Tradelogiq determines from subscriber feedback that there is a need to increase the maximum static duration to a value in excess of 5 milliseconds, or to increase the maximum width of the randomization window to more than 1 millisecond on each side, the change in maximums will be published for comment and subject to the regulatory approval process before being implemented.

b) Other order attributes or features

i) Anonymous / attributed

As is currently the case on Lynx, orders entered into Lynx will be attributed by default, but subscribers may specify that the order be anonymous.

ii) Post Only

Post Only functionality will only be available for DAY Midpoint Peg orders. The presence of a Post Only instruction on a DAY Midpoint Peg order will allow for that order to lock with a contra-side Midpoint Peg order when it is the former order's turn in sequence to trade against contra-side orders in the Midpoint Book. The Post Only DAY Midpoint Peg order will then remain booked and available to be executed against by other Midpoint Peg orders as those other orders transition to an active state.

iii) OPR Protection

DAY orders will always be passive within the Visible Book and will have their execution price constrained to the opposite side NBBO. For this reason, OPR instructions entered on a DAY order submitted to the Visible Book will be ignored.

As with IOC orders entered to a speedbump market, OPR instructions will be available for use on EOC orders entered into the Visible Book for the purposes of trading during the first stage of matching (i.e., the EOC-to-DAY stage). Subscribers that wish to take responsibility for OPR compliance when routing to the Visible Book can mark their order as DAO. Regardless of which OPR instruction (OPR Re-price or OPR Cancel) a subscriber specifies on their EOC, the result in both cases will be the application of OPR Cancel – i.e., the EOC order will be permitted to trade at prices up to and at the opposite-side Protected NBBO, but it will not trade through the opposite-side Protected NBBO.⁸

For the Midpoint Book, OPR instructions entered on orders will be ignored given that trades can only occur at the Protected NBBO midpoint, and no trades will be generated during a Match Event for the Midpoint Book where the Protected NBBO is locked or crossed.

iv) Self-Trade Prevention

Subscribers will be able to use the same self-trade prevention features currently available on Lynx – “Trade and Suppress”, “Cancel and Decrement”, “Cancel Newest” and “Cancel Oldest” – as described in the current Tradelogiq Functionality Guide available on our website.⁹

A “No Cancel” feature applicable only to the Market Peg, EOC Limit and Midpoint Peg order types will also be available. The No Cancel feature will be applied when present on an active order involved in a potential match with a contra-side order from the same subscriber containing the same user-generated key. Where applied, the active order with the No Cancel instruction will not trade against the contra-side order, but will remain executable for subsequent matching opportunities. See example at Section 4 below.

⁸ An EOC with the OPR Re-price or OPR Cancel instruction will not cancel after the application of the OPR mechanism when trading against contra-side DAY orders in the EOC-to-DAY stage, but will remain available to participate in the EOC Final Turn.

⁹ See section 5.2 of the Functionality Guide available at <https://tradelogiq.com/wp-content/uploads/2023/06/TMI-Functionality-Guide-v1.0-2023-06-01.pdf>.

v) *Non-supported features*

Upon the implementation of the new periodic matching model, the following order types and instructions will no longer be supported, and will be rejected:

- Intentional cross types
- Odd lots and mixed lots – Only orders received in round board lots will be accepted.
- Bypass orders – Lynx will not be protected for OPR purposes and will not support bypass functionality due to the periodic matching model to be employed.
- 'Fill or Kill' and 'All or None'.

4. **Additional examples**a) Example of Minimum Interaction Size

The following is an example of the application of MIS when entered on iceberg orders in the Visible Book.

Assume the Protected NBBO is \$10.00 x \$10.05, and the Visible Book consists of the following orders at the commencement of the Match Event.

For simplicity, the Rank assigned to each order below represents the order's position based on its priority timestamp (lowest number / letter = oldest timestamp). "Type" delineates only between DAY and EOC orders, while "Executable Price" represents the order's executable price based on its limit and/or peg reference prices. All orders are anonymous to remove any broker preferencing considerations. Orders below are sorted from most aggressive price to least, followed by Rank (i.e., priority timestamp).

BUY							SELL						
Rank	Type	Total Order QTY	Leaves QTY	Display QTY	MIS	Executable Price	Executable Price	MIS	Display QTY	Leaves QTY	Total Order QTY	Type	Rank
1	DAY	1500	1500	500	500	\$10.01	\$10.00	N/A	N/A	N/A	900	EOC	A
2	DAY	1000	1000	200	300	\$10.01	\$10.00	N/A	N/A	N/A	400	EOC	B

The following represents the trades that will result from the EOC-to-Day stage of the Match Event.

Trade #	Buy order	Sell Order	Price	Quantity	Notes
1	DAY_1	EOC_A	\$10.01	500	Sell EOC_A was the first EOC received, and trades 500 shares against the 500 shares displayed for Buy DAY_1 at \$10.01. The MIS instruction on Buy DAY_1 does not apply to trades against its visible portion.
2	DAY_2	EOC_A	\$10.01	200	Sell EOC_A then trades against the 200 shares displayed volume of Buy DAY_2 at \$10.01 based on displayed volume before iceberg reserve volume at the same price. All buy display volume has been exhausted.
3	DAY_1	EOC_A	\$10.01	200	The remaining 200 shares of Sell EOC_A then trades against the 1000 share reserve portion of Buy DAY_1. Sell EOC_A's original size of 900 shares satisfied Buy DAY_1's MIS condition. (MIS considers the contra-side order's original size, and not its size at the time of the trade.)
4	DAY_2	EOC_B	\$10.01	400	Sell EOC_B is next in sequence and attempts to trade first against the reserve portion of Buy DAY_1, but its original size of 400 shares does not satisfy the 500 share MIS. Sell EOC_B will then trade its full 400 shares against the 800 share reserve volume of Buy DAY_2.

After the EOC-to-DAY stage of matching, the Visible Book transitions to the EOC-to-EOC matching phase but there are no EOCs remaining. The Match Event ends and any remaining DAY orders are updated (e.g., display portion of icebergs is refreshed) and the Visible Book transitions back to Collection Phase state. The Visible Book at the commencement of the subsequent Collection Phase is as follows:

BUY							SELL						
Rank	Type	Total Order QTY	Leaves QTY	Display QTY	MIS	Executable Price	Executable Price	Total Order QTY	MIS	Display QTY	Total Order QTY	Type	Rank
1	DAY	1500	800	500	500	\$10.01							
2	DAY	1000	400	200	300	\$10.01							

As noted earlier, MIS in the Midpoint Book would be applied in the same way except that in the case where two contra-side Midpoint Peg orders are eligible to interact, both sides would need to satisfy their respective contra-side's MIS requirement in order for a trade to occur.

b) Example of "No Cancel" self-trade feature

The following is an example of the new "No Cancel" feature that is available for Market Peg and EOC Limit orders in the Visible Book and for any Midpoint Peg order in the Midpoint Book. The application of "No Cancel" in the example would be the same regardless of book or matching stage.

Assume the Protected NBBO is \$10.00 x \$10.05, and the Visible Book consists of the following orders at the commencement of the Match Event.

For simplicity, the Rank assigned to each order below represents the order's position based on its priority timestamp (lowest number / letter = oldest timestamp). "Type" delineates only between DAY and EOC orders, while "Executable Price" represents the order's executable price based on its limit and/or peg reference prices. All orders are attributed and are not icebergs. Orders below are sorted from most aggressive price to least, followed by Rank (i.e., priority timestamp).

BUY							SELL						
Rank	Type	Broker	Self Trade Feat	Self Trade Key	Order QTY	Executable Price	Executable Price	Order QTY	Self Trade Feat	Self Trade Key	Broker	Type	Rank
C	EOC	042			500	\$10.05	\$10.00	1000	XM	123ABC	063	EOC	A
1	DAY	037			500	\$10.01	\$10.00	500			078	EOC	B
2	DAY	120			500	\$10.00							
3	DAY	063	OM	ABC123	500	\$10.00							

The following represents the trades that will result from the EOC-to-Day stage of the Match Event.

Trade #	Buy order	Sell Order	Price	Quantity	Notes
1	DAY_1	EOC_A	\$10.01	500	Sell EOC_A was the first EOC received, and trades 500 shares against the 500 shares of Buy DAY_1 at \$10.01. Sell EOC_A then seeks to trade against Buy DAY orders 2 and 3. Buy DAY_3 has priority due to broker preferencing, but both SELL EOC_A and Buy DAY_3 are from the same broker and have the same self-trade key. The self-trade instruction of 'XM' is applied as Sell EOC_A is the active order. Sell EOC_A stops trading at this point but remains eligible to participate in the EOC-to-EOC matching stage.
2	DAY_2	EOC_B	\$10.01	500	Sell EOC_B is next in sequence and trades its full 500 shares against the 500 shares of Buy DAY_2 at \$10.00 based on time.

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After the EOC-to-DAY stage of matching, the Visible Book is as follows:

BUY							SELL						
Rank	Type	Broker	Self Trade Feat	Self Trade Key	Order QTY	Executable Price	Executable Price	Order QTY	Self Trade Feat	Self Trade Key	Broker	Type	Rank
C	EOC	042			500	\$10.05	\$10.00	1000	XM	123ABC	063	EOC	A
3	DAY	063	OM	ABC123	500	\$10.00							

The EOC-to-EOC stage of matching would then commence, at which point Sell EOC_A would be eligible to trade again following the process for that stage described earlier.

B.11.3 Clearing Agencies

B.11.3.1 Japan Securities Clearing Corporation (JSCC) – Application for Interim Exemptive Relief – Notice of Commission Order

JAPAN SECURITIES CLEARING CORPORATION (JSCC)

APPLICATION FOR INTERIM EXEMPTIVE RELIEF

NOTICE OF COMMISSION ORDER

On September 29, 2023, the Commission issued an order under section 147 of the *Securities Act* (Ontario) (**Act**) exempting JSCC, on an interim basis, from the requirement in subsection 21.2(0.1) of the Act to be recognized as a clearing agency (**Order**), subject to terms and conditions as set out in the Order. JSCC is exempted from the requirement until the earlier of (i) September 28, 2024, and (ii) the effective date of any subsequent order issued by the Commission recognizing JSCC as a clearing agency under subsection 21.2(0.1) of the Act or exempting it from the requirement to be recognized as a clearing agency under section 147 of the Act.

A copy of the interim exemption order is published in Chapter B.2 of this Bulletin.

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