

The Ontario Securities Commission

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The Ontario Securities Commission carries out the powers, duties and functions given to it pursuant to the *Securities Commission Act, 2021* (S.O. 2021, c. 8, Sched. 9).

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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A. Capital Markets Tribunal

A.1 Notices of Hearing

A.1.1 Thomas John Finch – ss. 127(1), 127.1

FILE NO.: 2023-29

**IN THE MATTER OF
THOMAS JOHN FINCH**

NOTICE OF HEARING

Subsection 127(1) and Section 127.1 of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Enforcement Proceeding

HEARING DATE AND TIME: November 16, 2023 at 2:00 p.m.

LOCATION: By Videoconference

PURPOSE

The purpose of this proceeding is to consider whether it is in the public interest for the Capital Markets Tribunal to make the order(s) requested in the Statement of Allegations filed by Staff of the Commission on October 23, 2023.

The hearing set for the date and time indicated above is the first attendance in this proceeding, as described in subsection 5(1) of the *Capital Markets Tribunal Practice Guideline*.

REPRESENTATION

Any party to the proceeding may be represented by a representative at the hearing.

FAILURE TO ATTEND

IF A PARTY DOES NOT ATTEND, THE HEARING MAY PROCEED IN THE PARTY'S ABSENCE AND THE PARTY WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDING.

FRENCH HEARING

This Notice of Hearing is also available in French on request of a party. Participation may be in either French or English. Participants must notify the Tribunal in writing as soon as possible if the participant is requesting a proceeding be conducted wholly or partly in French.

AVIS EN FRANÇAIS

L'avis d'audience est disponible en français sur demande d'une partie, que la participation à l'audience peut se faire en français ou en anglais et que les participants doivent aviser le Tribunal par écrit dès que possible si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

Dated at Toronto this 25th day of October, 2023

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For more information

Please visit capitalmarketstribunal.ca or contact the Registrar at registrar@osc.gov.on.ca.

IN THE MATTER OF
THOMAS JOHN FINCH

STATEMENT OF ALLEGATIONS

(Subsection 127(1) and Section 127.1 of the *Securities Act*, RSO 1990, c S.5)

A. OVERVIEW

1. This case involves insider trading by a key member of the deal team working on the acquisition of Liberty Health Sciences Inc. (**Liberty**) in contravention of his employer's policy on insider trading and Ontario securities law. Thomas John Finch (**Finch** or the **Respondent**) had an unfair advantage and access to material non-public information when he purchased Liberty shares repeatedly leading up to the announcement of the acquisition.
2. Insider trading is a fundamental abuse of the capital markets. Using material non-public information when purchasing shares of an acquisition target is inherently unfair to other investors and erodes public confidence in the capital markets. It is essential that individuals who come into possession of material non-public information in the course of their employment abide by insider trading policies and do not use that information for their personal financial gain.
3. Between October 15, 2020 and December 17, 2020 (the **Material Time**), Finch, the Director of Corporate Development for Cresco Labs, Inc. (**Cresco**), purchased 293,550 shares of Liberty while Cresco was in negotiation to purchase Liberty. Liberty was ultimately acquired by a competing bidder, Ayr Strategies Inc. (**Ayr**), and the deal was announced on December 22, 2020 (the **Liberty Announcement**).
4. Following the Liberty Announcement, the closing price of Liberty shares increased over 64.8% from that of the previous day and Finch's Liberty shares increased in value by 82%.

B. FACTS

Staff of the Enforcement Branch of the Ontario Securities Commission (**Enforcement Staff**) makes the following allegations of fact:

(i) Finch's Role at Cresco

5. Finch is a resident of Ontario. Finch was an employee of CannaRoyalty Corp. d/b/a Origin House (**Origin House**), which was acquired by Cresco in January 2020. Following the acquisition, Finch was the Director of Corporate Development for Cresco, a cannabis and medical marijuana company based in Chicago, Illinois. At that time, Finch's role was to identify and work on growing the Cresco business through mergers and acquisitions (**M&A**).

Insider Trading Policy

6. Cresco had an insider trading policy in effect during the September 1, 2020 to January 31, 2021 period, which applied to all employees, including employees of Origin House such as Finch. Under the section "Prohibited and Restricted Activities," the policy states:

You must not engage in transactions in any securities, whether of the Company or of any other companies, while in possession of material, non-public information regarding such company or securities, including engaging in transactions in any securities of companies with which the Company does business, or may do business, when you are in possession of material, non-public information regarding such company or securities.

7. Under the section "Material Non-Public Information" (**MNPI**) the Cresco policy provided some examples of MNPI, which included the example "major corporate acquisitions and dispositions."

(ii) Negotiation of the Liberty Deal

8. Liberty, a medical marijuana company, was a reporting issuer in Ontario headquartered in Gainesville, Florida. Liberty was listed on the Canadian Securities Exchange (**CSE**) under the ticker symbol "LHS" and on the over-the-counter markets under the ticker symbol "LHSIF" until it was delisted on February 26, 2021 after being acquired by Ayr.

Finch's Role on the Liberty Deal

9. As of October 15, 2020, Finch was aware that Cresco had proposed to acquire Liberty. Finch was introduced to Liberty contacts as one of the people leading work streams for Cresco M&A initiatives.
10. On October 20, 2020, Cresco signed a confidentiality and non-disclosure agreement with Liberty (the **NDA**), which provided among other things, that Cresco and its employees could not use confidential information provided by Liberty directly or indirectly for any purpose other than in connection with the proposed transaction.

11. The following day, on October 21, 2020, Finch attended a Management Presentation with Liberty and afterwards was given access to the Liberty data room and began conducting due diligence of Liberty. This due diligence included requests for information on Liberty's business, reviewing documents uploaded to the Liberty data room, preparing and reviewing financial models of Liberty, and organizing site visits of Liberty locations.
12. Finch was listed as a "key contact" on the working group list for the team assigned to work on the Liberty acquisition. He attended meetings between Cresco and Liberty to negotiate the proposed transaction, was involved in Cresco's due diligence of Liberty, and was involved in preparing and communicating Cresco's offers to purchase Liberty.

Progress of the Liberty Deal

13. As of October 27, 2020, Finch was aware that: (a) Liberty and Cresco were discussing a 100% change of control premium on their share price, and (b) that Liberty wanted to have the acquisition completed by the end of 2020.
14. As of November 23, 2020, Finch was aware that a competitor was also bidding on Liberty and would likely be making an offer that day. On November 26, 2020, Cresco prepared and sent a Letter of Intent (**LOI**) to Liberty's agent. The LOI proposed a purchase price of CDN\$0.80 per share.
15. As of November 29, 2020, Finch was aware that Liberty sent back Cresco's LOI with comments, that Liberty was negotiating with two "very serious parties" and had terminated discussions with other parties, and that Liberty expected a purchase price between CDN\$0.80-\$1.00 per share.
16. Finch sent a second revised LOI to Liberty on Cresco's behalf on December 2, 2020. That evening, Finch spoke with Liberty's agent and was advised that there would be two competing offers and both offers were going to be presented to the Liberty Board of Directors the next day. As of December 3, 2020, Finch was aware that Ayr was the second bidder and that they had submitted an offer of CDN\$0.90 per share.
17. On December 3, 2020, Cresco communicated a revised LOI offer to Liberty's agent.
18. On December 4, 2020, Cresco sent a further revised LOI to Liberty with an offered purchase price of CDN\$0.90 per share. Earlier that day, Cresco became aware that Ayr had revised its offer to CDN\$0.925 per share. Cresco also received a message from Liberty indicating that Liberty had likely entered into exclusivity with Ayr.
19. On December 14, 2020, Cresco sent a further revised LOI to Liberty with an offered purchase price of CDN\$1.00 per share. The next day, Cresco received further communications indicating that Liberty had likely entered into exclusivity with Ayr.

Liberty Announcement

20. On December 22, 2020, Liberty and Ayr announced that they had entered into a definitive arrangement agreement pursuant to which Ayr would acquire all the issued and outstanding shares of Liberty in an all-share transaction for a total consideration of approximately \$372 million (or US\$290 million) on a fully-diluted basis.

(iii) Insider Trading of Liberty Shares

21. On May 7, 2020, Finch opened a new brokerage account at Interactive Brokers. Finch listed his occupation as self-employed as a management analyst, despite being an employee of Origin House and the Director of Corporate Development for Cresco.
22. Between November 2, 2020 and December 17, 2020, Finch purchased Liberty shares on eleven different days, splitting the purchases between his new account at Interactive Brokers and an existing account at Questrade, for a total of 293,550 shares:

	Trade Date	Broker	Shares Purchased	Purchase Amount
1.	November 2, 2020	Interactive Brokers	20,000	\$9,153
2.	November 5, 2020	Interactive Brokers	20,000	\$9,051
3.	November 9, 2020	Interactive Brokers	40,000	\$20,511
4.	November 23, 2020	Interactive Brokers	30,000	\$13,627
5.	November 24, 2020	Questrade	20,000	\$9,010
6.	December 2, 2020	Interactive Brokers	5,000	\$2,514

	Trade Date	Broker	Shares Purchased	Purchase Amount
7.	December 7, 2020	Interactive Brokers	20,000	\$10,257
8.	December 7, 2020	Questrade	20,000	\$10,210
9.	December 8, 2020	Questrade	20,000	\$10,210
10.	December 9, 2020	Interactive Brokers	40,000	\$19,609
11.	December 9, 2020	Questrade	13,550	\$6,931
12.	December 11, 2020	Interactive Brokers	25,000	\$12,067
13.	December 17, 2020	Interactive Brokers	20,000	\$10,257
Total			293,550	\$143,406

23. Finch admitted that the information that he learned about Liberty during the course of negotiating the Liberty deal formed at least part of his decision to purchase Liberty shares.
24. As of the date of the Liberty Announcement, Finch's shares had risen in value by 82% and he had an expected profit of \$117,854 (based on the closing price as of December 22, 2020). After the Liberty deal was concluded, Finch's Liberty shares were converted into 10,810 Ayr shares.

C. BREACHES OF ONTARIO SECURITIES LAW

25. Enforcement Staff alleges that Finch, while in a special relationship with an issuer, purchased or sold securities of the issuer with the knowledge of a material fact or a material change with respect to the issuer that had not been generally disclosed, contrary to subsection 76(1) of the *Securities Act*, RSO 1990, c S.5, as amended (the **Act**).

D. ORDERS SOUGHT

26. Enforcement Staff requests that the Capital Markets Tribunal (the **Tribunal**) make an order pursuant to subsection 127(1) and 127.1 of the *Act* against the Respondent:
- (a) that he cease trading in any securities or derivatives permanently or for such period as is specified by the Tribunal under paragraph (2) of subsection 127(1) of the *Act*;
 - (b) that he be prohibited from acquiring any securities permanently or for such period as is specified by the Tribunal under paragraph (2.1) of subsection 127(1) of the *Act*;
 - (c) that any exemption contained in Ontario securities law not apply to him permanently or for such period as is specified by the Tribunal under paragraph (3) of subsection 127(1) of the *Act*;
 - (d) that he be reprimanded under paragraph (6) of subsection 127(1) of the *Act*;
 - (e) that he resign any position he may hold as a director or officer of any issuer under paragraph (7) of subsection 127(1) of the *Act*;
 - (f) that he be prohibited from acting as a director or officer of any issuer permanently or for such period as is specified by the Tribunal under paragraph (8) of subsection 127(1) of the *Act*;
 - (g) that he resign any position he may hold as a director or officer of any registrant under paragraph (8.1) subsection 127(1) of the *Act*;
 - (h) that he be prohibited from acting as a director or officer of any registrant permanently or for such period as is specified by the Tribunal under paragraph (8.2) of subsection 127(1) of the *Act*;
 - (i) that he be prohibited from becoming or acting as a registrant or promoter permanently or for such period as is specified by the Tribunal under paragraph (8.5) of subsection 127(1) of the *Act*;
 - (j) that he pay an administrative penalty of not more than \$1 million for each failure to comply with Ontario securities law, pursuant to paragraph 9 of subsection 127(1) of the *Act*;
 - (k) that he disgorge to the Ontario Securities Commission (the **Commission**) any amounts obtained as a result of non-compliance with Ontario securities law, pursuant to paragraph 10 of subsection 127(1) of the *Act*;

- (l) that he pay costs of the Commission investigation and hearing under section 127.1 of the Act; and
- (m) such other order as the Tribunal considers appropriate in the public interest.

DATED this 23rd day of October, 2023.

ONTARIO SECURITIES COMMISSION

20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S8

Sarah McLeod

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Tel: 416-303-2638

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A.2 Other Notices

A.2.1 Mithaq Canada Inc. and Aimia Inc.

FOR IMMEDIATE RELEASE
October 25, 2023

**MITHAQ CANADA INC. AND
AIMIA INC.,
File No. 2023-28**

TORONTO – Take notice that the hearing of the Application in the above-named matter is scheduled to be heard on December 12, 2023 and December 13, 2023 at 10:00 a.m. on each day.

The hearing will be held at the offices of the Tribunal at 20 Queen Street West, 17th Floor, Toronto.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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

A.2.2 Traders Global Group Inc. and Muhammad Murtuza Kazmi

FOR IMMEDIATE RELEASE
October 25, 2023

**TRADERS GLOBAL GROUP INC. AND
MUHAMMAD MURTUZA KAZMI,
File No. 2023-21**

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

A copy of the Order dated October 25, 2023 is available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

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

A.2.3 Troy Richard James Hogg and T.J.L. Property Management Inc.

**FOR IMMEDIATE RELEASE
October 25, 2023**

**TROY RICHARD JAMES HOGG AND
T.J.L. PROPERTY MANAGEMENT INC.,
File No. 2021-22**

TORONTO – The Applicants, Troy Richard James Hogg and T.J.L. Property Management, withdraw the Application dated July 14, 2021, as amended.

A copy of the Notice of Withdrawal dated October 25, 2023 is available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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media_inquiries@osc.gov.on.ca

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

A.2.4 Troy Richard James Hogg and T.J.L. Property Management Inc.

**IN THE MATTER OF
TROY RICHARD JAMES HOGG AND
T.J.L. PROPERTY MANAGEMENT INC.**

File No. 2021-22

NOTICE OF WITHDRAWAL

The Applicants, Troy Richard James Hogg and T.J.L. Property Management, withdraw the Application dated July 14, 2021, as amended.

October 25, 2023

O'TOOLE ADVOCACY

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Staff of the Ontario Securities Commission

A.2.5 Thomas John Finch

**FOR IMMEDIATE RELEASE
October 26, 2023**

**THOMAS JOHN FINCH,
File No. 2023-29**

TORONTO – The Tribunal issued a Notice of Hearing on October 25, 2023 setting the matter down to be heard on November 16, 2023 at 2:00 p.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Notice of Hearing dated October 25, 2023 and Statement of Allegations dated October 23, 2023 are available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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inquiries@osc.gov.on.ca

**A.2.6 Manticore Labs OÜ (o/a Coinfield) and
Manticore Labs Inc.**

**FOR IMMEDIATE RELEASE
October 27, 2023**

**MANTICORE LABS OÜ
(o/a COINFIELD)
AND
MANTICORE LABS INC.,
File No. 2023-24**

TORONTO – Take notice that an attendance in the above named matter is scheduled to be heard on November 6, 2023 at 10:00 a.m.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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media_inquiries@osc.gov.on.ca

For General Inquiries:

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

A.2.7 Xiao Hua (Edward) Gong

FOR IMMEDIATE RELEASE
October 27, 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 November 15, 2023 at 10:00 a.m.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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media_inquiries@osc.gov.on.ca

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inquiries@osc.gov.on.ca

A.2.8 Kenton Roy Rustulka

FOR IMMEDIATE RELEASE
October 30, 2023

KENTON ROY RUSTULKA,
File No. 2023-9

TORONTO – The Tribunal issued its Reasons and Decision and an Order pursuant to Subsections 127(1) and 127(10) of the *Securities Act* in the above-named matter.

A copy of the Reasons and Decision and the Order dated October 27, 2023 are available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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

A.2.9 Troy Richard James Hogg et al.

**FOR IMMEDIATE RELEASE
October 30, 2023**

**TROY RICHARD JAMES HOGG,
CRYPTOBONTIX INC.,
ARBITRADE EXCHANGE INC.,
ARBITRADE LTD.,
T.J.L. PROPERTY MANAGEMENT INC. AND
GABLES HOLDINGS INC.,
File No. 2022-20**

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

A copy of the Order dated October 30, 2023 is available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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A.2.10 Kallo Inc. et al.

**FOR IMMEDIATE RELEASE
October 31, 2023**

**KALLO INC.,
JOHN CECIL AND
SAMUEL PYO,
File No. 2023-12**

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

A copy of the Order dated October 31, 2023 is available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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For General Inquiries:

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inquiries@osc.gov.on.ca

A.2.11 Nvest Canada Inc. et al.

**FOR IMMEDIATE RELEASE
October 31, 2023**

**NVEST CANADA INC.,
GX TECHNOLOGY GROUP INC.,
SHORUPAN PIRAKASPATHY AND
WARREN CARSON,
File No. 2023-1**

TORONTO – Take notice that the merits hearing in the above-named matter scheduled to heard on November 7, 2023 will not proceed as scheduled.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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media_inquiries@osc.gov.on.ca

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A.3 Orders

A.3.1 Traders Global Group Inc. and Muhammad Murtuza Kazmi – s. 127(1), (8)

IN THE MATTER OF
TRADERS GLOBAL GROUP INC. AND
MUHAMMAD MURTUZA KAZMI

File No. 2023-21

Adjudicator: James Douglas

October 25, 2023

ORDER

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

WHEREAS Staff of the Ontario Securities Commission brought an application before the Capital Markets Tribunal to extend a temporary order dated August 29, 2023 (the **Temporary Order**) which application was originally scheduled to be heard on September 13, 2023 and was adjourned on consent to October 30, 2023; and Traders Global Group Inc. and Muhammad Murtuza Kazmi have made a further request in writing to adjourn the hearing of the application;

ON BEING ADVISED that the parties consent to an order extending the Temporary Order and adjourning the application hearing;

IT IS ORDERED THAT:

1. the Temporary Order is extended until January 26, 2024; and
2. the hearing of the application is scheduled for January 25, 2024 at 10:00 a.m., at the Capital Markets Tribunal located at 20 Queen Street West, 17th Floor, Toronto, Ontario, or on such other date and time as may be agreed to by the parties and set by the Governance & Tribunal Secretariat.

“James Douglas”

A.3.2 Kenton Roy Rustulka – s. 127(1), (10)

IN THE MATTER OF
KENTON ROY RUSTULKA

File No. 2023-9

Adjudicator: James D. G. Douglas

October 27, 2023

ORDER

(Subsections 127(1) and 127(10) of the
Securities Act, RSO 1990, c S.5)

WHEREAS, the Capital Markets Tribunal held a hearing in writing, to consider a request by Staff of the Commission (**Staff**) for an order imposing sanctions against Kenton Roy Rustulka pursuant to subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);

ON READING the materials filed by Staff, Rustulka not filing any materials, although properly served;

IT IS ORDERED THAT:

1. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Rustulka cease permanently;
2. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Rustulka is prohibited permanently;
3. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Rustulka permanently;
4. pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Rustulka resign any positions he holds as a director or officer of an issuer or registrant, including as an investment fund manager;
5. pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Rustulka is prohibited permanently from becoming or acting as a director or officer of any issuer or registrant, including as an investment fund manager; and
6. pursuant to paragraph 8.5 of subsection 127(1), Rustulka is prohibited permanently from becoming or acting as a registrant, including as an investment fund manager or promoter.

“James D. G. Douglas”

A.3.3 Troy Richard James Hogg et al.

**IN THE MATTER OF
TROY RICHARD JAMES HOGG,
CRYPTOBONTIX INC.,
ARBITRADE EXCHANGE INC.,
ARBITRADE LTD.,
T.J.L. PROPERTY MANAGEMENT INC. AND
GABLES HOLDINGS INC.**

File No. 2022-20

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

October 30, 2023

ORDER

WHEREAS on October 30, 2023, the Capital Markets Tribunal held a hearing by videoconference to consider, among other things, a motion by Troy Richard James Hogg, Arbitrade Exchange Inc., T.J.L. Property Management Inc. and Gables Holdings Inc. (the **Moving Parties**) to adjourn the merits hearing in this proceeding;

ON READING the materials filed by the Moving Parties, and on hearing the submissions of the representatives for Staff of the Ontario Securities Commission, and Hogg, appearing on his own behalf and on behalf of the corporate Moving Parties, no one appearing on behalf of the remaining respondents;

IT IS ORDERED THAT:

1. the motion for an adjournment of the merits hearing shall be heard on November 10, 2023, at 10:00 a.m., by videoconference, or on such other date and time as may be agreed to by the parties and set by the Governance & Tribunal Secretariat;
2. the parties shall adhere to the following schedule for the delivery of motion materials:
 - a. the Moving Parties shall serve and file any additional evidence they intend to rely upon by 4:30 p.m. on November 1, 2023;
 - b. Staff shall serve and file its responding record by 4:30 p.m. on November 3, 2023;
 - c. the Moving Parties shall serve and file reply evidence, if any, and their memorandum of fact and law by 4:30 p.m. on November 7, 2023; and
 - d. Staff shall serve and file its responding memorandum of fact and law by 4:30 p.m. on November 9, 2023.

“Sandra Blake”

“Andrea Burke”

“M. Cecilia Williams”

A.3.4 Kallo Inc. et al.

**IN THE MATTER OF
KALLO INC.,
JOHN CECIL AND
SAMUEL PYO**

File No. 2023-12

Adjudicator: James Douglas

October 31, 2023

ORDER

WHEREAS on October 31, 2023, the Capital Markets Tribunal held a hearing by videoconference;

ON HEARING the submissions of the representatives for Staff of the Ontario Securities Commission and for the respondents;

IT IS ORDERED THAT:

1. by December 18, 2023, at 4:30 p.m., the respondents shall:
 - a. serve and file their witness lists,
 - b. serve a summary of each witness's anticipated evidence on each party, and
 - c. indicate any intention to call an expert witness, including providing the expert's name and the issues on which the expert will give evidence; and
2. a further attendance in this matter is scheduled for January 18, 2024, at 10:00 a.m., by videoconference, or on such other date and time as may be agreed to by the parties and set by the Governance & Tribunal Secretariat.

“James Douglas”

A.4

Reasons and Decisions

A.4.1 Kenton Roy Rustulka – s. 127(1), (10)

Citation: *Rustulka (Re)*, 2023 ONCMT 37

Date: 2023-10-27

File No. 2023-9

IN THE MATTER OF KENTON ROY RUSTULKA

REASONS AND DECISION (Subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5)

Adjudicator: James D. G. Douglas
Hearing: In Writing; final written submissions received July 21, 2023
Appearances: Vincent Amartei For Staff of the Ontario Securities Commission
No one appearing for Kenton Roy Rustulka

REASONS AND DECISION

1. BACKGROUND

- [1] On June 17, 2022, the Alberta Securities Commission (the **ASC**) found that Kenton Roy Rustulka contravened Alberta securities laws by:
- a. failing to comply with know-your-client and suitability obligations applicable to registrants, which contravened sections 13.2 and 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*; and
 - b. made misrepresentations to clients, contrary to s. 92(4.1) of the *Alberta Securities Act*¹ (the **Alberta Act**) (the **ASC Merits Decision**).²
- [2] On February 5, 2021, the ASC issued its decision and order on sanctions and costs (the **ASC Sanctions Decision**)³ and imposed various sanctions, restrictions and requirements on Rustulka, including market access and financial sanctions, as described more fully below.
- [3] Rustulka did not participate in the ASC merits hearing but did lead evidence and make submissions at the sanctions and costs hearing.
- [4] Staff of the Ontario Securities Commission (**Staff**) brought this inter-jurisdictional enforcement proceeding pursuant to s. 127(10) of the *Securities Act*,⁴ (the **Act**) for an order under s. 127(1) of the Act, imposing similar non-monetary sanctions upon Rustulka to those imposed by the ASC Sanctions Decision.
- [5] For the reasons that follow, I find that it is in the public interest to make an order substantially on the terms that Staff requested.

2. SERVICE AND PARTICIPATION

- [6] In this proceeding, Staff elected to use the expedited procedure for inter-jurisdictional enforcement proceedings as set out in rule 11(3) of the Capital Markets Tribunal's Rules of Procedure and Forms (the **Rules**). Among other things, that

¹ RSA 2000, c S-4

² Exhibit 1, Staff's Hearing Brief, *Re Rustulka*, 2020 ABASC 93 at paras 188, 229 and 276, Tab 1

³ Exhibit 1, Staff's Hearing Brief, *Re Rustulka*, 2021 ABASC 15 at para 128, Tab 2

⁴ RSO, 1990 c S.5

procedure allows a respondent who is served with a Notice of Hearing to request an oral hearing, or to file a hearing brief and written submissions.

- [7] As is evident from the affidavit of Julia Ho,⁵ Staff served Rustulka with the Notice of Hearing, Statement of Allegations and other written materials, on April 10, 2023. I am satisfied that Staff has complied with the service obligations set out in rule 11(2).
- [8] After being served with the Notice of Hearing and Staff's materials, Rustulka requested an extension of the time to serve and file his hearing brief and written submissions. Following receipt of written submissions from the parties, I issued an order granting Rustulka until May 31, 2023, to serve and file his hearing brief and written submissions.⁶ Despite my order, Rustulka did not ultimately file any materials or otherwise participate in this hearing.
- [9] Pursuant to the *Statutory Powers Procedure Act*⁷ and the Rules, the Tribunal may proceed in the absence of a party where that party has been given adequate notice of a proceeding. I am satisfied that Rustulka received adequate notice of this proceeding and that I may proceed in his absence.

3. ANALYSIS

3.1 Introduction

- [10] Section 127(1) of the Act empowers the Tribunal to make various orders against an individual if, in the Tribunal's opinion, it is in the public interest to do so. Subsection 127(10) of the Act expressly permits an order under s. 127(1) where, amongst other qualifying criteria, a person is subject to an order made by a securities regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on them.
- [11] The issues for me to consider are:
- a. whether Rustulka is subject to an order made by a securities regulatory authority, in any jurisdiction, imposing sanctions, conditions, restrictions or requirements (s. 127(10)4 of the Act);
 - b. whether the principles of comity and reciprocity govern or influence whether an order pursuant to s. 127(1) of the Act would be in the public interest; and
 - c. whether it is in the public interest to make the protective order requested by Staff in respect of Rustulka.

3.2 ASC Proceeding

- [12] Rustulka is a resident of Alberta⁸ and has never been registered with the Ontario Securities Commission in any capacity.⁹ Rustulka was registered as an exempt market dealing representative in Alberta, British Columbia and Saskatchewan at the time of the ASC Merits Decision.¹⁰
- [13] Following a hearing, the ASC found that Rustulka breached the know-your-client and suitability obligations applicable to registrants, which are found in sections 13.2 and 13.3 of National Instrument 31-103. In addition, the ASC found that Rustulka made misrepresentations to clients respecting exempt market products he recommended to them, contrary to s. 92(4.1) of the Alberta Act. These breaches took place over a period of three and a half years and involved multiple clients and numerous exempt market investment products.¹¹ The ASC found the breaches committed by Rustulka to be serious, engaging the core of its investor protection and capital markets integrity mandate.¹²
- [14] The ASC imposed various sanctions, restrictions and requirements on Rustulka. Relevant for the purposes of this proceeding are those which collectively imposed a permanent ban on Rustulka from all capital markets participation, namely:
- a. that he immediately resign from any positions he held as a director or officer of any issuer, registration, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository, designated rating organization or designated benchmark administrator; and

⁵ Exhibit 2, Affidavit of Service of Julia Ho, Sworn April 14, 2023, at paras 2-5.

⁶ (2023), 46 OSCB 4221

⁷ RSO 1990, c S.22, s 7(2)

⁸ ASC Merits Decision at para 11

⁹ Exhibit 1, Staff's Hearing Brief, Section 139 Certificate Re: Rustulka dated November 10, 2021, Tab 3

¹⁰ ASC Merits Decision at para 11

¹¹ ASC Merits Decision at paras 11 and 13

¹² ASC Sanctions Decision at para 69

- b. that he is permanently prohibited from:
 - i. trading in or purchasing any security or derivative, and from relying on any exemptions contained in Alberta securities laws;
 - ii. engaging in investor relations activities;
 - iii. becoming or acting as a director or officer (or both) of any issuer or other person or company that is authorized to issue securities, or of any registrant, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository, designated rating organization or designed benchmark administrator;
 - iv. advising in securities;
 - v. becoming or acting as a registrant, investment fund manager or promoter; and
 - vi. acting in a management or consultative capacity in connection with activities in the securities market.¹³

3.3 The ASC order meets the criterion in s. 127(10)4 of the Act

- [15] Paragraph 127(10)4 of the Act empowers the Tribunal to make an order under s. 127(1) where a person is subject to an order of a securities regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on the person. The order of the ASC made pursuant to the ASC Sanctions Decision meets this criterion and thereby invites a consideration of whether the Tribunal should exercise its discretion to issue an order in the public interest against Rustulka under s. 127(1) of the Act.

3.4 The principles of comity and reciprocity do not govern or influence whether an order in the public interest should be made

- [16] Staff argued in their written submissions that the principles of comity and reciprocity apply in the context of inter-jurisdictional enforcement proceedings. I asked Staff to provide me with judicial authority that comity and reciprocity apply in the context of an inter-jurisdictional enforcement proceeding brought pursuant to s. 127(10) of the Act, or otherwise in the context of comparable administrative proceedings. Staff were unable to provide any such authority.

- [17] I am of the view that the principles of comity and reciprocity have no direct application in the context of inter-jurisdictional enforcement proceedings. As held in *Dhanani*,¹⁴ to find otherwise would effectively oust the public interest jurisdiction of the Tribunal under s. 127(1) of the Act, be contrary to the intention of the Legislature on a plain reading of the section and, borrowing from the reasons of the Supreme Court of Canada in *McLean*,¹⁵ cause the Tribunal to “abrogate its responsibility to make its own determination as to whether an order is in the public interest”. As held by the Tribunal in *Elliott*, the applicability of s. 127(10) does not automatically lead to the conclusion that an order similar to that made by the foreign jurisdiction must be made. The Tribunal must still consider whether an order in the public interest should be made and, if so, what the terms of that order should be.¹⁶

3.5 It is in the public interest to make an order substantially on the terms requested by Staff

- [18] The Tribunal's public interest jurisdiction under s. 127(1) is neither punitive nor remedial, but rather protective and prospective.¹⁷ The jurisdiction is informed by the purposes of the Act set out in s. 1.1, which include protection of investors and fostering capital market integrity. Among the principles the Legislature has directed the Tribunal to have regard to when pursuing those purposes is “the sound and responsible harmonization and co-ordination of securities regulation regimes”.¹⁸ In my view, this principle is particularly applicable in the context of inter-jurisdictional enforcement proceedings.¹⁹

- [19] In deciding whether to make an order in the public interest against Rustulka, I should not attempt to second guess the evidentiary findings made and legal conclusions reached by the ASC,²⁰ nor should I treat a connection to Ontario on the part of Rustulka or his conduct at issue as a prerequisite to the engagement of the Tribunal's public interest jurisdiction.²¹

¹³ ASC Sanctions Decision at para 128

¹⁴ *Dhanani* at paras 13-16

¹⁵ *McLean v British Columbia (Securities Commission)*, 2013 SCC 67

¹⁶ *Elliott (Re)*, 2009 ONSC 26 at para 24 (*Elliott*)

¹⁷ *Committee for Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, 2001 SCC 37 at paras 42-43

¹⁸ The Act, s 2.1, at para 5

¹⁹ *USI-Tech Ltd (Re)*, 2019 ONSC 11 at para 28 (*USI-Tech*)

²⁰ *JV Raleigh Superior Holdings Inc (Re)*, 2013 ONSC 18 at paras 16 and 21; *USI-Tech* at para 28; *Dhanani (Re)*, 2017 ONSC 15 at para 9

²¹ *Cook (Re)*, 2018 ONSC 6 at para 9

- [20] Bearing in mind the foregoing and accepting the factual findings and legal conclusions of the ASC Merits Decision, I have no hesitation concluding that, had Rustulka engaged in the conduct at issue in Ontario, he would have contravened the same or similar provisions of Ontario securities law. In that regard, the requirements relating to the know-your-client and suitability obligations of registrants are identical as between Alberta and Ontario because they are found in National Instrument 31-103, which applies equally in both jurisdictions.
- [21] As to the findings of the ASC regarding the misrepresentations made by Rustulka, Staff submitted that they would have led to a finding of a breach of s. 126.2(1) of the Act had they occurred in Ontario. I do not agree. The language of s. 126.2(1) of the Act is substantially the same as the language of s. 92(4.1) of the Alberta Act. Both sections require not only a finding of a misrepresentation, but also a finding that the misrepresentation “would reasonably be expected to have a significant effect on the market price or value of a security...” The latter requirement is generally referred to as the “market impact” test. Regardless, the ASC made no findings concerning the market for the various securities sold by Rustulka or the impact of his misrepresentations thereupon. Accordingly, I am unable to conclude that Rustulka’s conduct would likely have been a breach of s. 126.2(1) of the Act.
- [22] Nevertheless, the findings of the ASC in respect of Rustulka’s misrepresentations to investors would, in my view, have likely led to a finding by the Tribunal of a breach of s. 126.1(1)(b) of the Act.²² That section requires for a finding of breach that Rustulka’s conduct in relation to the securities he sold to his clients perpetrated a fraud upon those clients. A finding of fraud requires a misrepresentation of fact, knowingly made, which induces the person to whom the misrepresentation was made to act upon it and to suffer a loss. The ASC found that Rustulka made misrepresentations of fact concerning the securities he sold to his clients,²³ that he made the misrepresentations knowingly,²⁴ that his clients purchased the securities at issue based on his misrepresentations and that his clients suffered losses in relation to the investments they made through Rustulka. These findings would, in my view, have been sufficient to support a finding by the Tribunal of a breach of s. 126.1(1)(b) of the Act had proceedings been brought in Ontario against Rustulka.
- [23] Accordingly, I am satisfied that an inter-jurisdictional enforcement order as requested by Staff is warranted in the public interest of Ontario as against Rustulka.

3.6 Appropriate sanctions

- [24] Having concluded that an order in the public interest against Rustulka is warranted in this case, I turn to the issue of the appropriate terms of that order.
- [25] In the circumstances of this case, I find no reason to depart from the general practice of making a mirroring order that will effectively bar Rustulka from future participation in the capital markets.
- [26] In reaching this conclusion, I have considered and adopt the sanctioning factors articulated in the ASC Sanctions Decision; namely, the seriousness of Rustulka’s misconduct given his obligations as a registrant, the harm caused to investors and to the capital markets more generally by Rustulka’s misconduct, the deliberate nature of the misrepresentations made by Rustulka to what the ASC found to be unsophisticated investors, the extended duration of Rustulka’s misconduct which spanned a three and a half year period, the benefits in the form of commissions received by Rustulka as a result of his misconduct, the lack of any mitigating circumstances, and the presence of aggravating circumstances such as Rustulka’s encouragement of leveraging and exploitation of his background as a police officer and a pastor.²⁵
- [27] I further agree with the finding of the ASC that, while Rustulka’s assurance to them that he had no intention of ever returning to a role involving the capital markets might militate against the need for specific deterrence in his case, the need for general deterrence is significant due to the fact that registrants like Rustulka are the interface between the investing public and the capital markets and, as such, must be both knowledgeable respecting their obligations and scrupulously honest in their dealings with clients.²⁶

3.6.1 Differences between Alberta and Ontario Sanctions

- [28] While the sanctions I am ordering against Rustulka are intended to mirror those ordered by the ASC, due to differences between the Act and the Alberta Act, some of the sanctions I impose cannot be identical to those imposed by the ASC Panel. Specifically, the ASC Sanctions Decision prohibits Rustulka from “engaging in investor relations activities”,

²² 126.1 (1) A person or company shall not, directly or indirectly, engage or participate in any act, practice or course of conduct relating to securities, derivatives or the underlying interest of a derivative that the person or company knows or reasonably ought to know,

...

(b) perpetrates a fraud on any person or company.

²³ ASC Merits Decision at paras 239-253 and 259-265

²⁴ ASC Merits Decision at paras 266-276

²⁵ ASC Sanctions Decision at paras 60, 61, 63-64, 67, 69, 88-91

²⁶ ASC Sanctions Decision at para 100

“advising in securities” and “acting in a management or consultative capacity in connection with activities in the securities market.” This is a sanction contained in s. 198(1) of the Alberta Act, but not in s. 127(1) of the Act.

[29] The Tribunal has stated in past decisions that managerial and consultative activities relating to the securities market may be performed by a director or officer of an issuer or a registrant, including an adviser, an investment fund manager, a promoter, or a third party consultant.²⁷ I therefore make an order preventing Rustulka from becoming or acting as a director or officer of any issuer or registrant, including as an investment fund manager or from becoming or acting as a registrant, including as an investment fund manager or promoter, thereby mirroring the ASC Sanctions Decision and Order to the extent possible under the Act.

4. CONCLUSION

[30] For the reasons set out above, I find that it is in the public interest to make an order substantially on the terms sought by Staff, taking into account the minor differences in the sanctions authorized by the Act versus those authorized by the Alberta Act. I therefore order:

- a. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Rustulka cease permanently;
- b. pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Rustulka is prohibited permanently;
- c. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Rustulka permanently;
- d. pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Rustulka resign any positions he holds as a director or officer of an issuer or registrant, including as an investment fund manager;
- e. pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Rustulka is prohibited permanently from becoming or acting as a director or officer of any issuer or registrant, including as an investment fund manager; and
- f. pursuant to paragraph 8.5 of subsection 127(1), Rustulka is prohibited permanently from becoming or acting as a registrant, including as an investment fund manager or promoter.

Dated at Toronto this 27th day of October, 2023

“James D. G. Douglas”

²⁷ *McClure (Re)*, 2017 ONSC 34 at paras 8-9

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B. Ontario Securities Commission

B.2 Orders

B.2.1 RBC Capital Markets, LLC – s. 38 of the CFA

Headnote

Application for a ruling pursuant to section 38 of the Commodity Futures Act (CFA) granting relief from the dealer registration requirement set out in section 22 of the CFA in connection with acting as a clearing broker in Give-Up Transactions involving commodity futures contracts and options on commodity futures contracts on exchanges located in Canada (Canadian Futures) to, from or on behalf of Canadian institutional permitted clients (institutional investors) – relief limited to trades in Canadian futures for institutional permitted clients – relief subject to sunset clause – relief subject to compliance with the filing and fee payment requirements as applicable under OSC Rule 13-502.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22, 38, 78.

National Instrument 31-103 Registration Requirements, Exemptions, and Ongoing Registrant Obligations, ss. 1.1, 8.18, 8.26.

Ontario Rule 32-506 (Commodity Futures Act) Exemptions for International Dealers, Advisers and Sub-Advisers.

OSC Rule 13-502 Fees, Part 3, s. 38.

October 23, 2023

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

AND

IN THE MATTER OF
RBC CAPITAL MARKETS, LLC
(the Filer)

RULING
(Section 38 of the CFA)

UPON the application (the **Application**) of the Filer to the Ontario Securities Commission (the **Commission**) for a ruling of the Commission, pursuant to section 38 of the CFA:

- (a) exempting the Filer from the dealer registration requirement set out in section 22 of the CFA in connection with providing Clearing Broker Services (as defined below) in Give-Up Transactions (as defined below) involving exchange-traded futures on exchanges located in Canada (**Canadian Futures**) to, from or on behalf of Institutional Permitted Clients (defined below) (the **Ruling**); and
- (b) exempting an Institutional Permitted Client from the dealer registration requirement in the CFA in connection with receiving Clearing Broker Services (as defined below) in Give-Up Transactions (as defined below) in Canadian Futures from the Filer pursuant to the Ruling;

AND WHEREAS for the purposes of the Ruling, “**Institutional Permitted Client**” shall mean a “permitted client” as defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions, and Ongoing Registrant Obligations* (**NI 31-103**), except for:

- (a) an individual,
- (b) a person or company acting on behalf of a managed account of an individual,

- (c) a person or company referred to in paragraph (p) of that definition, unless the person or company qualifies as a permitted client under another paragraph of that definition, or
- (d) a person or company referred to in paragraph (q) of that definition unless that person or company has net assets of at least \$100 million as shown on its most recently prepared financial statements or qualifies as a permitted client under another paragraph of that definition;

and provided further that, for the purposes of the definition of “Institutional Permitted Client”, a reference in the definition of “permitted client” in section 1.1. of NI 31-103 to “securities legislation” shall be read as “securities legislation or Ontario commodity futures law, as applicable”;

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

AND UPON the Filer having represented to the Commission as follows:

1. The Filer is a limited liability company formed under the laws of the State of Minnesota. The head office of RBCCM is located in New York, New York, United States. The Filer is a wholly-owned indirect subsidiary of the Royal Bank of Canada.
2. The Filer is registered as a broker-dealer with the U.S. Securities and Exchange Commission (**SEC**), a member of the U.S. Financial Industry Regulatory Authority (**FINRA**), a registered futures commission merchant (**FCM**) with the U.S. Commodity Futures Trading Commission (**CFTC**), and a member of the U.S. National Futures Association (**NFA**).
3. The Filer is a member of major international securities and commodity futures exchanges and clearing houses, including but not limited to the NASDAQ, the NYSE, the CME Group Exchanges (including the Chicago Mercantile Exchange, the Board of Trade of the City of Chicago, the Commodities Exchange, the New York Mercantile Exchange), ICE Futures U.S., ICE Clear U.S., ICE Futures Europe, ICE Clear Europe and the Options Clearing Corporation.
4. In connection with its securities trading and advising activities, the Filer relies on the “international dealer exemption” under section 8.18 of NI 31-103 and the “international adviser exemption” under section 8.26 of NI 31-103 in all Canadian jurisdictions other than Nunavut.
5. The Filer is not in default of securities legislation in any jurisdiction in Canada or under the CFA. The Filer is in compliance in all material respects with U.S. securities and commodity futures laws.
6. RBC Dominion Securities Inc. (**RBC DS**) is an affiliate of the Filer. RBC DS is registered as an investment dealer in each of the provinces and territories of Canada, as a futures commission merchant in Ontario and Manitoba, as a derivatives dealer in Québec, and is a dealer member of the Canadian Investment Regulatory Organization (**CIRO**).
7. The Filer wishes to act as a clearing broker with respect to Canadian Futures in the context of Give-Up Transactions (defined below) with Institutional Permitted Clients.
8. A **Give-Up Transaction** is a purchase or sale of futures contracts by a client that has an existing relationship with a clearing broker, but wishes to use the trade execution services of one or more other executing brokers for the purpose of executing such purchases or sales (**Subject Transactions**) on one or more markets. Under these circumstances, the executing broker executes the Subject Transactions as directed by the client and “gives up” such trades to the clearing broker for clearing, settlement, record-keeping, bookkeeping, custody and other administrative functions (**Clearing Broker Services**). The service provided by the executing broker is limited to trade execution only.
9. In a Give-Up Transaction, the clearing broker will maintain an account for the client that is administered in accordance with the terms and conditions of the account documentation of the clearing broker that has been signed by the client. The clearing broker will handle record keeping and collateral for the client. The client will not sign clearing account documentation with the executing broker, nor will the executing broker typically receive monies, margin or collateral directly from the client. Although the executing broker is responsible for its own record-keeping, bookkeeping, custody and other administrative functions (**Account Services**) in respect of its own clients, it does not, subject to any applicable regulatory requirements that may otherwise apply, provide Account Services for execution-only clients. Such Account Services remain the responsibility of the clearing broker. The clearing broker will have the primary relationship with the client and is contractually responsible for trade and risk monitoring as well as reporting trade confirmations and sending out monthly statements.
10. In order to enter into a Give-Up Transaction, a client will enter into a tri-party agreement, known as a “give-up agreement” (**Give-Up Agreement**), between an executing broker, a clearing broker, and the client. The Filer, as clearing broker, will generally use the *International Uniform Brokerage Execution Services (“Give-Up”) Agreement: Version 2017* (© Futures Industry Association Inc., 2017), as may be revised from time to time, as the Give-Up Agreement entered into with Institutional Permitted Clients.

11. Each party to the Give-Up Agreement, including the Filer as clearing broker, will represent in the Give-Up Agreement that it will perform its obligations under the Give-Up Agreement in accordance with applicable laws, governmental, regulatory, self-regulatory, exchange or clearing house rules, regulations, interpretations, protocols and the customs and usages of the exchange or clearing house on which the transactions governed by the Give-Up Agreement are executed and cleared, as in force from time to time.
12. In Ontario, an Institutional Permitted Client would place orders for Canadian Futures for execution on Canadian futures exchanges with an Ontario-registered FCM, which would then be cleared locally on the applicable Canadian futures exchange by that Ontario-registered FCM (if qualified to do so) or another clearing member of the applicable Canadian futures exchange. The executed trades would be placed into a client omnibus account maintained by the Filer with the clearing member of the applicable Canadian futures exchange that locally clears the trades, and the executed trades would be booked by the Filer to the futures account of the Ontario client maintained with the Filer for trading on exchanges globally. In this arrangement, the Ontario-registered FCM would be responsible for all client-facing interactions relating to the execution of the Canadian Futures.
13. In the case of a Montréal Exchange-listed futures contract, a member of the Canadian Derivatives Clearing Corporation (**CDCC**) would clear the trade on the Filer's behalf. Therefore, trade execution would be done by an Ontario-registered FCM, the positions would be held at CDCC by a CDCC member (which could be, but would not necessarily have to be, the executing broker) and given up to the Filer at which the Ontario Institutional Permitted Client maintains a clearing account. The Filer would then carry the resulting positions in an account maintained on its books by the Institutional Permitted Client, and the Filer would call for and collect applicable margin from the Institutional Permitted Client. The Filer, in turn, would remit the required margin to the CDCC member that cleared the trades. That CDCC member would then make the required margin payment(s) to CDCC.
14. In respect of holding client assets, in order to protect customers in the event of the insolvency or financial instability of the Filer, the Filer is required under U.S. law to ensure that customer securities and monies be separately accounted for, segregated at all times from the securities and monies of the Filer and custodied exclusively with such banks, trust companies, clearing organizations or other licensed futures brokers and intermediaries as may be approved for such purposes under the *U.S. Commodity Exchange Act (CEA)* and the rules promulgated by the CFTC thereunder (collectively, the **Approved Depositories**). The Filer is further required to obtain acknowledgements from any Approved Depository holding customer funds or securities related to U.S.-based transactions or accounts that such funds and securities are to be separately held on behalf of such customers, with no right of set-off against the Filer's obligations or debts.
15. As a U.S. registered broker-dealer and FCM, the Filer is subject to regulatory capital requirements under the CEA and *Securities Exchange Act of 1934* (the **1934 Act**), specifically CFTC Regulation 1.17 *Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers (CFTC Regulation 1.17)*, SEC Rule 15c3-1 *Net Capital Requirements for Brokers or Dealers (SEC Rule 15c3-1)* and SEC Rule 17a-5 *Reports to be Made by Certain Brokers and Dealers (SEC Rule 17a-5)*. The Filer has elected to compute the minimum capital requirement in accordance with the alternative net capital requirement as permitted by SEC Rule 15c3-1 and CFTC Regulation 1.17. The Alternative Net Capital (**ANC**) method provides large broker-dealer / FCMs meeting specified criteria with an alternative to use mathematical models such as the value at risk model to calculate capital requirements for market and derivatives related credit risk. Under the ANC method, the Filer must document and implement a comprehensive internal risk management system which addresses market, credit, liquidity, legal and operational risk at the firm.
16. SEC Rule 15c3-1 requires that the Filer account for any guarantee of debt of a third party in calculating its excess net capital when a loss is probable and the amount can be reasonably estimated. Accordingly, the Filer will, in the event that it provides a guarantee of any debt of a third party, take a deduction from net capital when both of the preceding conditions exist.
17. SEC Rule 15c3-1 and CFTC Regulation 1.17 are designed to provide protections that are substantially similar to the protections provided by the capital formula requirements and specifically risk adjusted capital to which dealer members of CRO are subject. The Filer is in compliance with SEC Rule 15c3-1 and in compliance in all material respects with SEC Rule 17a-5. If the Filer's net capital declines below the minimum amount required, the Filer is required to notify the SEC and FINRA pursuant to SEC Rule 17a-11 *Notification Provisions for Brokers and Dealers (SEC Rule 17a-11)*. The SEC and FINRA have the responsibility to provide oversight over the Filer's compliance with SEC Rule 15c3-1 and SEC Rule 17a-5.
18. The Filer is required to prepare and file a financial report, which includes Form X-17a-5 Financial and Operational Combined Uniform Single Report (the **FOCUS Report**), monthly with the CFTC, NFA, SEC and FINRA. The FOCUS Report provides a more comprehensive description of the business activities of the Filer, and more accurately reflects those activities including client lending activity, than would be provided by Form 31-103F1 *Calculation of Excess Working Capital (Form 31-103F1)*. The FOCUS Report provides a net capital calculation and a comprehensive description of the business activities of the Filer. The net capital requirements computed using methods prescribed by SEC Rule 15c3-1

are based on all assets and liabilities on the books and records of a broker-dealer whereas Form 31-103F1 is a calculation of excess working capital, which is a computation based primarily on the current assets and current liabilities on the books and records of the dealer. The Filer is up-to-date in its submission of annual reports under SEC Rule 17a-5(d), including the FOCUS Report.

19. The Filer is a member of the Securities Investors Protection Corporation (**SIPC**). Subject to the eligibility criteria of SIPC, client assets held by the Filer in connection with its activities as a broker-dealer are insured by SIPC against loss due to insolvency in accordance with the Securities Investor Protection Act of 1970. There is no SIPC or similar insurance protection in connection with activities undertaken as a U.S. registered FCM.
20. The Filer is subject to CFTC Regulation 30.7 regarding cash, securities and other collateral that are deposited with a FCM or are otherwise required to be held for the benefit of its customers to margin futures and options on futures contracts traded on non-U.S. boards of trade, including Canadian Futures (**30.7 Customer Funds**). Accounts used to hold 30.7 Customer Funds must be properly titled to make clear that the funds belong to, and are being held for the benefit of, the FCM's customers who are trading foreign (i.e. non-U.S.) futures and futures options.
21. 30.7 Customer Funds may not be commingled with the funds of any other person, including the carrying FCM, except that the carrying FCM may deposit its own funds into the account containing 30.7 Customer Funds in order to prevent the accounts of the customers from becoming under-margined. Each Approved Depository (except for a derivatives clearing organization with specified rules) is required to provide the depositing FCM with a written acknowledgment that the depository was informed that such funds held in the customer account belong to customers and are being held in accordance with the CEA and CFTC Regulations. Among other representations, the depository must acknowledge that it cannot use any portion of 30.7 Customer Funds to satisfy any obligations that the FCM may owe the depository. The types of investments permitted for 30.7 Funds are restricted by CFTC Regulation 30.7(h), which refers to the list of permitted investments set forth in CFTC Regulation 1.25. The FCM is required, on a daily basis, to compute and submit to regulatory authorities a statement of the amounts of 30.7 Customer Funds held by the FCM.
22. In the event of a FCM's bankruptcy, funds allocated to each account class (i.e., the customer segregated, 30.7 secured amount and cleared swaps customer account classes established pursuant to CFTC Regulations 1.20, 30.7 and 22.2, respectively) or readily traceable to an account class must be allocated solely to that customer account class. The U.S. Bankruptcy Code also provides that non-defaulting customers in an account class that has incurred a loss will share in any shortfall, pro rata. However, customers whose funds are held in another account class that has not incurred a loss will not be required to share in such shortfall.
23. The Filer holds customer assets in accordance with Rule 15c3-3 of the 1934 Act, as amended (**SEC Rule 15c3-3**). SEC Rule 15c3-3 requires the Filer to segregate and keep segregated all "fully-paid securities" and "excess margin securities" (as such terms are defined in SEC Rule 15c3-3) of its customers from its proprietary assets. In addition to the segregation of customers' securities, SEC Rule 15c3-3 requires the Filer to deposit an amount of cash or qualified government securities determined in accordance with a reserve formula set forth in SEC Rule 15c3-3 in an account entitled "Special Reserve Account for the Exclusive Benefit of Customers" of such Filer at separate banks and/or custodians. The combination of segregated securities and cash reserve are designed to ensure that the Filer has sufficient assets to cover all net equity claims of its customers and provide protections that are substantially similar to the protections provided by the requirements dealer members of CRO are subject. If the Filer fails to make an appropriate deposit, the Filer is required to notify the SEC and FINRA pursuant to SEC Rule 15c3-3(i). The Filer is in material compliance with the possession and control requirements of SEC Rule 15c3-3.
24. The Filer is subject to regulations of the Board of Governors of the U.S.A. Federal Reserve Board (**FRB**), the SEC, and FINRA regarding the lending of money, extension of credit and provision of margin to clients (the **U.S. Margin Regulations**) that provide protections that are substantially similar to the protections provided by the requirements regarding the lending of money, extension of credit and provision of margin to clients to which dealer members of CRO are subject. In particular, the Filer is subject to the margin requirements imposed by the FRB, including Regulation T, and under applicable SEC rules and under FINRA Rule 4210. The Filer is in material compliance with all applicable U.S. Margin Regulations.
25. Section 22 of the CFA provides that no person may trade in a commodity futures contract or a commodity futures option unless the person is registered as a dealer [*Futures Commission Merchant*], or as a representative of the dealer, or an exemption from the registration requirement is available. The Filer's activities in providing Clearing Broker Services in Give-Up Transactions involving Canadian Futures to, from or on behalf of Institutional Permitted Clients may constitute trading in Canadian Futures.
26. The Filer's activities in providing Clearing Broker Services in Give-Up Transactions involving Canadian Futures to, from or on behalf of Institutional Permitted Clients may also constitute trading in Canadian Futures by Institutional Permitted Clients. Institutional Permitted Clients may be unable to rely on the exemptions from the dealer registration requirement

in the CFA because the Filer is not a registered dealer. Accordingly, the Filer is also seeking exemptive relief pursuant to the Ruling for Institutional Permitted Clients that receive Clearing Broker Services from the Filer.

27. The Filer believes that it would be beneficial to Institutional Permitted Clients in Ontario that trade in the international futures markets for the Filer to act as a clearing broker for both Canadian and non-Canadian futures for the Institutional Permitted Client because such an arrangement would enable the Institutional Permitted Client to benefit from significant efficiencies in collateral usage and consolidated reporting. Benefits would include single margin calls/payments, single wire transfer, ease of reconciliation, netting and cross product margining.
28. Clients may seek clearing services from the Filer in order to separate the execution of a trade from the clearing and settlement of a trade. This allows clients to use many executing brokers, without maintaining an active, ongoing clearing account with each executing broker. It also allows the client to consolidate the clearing and settlement of Canadian Futures in an account with the Filer.
29. The Filer does not dictate to its clients the executing brokers through which clients may execute trades. Clients are free to directly select their executing broker. Clients send orders to the executing broker who carries out the trade. The executing broker will be an appropriately registered dealer or a person or company relying on an exemption from dealer registration that permits it to execute the trade for clients.
30. The Filer is a "market participant" as defined under subsection 1(1) of the CFA. As a market participant, among other requirements, the Filer is required to comply with the record keeping and provision of information provisions under section 14 of the CFA, which include the requirement to keep such books, records and other documents (a) as are necessary for the proper recording of business transactions and financial affairs, and the transactions executed on behalf of others, (a) as may otherwise be required under Ontario commodity futures law, and (b) as may reasonably be required to demonstrate compliance with Ontario commodity futures laws, and to deliver such records to the Commission if required.

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

IT IS RULED, pursuant to section 38 of the CFA, that the Filer is not subject to the dealer registration requirement set out in the CFA in connection with providing Clearing Broker Services in Give-Up Transactions involving Canadian Futures to, from or on behalf of Institutional Permitted Clients so long as the Filer:

- (a) has its head office or principal place of business in the U.S.;
- (b) is registered as a FCM with the CFTC, engages in the business of an FCM in the U.S., and is registered as a broker-dealer under the securities legislation of the U.S. and engages in the business of a broker-dealer in the U.S.;
- (c) is a member firm of the NFA and FINRA;
- (d) is a member of SIPC;
- (e) is subject to requirements over regulatory capital, lending of money, extension of credit and provision of margin, financial reporting to the SEC and FINRA, and/or the CFTC and NFA, and segregation and custody of assets which provide protections that are substantially similar to the protections provided by the rules to which dealer members of CISO are subject;
- (f) limits its provision of Clearing Broker Services in respect of Give-Up Transactions involving Canadian Futures to Institutional Permitted Clients in Ontario;
- (g) does not execute trades in Canadian Futures with or for Institutional Permitted Clients in Ontario, except as permitted under applicable Ontario securities or commodities futures laws;
- (h) does not require its clients to use specific executing brokers through which clients may execute trades;
- (i) submits the financial report and compliance report as described in SEC Rule 17a-5(d) to the Commission on an annual basis, at the same time such reports are filed with the SEC and FINRA;
- (j) submits audited financial statements to the Commission on an annual basis, within 90 days of the Filer's financial year end;
- (k) submits to the Commission immediately a copy of any notice filed under SEC Rule 17a-11 or under SEC Rule 15c3-3(i) with the SEC and FINRA;
- (l) complies with the filing and fee payment requirements applicable to a registrant under OSC Rule 13-502 *Fees* (the **Fee Rule**); provided that, if the Filer does not rely on the international dealer exemption in section 8.18 of

NI 31-103 (the **IDE**), by December 31st of each year, the Filer pays the participation fee shown in Appendix C to the Fee Rule opposite the specified Ontario revenues for the designated financial year of the Filer in compliance with the requirements of Part 3 and section 38 of the Fee Rule as if the Filer relied on the IDE;

- (m) files in an electronic and searchable format with the Commission such reports as to any or all of its trading activities in Canada as the Commission may, upon notice, require from time to time;
- (n) pays the increased compliance and case assessment costs of the Commission due to the Filer's location outside Ontario, including, as required, the reasonable cost of hiring a third party to perform a compliance review on behalf of the Commission;
- (o) has provided to each Institutional Permitted Client the following disclosure in writing:
 - (i) a statement that the Filer is not registered in Ontario to trade in Canadian Futures as principal or agent;
 - (ii) a statement that the Filer's head office or principal place of business is located in New York, New York, U.S.;
 - (iii) a statement that all or substantially all of the Filer's assets may be situated outside of Canada;
 - (iv) a statement that there may be difficulty enforcing legal rights against the Filer because of the above; and
 - (v) the name and address of the Filer's agent for service of process in Ontario; and
- (p) has submitted to the Commission a completed *Submission to Jurisdiction and Appointment of Agent for Service* in the form attached as Appendix "A" hereto.

This Decision will terminate on the earliest of:

- (i) the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA; and
- (ii) five years after the date of this Decision.

AND IT IS FURTHER RULED, pursuant to section 38 of the CFA, that an Institutional Permitted Client is not subject to the dealer registration requirement in the CFA in connection with trades in Canadian Futures when receiving Clearing Broker Services in Give-Up Transactions where the Filer acts in connection with trades in Canadian Futures on behalf of the Institutional Permitted Client from the Filer pursuant to the above ruling.

"Debra Foubert"
Director, Compliance and Registrant Regulation
Ontario Securities Commission

OSC File #: 2023/0388

Appendix "A"

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

1. Name of person or company ("International Firm"):
2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm:
3. Jurisdiction of incorporation of the International Firm:
4. Head office address of the International Firm:
5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.

Name:

E-mail address:

Phone:

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

☐ Section 8.18 [international dealer]

☐ Section 8.26 [international adviser]

☐ Other
7. Name of agent for service of process (the "Agent for Service"):
8. Address for service of process on the Agent for Service:
9. The International Firm designates and appoints the Agent for Service at the address stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (a "Proceeding") arising out of or relating to or concerning the International Firm's activities in the local jurisdiction and irrevocably waives any right to raise as a defence in any such proceeding any alleged lack of jurisdiction to bring such Proceeding.
10. The International Firm irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of the local jurisdiction in any Proceeding arising out of or related to or concerning the International Firm's activities in the local jurisdiction.
11. Until 6 years after the International Firm ceases to rely on the Relief Order, the International Firm must submit to the regulator
 - (a) a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated;
 - (b) an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent for Service;
 - (c) a notice detailing a change to any information submitted in this form, other than the name or above address of the Agent for Service, no later than the 30th day after the change.
12. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

B.2: Orders

Dated: _____

(Signature of the International Firm or authorized signatory)

(Name of signatory)

(Title of signatory)

Acceptance

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

Dated: _____

(Signature of the Agent for Service or authorized signatory)

(Name of signatory)

(Title of signatory)

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

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

B.2.2 John Deere Canada Funding Inc.**Headnote**

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

Applicable Legislative Provisions

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

October 26, 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
JOHN DEERE CANADA FUNDING INC.
(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 Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Quebec and Saskatchewan.

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.

“David Surat”
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2023/0446

B.2.3 Optimum Ventures Ltd.**Headnote**

Multilateral Instrument 11-102 Passport System and National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Securities Act s. 88 Cease to be a reporting issuer in BC – The securities of the issuer are beneficially owned by not more than 50 persons and are not traded through any exchange or market – The issuer is not an OTC reporting issuer; the securities of the issuer are beneficially owned by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders worldwide; no securities of the issuer are traded on a market in Canada or another country; the issuer is not in default of securities legislation.

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.B.C. 1996, c. 418, s. 88.
Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10)(a)(ii).

Citation: 2023 BCSECCOM 506

October 26, 2023

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

AND

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

AND

**IN THE MATTER OF
OPTIMUM VENTURES LTD.
(the Filer)**

ORDER**Background**

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

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

- (a) the British Columbia Securities Commission is the principal regulator for this application;

- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta; and
- (c) this order is the order of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

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

Representations

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

1. the Filer 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

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

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

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

OSC File #: 2023/0485

B.2.4 Mindset Pharma Inc.

Headnote

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

Applicable Legislative Provisions

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

October 27, 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
MINDSET PHARMA INC.
(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, 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.

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

OSC File #: 2023/0491

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B.3 Reasons and Decisions

B.3.1 NorthStar Gaming Holdings Inc.

Headnote

Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from the requirement to call a meeting of shareholders to consider proposed related party transactions and to send an information circular to such shareholders – issuer will be issuing securities to related parties and such issuances constitute related party transactions subject to the minority approval requirements of MI 61-101 – issuer has received written confirmation from shareholders holding a majority of the shares eligible to be counted in determining minority approval under Part 8 of MI 61-101 that they intend to consent to the proposed transactions – issuer disclosed the details of the proposed related party transactions in a disclosure document containing the information required by section 5.3 of MI 61-101 that was filed on SEDAR+ and provided to each shareholder from whom consent is being sought – exemption sought granted, subject to conditions, including that no executed consents are obtained by the issuer until at least 14 days have passed from the date the relevant consenting shareholders were provided with the disclosure document and form of written consent, and the issuer does not close the transactions unless and until (i) the consenting shareholders have had at least 14 days to review the disclosure document and form of written consent, and (ii) at least 14 days have elapsed from the date that the disclosure document and form of written consent were filed on SEDAR+.

Applicable Legislative Provisions

Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions, ss. 5.3, 5.6, 8.1 and 9.1(2).

Companion Policy 61-101CP to Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions, s. 3.1.

October 26, 2023

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

AND

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

AND

IN THE MATTER OF
NORTHSTAR GAMING HOLDINGS INC.
(the “Filer”)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the “**Legislation**”) exempting the Filer from the requirement in subsection 5.3(2) of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* (“**MI 61-101**”) to call a meeting of holders of Common Shares (as defined below) to consider the Proposed Transaction (as defined below) and the Concurrent Offering (as defined below) and to send an information circular to holders of Common Shares (the “**Exemption Sought**”).

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and MI 61-101 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The Filer is a corporation existing under the laws of British Columbia. The principal and head office of the Filer is located at 220 King Street West, Suite 200, Toronto, ON M5H 1K4. The registered office of the Filer is located at 666 Burrard Street, Suite 2500, Vancouver, British Columbia, V6C 2X8. On July 6, 2023, the Filer received shareholder approval to continue into Ontario. The Filer is in the process of implementing the continuance, but has not done so as at the date hereof.

2. The Filer is currently a reporting issuer in each of Alberta, British Columbia and Ontario (the “**Reporting Jurisdictions**”). The Filer is not in default of any requirement of securities legislation in any of the Reporting Jurisdictions.
3. The Filer’s authorized capital consists of an unlimited number of common shares in the capital of the Filer (“**Common Shares**”), of which 163,263,557 are issued and outstanding as at the date hereof, and an unlimited number of redeemable preferred shares in the capital of the Filer (“**Preferred Shares**”), of which 66,300 are issued and outstanding as at the date hereof. Each Common Share carries the right to one vote at all meetings of shareholders of the Filer. There are no voting rights attached to the Preferred Shares. However, pursuant to a conversion rights agreement dated March 3, 2023 between Torstar Corporation (together with its affiliates, “**Torstar**”), which indirectly owns all 66,300 Preferred Shares, the Filer and certain third parties, Torstar has the right to convert 42,500 of the Preferred Shares into 5,666,667 Common Shares. The Filer also has 51,176,873 Common Shares reserved for issuance on the exercise of warrants and stock options and the settlement of restricted share units granted to directors and officers.
4. The Filer’s Common Shares are listed on the TSX Venture Exchange (the “**TSXV**”) under the symbol “**BET**”.
5. The Filer has negotiated a private placement (the “**Proposed Transaction**”) with one of its shareholders, Playtech plc (“**Playtech**”). On September 21, 2023, Playtech and the Filer executed a subscription agreement (the “**Subscription Agreement**”) pursuant to which Playtech has agreed to purchase securities of the Filer as described below for a total purchase price of \$10,000,000. The securities purchased consist of: (a) 28,571,428 units (“**Units**”) at a price of \$0.175 per Unit, with each Unit consisting of (i) one Common Share, (ii) one half of a share purchase warrant, with each whole warrant being exercisable at \$0.36 per Common Share for five years (each, an “**A Warrant**”), and (iii) one half of a share purchase warrant, with each whole warrant being exercisable at \$0.40 per Common Share for a period of five years (each, a “**B Warrant**”), for an aggregate subscription price of \$5,000,000; and (b) a convertible debenture (the “**Debenture**”) in the principal amount of \$5,000,000 bearing interest at the rate of 8% per annum payable and compounding quarterly with a term of three years. The original principal amount of the Debenture will be convertible, at the option of Playtech, into Common Shares of the Filer at a price of \$0.20 per Common Share. The Debenture also provides for payment in kind of interest (“**PIK Interest**”), where each quarterly interest amount will be capitalized to increase the outstanding principal amount of the Debenture on the interest payment date unless the Filer elects to pay a particular interest payment in cash on the interest payment date. Subject to the approval of the TSXV, any such capitalized interest will be convertible, at the option of Playtech, based on the Filer’s trading price at the time the applicable interest is capitalized.
6. The board of directors of the Filer (the “**Board**”), with a conflicted director who is an executive officer of Playtech abstaining from considering and voting on the matter, unanimously approved the Proposed Transaction on September 21, 2023.
7. The Filer’s intention to complete the Proposed Transaction was first announced on August 24, 2023. Following the execution of the Subscription Agreement on September 21, 2023, the material terms of the Subscription Agreement, the Proposed Transaction and the Concurrent Offering were described in a press release dated September 22, 2023 and in a material change report dated September 26, 2023 (the “**MCR**”). The MCR contains all additional information required by Section 5.2 of MI 61-101.
8. The Board consists of a total of eight directors, seven of whom are “independent directors” (as defined in MI 61-101) with respect to the Proposed Transaction, being Vic Bertrand, Brian Cooper, Chris Hodgson, Dean MacDonald, Michael Moskowitz, Sylvia Prentice and Barry Shafran (the “**Independent Directors**”). The other member of the Board, Chris McGinnis, who is an executive officer of Playtech, declared his conflict and recused himself from all negotiations on behalf of either the Filer or Playtech with respect to the Proposed Transaction. On October 12, 2023, the Board also approved the issuance of up to an additional \$750,000 of Units and Debentures on the same terms as the Proposed Transaction to other investors, including members of management of the Filer (the “**Concurrent Offering**”). Mr. Moskowitz and Mr. MacDonald, who are participating in the Concurrent Offering, abstained from approving the Concurrent Offering.
9. In order to come to their determination to approve the Proposed Transaction, the Independent Directors met independently from the non-independent director of the Board and met with management of the Filer to discuss the Proposed Transaction and the Concurrent Offering. The Independent Directors evaluated the Proposed Transaction and the Concurrent Offering to determine whether they were fair and reasonable, and considered a number of factors including the financing needs of the Filer, that management had reached out to various investment bankers and that there were no offers to conduct a financing for the Filer from this process and the fact that the Proposed Transaction and the Concurrent Offering were priced at a premium to the \$0.16 closing price of the Common Shares on the TSXV immediately prior to the initial announcement of the Proposed

Transaction on August 24, 2023 and the ten day average closing price of the Common Shares on that date of \$0.159. The most recent closing price for the Common Shares on the TSXV immediately prior to the execution of the Subscription Agreement was \$0.145, and the average closing price over the prior ten days was \$0.143. At no point between the announcement of the Proposed Transaction and the signing of the Subscription Agreement did the Common Shares trade on the TSXV at a price higher than the offering price of the Units. Following such discussions, the Independent Directors determined that the terms of the Proposed Transaction negotiated by management of the Filer were fair and reasonable.

10. Playtech currently owns 24,500,000 Common Shares and 24,500,000 warrants to acquire Common Shares, 12,250,000 of which are exercisable at \$0.85 and 12,250,000 of which are exercisable at \$0.90 (collectively, the **"Current Warrants"**), representing approximately 15.01% of the outstanding Common Shares on a non-diluted basis and approximately 26.10% on a partially-diluted basis.
11. Immediately upon the completion of the Proposed Transaction, Playtech will own 53,071,428 Common Shares, 14,285,714 A Warrants, 14,285,714 B Warrants, the Current Warrants, and the Debenture (the principal of which will be convertible into up to 25,000,000 Common Shares), representing approximately 27.67% of the outstanding Common Shares on a non-diluted basis and approximately 48.59% on a partially-diluted basis (if it is assumed that the Concurrent Offering is not completed and not including any Common Shares issuable upon conversion of PIK Interest, if applicable).
12. Playtech is a "related party" of the Filer (as defined in MI 61-101), as it has beneficial ownership of, or control or direction over, directly or indirectly, securities of the Filer carrying more than 10% of the voting rights attached to all of the Filer's outstanding voting securities.
13. Since Playtech is a related party of the Filer, the Proposed Transaction constitutes a related party transaction pursuant to paragraph (g) of the definition of "related party transaction" in MI 61-101 and, consequently, MI 61-101 requires that the Filer obtain a formal valuation for, and minority approval of, the Proposed Transaction, in the absence of exemptions therefrom.
14. The following directors and officers will be participating in the Concurrent Offering: Michael Moskowitz, CEO and Director will be investing \$50,000, Dean MacDonald, Director will be investing \$50,000, Jennifer Barber, CFO will be investing \$5,000 and Corey Goodman, Chief Development Officer, Counsel and Corporate Secretary will be investing \$25,000 (the

"Participating Insiders"). The Participating Insiders currently own, in the aggregate, 7,878,476 Common Shares, 4,479,751 options to acquire Common Shares and 7,626,154 restricted share units, representing approximately 4.83% of the outstanding Common Shares on a non-diluted basis and approximately 11.40% on a partially-diluted basis. Immediately upon the completion of the Proposed Transaction and the Concurrent Offering, the Participating Insiders will own, in the aggregate, 8,249,906 Common Shares, 185,715 A Warrants, 185,715 B Warrants, Convertible Debentures in the aggregate principal amount of \$65,000, 4,479,751 options to acquire Common Shares and 7,626,154 restricted share units, representing approximately 4.29% of the outstanding Common Shares on a non-diluted basis and approximately 10.27% on a partially-diluted basis. The individual holdings of each Participating Insider both before and after the completion of the Proposed Transaction and the Concurrent Offering are set out in the Disclosure Document (as defined below).

15. Each of the Participating Insiders is a "related party" of the Filer (as defined in MI 61-101), as each is a director and/or a senior officer of the Filer.
16. Since each of the Participating Insiders is a related party of the Filer, their participation in the Concurrent Offering also constitutes a related party transaction pursuant to paragraph (g) of the definition of "related party transaction" in MI 61-101.
17. The Proposed Transaction and the Concurrent Offering are exempt from the formal valuation requirement in section 5.4 of MI 61-101 pursuant to paragraph 5.5(b) of MI 61-101 on the basis that no securities of the Filer are listed or quoted on the Toronto Stock Exchange, Aequitas NEO Exchange Inc., the New York Stock Exchange, the American Stock Exchange, the NASDAQ Stock Market, or a stock exchange outside of Canada and the United States other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc.
18. The Proposed Transaction and the Concurrent Offering (with respect to insider participation) are subject to the minority approval requirements of section 5.6 of MI 61-101 and, accordingly, the Filer is required by section 5.6 of MI 61-101 to obtain "minority approval" (as defined in MI 61-101) of the Proposed Transaction and the Concurrent Offering (with respect to insider participation) in accordance with Part 8 of MI 61-101 (the **"Minority Approval"**).
19. In addition to the Minority Approval, the Proposed Transaction and the Concurrent Offering (with respect to insider participation) will also require the approval of disinterested holders of Common Shares pursuant to TSXV Policy 4.1 – *Private Placements*, which provides that such approval can

- be obtained by written consent, subject to obtaining the Exemption Sought.
20. Subsection 5.3(2) of MI 61-101 also requires that an issuer proposing to carry out a related party transaction for which minority approval is required call a meeting of holders of affected securities (as defined in MI 61-101) and send an information circular to those holders.
 21. As at October 16, 2023, 130,885,081 Common Shares, or approximately 80.17% of the issued and outstanding Common Shares, were held by shareholders that are eligible to vote for purposes of the Minority Approval required for the Proposed Transaction and the Concurrent Offering pursuant to subsection 8.1(2) of MI 61-101. Only the 24,500,000 Common Shares held by Playtech and the 7,878,476 Common Shares held by the Participating Insiders are required to be excluded for purposes of the Minority Approval.
 22. The Filer has approached certain shareholders, being Torstar, Tevir Capital LP Ltd., Rivett Capital Syndicate Inc., and Vic Bertrand (each a **"Consenting Party"** and collectively, the **"Consenting Parties"**), to request their support for the Proposed Transaction and the Concurrent Offering. The Filer has received written confirmation from the Consenting Parties who, as at October 16, 2023, collectively held 72,524,673 Common Shares, representing approximately 44.42% of the issued and outstanding Common Shares and approximately 55.41% of the Common Shares eligible to vote for purposes of the Minority Approval required for the Proposed Transaction and the Concurrent Offering, that they intend to consent to the Proposed Transaction and the Concurrent Offering, subject to their review and consideration of the disclosure document dated October 13, 2023 pertaining to the Proposed Transaction and the Concurrent Offering (the **"Disclosure Document"**), the contents of which satisfy and comply with the disclosure requirements set out in subsection 5.3(3) of MI 61-101, which consents will be evidenced through the execution of a form of written consent (the **"Consent"** and, together with the Disclosure Document, the **"Transaction Documents"**) accompanying the Disclosure Document.
 23. As the Filer believes that holders of a majority of the Common Shares eligible to be voted would vote in favour of the Proposed Transaction and the Concurrent Offering, the Filer wishes to obtain the Minority Approval by way of written consent as opposed to at a meeting of holders of Common Shares.
 24. No Consenting Party is: (a) an "interested party" (as defined in MI 61-101) in respect of the Proposed Transaction or the Concurrent Offering; (b) a related party of an interested party in respect of the Proposed Transaction or the Concurrent Offering; or (c) a joint actor with a party referred to in (a) or (b) above in respect of the Proposed Transaction or the Concurrent Offering.
 25. The Filer filed copies of the Transaction Documents on the System for Electronic Document Analysis and Retrieval + (**"SEDAR+"**) on October 13, 2023.
 26. Each Consenting Party has been provided with a copy of the Transaction Documents. The Transaction Documents set out the relevant details of the Proposed Transaction and the Concurrent Offering, and the Consent includes an acknowledgement from each Consenting Party that such Consenting Party has had a minimum of 14 days from the time that it received the Transaction Documents to review such documents.
 27. None of the Consenting Parties is obligated to provide the Filer with an executed Consent, and each Consenting Party will make its determination on whether to provide the Filer with an executed Consent based on its review and consideration of the Transaction Documents.
 28. No Consenting Party has received, or will receive, directly or indirectly, any payment, beneficial enhancement, collateral benefit or inducement of any kind in respect of the Proposed Transaction or the Concurrent Offering, or in connection with agreeing to execute the Consent.
 29. The Filer will not obtain executed Consents until at least 14 days have passed from the date the relevant Consenting Party received the Transaction Documents.
 30. The Filer will not close the Proposed Transaction or the Concurrent Offering unless and until: (a) the Consenting Parties have had at least 14 days to review the Transaction Documents; and (b) at least 14 days have elapsed from the date that the Transaction Documents were filed on SEDAR+.
 31. The Filer will send a copy of the Transaction Documents to any holder of Common Shares who requests a copy, free of charge.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that:

- (a) the Filer receives executed copies of Consents from holders of Common Shares holding a majority of the Common Shares eligible to vote for the purposes of the Minority Approval required for the Proposed Transaction and the Concurrent Offering;

- | | |
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| <p>(b) the Filer does not obtain executed Consents until at least 14 days have passed from the date that the relevant Consenting Party was provided with the Transaction Documents;</p> <p>(c) the Filer provides each Consenting Party with a copy of this decision;</p> <p>(d) the Disclosure Document contains the information required pursuant to section 5.3 of MI 61-101, and also discloses that:</p> <ul style="list-style-type: none">(i) the Filer has applied for the Exemption Sought,(ii) the Filer intends to seek written consent from the Consenting Parties, and(iii) if the Filer does not obtain executed Consents from holders of Common Shares holding a majority of the Common Shares eligible to vote for the purposes of the Minority Approval required for the Proposed Transaction and the Concurrent Offering, the Filer will call a meeting of holders of Common Shares to seek the Minority Approval and send an information circular to holders of Common Shares in accordance with MI 61-101 before proceeding with the Proposed Transaction and the Concurrent Offering; <p>(e) no Consenting Party has received, or will receive, directly or indirectly, any payment, beneficial enhancement, collateral benefit or inducement of any kind in respect of the Proposed Transaction or in connection with agreeing to execute the Consent;</p> <p>(f) the Filer does not close the Proposed Transaction or the Concurrent Offering unless and until:</p> <ul style="list-style-type: none">(i) the Consenting Parties have had at least 14 days to review the Transaction Documents, and(ii) at least 14 days have elapsed from the date that the Transaction Documents were filed on SEDAR+; <p>(g) the Filer sends a copy of the Transaction Documents to any holder of Common Shares who requests a copy, free of charge; and</p> | <p>(h) there are no other approvals required in respect of the Proposed Transaction or the Concurrent Offering which must be obtained at a meeting of holders of Common Shares.</p> <p>“David Mendicino”
Manager, Office of Mergers & Acquisitions
Ontario Securities Commission</p> |
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B.3.2 Frontenac Mortgage Investment Corporation

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted to non-investment fund reporting issuer for extension of times provided for refiling of a prospectus as if the lapse date was extended to December 16, 2023 – extension of times will not affect the current status or accuracy of the information contained in the prospectus – the issuer will not distribute securities under the prospectus until a receipt is issued for the renewal prospectus.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 62(5).
National Instrument 41-101 General Prospectus Requirements.

October 26, 2023

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

AND

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

AND

IN THE MATTER OF
FRONTENAC MORTGAGE INVESTMENT
CORPORATION
(the Filer)

DECISION

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the time limits pertaining to filing a renewal prospectus in respect of the Filer's long form prospectus dated June 16, 2022 (the **Current Prospectus**) be further extended as if the lapse date was December 16, 2023 (the **Requested Relief**).

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

- (a) the Ontario Securities Commission (**OSC**) is the principal regulator for this application, and
- (b) The Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* is intended to be relied upon in each of British Columbia, Alberta, Saskatchewan and Manitoba (together with the Jurisdiction, the **Jurisdictions**).

Interpretation

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

Representations

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

1. The Filer is a reporting issuer in each of the Jurisdictions and is not in default of securities legislation in any of the Jurisdictions.
2. Common shares of the Filer are qualified for distribution in each of the Jurisdictions on a continuous monthly basis under the Current Prospectus. The Filer distributes its securities on a continuous basis pursuant to a long-form prospectus in the form of Form 41-101F1 which is renewed annually.
3. The Filer filed an amendment, dated June 6, 2023 to the Current Prospectus (**Amendment No. 5**). The Filer is engaged with OSC Staff in the comment process in connection with Amendment No. 5 and discussions remain ongoing as at the date hereof. A receipt has not yet been issued for Amendment No. 5.
4. The lapse date of the Current Prospectus was June 16, 2023.
5. Pursuant to the continuous distribution of the Filer's securities, the Filer filed a pro forma prospectus in the form of Form 41-101F1 on May 17, 2023 (the **Pro Forma Prospectus**). The Filer is engaged with OSC Staff in the comment process in connection with the Pro Forma Prospectus and discussions remain ongoing as at the date hereof.
6. The Filer obtained exemptive relief pursuant to a decision granted by the OSC *In the Matter of Frontenac Mortgage Investment Corporation* dated June 26, 2023 that the time limits pertaining to filing a renewal prospectus in respect of the Current Prospectus be extended as if the lapse date was August 15, 2023.
7. Subsequently, the Filer obtained exemptive relief pursuant to a decision granted by the OSC *In the Matter of Frontenac Mortgage Investment Corporation* dated August 24, 2023 that the time limits pertaining to filing a renewal prospectus in respect of the Current Prospectus be further extended as if the lapse date was October 16, 2023.
8. Absent the Requested Relief, pursuant to the Legislation, the Filer must file a prospectus on or before October 26, 2023, being 10 days after the extended lapse date, for which a receipt is issued by the Jurisdiction on or before November 5, 2023, being 20 days after the extended lapse date, in

order for the distribution of the Filer's common shares in the Jurisdictions to continue without interruption.

9. The Filer and OSC Staff continue to be engaged in the comment process in connection with Amendment No. 5 and the Pro Forma Prospectus and believe that such discussions will not be concluded within such time as to permit the Filer to file its prospectus by October 26, 2023.
10. The Filer has ceased distribution of its common shares on a continuous monthly basis under the Current Prospectus and will not distribute its common shares under the Current Prospectus until the comment process in respect of Amendment No. 5 and the Pro Forma Prospectus have been completed and a receipt has been issued, respectively.
11. The Filer is seeking the Requested Relief to allow it an opportunity to obtain a receipt for Amendment No. 5 and to file a final prospectus and obtain a receipt therefor such that it can continue to offer its common shares on a continuous monthly basis, uninterrupted, in the Jurisdictions pursuant to a final prospectus in the form of Form 41-101F1.
12. There have been no undisclosed material changes in the affairs of the Filer since the date of the receipt issued September 30, 2022 for the last amendment to the Current Prospectus.
13. In the event that any material changes occur, the Filer will file an amendment to the Current Prospectus as required under the Legislation.
14. Given that the Filer has ceased distributing any securities under the Current Prospectus, the Requested Relief will not be prejudicial to the public interest.

Decision

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

The decision of the principal regulator under the Legislation is that the Requested Relief is granted.

"Erin O'Donovan"
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2023/0520

B.3.3 MogoTrade Inc. and Mogo Asset Management Inc.**Headnote**

Under paragraph 4.1(1)(b) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, a registered firm must not permit an individual to act as a dealing, advising or associate advising representative of the registered firm if the individual is registered as a dealing, advising or associate advising representative of another firm registered in any jurisdiction of Canada. The individual will have sufficient time to adequately serve both firms. Conflicts of interest are unlikely to arise because clients of the Filers and the products offered by the Filers differ considerably. Both firms have policies and procedures in place to handle potential conflicts of interest. The firms are exempted from the prohibition.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 4.1 and 15.1.

COURTESY TRANSLATION

October 27, 2023

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

AND

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

AND

IN THE MATTER OF
MOGOTRADE INC.
(MogoTrade)
AND
MOGO ASSET MANAGEMENT INC.
(MAMI)
(collectively, the Filers)

DECISION**Background**

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for relief from the prohibition in paragraph 4.1(1)(b) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), pursuant to section 15.1 of NI 31-103, to permit Mr. Jean-Olivier Lepage (the **Representative**) to act as registered Associate Advising Representative for MAMI, in addition to his current

registration as Dealing Representative with MogoTrade (the **Exemption Sought**).

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

- (a) the *Autorité des marchés financiers* (the **AMF**) is the principal regulator for this application;
- (b) the Filers have provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Northwest Territories, Nunavut, Prince Edward Island, Saskatchewan, and Yukon; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

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

Representations

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

1. MAMI is a corporation incorporated under the laws of Canada, with its registered office located at 400-3 Place Ville-Marie, Montréal, Québec H3B 2E3.
2. MogoTrade is a corporation incorporated under the laws of Canada, with its registered office located at 300-4 Place Ville-Marie, Montréal, Québec H3B 2E7.
3. MAMI is registered as (a) an Exempt Market Dealer and Portfolio Manager in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, and Saskatchewan, (b) a Portfolio Manager in Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, and Yukon, (c) an Exempt Market Dealer, Investment Fund Manager, and Portfolio Manager in Ontario, and (d) a Derivatives Portfolio Manager, Exempt Market Dealer, Investment Fund Manager, and Portfolio Manager in Québec.
4. MogoTrade is registered as an Investment Dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan, and Yukon.
5. The principal regulator of both Filers is the AMF.

6. MAMI offers discretionary portfolio management services through individual accounts and pooled funds (for which it acts as Investment Fund Manager) and advice-only services without discretionary authority, and facilitates the distribution of private funds to Canadians under prospectus exemptions.
7. MogoTrade offers an app-based, order-execution-only (**OEO**) service to retail investors. MogoTrade also offers direct electronic access (**DEA**) accounts and participates in the distribution of new issues on an OEO basis. MogoTrade does not offer advice.
8. The Filers are affiliates as they are both subsidiaries of Mogo Inc., a reporting issuer in all provinces and territories of Canada.
9. The Filers' offices are located at different addresses and their back-office functions are physically separate. Certain individuals work in both Filers' back offices.
10. Both of the Filers also have the same Chief Compliance Officer (**CCO**) and Ultimate Designated Person (**UDP**). The Filers have been able to deal with conflicts of interests that have arisen due to this arrangement.
11. Neither of the Filers is in default of securities legislation or derivatives legislation in any jurisdiction of Canada.

The Representative's Registration as Associate Advising Representative with MAMI

12. The Representative is currently registered as a Dealing Representative (Investment Dealer) with MogoTrade. In this role, the Representative acts as a backup trader whose role consists of providing support to ensure business continuity. Specifically, the Representative's registerable activity consists of entering trades manually if the MogoTrade app-based interface does not function as intended. The Representative has no involvement with MogoTrade's DEA or new issue distribution business lines.
13. If the Exemption Sought is granted, the Representative would also act as registered Associate Advising Representative (Portfolio Manager) on behalf of MAMI. In that role the Representative would support MAMI's Advising Representatives by providing financial analysis, know-your-client information collection and analysis, know-your-product analysis, suitability assessments, and related tasks. The Representative will not solicit clients and as such, his direct interaction with clients will be extremely limited.
14. From a business perspective, it would be optimal for the Filers if they could gain additional efficiency by having the Representative in both roles. If the Exemption Sought is not granted, then MAMI may

- be obligated to engage an additional Associate Advising Representative. At the same time, the Representative currently has excess capacity in his role at MogoTrade.
15. The Representative has appropriate proficiency requirements for being registered as Associate Advising Representative (Portfolio Manager) with MAMI.
16. MAMI's clients would benefit from the Exemption Sought as an additional duly registered Associate Advising Representative will provide support to their primary Advising Representative.
17. The Representative will have sufficient time to adequately serve both Filers. The CCO and UDP of the Filers will ensure that the Representative continues to have sufficient time and resources to adequately serve each Filer.
18. The Representative's dual registration is unlikely to give rise to conflicts of interest. The Filers' business lines are different, as MAMI provides advice and MogoTrade is prohibited from providing advice due to the nature of the activities it is permitted to engage in. The Filers thus carry out distinct but complementary business lines to fully service the needs of their clients. In addition, the Representative has little interaction with clients of either Filer due to the nature of his current and proposed roles. As a result, the potential for conflicts of interest and client confusion arising from the dual registration of the Registrant is very remote.
19. The Filers have the same CCO and UDP and appropriate compliance and supervisory policies and procedures in place to monitor the conduct of its registered individuals, including any material conflicts of interest that may arise as a result of the dual registration of the Representative. In particular, the Representative will be subject to the supervisory, and the applicable compliance requirements of each of the Filers. Notice of the Representative's dual registration will be added to the Filers' disclosure materials that are provided to clients. Furthermore, in the rare event that the Representative identified a potential or actual conflict of interest that could materially affect a client or the Filers, the Representative would, at such time, inform the CCO, and then the Filers would notify, in writing, their client of the conflict of interest and would otherwise address the conflict of interest in accordance with each Filer's policies and procedures as they apply to conflicts of interest.
20. The Representative will act fairly, honestly and in good faith and in the best interests of the clients of each Filer.

21. In order to minimize any client confusion, the Filers and the Representative will disclose the fact that the Representative is registered with both firms, and the relationship between MAMI and MogoTrade will be explained to clients. This disclosure will be made in writing prior to the Representative providing services to clients of each Filer.
22. In the absence of the Exemption Sought, the Filers would be prohibited from permitting the Representative to act as an Associate Advising Representative (Portfolio Manager) of MAMI while being a Dealing Representative (Investment Dealer) of MogoTrade, even though the Filers are affiliates and have controls and compliance procedures in place to deal with the Representative's registerable activities.

Decision

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

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

- (a) The Representative is subject to supervision by, and the applicable compliance requirements of, both Filers;
- (b) The CCO and the UDP of each Filer ensure that the Representative has sufficient time and resources to adequately serve each Filer and its respective clients;
- (c) The Filers each have adequate policies and procedures in place to address any conflicts of interest that may arise as a result of the dual registration of the Representative and deal appropriately with any such conflicts; and
- (d) The relationship between the Filers and the fact that the Representative is dually registered with both Filers is fully disclosed in writing to each client of the Filers that deal with the Representative.

French version signed by:

"Éric Jacob"
Superintendent, Client Services and Distribution Oversight
Autorité des marchés financiers

OSC File #: 2023/0215

B.3.4 Picton Mahoney Asset Management and The Funds

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from short selling issuer concentration limit in subparagraph 2.6.1(1)(c)(iv) of NI 81-102 with respect to short sales of “index participation units” – subject to the usual conditions.

Applicable Legislative Provisions

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

October 12, 2023

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

AND

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

AND

**IN THE MATTER OF
PICTON MAHONEY ASSET MANAGEMENT
(the Filer)**

**IN THE MATTER OF
THE FUNDS
(as defined below)**

DECISION

BACKGROUND

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the funds listed in Schedule “A” hereto (the **Existing Funds**) and any additional alternative mutual funds (the **Future Funds** and together with the Existing Funds, the **Funds**) of which the Filer, or an affiliate of the Filer, may be the manager, portfolio advisor and/or trustee in the future, for exemptive relief from subparagraph 2.6.1(1)(c)(iv) of NI 81-102, which restricts an alternative mutual fund from selling a security of an issuer, other than a “government security” (as defined in NI 81-102) short if, at the time, the aggregate market value of the securities of that issuer sold short by the fund exceeds 10% of the alternative mutual fund’s net asset value, in order to permit each Fund to exceed such restriction to short sell index participation units (**IPUs**) of one or more investment funds (each, an **IPU Issuer**) up to a maximum of 100% of a Fund’s net asset value (**NAV**) at the time of the sale (the **Requested Relief**).

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

- (a) the Ontario Securities Commission is the principal regulator for this application; 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 all of the other provinces and territories of Canada (together with the Jurisdiction, the **Jurisdictions**).

INTERPRETATION

Terms defined in National Instrument 14-101 – *Definitions*, MI 11-102 and NI 81-102 have the same meaning if used in this decision, unless otherwise defined. In addition to the defined terms used in this decision, capitalized terms used in this decision have the following meanings:

Aggregate Limit means the aggregate gross exposure restriction in subsection 2.9.1 of NI 81-102, which places an overall limit on an alternative mutual fund’s exposure to cash borrowing, short selling and specified derivatives equal to 300% of such fund’s NAV.

IPU Issuer means an investment fund the securities of which are IPUs.

Representations

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

The Filer

1. The Filer is a general partnership established under the laws of the Province of Ontario, with its head office located at 33 Yonge Street, Suite 830, Toronto, Ontario M5E 1G4.
2. The Filer is registered in the categories of (a) portfolio manager and exempt market dealer in the Provinces of Alberta, British Columbia, Manitoba, Ontario, Prince Edward Island, Quebec and Saskatchewan, (b) exempt market dealer in Newfoundland and Labrador, (c) investment fund manager in the Provinces of Ontario, Newfoundland and Labrador and Quebec and (d) commodity trading manager in the Province of Ontario.
3. The Filer, or an affiliate of the Filer, is, or will be, the manager, portfolio advisor and/or trustee of the Funds.
4. The Filer is not in default of securities legislation in any of the Jurisdictions.

The Funds

5. Each of the Funds is or will be a trust, corporation or separate class of shares of a mutual fund corporation governed by the laws of a Jurisdiction.

6. Each of the Existing Funds has filed and been receipted for a simplified prospectus qualifying the units of the Existing Fund for distribution to the public in each of the Jurisdictions.
7. Each of the Future Funds will file and be receipted for a simplified prospectus or long-form prospectus, as the case may be, qualifying the units of the Future Fund for distribution to the public in one or more of the Jurisdictions.
8. Each of the Funds is or will be a reporting issuer in each of the Jurisdictions.
9. Each of the Funds is, or will be, as the case may be, an alternative mutual fund (as defined in NI 81-102) governed by the provisions of NI 81-102, subject to any relief therefrom granted by the securities regulatory authorities.
10. Each of the Funds offers, or will offer, as the case may be, one or more classes of mutual fund units and, if applicable, one or more classes of exchange-traded units.
11. The exchange traded units of the Funds are, or will be, as the case may be, listed for trading on a stock exchange in Canada (including the Toronto Stock Exchange and Neo Exchange Inc.).
12. The investment objective(s) of each of the Funds is, or will be, as the case may be, set out in the Fund's prospectus.
13. The current risk rating assigned by the Filer to each of the Existing Funds is set out in Schedule A and the Filer believes that there will be no change to the risk rating of any Existing Funds by virtue of relying on the Requested Relief.
14. None of the Existing Funds are in default of any of the requirements of securities legislation in any of the Jurisdictions.

IPU Issuers

15. The portfolio holdings of IPU Issuers are generally diversified.
16. IPU Issuers seek to provide investment results that correspond generally to the performance of a specified widely quoted market index comprised of multiple issuers by holding a portfolio of securities that are included in the index or otherwise investing in a manner that causes the IPU Issuer to replicate the performance of that index.
17. The portfolio holdings of IPU Issuers are generally liquid.
18. The creation process for IPU's of IPU Issuers can quickly increase the available supply of IPU's of IPU Issuers in the marketplace, making the potential for a liquidity issue inherently lower.

19. The weight of each underlying security held in the portfolio of an IPU Issuer substantially corresponds to the weight of such security in the underlying index.

Requested Relief

20. Subsection 2.1(1.1) of NI 81-102 restricts an alternative mutual fund from purchasing a security of an issuer, entering into a specified derivatives transaction or purchasing an IPU if, immediately after the transaction, more than 20% of its NAV would be invested in securities of any one issuer (the **Concentration Restriction**).
21. Subsection 2.1(2) of NI 81-102 provides an exception to the Concentration Restriction for an IPU that is a security of an investment fund. The Filer has submitted that the rationale for this exception is in part that an IPU Issuer should be considered a look-through vehicle in that it is comprised of and represents a diversified group of issuers whose securities it holds in proportion to the underlying index, thereby mitigating the concentration risk otherwise associated with a fund holding the securities of a single issuer. The Filer believes a similar rationale can be applied in respect to shorting IPU Issuers.
22. A significant risk associated with short positions generally is the potential to be unable to obtain the securities required to cover the short position, or to be unable to obtain them without additional costs, at the required time due to a lack of liquidity in the market. The Filer has submitted that the liquidity of the IPU Issuers as described above significantly reduces the risk that an alternative mutual fund may not be able to cover or exit a short position in an IPU Issuer. On this basis, short sales of IPU Issuers will not have the same risk profile as a short sale of a single issuer or of a security that lacks liquidity of this magnitude.
23. The Funds are, or will be, as the case may be, permitted to short sell IPU's of multiple IPU Issuers up to the limits of the Aggregate Short Restrictions. However, the Filer has submitted that shorting a single IPU Issuer is preferable in certain cases to shorting multiple IPU Issuers where the liquidity of the single IPU Issuer being sold short is higher than other IPU Issuers tracking the same index, or where the underlying index tracked by a particular IPU Issuer otherwise presents more favourable investment characteristics than other IPU Issuers.
24. The Filer is of the view that, in the case of IPU Issuers, given their high diversity and liquidity, the concentration risk otherwise associated with shorting securities of a single issuer is mitigated and, as a result, the Requested Relief would permit the Funds to benefit from efficiencies without prejudicing investors.

25. The Requested Relief is requested to permit each Fund to short sell IPU's of IPU Issuers without otherwise impacting such Fund's ability to borrow cash or engage in short sales under NI 81-102, in circumstances where the Filer believes that it is more beneficial to gain the desired short exposure to IPU Issuers: (a) through shorting fewer IPU Issuers than would otherwise be necessary under the Single Issuer Short Restriction; and (b) by way of short sales potentially in excess of the Aggregate Short Restrictions rather than by way of specified derivative transactions.
26. While a Fund could acquire exposure, including short exposure, to IPU Issuers in pursuit of its respective investment strategy through derivative transactions, the Filer believes that short sales of IPU Issuers may provide a faster, more efficient and flexible means of achieving diversification and hedging against market risk.
27. As such, the Filer is of the view that it would be in each Fund's best interest to permit the Fund to physically short sell IPU's of IPU Issuers, up to 100% of the Fund's NAV at the time of sale, instead of being limited to achieving that degree of leverage through either specified derivatives alone, or a combination of physical short selling and specified derivatives, including for the following reasons:
- (a) In some circumstances, the availability of derivatives with similar risk characteristics to corresponding indices may be limited. Alternatively, pricing of a short position at a particular point in time may be preferable to the pricing of a corresponding derivatives contract.
 - (b) Granting the Requested Relief would expand the scope of available tools at the disposal of the Filer, as portfolio advisor, to achieve market hedging, and thereby provide the Filer, as portfolio advisor, with the best execution and best liquidity.
 - (c) The Requested Relief is less risky than certain derivatives transactions by allowing the Fund to, in part, mitigate against settlement risk (which is the risk that one of the parties to the derivatives contract defaults under the derivatives contract). Use of derivatives may also be incrementally riskier by exposing the Fund to operational risk (such as the case of a party to a derivatives contract failing to maintain adequate internal procedures or controls including intra-day settlements or managing closing-out the transaction) and liquidity risk.
28. The Requested Relief would allow the Filer, as portfolio advisor of the Funds, greater flexibility and liquidity in pursuing a hedging strategy that reduces potential market volatility by expanding options for hedging to include selling highly liquid IPU Issuers short.
29. Notwithstanding the Requested Relief the Funds would otherwise still be required to comply with all of the requirements applicable to alternative mutual funds in subsections 2.6.1 and 2.6.2 of NI 81-102, subject to any relief granted therefrom by the securities regulatory authorities.
30. The Requested Relief would not change a Fund's obligation to comply with the Aggregate Limit. The Aggregate Limit would continue to apply to a Fund's combined exposure to borrowing, short selling and derivatives and the Requested Relief. A decision to grant the Requested Relief would not permit a Fund to exceed the Aggregate Limit through a combination of investment strategies.
31. If a Fund's aggregate gross exposure were to exceed the Aggregate Limit, subsection 2.9.1(5) of NI 81-102 would require the Fund to, as quickly as commercially reasonable, take all necessary steps to reduce the aggregate gross exposure to 300% of the Fund's NAV or less.
32. Each short sale by a Fund will be made consistent with the Fund's investment objective(s), strategies and restrictions.
33. Each Fund will implement the following controls when conducting a short sale:
- (a) the Fund will assume the obligation to return to the Borrowing Agent (as defined in NI 81-102) the securities borrowed to effect the short sale;
 - (b) the Fund will receive cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;
 - (c) the Filer will monitor the short positions of the Fund at least as frequently as daily;
 - (d) the security interest provided by the Fund over any of its assets that is required to enable the Fund to effect a short sale transaction is made in accordance with section 6.8.1 of NI 81-102 and will otherwise be in accordance with industry practice for that type of transaction and relates only to obligations arising under such short sale transactions;
 - (e) the Fund will maintain appropriate internal controls regarding short sales, including written policies and procedures for the conduct of short sales, risk management controls and proper books and records; and
 - (f) the Filer will keep proper books and records of short sales and all of the Fund's

assets deposited with the Borrowing Agent(s) as security.

34. Each Fund's prospectus will contain adequate disclosure of the Fund's short selling activities, including the material terms of the Requested Relief.

35. For the reasons provided above, the Filer has submitted that it would not be prejudicial to the public interest and the protection of investors to grant the Requested Relief.

Decision

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

The decision of the principal regulator is that the Requested Relief is granted, provided that:

- (a) the only securities that a Fund will sell short in an amount that exceeds 50% of the Fund's NAV at the time of sale will be IPU's of IPU Issuers;
- (b) the only securities that a Fund will sell short (other than "government securities", as defined in NI 81-102), resulting in the aggregate market value of the securities of that issuer sold short by the Fund exceeding 10% of the Fund's NAV at the time of sale, will be IPU's of IPU Issuers;
- (c) the relief granted by this decision only applies in respect of a Fund's short sales of IPU's of an IPU Issuer and each Fund will comply with the Single Issuer Short Restriction in respect of its exposure to the securities held by each IPU Issuer the IPU's of which the Fund sells short. For each IPU of an IPU Issuer the Fund sells short, the Fund will be considered to be directly selling short its proportionate share of the securities held by the IPU Issuer, except that it will not be considered to be directly selling short a security or instrument that is a component of, but represents less than 10% of, the securities held by the IPU Issuer;
- (d) a Fund may sell an IPU of an IPU Issuer short or borrow cash only if, immediately after the transaction: (i) the aggregate market value of all securities sold short by the Fund does not exceed 100% of the Fund's NAV; and (ii) the aggregate market value of securities sold short by the Fund combined with the aggregate value of cash borrowing by the Fund does not exceed 100% of the Fund's NAV;

- (e) each Fund will otherwise comply with all of the requirements applicable to alternative mutual funds in subsections 2.6.1 and 2.6.2 of NI 81-102, subject to any relief granted therefrom by the securities regulatory authorities;
- (f) a Fund's aggregate exposure to short selling, cash borrowing and specified derivatives will not exceed the Aggregate Limit;
- (g) each short sale will be made consistent with the Fund's investment objectives and investment strategies; and
- (h) each Fund's prospectus discloses, or will disclose at the time of its next renewal, as applicable, that the Fund is able to sell short IPU's of one or more IPU Issuers in an amount up to 100% of the Fund's NAV at the time of sale, including the material terms of this decision.

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

Application File #: 2023/0445
SEDAR File #: 6028777

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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
Rockshield Acquisition Corp.	April 5, 2023	October 26, 2023

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

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

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		

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	

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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:

iShares Gold Bullion ETF
iShares Silver Bullion ETF
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Oct 27, 2023
NP 11-202 Final Receipt dated Oct 30, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06029649

Issuer Name:

Algonquin Fixed Income 2.0 Fund
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Oct 23, 2023
NP 11-202 Final Receipt dated Oct 24, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06034940

Issuer Name:

Franklin Martin Currie Improving Society Fund
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Oct 27, 2023
NP 11-202 Final Receipt dated Oct 30, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06025124

Issuer Name:

Pictou Mahoney Fortified Core Bond Fund
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Oct 27, 2023
NP 11-202 Final Receipt dated Oct 30, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06029699

Issuer Name:

iProfile Canadian Dividend and Income Equity Private Pool
iProfile Enhanced Monthly Income Portfolio – Canadian
Fixed Income Balanced
iProfile Enhanced Monthly Income Portfolio – Canadian
Neutral Balanced
Principal Regulator – Manitoba

Type and Date:

Final Simplified Prospectus dated Oct 23, 2023
NP 11-202 Final Receipt dated Oct 24, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06025414

Issuer Name:

TD Active Global Income ETF
TD Active Global Real Estate Equity ETF
TD Active U.S. High Yield Bond ETF
TD Canadian Long Term Federal Bond ETF
TD Cash Management ETF
TD Global Technology Innovators Index ETF
TD Income Builder ETF
TD Morningstar ESG Canada Corporate Bond Index ETF
TD Morningstar ESG Canada Equity Index ETF
TD Morningstar ESG International Equity Index ETF
TD Morningstar ESG U.S. Corporate Bond Index ETF
TD Morningstar ESG U.S. Equity Index ETF
TD Q Canadian Dividend ETF
TD Q Global Dividend ETF
TD Q Global Multifactor ETF
TD Q U.S. Small-Mid-Cap Equity ETF
TD U.S. Long Term Treasury Bond ETF
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Oct 27, 2023
NP 11-202 Final Receipt dated Oct 30, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06026554

Issuer Name:

TD FundSmart Managed Aggressive Growth Portfolio
TD FundSmart Managed Balanced Growth Portfolio
TD FundSmart Managed Income & Moderate Growth Portfolio
TD Managed Aggressive Growth ETF Portfolio
TD Managed Aggressive Growth Portfolio
TD Managed Balanced Growth ETF Portfolio
TD Managed Balanced Growth Portfolio
TD Managed Income & Moderate Growth ETF Portfolio
TD Managed Income & Moderate Growth Portfolio
TD Managed Income ETF Portfolio
TD Managed Income Portfolio
TD Managed Index Aggressive Growth Portfolio
TD Managed Index Balanced Growth Portfolio
TD Managed Index Income & Moderate Growth Portfolio
TD Managed Index Income Portfolio
TD Managed Index Maximum Equity Growth Portfolio
TD Managed Maximum Equity Growth ETF Portfolio
TD Managed Maximum Equity Growth Portfolio
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Oct 25, 2023
NP 11-202 Final Receipt dated Oct 27, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06026265

Issuer Name:

Manulife Smart Core Bond ETF
Manulife Smart Corporate Bond ETF
Manulife Smart Defensive Equity ETF
Manulife Smart Dividend ETF
Manulife Smart International Defensive Equity ETF
Manulife Smart International Dividend ETF
Manulife Smart Short-Term Bond ETF
Manulife Smart U.S. Defensive Equity ETF
Manulife Smart U.S. Dividend ETF
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Oct 25, 2023
NP 11-202 Final Receipt dated Oct 26, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06025634

Issuer Name:

Probity Mining 2023-II Short Duration Flow-Through
Limited Partnership - Quebec Class
Principal Regulator – British Columbia

Type and Date:

Final Long Form Prospectus dated Oct 24, 2023
NP 11-202 Final Receipt dated Oct 24, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06024970

Issuer Name:

Probity Mining 2023-II Short Duration Flow-Through
Limited Partnership - British Columbia Class
Principal Regulator – British Columbia

Type and Date:

Final Long Form Prospectus dated Oct 24, 2023
NP 11-202 Final Receipt dated Oct 24, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06024968

Issuer Name:

Probit Mining 2023-II Short Duration Flow-Through
Limited Partnership - National Class
Principal Regulator – British Columbia

Type and Date:

Final Long Form Prospectus dated Oct 24, 2023
NP 11-202 Final Receipt dated Oct 24, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06024969

Issuer Name:

Picton Mahoney Fortified Core Bond Fund
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Oct 27, 2023
NP 11-202 Final Receipt dated Oct 30, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #06029699

Issuer Name:

Guardian Canadian Focused Equity Fund
Guardian International Equity Select Fund
Principal Regulator – Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated
October 24, 2023
NP 11-202 Final Receipt dated Oct 27, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #03509100

Issuer Name:

Goodwood Capital Fund
Principal Regulator – Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated
October 25, 2023
NP 11-202 Final Receipt dated Oct 26, 2023

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Filing #03529283

NON-INVESTMENT FUNDS

Issuer Name:

West Side Square Development Fund
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Oct 26, 2023
NP 11-202 Final Receipt dated Oct 26, 2023

Offering Price and Description:

Minimum offering: US\$25,000,000.00 of Class A Units,
Class E Units, Class F Units and/or Class U Units
Maximum offering: US\$50,000,000.00 of Class A Units,
Class E Units, Class F Units and/or Class U Units
Price per Security: C\$10.00 per Class A Unit, US\$10.00
per Class E Unit, C\$10.00 per Class F Unit, US\$10.00 per
Class U Unit

Filing # 06026002

Issuer Name:

GoldMining Inc.
Principal Regulator – British Columbia

Type and Date:

Preliminary Shelf Prospectus dated Oct 27, 2023
NP 11-202 Preliminary Receipt dated Oct 27, 2023

Offering Price and Description:

\$130,000,000.00 - Common Shares, Preferred Shares,
Warrants, Subscription Receipts, Debt Securities, Units
Filing # 06039707

Issuer Name:

Coelacanth Energy Inc.
Principal Regulator – Alberta

Type and Date:

Preliminary Short Form Prospectus dated Oct 27, 2023
NP 11-202 Preliminary Receipt dated Oct 27, 2023

Offering Price and Description:

\$80,000,000.00
100,000,000 Units
\$0.80 per Unit
Filing # 06039508

Issuer Name:

EvokAI Creative Labs Inc. (formerly "Sebastiani Ventures
Corp.")
Principal Regulator – British Columbia

Type and Date:

Final Shelf Prospectus dated Oct 24, 2023
NP 11-202 Final Receipt dated Oct 25, 2023

Offering Price and Description:

\$125,000,000.00 - Common Shares, Debt Securities,
Subscription Receipts, Warrants, Units
Filing # 06001160

Issuer Name:

Pro Real Estate Investment Trust
Principal Regulator – Québec

Type and Date:

Preliminary Shelf Prospectus dated Oct 26, 2023
NP 11-202 Preliminary Receipt dated Oct 26, 2023

Offering Price and Description:

\$250,000,000.00 - Trust Units, Debt Securities,
Subscription Receipts, Warrants, Units
Filing # 06039032

Issuer Name:

Genesis Trust II
Principal Regulator – Ontario

Type and Date:

Preliminary Shelf Prospectus dated Oct 25, 2023
NP 11-202 Preliminary Receipt dated Oct 26, 2023

Offering Price and Description:

Up to \$7,000,000,000.00 Real Estate Secured Line of
Credit Backed Notes
Filing # 06038967

Issuer Name:

Elemental Altus Royalties Corp.
Principal Regulator – British Columbia

Type and Date:

Final Shelf Prospectus dated Oct 26, 2023
NP 11-202 Final Receipt dated Oct 26, 2023

Offering Price and Description:

US\$200,000,000.00 - Common Shares, Subscription
Receipts, Warrants, Debt Securities, Units
Filing # 06035736

Issuer Name:

Sucro Limited
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Oct 19, 2023
NP 11-202 Final Receipt dated Oct 23, 2023

Offering Price and Description:

C\$15,004,000.00
1,364,000 Subordinate Voting Shares
Filing # 06028066

Issuer Name:

Pure Enerje Sciences Inc.
Principal Regulator – British Columbia

Type and Date:

Preliminary Long Form Prospectus dated Oct 24, 2023
NP 11-202 Preliminary Receipt dated Oct 26, 2023

Offering Price and Description:

74,431 Common Shares Upon Exercise or Deemed
Exercise of 74,431 Outstanding Special Warrants
Filing # 06038298

Issuer Name:

Strathcona Resources Ltd.
Principal Regulator – Alberta

Type and Date:

Preliminary Shelf Prospectus dated Oct 25, 2023
NP 11-202 Preliminary Receipt dated Oct 26, 2023

Offering Price and Description:

\$2,000,000,000.00 - Common Shares, Preferred Shares,
Debt Securities, Subscription Receipts, Warrants, Units,
Share Purchase Contracts, Share Purchase Units
Filing # 06038688

Issuer Name:

Brookfield Asset Management Ltd.
Principal Regulator – Ontario

Type and Date:

Final Shelf Prospectus dated Oct 26, 2023
NP 11-202 Final Receipt dated Oct 26, 2023

Offering Price and Description:

US\$1,000,000,000.00
Class A Limited Voting Shares, Class A Preference
Shares, Debt Securities
Filing # 06001920

Issuer Name:

Hybrid Power Solutions Inc.
Principal Regulator – British Columbia

Type and Date:

Amendment No. 2 dated Oct 18, 2023 to the Amended and
Restated Long Form Prospectus
NP 11-202 Amendment Receipt dated Oct 24, 2023

Offering Price and Description:

\$3,000,000.00 - \$5,000,000.00
Minimum Offering: 7,500,000 Units
Maximum Offering: 12,500,000 Units
Filing # 03520192

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B.10 Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
Change Registration Category	Sprott Asset Management LP	From: Investment Fund Manager, Portfolio Manager To: Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	October 27, 2023
New Registration	PHL Financial Group Ltd.	Exempt Market Dealer	October 30, 2023

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B.11

CIRO, Marketplaces, Clearing Agencies and Trade Repositories

B.11.2 Marketplaces

B.11.2.1 Nasdaq CXC Limited – Introduction of New Functionality for PureStream on CXD – Notice of Approval

NASDAQ CXC LIMITED

NOTICE OF APPROVAL

INTRODUCTION OF NEW FUNCTIONALITY FOR PURESTREAM ON CXD

In accordance with the requirements set out in the Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto, the Ontario Securities Commission (**OSC** or **Commission**) approved amendments to the Nasdaq CXC Limited Trading Rule and Policies (**Trading Rules**) and to Nasdaq CXC Limited's (**Nasdaq Canada**) Form 21-101F1 reflecting changes to how the matching engine processes PureStream orders on Nasdaq's dark trading book, CXD.

Nasdaq Canada's Notice and Request for Comment on the proposed functionality was published on the Commission's website and in the Commission's Bulletin on September 7, 2023 at (2023) 46 OSCB 7323. No comment letters were received.

The new functionality is expected to be introduced before the end of the year. Nasdaq Canada will send a Notice communicating the effective date of this change.

B.11.2.2 Refinitiv Transactions Services Limited – Application for Exemption From Recognition as an Exchange – Notice and Request for Comment

NOTICE AND REQUEST FOR COMMENT

**APPLICATION BY
REFINITIV TRANSACTIONS SERVICES LIMITED
FOR EXEMPTION FROM RECOGNITION AS AN EXCHANGE**

A. Background

Refinitiv Transaction Services Limited (**RTSL**) has applied to the Commission for an exemption from the requirement to be recognized as an exchange pursuant to subsection 21(1) of the Securities Act (Ontario) (OSA).

RTSL is operates a multilateral trading facility as authorized by the United Kingdom's Financial Conduct Authority (**FCA**). RTSL offers trading of: foreign exchange (FX) forwards (swaps), FX forwards (outrights), FX swaps, FX non-deliverable forwards and FX options.

RTSL will enable clients to access its platform to enter transactions. In addition, RTSL intends to provide access to trading on its marketplace to participants located in Ontario and therefore is considered to be carrying on business in Ontario.

As RTSL will be carrying on business in Ontario, it is required to be recognized as an exchange under the OSA or apply for an exemption from this requirement. RTSL has applied for an exemption from the recognition requirements on the basis that it is already subject to regulatory oversight by the FCA.

B. Application and Draft Exemption Order

In the application, RTSL has outlined how it meets the criteria for exemption from recognition. The specific criteria can be found in Appendix 1 to Schedule "A" of the draft exemption order. Subject to comments received, Staff intends to recommend that the Commission grant an exemption order with terms and conditions based on the draft exemption order. The application and draft exemption order are available on our website at www.osc.ca.

C. Comment Process

The Commission is publishing for public comment the RTSL application and the draft exemption order. We are seeking comment on all aspects of the application and draft exemption order.

Please provide your comments in writing, via e-mail, on or before December 4, 2023, to the attention of:

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

The confidentiality of submissions cannot be maintained as the comment letters and a summary of written comments received during the comment period will be published.

Questions on may be referred to:

Mark Delloro
Senior Accountant, Market Regulation
Email: mdelloro@osc.gov.on.ca

Tim Reibetanz
Senior Legal Counsel, Derivatives
Email: treibetanz@osc.gov.on.ca

September 6, 2023

Sent by OSC Portal

Ontario Securities Commission
22 Queen Street West
22nd Floor
Toronto, ON M5H 3S8

Dear Sirs/Mesdames:

RE: Refinitiv Transaction Services Limited (RTSL or the Applicant)

RE: Application for Exemption from the Marketplace Rules and the Exchange Recognition Requirements

We are filing this application (the **Application**) on behalf of the Applicant with the Ontario Securities Commission (the **OSC**) requesting an order:

- a) under Section 15.1 of National Instrument 21-101 *Marketplace Operation* (**NI 21-101**), Section 12.1 of National Instrument 23-101 *Trading Rules* (**NI 23-101**) and Section 10 of National Instrument 23103 *Electronic Trading and Direct Access to Marketplaces* (**NI 23-103**) and, together with NI 21-101 and NI 23-101, the **Marketplace Rules**) exempting the Applicant from the application of all provisions of the Marketplace Rules that apply to a person or company carrying on business as a multilateral trading facility (**MTF**) in Ontario; and
- b) under Section 147 of the *Securities Act* (Ontario) (the **Act**) exempting the Applicant from the requirement to be recognized as an exchange under Section 21(1) of the Act,

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

Based on the foregoing, the Applicant believes that the Requested Relief would not be detrimental to the protection of investors in Ontario and would contribute to the trading of the products provided on the MTF in Ontario being more efficient.

The Applicant is not in default of securities legislation in Ontario nor in its home jurisdiction, the United Kingdom (the **UK**). Furthermore, the Applicant confirms that it has the power to co-operate fully with the OSC and self-regulatory organizations in Ontario, and to provide information and documents with respect to its operations that could be reasonably requested by the OSC.

The Requested Relief sought is not novel and similar exemptions have previously been granted.

Terms defined in National Instrument 14-101 *Definitions* and NI 21-101 have the same meaning if used in this Application, unless otherwise defined. Capitalized terms that appear in this Application but are not defined in the body of this Application have the meanings ascribed thereto in the RTSL MTF Rule Book (the **Rules**).

For convenience, this Application is divided into the following Parts:

Part I Background

Part II Application of Approval Criteria to the MTF

1. Regulation of the MTF
2. Governance
3. Regulation of Products
4. Access
5. Regulation of Participants on the MTF
6. Rulemaking
7. Due Process
8. Clearing and Settlement
9. Systems and Technology
10. Financial Viability
11. Trading Practices
12. Compliance, Surveillance and Enforcement
13. Record Keeping
14. Outsourcing
15. Fees
16. Information Sharing and Oversight Arrangements
17. IOSCO Principles

Part III Submissions

Part IV Other Matters

Part I Background

Background

RTSL is a company incorporated in England and Wales and is an indirect subsidiary of London Stock Exchange Group plc. RTSL has been authorized by the Financial Conduct Authority (the **FCA**) to operate a MTF.

RTSL previously operated the MTF offered to clients by the Refinitiv Group (now referred to as the LSEG Group (**LSEG plc**)) to facilitate trading in foreign exchange derivatives throughout the European Economic Area (**EEA**). Following the UK's vote to leave the European Union in 2016 (known as **Brexit**), Refinitiv established an entity under the name of Financial and Risk Transaction Services Ireland Limited (**FRTSIL**) in the Republic of Ireland to continue to offer the foreign exchange derivatives trading venue to its clients in the EEA. Clients of RTSL were transferred to FRTSIL during 2019.

FRTSIL obtained separate exemption orders from the Ontario Securities Commission, Autorité des marchés financiers, Financial and Consumer Affairs Authority of Saskatchewan, Nova Scotia Securities Commission and Financial and Consumer Services Commission granting relief substantially similar to the Requested Relief in 2019. As a result of these exemption orders, Participants located in Ontario, Quebec, Saskatchewan, Nova Scotia and New Brunswick were and continue to be able to access the MTF operated by FRTSIL.

The UK established a Temporary Permissions Regime as part of Brexit to enable firms based outside of the UK to continue to access the UK market on a short-term basis without requiring UK authorisation. This transitional process will expire at the end of 2023 and full permissions and authorisation will be required after this point for any firm wishing to provide regulated financial activities in the UK.

The LSEG Group has chosen the approach of re-using the previous legal entity of RTSL to operate an MTF within the UK and offer this venue and its trading segment FXall to its UK clients as well as those clients from third countries permissioned to access the UK venue. This approach requires the re-establishment of the operations of the MTF by RTSL. The client experience will be the same as what clients currently have available through FRTSIL.

Clients based outside the EEA will, if that jurisdiction permits, be able to join and trade through the UK-based MTF operated by RTSL in addition to or as an alternative to the EEA-based MTF operated by FRTSIL.

As part of its post-Brexit strategy, the Applicant has submitted this Application for the Requested Relief to allow the Ontario-based clients of FRTSIL to join the UK-based MTF operated by RTSL therefore mirroring the access and trading arrangements that the clients in Ontario currently have with FRTSIL. Ontario-based clients will be able to onboard onto the UK-based MTF operated by RTSL after the Request Relief is obtained. Additionally, onboarding activities with respect to Ontario-based clients may commence prior to the Requested Relief being granted. These activities will consist of the completion of onboarding processes, applications and forms as well as technical testing. The onboarding activities will not involve trading by Ontario-based clients (or clients in any other Canadian provinces). The Applicant also intends to submit applications to certain other securities regulators in Canada requesting relief analogous to the Requested Relief.

Description of the Multilateral Trading Facility

The MTF is currently operated by RTSL. The following types of investments are offered for trading on the MTF: foreign exchange FX forwards (swaps), FX forwards (outrights), FX swaps, FX non-deliverable forwards (**NDFs**) and FX options.

Effective December 1, 2001, the UK Financial Services Authority (**FSA**), a financial regulatory body in the UK, authorized RTSL, under Part 4A of the UK Financial Services and Markets Act 2000 (**FSMA**), to act as the operator of an Alternative Trading System (**ATS**); on November 1, 2007, the authorization was changed to the operator of a MTF when the ATS regime was replaced by the new MiFID regulated activity of *Operating a Multilateral Trading Facility* and this authorization subsequently was transferred to the FSA's successor regulatory body, the Financial Conduct Authority (the **FCA**), also a financial regulatory body in the UK, on April 1, 2013. RTSL was previously authorized by the Bank of England between 1992 and 2001.

On January 3, 2018, the Markets in Financial Instruments Directive (Directive 2014/65/EU of the European Parliament and of the Council) (**MiFID II**) entered into force as implemented in the UK by transposition into national law together with the Markets in Financial Instruments Regulation (Regulation (EU) No 600/2014 of the European Parliament and of the Council) (**MiFIR**) which is directly applicable in the UK, containing the amended regulatory framework for the operator of a MTF.

Following Brexit, to ensure continuity in the performance of investment services and activities, the MTF (FXall and Forwards Matching) was transferred to FRTSIL, a subsidiary of Refinitiv Limited operating in Ireland. FRTSIL was authorised as an investment firm on March 28, 2019 by the Central Bank of Ireland, pursuant to the European Union (Markets in Financial

Instruments) Regulations 2017 (S.I. No. 375 of 2017) (MiFID II Regulations) (a MiFID Firm). FRTSIL is authorised to operate a MTF and has obtained exemptive relief from the Ontario Securities Commission, Autorité des marchés financiers, Financial and Consumer Affairs Authority of Saskatchewan, Nova Scotia Securities Commission and Financial and Consumer Services Commission. Following Brexit, MiFID II was incorporated into UK law under the *EU Withdrawal Act*.

As a consequence of the expiry of the UK Temporary Permissions Regime on December 31, 2023 and following legal advice and discussions with the FCA; RTSL now intends to re-instate its UK MTF for FXall and transfer UK established clients from FRTSIL to RTSL. In addition to operating an MTF, RTSL continues to, by virtue of its permission to “arrange (bring about) deals in investments” and “make arrangements with the view to transact” provide Dealing to UK and rest of world clients. The Forwards Matching venue will remain with FRTSIL which has both an EU license and is in the process of obtaining a UK license operating through a UK branch. As a result, Forwards Matching will not be available on the MTF operated by RTSL.

Ownership and corporate structure

As noted above, the MTF is currently operated by RTSL, a private limited company registered in England and Wales. RTSL has branches in Thailand, a representative office in China, and subsidiaries in Brazil and Malaysia. The MTF for Ontario Participants is operated by RTSL’s head office in London.

Products traded on the MTF

The RTSL MTF is comprised of one trading segment known as FXall RFQ. All trading segments are governed by the Rules applicable to the MTF as a whole, subject to particular jurisdictional requirements. Each trading segment further has its own rules specific to that trading segment. A client who enters into a Participant Agreement in respect of the MTF (a **Participant**) must comply with both the Rules applicable to the MTF as a whole, and the Rules applicable to the specific trading segment to which the Participant is authorized and wishes to access. Trading on the MTF is offered in the Financial Instruments listed in the following table:

Trading Segment	Financial Instruments ¹
FXall RFQ	FX forwards (outrights), FX swaps, FX NDFs and FX options

These Financial Instruments are admitted in various currency pairs.

In its capacity as a provider of the MTF, there are various activities that do not fall within the scope of the Applicant’s operations. With respect to the MTF, the Applicant does not provide: (a) trading in any principal, proprietary or agency capacities; (b) access to third party trading venues; (c) clearing, settlement or payment systems; (d) asset management services; or (e) portfolio services.

Part II Application of Exemption Criteria to the MTF

1 REGULATION OF THE MTF

1.1 Regulation of the MTF – The MTF is regulated in an appropriate manner in another jurisdiction by a foreign regulator (the Foreign Regulator).

The MTF is operated by RTSL. RTSL is authorized and regulated in the UK by the FCA (FCA Reference Number 206017) and holds UK Financial Services and Markets Act 2000 Part IV permission to carry out regulated activities.

RTSL is subject to authorization, exemption, recognition or accreditation by regulatory bodies in a number of other jurisdictions, including:

- Monetary Authority of Singapore (MAS);
- Australian Securities and Investments Commission (ASIC);
- Hong Kong Monetary Authority (HKMA); and
- Swiss Financial Market Supervisory Authority (FINMA).

In addition, RTSL has an exemption order from the U.S. Commodity Futures Trading Commission (**CFTC**).

¹ As defined by MiFID II.

1.2 Authority of the Foreign Regulator – The Foreign Regulator has the appropriate authority and procedures for oversight of the MTF. This includes regular, periodic oversight reviews of the MTF by the Foreign Regulator.**Scope of authority**

The FCA has three specific, and equal, operational objectives set by the UK's Parliament. These are to: secure an appropriate degree of protection for consumers; protect and enhance the integrity of the UK financial system; and promote effective competition in the interests of consumers. In practice, this means that the FCA wants to make markets work effectively to deliver benefits to firms and consumers. The FCA has a statutory objective to promote effective competition in the interests of its consumers. It also has competition powers under the Enterprise Act 2002 and the Competition Act 1998 relating to the financial services sector that are exercised concurrently with the Competition and Markets Authority.

The FCA is the conduct regulator for 50,000 financial services firms and financial markets in the UK and the prudential regulator for over 48,000 of those firms. The firms range from global investment banks to small businesses. It operates a risk-based approach concentrating on the significant risks and accepting that some failure neither can, nor should, be avoided. Potential risks are prioritized, using an impact and probability analysis, and the FCA will then decide on an appropriate regulatory response – in other words, what approach it should take and what resources it will allocate to mitigating risk. The FCA will adopt a pre-emptive approach which will be based on making forward-looking judgments about firms' business models, product strategy and how they run their businesses, to enable the FCA to identify and intervene earlier to prevent problems from crystallising. The FCA's approach to supervising firms will contribute to its delivery against its objective to protect and enhance the integrity of the UK financial system. The overall approach in the FCA supervision model is based on the following principles: (1) integrity (a firm must conduct its business with integrity); (2) skill, care and diligence (a firm must conduct its business with due skill, care and diligence); (3) management and control (a firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems); (4) financial prudence (a firm must maintain adequate financial resources); (5) market conduct (a firm must observe proper standards of market conduct); (6) customers' interests (a firm must pay due regard to the interests of its customers and treat them fairly); (7) communication with clients (a firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading); (8) conflict of interest (a firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client); (9) customers' relationship of trust (a firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment); (10) clients' assets (a firm must arrange adequate protection for clients' assets when it is responsible for them); and (11) relations with regulators (a firm must deal with its regulators in an open and cooperative way, and must disclose to the FCA appropriately anything relating to the firm of which that regulator would reasonably expect notice).

The FCA supervision model risk assessment process applies to all firms, although the detail required may vary from firm to firm. For example, some firms may experience a highly intensive level of contact although others may only be contacted once every four years. Firms judged as high impact are likely to require a more detailed assessment. A peer review process within the FCA assists consistency and will be focused on firms and sectors of the industry that could cause, or are causing, consumers harm or threaten market integrity. The supervision model is based on three pillars: (1) the Firm Systematic Framework (preventative work through structured conduct assessment of firms); (2) event-driven work (dealing with problems that are emerging or have crystallised, and securing customer redress or other remedial work (e.g. to secure the integrity of the market) where necessary); and (3) issues and products (thematic work on sectors of the market or products within a sector that are putting or may put consumers at risk). In order to create incentives for firms to raise standards and to maximise the success of the FCA's supervisory arrangements, it is important that a firm understands the FCA's evaluation of its risk so that it can take appropriate action.

RTSL is considered a C3 firm and accordingly the audit schedule is based upon that classification and the FCA's thematic and regular audit program. Additionally, RTSL has responded to thematic questionnaires, MIFID updates and regulator meetings as per the request of the FCA, again as part of the FCA supervision program. C3 firms will be classed as 'flexible portfolio' which means they will be supervised by a team of sector specialists and do not have a dedicated supervisor. The FCA will examine C3s' business models, but will be looking more at firms which are outliers compared to their peers. The detailed assessment for C3s will be a focused review of their business, how it is run and how it is controlled. The assessment will be followed by a feedback letter setting out key findings and actions to be undertaken by the firm. The firm-specific assessment for C3 firms will be on a four year cycle; however, the FCA will conduct interim reviews of firms where information indicates that the risk they represent is significantly changing.

Authorizing statutes

The FCA was created by the Financial Services Act 2012 which amended the FSMA, the primary piece of legislation from which it derives its powers and functions. Rules and guidance made in the FCA Handbook for operators of a MTF are made pursuant to powers granted under the FSMA.

His Majesty's Treasury has the power to enact secondary legislation under the FSMA, which affects the way the FCA operates. The most important piece of secondary legislation is the Financial Services and Markets Act (Regulated Activities) Order 2001

(RAO). The RAO sets out the specific activities for which firms must receive FCA permission (known as a Part IV permission) to carry on investment business, or where they can avail themselves of an exemption or exclusion, as the case may be.

The FCA was the designated competent authority under the European single market directives for banking, insurance, investment business, payment services, collective investment schemes and other financial services, including insurance intermediation when the UK was a member of the European Union. It was also the competent authority under a host of other EU directives, including the Market Abuse and Prospectus Directives. After the UK's withdrawal from the European Union, European directives and regulations that applied were incorporated into UK regulation.

Source of its authority to supervise the MTF

Operating a MTF is a regulated activity under section 25D RAO. RTSL is authorized to operate the MTF.

Rules and policy statements

The FCA Handbook is the primary source of rules and policy statements issued by the FCA with respect to the authorisation and continuing oversight of markets, electronic trading systems and clearing organizations. A copy of the full FCA Handbook is available at <https://www.handbook.fca.org.uk/handbook/>. The key rules and policy statements relevant to the MTF are set out in the Market Conduct Chapter of the FCA Handbook (**MAR 5**). MAR 5 is implementing the provisions of MiFID II relating to firms operating multilateral trading facilities, specifically articles 18, 19, 31, 32, 33, 48, 49 and 50 of MiFID II. Further rules are contained in MiFIR. In addition further guidance is contained in the European Securities and Markets Authority's "Questions and Answers on MiFID II and MiFIR market structures topics".

Financial protections afforded to customer funds

RTSL does not hold any client money.

2 GOVERNANCE

2.1 Governance – The governance structure and governance arrangements of the MTF ensure:

(a) Effective oversight of the MTF,

RTSL has adopted and impartially enforces the Rules, a comprehensive set of rules for the operation and conduct of the MTF available at my.refinitiv.com, which are available to all clients of RTSL and LSEG FX platforms. The Rules, together with any supplementary annexes, UK regulatory requirements and law, govern the operation of and Participants' access to the MTF.

The Rules set out the rules that Participants must comply with in relation to their operations and conduct, including, but not limited to: (1) admission criteria; (2) Participant access and responsibility; (3) trading and business conduct rules; (4) disciplinary rules; and (5) compliance with the regulatory environment.

Changes to the Rulebook have to be approved by a quorum of the board of directors for RTSL, but changes need not be approved by the FCA. Any such proposed changes must remain in compliance with all legal and regulatory obligations. As standard supervisory engagement between RTSL and the FCA, the FCA may request a copy of the current version of the MTF Rule Book at any time and seek from RTSL any information, explanations, etc. the FCA deems necessary.

The Rulebook must be reviewed by the board of directors at least annually to ensure it remains appropriate and it continues to meet regulatory requirements. The policies and procedures for updating the Rulebook are described more fully in the LSEG FX Rule Book Review Procedure.

RTSL is governed by a Board of Directors (the **Board**). RTSL has seven Executive Directors on its Board, all of whom are UK resident:

- Chair of the Board
- RTSL Board Oversight: Finance
- RTSL Board oversight: Regulation
- RTSL Board Oversight: Strategy and CEO matters, and CEO
- RTSL Board Oversight: D&A Proposition
- RTSL Board Oversight: Capital Markets Propositions
- RTSL Board Oversight: Technology

Directors are appointed and subject to the approval of the FCA under the Senior Managers and Certification regime.

RTSL uses LSEG FX's Complaints Oversight Committee. In the case of the Complaints Oversight Committee, a number of business lines are represented to ensure that RTSL clients will be represented as necessary.

However, the Board does not perform the functions of an audit committee. While RTSL takes appropriate measures to ensure robust financial reporting, the use of an audit committee would be unsuited to the nature and structure of its business, given that many resources and functions are shared with or performed by other members of the LSEG Group.

RTSL's financial reporting is undertaken by RTSL's CFO, who is a Finance Director within the LSEG Group.

RTSL also undertakes internal audits. RTSL's primary approach to auditing its control environment is to use the independent internal audit services of LSEG plc Internal Audit (IA). The IA personnel who provide internal audit services are employed by LSEG plc.

To ensure adequate financial oversight by the Board, the Board maintains oversight of the internal audit arrangements, including monitoring the implementation of an internal audit plan. The Board may request input from IA on matters related to risk, internal controls and compliance with applicable rules. In executing the audit plan, IA specifically examines and evaluates the adequacy and effectiveness of RTSL's systems, internal control mechanisms and arrangements in accordance with the MiFID framework. IA auditors performing the reviews on behalf of RTSL have unrestricted access to all individuals, information and data.

(b) MTF's business and regulatory decisions are in keeping with its public interest mandate,

LSEG recognizes that there are many choices for trading the types of instruments available through the MTF. A failure to adopt and police appropriate rules, and make business and regulatory decisions in line with LSEG's public interest mandate, could seriously compromise LSEG's competitive position.

Accordingly, the MTF imposes strong and effective controls to ensure that markets remain fair and orderly for all Participants. LSEG has created governance structures to ensure that the MTF is overseen in a manner that accords with public expectations for a platform of this size and significance. These governance structures include the Rules, the terms of reference, and the various policies and procedures referred to throughout the Application. The broad range of expertise on the Board is also intended to ensure the representation of the interests of a broad cross-section of Participants and the wider public.

To this end, RTSL has internal procedures intended to be used by the LSEG business (and uses LSEG plc policies where appropriate), Technology, Operations, Compliance and Support Staff performing operational activities specified in MiFID II Article 48 and RTS 7 as included within UK regulation (together the **Regulations**) on behalf of such Applicant in connection with the MTF.

Under the Regulations, the Applicant is required to have in place effective systems, procedures, and arrangements to support consistent access for the Participants. Controls required to be in place must prevent disorderly markets, allow for peak volume, stress testing, and business continuity arrangements, and must have associated procedures to support the need for implementation. The Applicant has its own managed compliance risk monitoring program and dedicated surveillance platform.

Equally, the operation of the MTF also serves the broader public interest in liquid and efficient capital markets. The market that LSEG provides allows quick and efficient price discovery and risk transfer for financial and non-financial institutions alike, fulfilling a critical economic role in allowing corporate firms and asset managers to efficiently and effectively hedge risk and fund their treasury activities. This allows those firms to reduce their cost of capital and thus helps to drive economic growth.

In addition, LSEG was an early adopter of the FX Global Code, helping to ensure that all Participants are treated fairly. All business and regulatory decisions are taken with the view to treating Participants fairly and ensuring fair and orderly markets in line with regulatory obligations.

(c) fair, meaningful and diverse representation on the board of directors and any committees of the board of directors, including:

- (i) appropriate representation of independent directors, and**
- (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the MTF,**

While RTSL's Board does not contain a representative of Participants or any independent non-executive directors, the representation of a broad range of functions from within LSEG's business ensures that the interests of different persons and companies using the MTF are balanced and that feedback from various constituencies is passed on to and considered by the Board.

(d) the MTF has policies and procedures to appropriately identify and manage conflicts of interest, and

RTSL is required by its regulators, including the FCA, to identify, prevent and manage conflicts of interest fairly, both internally (including within the wider LSEG Group) and between itself and its clients/Participants or between one client/Participant and another. RTSL is required to:

- identify conflicts of interest;
- prevent conflicts of interest;
- manage conflicts of interest;
- establish and maintain a comprehensive conflicts policy;
- disclose conflicts of interest where appropriate; and
- keep records of its conflicts of interest.

The Board is accountable for putting a conflicts management framework in place and implementing systems, controls and procedures to identify, escalate and manage conflicts of interest. In practice, the Board delegates responsibility for implementing the management of the conflicts framework to Capital Markets Compliance and LSEG's Central Compliance team, who escalate any conflicts that cannot be resolved to the Board. Capital Markets Compliance also provide the Board with written reports on conflicts of interests identified and managed, prevented or mitigated on a frequent basis, and at least annually.

RTSL operates within the LSEG plc Conflicts of Interest Framework and with respect to the MTF that contains arrangements to prevent actual or potential conflicts of interest, a copy of which is available to Participants by e-mail upon request. Conflicts of interest under LSEG's policy can be defined as any situation in which a director of RTSL or any of LSEG's employees, consultants, staff, agents or appointed representatives acting on behalf of RTSL exploit their professional or official capacity in some way for personal or corporate benefit, or in such a way as to give rise to a material risk of damage to the interests of a client/Participant of RTSL. If a conflict of interest arises where the arrangements are considered not sufficient to protect Participants' best interests, RTSL may, as a last resort, make a disclosure to relevant Participants of the nature of the conflict.

Part 9 of the RTSL terms of reference specifically addresses Conflicts of Interest for directors and committee members and require that each such person inform the Board of any potential or actual conflict of interest he or she may have with RTSL.

(e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the MTF.**Directors**

See Section 2.2 of this Application for information regarding the qualification of directors. None of the directors of RTSL, and none of the executive officers of RTSL, are remunerated for their Board roles.

The Companies Act 2006 s. 232 includes a general prohibition against indemnities of "any director" and makes void any provision which indemnifies "such an director" against any liability in respect of any negligence, default, breach of trust or breach of duty of which he or she may be guilty in relation to RTSL, except as permitted by the following exemptions below within the Companies Act 2006: (a) section 233 (provision of insurance); (b) section 234 (qualifying third party indemnity provision); or (c) section 235 (qualifying pension scheme indemnity provision).

Notwithstanding the general prohibition, the Companies Act 2006 permits a company to take out directors and officers liability insurance and RTSL is covered under the LSEG Group's directors and officers liability insurance policy.

Officers & Employees

RTSL itself does not employ any staff. RTSL operates by outsourcing operations to other LSEG Group companies. All outsourcing is subject to the policy described in Section 14.

Key functions, including compliance, risk management, sales, onboarding, outsourcing oversight, monitoring and surveillance, product and project management and operations are all managed by a team of individuals who are based full time in RTSL's head office in London. These functions are supported by LSEG personnel who carry out duties for RTSL, pursuant to arrangements put in place by RTSL and other LSEG Group entities. Ultimately, the Board oversees this arrangement to ensure activities are carried out to optimal levels.

2.2 Fitness – The MTF has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

As a UK regulated firm, RTSL must ensure that any Board candidate is approved by the FCA as a person in a Senior Managers Function role before such candidate officially starts to perform their function. RTSL conducts appropriate due diligence checks as per the FCA's Fitness and Propriety requirements before an application is submitted to the FCA seeking approval for the Board candidate.

In addition, RTSL has conducted and will conduct its own internal due diligence process with each identified director/officer including external screening where necessary to meet the requirements of the UK Senior Managers and Certification Regime.

The RTSL terms of reference sets out the Board's responsibilities. These include the directors' statutory duties under the Companies Act 2006, which include the duty to:

- act honestly and responsibly;
- act in good faith in the interests of RTSL;
- act in accordance with RTSL's constitution/use powers lawfully;
- not use the company's property for own benefit;
- not restrict his/her power to exercise independent judgement;
- exercise care, skill and diligence;
- avoid unauthorized conflicts of interest; and
- have regard to interests of members and employees.

3 REGULATION OF PRODUCTS

3.1 Review and Approval of Products – The products traded on the MTF and any changes thereto are reviewed by the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

The currency instruments traded on the MTF are made public on the LSEG website, and any changes, suspensions and removals thereto are submitted to the FCA.

RTSL may only provide investment services in relation to instruments for which it is authorized by the FCA, namely "Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, emission allowances or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash."

If RTSL sought to provide investment services for additional instruments, RTSL would need to seek the appropriate authorization from the FCA. In the event that RTSL sought to add additional financial or FX instruments then a regulatory approval from the FCA would be sought. In this case, Capital Markets Compliance would work with internal stakeholders to seek the required approvals. Seeking such an approval would require Board approval. Prior to Board approval a number of steps would be taken. The RTSL Head of Product Management would analyze whether any amendment to the Rules is required and would work collaboratively with the wider group legal function whose advice and review will be sought as needed. The Board would also be engaged in the process.

LSEG FX is responsive to customer feedback, and therefore the desire for a new instrument could be initiated by a customer. However, it is more likely that this would occur because RTSL had decided to expand the instrument list.

While the FCA's approval is not required to change, suspend or remove currency instruments traded through the MTF, RTSL will act in accordance with the procedures outlined in the Rules with respect to such actions. The FCA is aware of the content of the Rules and the FCA's approval of them is required for RTSL to be licenced. For instance, the Rules require that the instrument lists and any changes to such lists be published on the LSEG FX MTF Website. Additionally, the Rules provide for a number of circumstances under which the MTF may suspend trading in certain instruments, including to preserve market integrity or if directed by the FCA or a Competent Authority.

RTSL may, for best practice and transparency, advise the FCA of any such suspensions, removals, and the like. In general, whether the FCA is advised will depend on the materiality of the change.

With respect to determining whether a product is susceptible to manipulation in accordance with IOSCO Principles 17.1.2(c), LSEG FX has a robust market surveillance programme operated through the LSEG Market Supervision Team designed to detect and deter manipulation and other unfair trading practices undertaken on the trading platform. LSEG FX uses a proprietary system known as “Medusa” (an automated alert system and case management tool used to monitor the MTF for Market Abuse) to monitor platform activities which may have the characteristics of being abusive, manipulative or disruptive. Alerts are designed to detect breaches relating to Market Abuse offences: insider dealing, unlawful disclosure, and market manipulation. Daily alert monitoring is conducted by the Compliance teams located in London, Dublin and New York.

The FCA has never required RTSL to remove any financial instrument authorizations for failing to comply with FCA Principles for Business and/or MiFID regulations.

3.2 Product Specifications - The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

Trading on the RTSL MTF is offered in: FX forwards (outrights), FX swaps, FX NDFs, FX Options via the FXall RFQ trading segment.

FXall RFQ operates on a request for quote (**RFQ**) basis where a liquidity taker (typically a buy-side firm) may submit an RFQ to their liquidity provider (typically a bank) with whom they have an existing relationship. FXall is a “dealer to customer” market where dealers may receive and execute their clients’ orders on the MTF. Buy-side firms using the platform can include asset managers, pension administrators and large, sophisticated corporate groups managing their FX treasury activities.

FX forwards (swaps) and FX swaps are essentially the same thing, where the parties purchase two contingent buy and sell forward legs in the same transaction. An FX forward (outright) is a single leg forward transaction to either buy or sell a certain currency at a pre-arranged date in the future.

Financial Instruments are admitted in various currency pairs or FX Instruments; the current list is available in the documentation maintained on the MTF Website.

The term FX Instrument is used to denote a specific tenor and currency pair within a Financial Instrument, and the admission or removal of a Financial Instrument or an FX Instrument is at the discretion of LSEG FX. The instrument lists and any changes to such lists are published on the MTF website.

The terms and conditions of trading these products are in conformity with the usual commercial customs and practices for trading.

For NDFs, the usual commercial customs and practices include:

- Fixing date;
- Settlement procedure;
- Quoting Convention and Trading Increment;
- Minimum Size;
- Forward Rate; and
- Trading Hours.

For FX Options, the usual commercial customs and practices include:

- Option Style - European only;
- Option Type (put or call); and
- Expiration Date and Time.

Conformity to usual commercial customs and practice is also evidenced by the fact that LSEG FX is one of the world’s leading providers of trading platforms in a highly competitive industry. Participants expect that the instruments offered by and through LSEG FX’s platforms are traded on the terms that are customary for the particular instrument in question.

RTSL also has robust procedures in place to ensure that client feedback is captured and reflected, including any feedback arising from Participant concerns that the terms and conditions are not in conformity with the usual customs and practices for trading in the products offered through the MTF.

RTSL's Product Management team is responsible for overseeing the design of enhancements and changes to the system that are required as a result of either regulatory change requests by the Head of Capital Markets Compliance (or his or her delegate) or client changes requested by the Heads of Sales and Relationship Management (driven by client feedback).

In addition, RTSL was an early adopter of the FX Global Code. This set of global principles of good practice in the foreign exchange market was developed to provide a common set of guidelines to promote the integrity and effective functioning of the wholesale foreign exchange market. It is intended to promote a robust, fair, liquid, open, and appropriately transparent market in which a diverse set of market participants, supported by resilient infrastructure, are able to confidently and effectively transact at competitive prices that reflect available market information and in a manner that conforms to acceptable standards of behaviour.

Lastly, the Rules are designed to ensure MiFID II compliance and compliance with the rules of the FCA. In doing so, LSEG FX seeks to ensure that the rules that apply to trading on the MTF are aligned with Participants' commercial expectations of a robust, well-regulated trading environment in conformity with the MiFID rules.

3.3 Risks Associated with Trading Products – The MTF maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the MTF, including, but not limited to, margin requirements, intra-day margin calls, daily trading limits, price limits, position limits, and internal controls.

The Rules requires all Participants to implement their own pre- and post-trade controls consistent with the regulatory requirements of MiFID II. The Rules also state that as a minimum, Participants must apply the following pre-trade controls on all Order entry for all FX Instruments in real-time as follows:

- a) price collars, which automatically block or cancel Orders that do not meet set price parameters differentiating between Financial Instruments, both on an Order-by-order basis and over a specified period of time; and
- b) maximum Order Sizes, which prevent Orders with an uncommonly larger Order size from being submitted into the system.

As per the Rules, all Participants are required to implement their own pre- and post-trade controls consistent with the regulatory requirements of MiFID II. Pre-trade controls are required to be notified to the MTF during the pre-onboarding process. Compliance with this requirement is checked at onboarding.

LSEG FX takes a risk-based approach to auditing pre-trade and post-trade controls among Participants or applicants for access. Accordingly, while all applicants for access are required to meet the eligibility criteria, at onboarding only non-UK authorized Participants must provide documentation with respect to pre-trade and post-trade controls. This documentation must demonstrate evidence of the control environment implemented to meet pre-trade price collar controls, maximum volume and value order size controls, and the obligation to continuously operate post-trade monitoring controls to identify disorderly markets and erroneous trades.

In addition, the Rules require that Participants agree to provide the MTF with all information it reasonably requests in order to satisfy the requirements of applicable law or perform its obligations under the Rules or as LSEG FX may reasonably require. Accordingly, while the MTF does not conduct routine audits of Participants' pre-trade and post-trade controls, it may request information from Participants with respect to such controls in the event there are concerns about the adequacy of a Participant's controls.

The Rules state that Participants must implement and continuously operate post-trade monitoring consistent with their own regulatory requirements in order to monitor for market abuse, poor market conduct, disorderly markets and unethical trading practices (together **Market Abuse**) and to prevent disorderly markets. In addition, Participants must monitor their Transactions for Erroneous Trades and all amendments to erroneous Transactions executed on the MTF must be agreed with the counterparty and reported to the Applicant.

The MTF does not impose daily trading limits or position limits. While these requirements exist in MiFID for MTF operators, they are restricted to certain commodity derivatives and not to the FX derivatives admitted to the MTF.

The MTF has its own pre-trade controls in place that check the price and the order size and prevent the order or RFQ from being executed if the price is deemed off-market or the order size is above a certain threshold. In addition, the MTF can also impose order throttling controls if necessary.

The Rules state that in order to prevent disorderly trading, the Applicant has implemented Trading Activity Controls (**TACs**) in relation to maximum Order size and Order price tolerance checks. Once triggered, these controls will prevent Orders from being

executed. TACs are not applied to Options Offers-To-Deal (**OTD**) on the FXall Trading Segment. See the MTF Supplementary Annex for further information on the TACs.

RTSL can halt trading in an instrument on its own volition in situations that do not constitute emergencies (e.g. an unexplained price movement).

RTSL is responsible for systems and controls for managing trading halts, the suspension of financial instruments, pre-trade controls including price and order size checks at order entry, and order throttling.

The CEO communicates with the FCA regarding suspensions and removals and trading halts, engaging with the Compliance Officer. The Board also further empowers the Compliance Officer to communicate directly with the FCA on such matters.

4 ACCESS

4.1 Fair Access

- (a) The MTF has established appropriate written standards for access to its services including requirements to ensure:**
- (i) Participants are appropriately registered as applicable under applicable Ontario securities laws or commodity futures laws, or exempted from these requirements,**
 - (ii) The competence, integrity and authority of systems users, and**
 - (iii) Systems users are adequately supervised.**

RTSL will not provide direct access to a participant in Ontario (an **Ontario Participant**) unless the Ontario Participant is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as an “eligible counterparty” (either “per se” or “elective”), as defined by Article 30(2) of the European Union Directive 2014/65 as incorporated into UK regulation.

For each Ontario Participant provided direct access to its MTF, as part of its application documentation or continued access to the MTF, the Applicant will require the Ontario Participant to represent that it is appropriately registered as applicable under Ontario securities laws, or is exempt from or not subject to those requirements. RTSL will reasonably rely on a written representation from the Ontario Participant that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements. RTSL will notify each Ontario Participant that this representation is deemed to be repeated each time it enters an order, request for quote or response to a request for quote or otherwise uses the Applicant’s MTF.

RTSL will require that Ontario Participants notify the Applicant if their registration under Ontario securities laws has been revoked, suspended, or amended or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario Participant and subject to applicable laws, the Applicant will promptly restrict the Ontario Participant’s access to the MTF if the Ontario Participant is no longer appropriately registered or exempt from those requirements.

RTSL will make available to Ontario Participants appropriate training for each person who has access to trade on the Applicant’s facilities.

Admission to the MTF is subject to LSEG FX due diligence checks on Participants, the Participant’s compliance with the Eligibility and Operational Criteria set out in the Rules, and the Participant’s execution of the Participant Agreement (including the commitment to abide by the Rules).

Part of the Eligibility Criteria is meeting the criteria of an Eligible Counterparty, either “per se” or “elective” as defined by Article 30(2) of the European Union Directive 2014/65 and as incorporated into UK regulation. All Participants are required to notify the Applicant immediately if they cease to meet the criteria of an Eligible Counterparty.

The other Eligibility Criteria are:

- Participants must act with honesty and integrity at all times, and must be of sufficiently good repute.
- Participants must ensure their users have a sufficient level of trading ability, skill, competence and experience to conduct activities on the MTF.
- In particular, as a minimum, Participants must ensure their users are sufficiently trained in the application of the Rules, relevant Market Abuse regulations, e.g. Regulation (EU) No 596/2014 of the European Parliament (as incorporated into UK law) and of the Council on market abuse (market abuse regulations), and the FX Global Code. Participants may be asked to provide evidence to confirm that their users have completed this training.

- Participants must be of adequate financial soundness² during both the application process and during the term of the Participant Agreement.
- Participants must ensure that they have sufficient resources³ for the role they are to perform in meeting the operational requirements of using the MTF and for guaranteeing settlement of transactions.
- Participants must, where applicable, have adequate organizational arrangements commensurate with meeting their own regulatory obligations.
- Participants must have in place adequate systems and controls to ensure their on-going compliance with the Rules and management of their trading activities.
- Participants wishing to access the MTF via the LSEG API must have the technical ability to install and use the API to access the MTF.
- Participants must ensure they meet any local regulatory requirements with respect to trading financial instruments on the MTF, including ensuring that their users hold the correct regulatory approvals where relevant.

The eligibility criteria are designed to, among other things, help ensure that Participants have the competence, integrity and authority to trade in a manner that other Participants expect of counterparties on a platform of the size, complexity and importance of the MTF.

The eligibility criteria do not require yearly renewal or sign-off. However, under Self-Assessment (Article 48, MiFID II Directive; Commission Delegated Regulation 2017/584) included within UK law, RTSL is required to check a sample of Participants for eligibility on an annual basis.

Operational Criteria include (i) conformance testing using the MTF testing facilities to ensure that the functioning of their trading systems, algorithms and trading strategies properly communicate and interact with, and are in compliance with the MTF's conditions and (ii) providing requested information in regards to, among other matters: pre-trade controls on price, Volume and value of Orders and OTDs, and usage of the system; post-trade controls on trading activity; qualifications required of staff in key positions (i.e. Users); and Participant policy on the use of the kill switch functionality.

Participants must also supply any information requested by the Applicant to enable monitoring of responsibilities with respect to the Eligibility and Operational Criteria.

RTSL utilizes a surveillance system, known as "Medusa" and processes designed to detect patterns of behaviour by platform participants that may indicate Market Abuse in general.

(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

RTSL has developed transparent and non-discriminatory rules based on objective criteria that govern access to the MTF. These are published in the Rules with additional information set out in the MTF Supplementary Annex. These rules apply equally to applicants for participation and are made clear to all applicants for access. Any decision to limit or deny access is subject to the general disciplinary process and appeal process outlined in Section 7 below. See 4.1(a) for the Eligibility and Operational Criteria that all Participants must meet.

(c) The MTF does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.

There is no unreasonable prohibition, condition or limitation on access by a person or company to services offered on the MTF. To the extent access is prohibited, conditioned, or limited, it is to ensure the stability and integrity of the MTF.

Applicants for access to the MTF have the right to appeal a denial of access or a grant of conditional or limited access. The process for appealing a denial of access or a grant of conditional or limited access are outlined in Section 7 below, and are the same as for appeals of disciplinary decisions with respect to the MTF generally.

Apart from any initial decisions with respect to the granting of access, the MTF may take actions to restrict or limit the access of a Participant once granted if that Participant's conduct on the MTF constitutes a breach of the Rules or poses risks to the functioning

² With respect to the meaning of "adequate financial soundness" and how it is assessed, FXall RFQ is based on established relationships set by the counterparties. If there is no available credit then the bank will not price.

³ The admission criteria are designed to ensure that the MTF admits well-resourced Participants of the sort who are fit to participate in a trading platform of the size and scope of the MTF. Once Participants are admitted, LSEG FX entrusts Participants with ensuring they have sufficient resources to trade, meet their reporting obligations, and comply with the Rules. While LSEG FX does not actively monitor the resources of Participants, it may investigate in the event there is a breach of the Rules or market surveillance raises concerns about the adequacy of a Participant's resources.

of the MTF or other Participant. In the interests of maintaining a fair and orderly market, the LSEG Disciplinary Committee may impose any of the following sanctions with respect to any breaches of the Rules at its discretion: verbal warning, written warning, temporary suspension or termination of access to the MTF.

In addition, a Participant's access to the MTF may be suspended or terminated if: the Participant's API is responsible for impacting the normal operation, performance, or quality of the MTF, in any respect; there is unauthorized use of the market data feed; there is unauthorized access to components within the distribution network; or Participants do not provide the required information to enable RTSL to perform ongoing due diligence.

(d) The MTF does not

- a. permit unreasonable discrimination among participants, or**
- b. impose any burden on competition that is not reasonably necessary and appropriate.**

Unreasonable discrimination among Participants is not permitted on the MTF. FXall RFQ permits Participants to interact and trade with any other Participant.

The Rules are designed to avoid unreasonable restraints of trade or the imposition of any material anticompetitive burden on trading, as will the specification for each contract approved for trading on the MTF. In particular, access to the MTF does not require the acquisition of any equity interest and is available to a broad range and potentially unlimited number of Participants on a fair, equitable and timely basis.

With regards to MiFID II, although there is no specific restraint of trade provision, one of the core planks of MiFID II's drive towards transparency and greater choice is its open access regime. This regime obliges trading venues and clearing houses to allow non-discriminatory access to their services, meaning traders can trade a future on one exchange and clear it at a central counterparty owned by a completely separate group.

However, through the FCA's statutory objectives it is responsible for ensuring financial markets operate well in terms of consumer protection, integrity and competition. Through its Administrative Sanctions regime (i.e. enforcement action) detailed in the FCA Handbook, the FCA has a wide range of powers and tools to take action against regulated firms and individuals in those firms, where behaviour falls short of the FCA's expected standards of behaviour, including where anti-competitive practices occur.

(e) The MTF keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

Records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access, are kept for a period of seven years.

5 REGULATION OF PARTICIPANTS ON THE MTF

Regulation – The MTF has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of the MTF's requirements.

5.1 Members and other participants are required to demonstrate their compliance with these requirements

Working in close conjunction with Competent Authorities, LSEG maintains the authority, resources, capabilities and processes to regulate the MTF and ensure a fair and orderly marketplace. The MTF does not employ a regulation services provider. As part of the wider LSEG Group, the MTF is able to leverage the scale and resources of the wider LSEG Group to help perform their regulatory function, including group-wide resources with respect to compliance, information technology, and knowledge of market practices.

By executing a Participant Agreement, each Participant agrees to abide by the Rules. The Rules set requirements governing, among other matters: Participant Access and Responsibility, Trading Market, Fair and Orderly Markets, Conduct and Integrity, Investigations, Sanction and Appeals, and Contractual Obligations.

Participants are required as a condition of continued access to comply with the Rules. In the first instance, they are required to keep information accurate and up-to-date by providing information through the MTF.

Further, the Rules require that all Participants comply with both the Rules applicable to the MTF as a whole, and the rules applicable to the specific trading segment the Participant is authorized to and wishes to access.

Failure to adhere to the Rules may result in disciplinary action being taken. However, the MTF's procedures allow Participants to be heard and make submissions before being subjected to any final disciplinary measures. Participants may appeal against the

outcome of a meeting of the Disciplinary Committee on grounds that: (i) the sanction imposed is unreasonable; (ii) not all relevant evidence presented to the Disciplinary Committee was appropriately considered; or (iii) the Disciplinary Committee misdirected itself or did not follow its own procedures correctly.

For a description of the disciplinary process in detail, please see Section 7 of this Application.

6 RULEMAKING

6.1 Purpose of Rules

- (a) **The MTF has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.**

RTSL maintains a comprehensive set of rules and policies designed to govern the operation of the MTF. The Rules sets out obligations of Participants, including trading rules, fair and orderly markets and conduct and integrity. The Rules do not impose an unreasonable, unnecessary or inappropriate burden on competition.

RTSL is not required to provide proposed changes to the Rules to the FCA for approval. However, any such proposed changes must remain in compliance with all legal and regulatory obligations. As part of standard supervisory engagement between RTSL and the FCA, the FCA may request a copy of the current version of the Rules at any time and seek from RTSL any information or explanations the FCA deems necessary. RTSL further agrees to meet any additional notification requirements regarding rule changes for those regulatory authorities in the other jurisdictions where RTSL has a licence.

- (b) **The Rules are not contrary to the public interest and are designed to**

- (i) **ensure compliance with applicable legislation,**

The Rules are designed to ensure compliance with applicable legislation.

The Rules require that Participants must comply with the Rules and with all applicable laws, regulations, codes of conduct and market practice to which Participants are bound in relation to their MTF activity, including all applicable laws and regulations relating to money laundering, proceeds of crime and any other financial crime legislation.

Further, where an Applicant is of the view that by continuing to provide access to the MTF to a Participant it would be at risk of becoming involved in an arrangement which it knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person, it may terminate access to the MTF, either temporarily or permanently, without prior notice and with immediate effect.

The Applicant monitors Participants' activity on the MTF to identify breaches of compliance with the Rules, including identifying disorderly trading conditions or abusive conduct. RTSL will comply with its regulatory obligations to report suspicious activity to the relevant Competent Authority or Law Enforcement Agency.

- (ii) **prevent fraudulent and manipulative acts and practices,**

The Rules prohibit the following types of behaviour (collectively described as **abusive conduct**), whether intentional, accidental, manual or automated, and whether they occur individually, or in collusion with others:

- a) committing any act or course of conduct that creates, or is likely to create, a false or misleading impression of the market in, or the price, supply or value of, any FX Instrument traded on the MTF, or any FX Instrument, benchmark or reference, whose value depends on that FX Instrument including using layering and spoofing strategies;
- b) submitting fictitious Orders, i.e. with a fictitious quantity or price, or entering into, or attempting to enter into, artificial Transactions;
- c) committing any act or engaging in any course of conduct that causes, or contributes to, a breach of the Rules by another Participant;
- d) effecting a pre-arranged Transaction that is designed to give the market a false view of supply, demand or pricing of an FX Instrument;
- e) credit manipulation, for example, adjusting credit limits with other Participants on a temporary basis, with the purpose of entering Orders that cannot be traded in order to give a false view of the current market;

- f) dealing in FX Instruments based on confidential information about impending events or transactions in those Instruments;
 - g) committing any act of deception, fraud, or contrivance in relation to the use of the MTF, or to any markets, benchmarks, or references whose values depend on FX Instruments admitted to the MTF;
 - h) any activity whatsoever that could be interpreted by a Competent Authority or Law Enforcement Agency as a breach of abusive conduct laws or regulations or defined as Market Abuse or equivalent under global regulations; and
 - i) committing any act that is likely to damage the fairness or integrity of the markets available on the MTF.
- (iii) promote just and equitable principles of trade,**

The Rules also deal with the conduct and integrity of participant. In addition to the prohibited practices described above, Participants are required to:

- a) ensure all Orders are made with a clear and genuine intent to trade;
 - b) all Orders are entered correctly; and
 - c) act with integrity and mutual respect to resolve disputes directly with their counterparty promptly.
- (iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in products traded on the MTF,**

The Rules require that Participants must provide any information, data, records or audit trails requested by the Applicant in connection with an investigation into a breach of the Rules.

Participants must cooperate with the Applicant and the FCA and any other relevant Competent Authority or Law Enforcement Agency in any regulatory investigation, including facilitating the monitoring of compliance with conduct rules, in an open and honest manner and promptly provide either soft or hard copies of data or records upon request.

It is noted that Participants are responsible for (i) ensuring the prompt exchange and processing of Transaction confirmations directly with their counterparties in accordance with market practice and (ii) for the post-trade settlement of all executed Transactions bi-laterally, and are responsible for providing one another with any information or documentation that is reasonably required to complete a Transaction.

- (v) provide a framework for disciplinary and enforcement actions, and**

The Rules set out the procedures for investigations, sanctions and appeals.

- (vi) ensure a fair and orderly market.**

The Rules also deal with maintaining fair and orderly markets. As part of the Rules, Participants are required to implement their own pre- and post-trade controls consistent with the regulatory requirements of MiFID II. In addition, to prevent disorderly trading, LSEG has implemented TACs in relation to maximum Order size and Order price tolerance checks. Once triggered, these controls will prevent Orders from being executed.

In addition, the Rules set out (i) the actions that the Applicant may take to maintain orderly and proper markets and (ii) the actions that the Applicant may take to restore the proper operation of, and the orderly business conduct of, the MTF. The Applicant may also suspend trading in an admitted Financial Instrument in one or more FX Instruments where it is considered necessary for the maintenance of a fair and orderly market, unless such suspension or removal would be likely to cause significant damage to investors' interests or the orderly functioning of the markets, for instance, if it were likely to create a systemic risk that could undermine financial stability.

As per the Rules, the obligation is on the Participant to administer and monitor their own credit lines. LSEG has no access to clients' credit files. LSEG does however continually monitor Participants to ensure they have sufficient credit for the instruments markets they are set up to trade in. If a Participant wishes to access the MTF solely from a LSEG API at a given Site, the Participant must have a method of credit management from their primary Site.

Participants must set market and credit risk limits based on their capital base, their settlement arrangements, their trading strategy, their risk tolerance, experience and other relevant variables, such as the length of time they have been engaged in Algorithmic Trading and their reliance on third party vendors. Participants must adjust their market and credit risk limits to account for the changing impact of their Orders on the relevant Trading Segment due to different price and liquidity levels. Post-trade controls

must include the continuous assessment and monitoring of market and credit risk of the Participants in terms of effective exposures. FXall RFQ Makers must have an appropriate level of risk management and operations infrastructure to enable them to monitor both trading activity during the MTF opening hours and their credit limits and credit limitations for other Takers.

7 DUE PROCESS

7.1 Due Process – For any decision made by the MTF that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the MTF ensures that:

- (a) parties are given an opportunity to be heard or make representations, and**
- (b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.**

The MTF's procedures allow Participants to be heard and make submissions before being subjected to any final disciplinary measures.

In the first instance, Compliance will investigate the facts of each suspected Breach based on the available evidence to the extent possible, seek to understand whether and why the suspected Breach occurred and assess any remedial action the Participant has already taken to prevent future similar Breaches.

The Disciplinary Committee and Review Panel will conduct Disciplinary Proceedings (via Review meetings) in relation to acts or omissions amounting to potential serious, persistent or intentional breaches of any of the Rules or inappropriate market conduct by any definition (as reasonably determined by RTSL) by a client or an individual user in respect of any Breaches, and to determine the appropriate outcome. The Disciplinary Committee will attend Review meetings on an ad hoc basis when requested to do so by the Compliance Officer to review the evidence in relation to alleged Breaches.

Where Compliance believes there has been a serious or repeated Breach, and there is no requirement to provide a regulatory referral to a Competent Authority or Law Enforcement Agency, the Breach will be escalated to the Disciplinary Committee for further review and potential disciplinary action. The procedures for the Disciplinary Committee, and any appeals from its findings, are provided in the Disciplinary Committee and Appeals Panel Terms of Reference.

Prior to requesting a Review meeting, Capital Markets Compliance will investigate the facts of each suspected Breach based on the available evidence to the extent possible, seek to understand whether and why the suspected Breach occurred and assess any remedial action the client has already taken to prevent future similar Breaches. Capital Markets Compliance will, where appropriate, conduct interviews beforehand with the client in order to confirm the facts of the situation.

The client is provided with a Summary of Findings describing the suspected Breach(es) and summarizing the main points of the investigation and detailing the evidence that was relied upon. The client has 15 business days to provide a response and will be provided with at least ten business days' notice of any Review meeting. Clients may continue to submit evidence to the Disciplinary Committee for consideration until two business days before the Review meeting. Each party may choose to be legally represented at a Review meeting.

At the Review Meeting, each suspected Breach will be considered on its own merits and a decision will be made based on the available facts; however the Disciplinary Committee will consider the relevance of prior or repeated Breaches or findings by the same client or individual user. This is in addition to taking account of any remedial action or internal disciplinary actions taken by clients against employee users.

Participants may appeal against the outcome of a meeting of the Disciplinary Committee on grounds that: (i) the sanction imposed is unreasonable; (ii) not all relevant evidence presented to the Disciplinary Committee was appropriately considered; or (iii) the Disciplinary Committee misdirected itself or did not follow its own procedures correctly.

The appeal will be heard by an Appeals Panel. A meeting may be held to discuss the appeal, at the request of the appellant or the Appeals Panel.

The Appeals Panel will seek to conclude an appeal within twenty business days following receipt of the notice of the appeal. The Appeals Panel will review the appeal and determine, based on a majority decision, whether to uphold the decision, overturn the decision, or vary the decision. The Appeals Panel will decide whether to publish the findings of the Disciplinary Committee and Appeals Panel, with or without disclosing the identity of the Participant or User concerned, in part, in summary, or in full, where it believes that to do so would be of assistance to the market.

Participants will not have the right to appeal against warnings issued by the Head of Capital Markets Compliance or delegate.

The Applicant is required to notify its regulator of significant Breaches.

Any failure to complete an investigation in a timely manner would significantly jeopardize the integrity of the MTF. Because the Disciplinary Panel includes the Chair of the Board, any failure to complete an investigation in a timely manner would be known to senior directors and officers and adequately considered at the highest levels of RTSL, including by the Board if appropriate.

8 CLEARING AND SETTLEMENT

RTSL provides the MTF for FX instruments which are bilaterally settled between the counterparties to the transaction. RTSL does not offer access to settlement, clearing or payment systems as part of the transaction process. As a consequence of its business model, the information asked for in Section 8 is not applicable to RTSL.

All the transactions concluded via the MTF and systems operated by the Applicant are settled and cleared by the individual parties to the transactions directly without intervention from the Applicant, i.e. each participant of the MTF is subject to bilateral settlement arrangements.

The MTF is not connected to a clearing facility and none of the FX instruments admitted to trading is subject to clearing mandates in any jurisdiction in which the MTF operates.

9 SYSTEMS AND TECHNOLOGY

9.1 Systems and Technology – Each of the MTF’s critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the MTF to properly carry on its business. Critical systems are those that support the following functions:

- a) order entry,
- b) order routing,
- c) execution,
- d) trade reporting,
- e) trade comparison,
- f) data feeds,
- g) market surveillance,
- h) trade clearing, and
- i) financial reporting.

As a general matter, RTSL maintains controls used to ensure the proper function, adequate security and capacity of automated trading systems and related systems such as those used for dissemination of market data and recording and safe storage of audit trail information. These controls include periodic, objective testing and the review of automated systems to ensure that these systems are reliable, secure and have adequate scalable capacity.

With respect to the specific critical functions listed above, RTSL maintains robust controls to ensure that each function is overseen in a manner consistent with a multilateral trading venue of the MTF’s size and importance. With respect to order entry, routing and execution, RTSL has a reporting structure designed to ensure the technical integrity of the trading system. The Head of Product Management, who is based in London and part of a larger LSEG Group team, is responsible for overseeing the design of enhancements and changes to the system that are required as a result of either regulatory changes requested by the Head of Capital Markets Compliance (or his or her delegate) or client changes requested by the Heads of Sales and Relationship Management (driven by client feedback). This includes systems and controls for managing trading halts, the suspension of financial instruments, pre-trade controls including price and order size checks at order entry, and order throttling.

With respect to trade reporting, the MTF is required to publish post-trade reports under MiFIR and as incorporated into UK regulations. In order to leverage efficiencies within the wider LSEG Group and ensure that sufficient resources are devoted to trade reporting, RTSL has entered into an outsourcing arrangement with TradeWeb UK (**TradeWeb**), a LSEG Group company that operates an approved publication arrangement (**APA**). As an APA, TradeWeb has built and operates the systems, controls, and procedures to effectively carry out post-trade reporting in compliance with MiFID II / MiFIR on behalf of third parties. RTSL outsources post-trade reporting to TradeWeb so that it can leverage existing post-trade reporting capabilities within the LSEG Group and share the set-up and operational costs of post-trade reporting systems with TradeWeb and its other third party users.

With respect to market surveillance, RTSL operates with the LSEG Market Supervision Team in identifying and where necessary reporting any potential instances of market abuse. Compliance may refer any matter to the Surveillance Review Team, which convenes at least once each week to review and discuss cases.

The purpose of the Surveillance Review Team is to review investigations, add market expertise, and discuss whether to submit a suspicious transaction report. The Market Supervision Team makes a Suspicious Transaction and Order Report (**STOR**) and is responsible for doing so, and considers whether there may be other issues relating to money laundering or fraud. The Surveillance Review Team is not a committee of RTSL's Board. However, it provides RTSL's Compliance team and its Monitoring & Surveillance Officer with a forum to canvass the views of other Group experts who may have previously encountered a similar situation. The Surveillance Review Team includes a number of members with different key roles, including: (i) Surveillance Analysts; (ii) a Trading Behaviour and Rules Manager; (iii) Compliance Officers in RTSL and in Capital Markets, including RTSL's Compliance Officer; and (iv) RTSL's Monitoring & Surveillance Officer.

With respect to clearing, as noted in Section 8, the MTF does not engage in clearing.

With respect to financial reporting, certain financial reporting and audit functions are outsourced to the wider LSEG Group, as detailed under Section 2.1. This is done in order to leverage efficiencies within the wider LSEG Group and ensure that sufficient resources are devoted to financial reporting.

Apart from controls pertaining to the specific critical functions noted above, on an information technology level, RTSL adopts principles and elements of practice from industry IT control and risk management frameworks across its critical functions, including elements based on the ISO 27001 framework to manage the business risks arising from the use of information technology and change management in support of its critical business processes.

The IT risk management program strives to:

- protect RTSL systems and customer information at a level commensurate with its value;
- enable secure access to information resources;
- collaborate with RTSL business management team to nurture a strong culture of IT risk management;
- balance the cost of developing and deploying a solution with the risk the solution mitigates; and
- comply with corporate information security policies, standards and relevant regulations.

The IT compliance function targets environments including critical business environments, business applications, information systems and networks. The LSEG FX IT compliance role is part of the Information Security Risk Management function, which reports to the Chief Information Security Officer and regularly provides input reporting to the RTSL Board. The RTSL Information Security Office employs dedicated experienced staff with certifications from the Information Systems Audit and Control Association (ISACA). In the course of performing audits, FXall also contracts an independent and licensed certified public accountant (**CPA**) and Public Company Accounting Oversight Board registered firm for the audit of Service Organization Controls (**SOC**) for FXall. The scope of the audits includes:

- SOC 1, which assesses the internal control over financial reporting; and
- SOC 2, which reports information and the CPA firm's opinion about controls relevant to security, availability, processing integrity, confidentiality and privacy.

Regularly scheduled internal audits include the access recertification process for all critical systems. Findings from audits are tracked to resolution and regularly reported to executive management.

With respect to ensuring that Participants have proper systems in place, while there is no direct requirement that Participants regularly test their backup equipment, the MTF makes available tools that allow Participants to test their critical systems. Moreover, insofar as Participants are required to maintain adequate books and records, the MTF expects Participants to test their backup systems as appropriate.

Participants accessing the MTF via an application programming interface (**API**) are required by the Rules to test their systems prior to the deployment of a change to their systems. The MTF provides an integration environment in which Participants may test their connectivity and the functioning of their systems for this purpose; access to the integration environment is managed on a scheduled basis.

The Rules prescribe ongoing obligations to maintain adequate books and records or system changes and developments and order entry to the MTF, and to have adequate execution and settlement systems and procedures in place. The MTF monitors adherence

to the Rules annually using a risk based approach, including on-site inspections of Participants' systems where deemed necessary, and questionnaires designed to test the Participant's adherence to the Rules.

9.2 System Capability/Scalability - Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the MTF:

- (a) makes reasonable current and future capacity estimates;**
- (b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;**

In order to ensure adequate capacity and performance planning, RTSL employs a process of determining the production capacity needed by monitoring usage trends and peaks, which can trigger follow-up actions for increasing capacity where there are indications that established thresholds are being exceeded. Additional resources are typically triggered at 50% of capacity at face value. The results and remediation are reported monthly to the LSEG FX operating committee. RTSL undertakes capacity stress tests to ensure systems can adequately process transactions.

In regards to software releases, RTSL has developed a system testing approach. Such approach is designed to control the commencement of development pending the sign-off by all stakeholders to agree the requirements are clear, scope is defined and quality risks are known and understood and that regression testing of existing capabilities are considered and included as necessary whatever the change. Each phase of the testing has key auditable outputs and reporting is required as to what testing has been executed, how it compares with the originally planned testing and what the results/outcomes were.

- (c) reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;**

Consistent with article 48 of MiFID II, the MTF has disaster recovery plans in place that would ensure trading can be resumed within two hours of a major service disruption.

RTSL uses an industry leading commercial Vulnerability Management (**VM**) to help automate the lifecycle of network auditing and VM. Network perimeter unauthenticated scans are performed monthly on all external facing IP addresses for the RTSL data centers and offices.

Each time a scan is run, reports are generated to identify new, fixed, and un-remediated vulnerabilities. This serves for tracking successful remediation of previous findings. High severity or high risk vulnerabilities are flagged and targeted to be remediated as priority. For lower severity vulnerabilities, reports are distributed to security personnel in various infrastructure groups to review, track, and remediate where practical and provided there is no adverse business impact. Interior network authenticated scans are scheduled to be performed quarterly on hosts in the data centre.

In the event of a physical or natural disaster, the data centre facility has contingencies in place to keep the infrastructure functioning. To maintain power availability, high-capacity, redundant generators are utilized that guarantee power availability even during regional power outages. In addition, the data centers are built on raised floors and have high-volume, zoned temperature and humidity control systems which are monitored on a 24/7 basis. Redundant HVAC units are employed with emergency electrical systems to maintain availability. The fire suppression system utilized in the data centers is built around the Very Early Smoke Detection Apparatus detection system - a state-of-the-art "sniffer" system that detects smoke from the earliest stages of combustion. Finally, leak detection is built into the data centre's building automation management system.

- (d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;**

RTSL's Information Security Risk Management Practices are established upon an information security framework which utilizes an information security management system to guide the implementation, operation and continuous improvement of policies, standards and practices which are applicable to its IT operations.

The RTSL Information Security policy is endorsed by the Board and outlines the security principles applying to RTSL's people, processes, and technology that address all aspects of the service delivery. These policies and standards are regularly reviewed to take into account evolving technical risks as well as regulatory changes and RTSL's customers' needs for information security. The policies and standards cover, the following:

- Product assurance;
- Infrastructure security;

- Virus protection;
- Patch management;
- Incident response;
- Device lockdown;
- Systems monitoring;
- Vulnerability scanning;
- Physical security; and
- Privacy and regulatory compliance.

The Information Security Handbook outlines the policies, guidance and best practices all employees should follow to protect LSEG FX's assets, employee information and customer data. On an annual basis, all employees are required to review the Information Security Handbook and to complete an assessment, as part of the RTSL learning strategy to ensure that everyone understands and complies with the policy. The MTF systems (including FXall RFQ) are classified as Business Critical and the data is classified as Strictly Confidential and is therefore subject to data confidentiality protections. Customer information is stored on the servers in the data centre and is accessible via business application to authorized personnel on a need to know basis with least privileges granted.

RTSL utilizes Synopsys Security (**Synopsys**) to perform application security penetration tests and code review. The objectives of the review are to find security vulnerabilities, validate the proper use of security mechanisms, and evaluate the use of best practices in the application. Synopsys uses a combination of source code analysis and manual penetration testing to identify the issues in the application. Synopsys analyzes the application's security mechanisms for architecture, implementation, and configuration issues. In addition, Synopsys searches the application for vulnerabilities common to similar applications.

RTSL uses the veracode (**Veracode**) solution for application security scans to identify security flaws using automated static, automated dynamic and/or manual security analysis techniques. RTSL has integrated Veracode security review into its Software Development Life Cycle (**SDLC**) to improve security posture. From the application security scans, identified risks ranked high and above are prioritized for remediation and require a security re-scan to validate the fixes. The vulnerability findings are reviewed and validated by security personnel, distributed to system owners as appropriate and material risk items are tracked for remediation through the trouble ticketing system. Issues with a medium risk or below are remediated after the threat has been reviewed, and no adverse business impact determined.

- (e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;**

RTSL maintains control over the configuration of its IT system and applications through a defined set of processes and procedures. A tool is used to automate the process of inventory information gathering. Information gathered includes hardware attributes (manufacturer, model, serial number, processor, and memory), software attributes (operating system, version number, patch and/or release level), and operational information (system hostname, network interfaces, IP addresses). The inventory information is regularly archived.

- (f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and**

RTSL adopts compliance requirements and industry standard SDLC concepts and practices. The development team is responsible for system design and development. Upon completion, the development team performs full functional testing of the system before formally handing it over to the Quality Assurance Team (the **QA Team**). The QA Team reviews the system upon formal hand-over from the development team. If acceptable to the QA Team, the system is subject to the team's own independent testing. QA testing focuses on functionality, security and performance. Issues uncovered during QA are documented and tracked for resolution. Additionally, where there is a regulatory requirement being included in the software update, the Compliance Group also performs a review and approval.

Upon passing QA, the system is promoted to RTSL's integration environment where it is subject to stress testing and user acceptance testing. The application support team, a part of the trading operations department, determines when the system under testing in the integration environment is ready for production release with formal sign-off.

RTSL reviews the configuration of its MTF systems as part of its regular control procedures and conducts reviews as needed when issues are identified and resolved through its Information Technology Service Management protocols. Configuration management is the subject of internal audits and is also included in RTSL's Disaster Recovery tests.

RTSL reviews and keeps current development and testing methodology of the systems pursuant to procedures contained in the RTSL's Compliance Manual, and Business Continuity Plan and Disaster Recovery document.

RTSL's Business Continuity Plan and Disaster Recovery document is designed to allow for the recovery and resumption of operations and the fulfilment of the duties and obligations of RTSL following a disruption.

RTSL performs periodic tests to verify that the resources outlined in the Business Continuity Plan and Disaster Recovery document are sufficient to ensure continued fulfilment of all duties of RTSL under the CEA and CFTC Regulations. See (g) below for further information on business continuity and disaster recovery plans.

(g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

Per Chapter 12 of the MiFID II Art. 48 Procedures, RTSL has well developed and rehearsed business continuity plans for all of its service offerings, and works on the basis of two key failure scenarios as detailed below.

Widespread hardware or infrastructure failure

Total loss of any one data centre: RTSL operates robust and detailed disaster recovery (DR) processes, and key products are believed to be recoverable within hours (or less) following total loss of a single data centre. It is plausible that difficulties could arise that extend recovery to a period of the order of a day. One or more product lines could be affected for up to one day. No estimate of likelihood is attempted (because there is no evident basis for any such estimate). Client contracts do not mandate that proximity hosting clients dual connect at the DR site. As a result, some significant liquidity providers may no longer be able to connect to RTSL trading services in the event of disaster recovery being invoked. This could result in a significant loss of liquidity.

Loss of multiple data centres: This could result in an extended loss of service, depending on the data centres lost. Loss of a primary data centre and its corresponding DR site might result from terrorist or rogue state activity, but while possible this is not considered to be plausible.

Key Supplier Failure

Hardware: Catastrophic loss of service is highly unlikely to result from failure of a hardware supplier. This is discounted as a plausible cause.

Communications provider: The loss of a single provider would have negligible impact on the main communications infrastructure. However, in some areas there is no alternative last-mile communications provider. Nevertheless, the effect of losing a single last-mile provider would be geographically very limited, and the impact would be correspondingly limited. This is therefore discounted as a plausible cause.

Data centre provider: FXall RFQ services are currently provided through a Cyxtera (CenturyLink) datacentre (NJ2, New Jersey) and Disaster recovery is another Cyxtera datacentre (Virginia, DC3). RTSL commissions independent communications from other third parties to its datacenters to ensure that if a global communications issue affected either Cyxtera centre it would not affect both their live and disaster recovery sites.

Unanticipated single point of failure (SPOF) occurring within a data centre: Although architectural standards seek to eliminate and/or mitigate against single points of failure, it is conceivable that an unrecognised common mode failure could occur, with a consequent need to restore otherwise redundant systems, leading to an extended system outage. No estimate of likelihood is attempted (because there is no evident basis for any such estimate). The consequence is assumed to be an outage of at most one day (otherwise DR would be invoked). Only a single set of capabilities is likely to be affected.

Unanticipated SPOF across multiple data centres: Although architectural standards seek to eliminate and/or mitigate against single points of failure, it is conceivable that an unrecognised common mode failure could occur, with a consequent need to restore elements of both the primary and DR systems, leading to an extended system outage. No estimate of likelihood is attempted (because there is no evident basis for any such estimate). The likely consequence is believed to be an outage of at most one day. Only a single set of capabilities is likely to be affected.

9.3 Information Technology Risk Management Procedures – The MTF has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

RTSL monitoring applications are in place to help ensure that trading application and system anomalies are detected. The monitoring application is configured to send an e-mail notification to Client Interaction Center (CIC) personnel in the event a trading error occurs. CIC personnel will investigate, escalate as necessary, and resolve identified errors in accordance with documented policies and procedures that are in place to guide personnel in resolving the errors that are detected. Policies and procedures are also in place to guide personnel in dealing with the disruption of trades due to the loss of network connectivity. Customers are

also able to monitor their trading activities as they have access to the reporting portal where they can generate reports and view trading activity.

Operations personnel utilize enterprise monitoring applications to monitor the performance of servers and network devices. These applications are configured to generate onscreen alerts and e-mail notifications to the operations team when predefined thresholds are exceeded. IT operations personnel will investigate the notifications and use documented procedures to respond to issues and outages.

Reported incidents are logged in a tracking system to document, escalate, and resolve the incidents according to documented policies and procedures. On a daily basis, shift turnover reports are completed by CIC personnel, and reviewed by CIC management to help ensure that CIC personnel respond to reported incidents in a timely manner. The CIC group also completes a review of application functionality on a daily basis to verify that applications are functioning correctly and to identify any possible issues that were not previously reported.

The Quote Monitor reads the application logs for trading activity in real-time and displays each trade as a color-coded line. These can be expanded to see the trade details. Each person on the CIC desk runs this application on their desktop. The program colour codes errors yellow or red based on the severity of the issue. As the CIC team addresses each potential issue, the Quote Monitor displays who is addressing it and the ticket number associated with the issue.

10 FINANCIAL VIABILITY AND REPORTING

10.1 Financial Viability – The MTF has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

Under the FCA's new prudential regime (known as the Investment Firms Prudential Regime) for UK Investment Firms and as per the Prudential sourcebook for MiFID Investment Firms (known as MIFIDPRU) 7, the internal capital and risk assessment (**ICARA**) serves to combine the three previous separate processes (internal capital adequacy assessment process, Recovery Plan and Wind Down plan) into one central and consolidated risk assessment process. RTSL is undertaking the ICARA to ensure that RTSL has appropriate systems and controls in place to identify, monitor and, where proportionate, reduce all potential material harms that may result from the ongoing operation of its business or winding down its business and ensure RTSL holds adequate financial resources to meet its Overall Financial Adequacy Rule (as defined under the rules of the FCA).

11 TRADING PRACTICES

11.1 Trading Practices - Trading practices are fair, properly supervised and not contrary to the public interest.

The MTF has transparent and non-discretionary rules and procedures for fair and orderly trading and objective criteria for the efficient execution of Orders, and may undertake a number of actions in order to maintain orderly and proper markets from time to time, without limitation, including:

- the suspension or restriction in some way of business on the MTF or any related systems;
- the closure of the MTF for any period;
- the cancellation or amendment of any Transaction(s) carried out on the MTF; and/or
- the suspension of Participant access rights and/or termination of the Participant Agreement.

This is irrespective of whether these actions result from LSEG FX's own determination or are made at the request of a Participant or Competent Authority. The Rules also prohibit abusive conduct.

The Applicant monitors Participants' activity on the MTF to identify breaches of compliance with the Rules, including identifying disorderly trading conditions or abusive conduct (as defined in the Rules). The Applicant will comply with its regulatory obligations to report suspicious activity to the relevant Competent Authority or Law Enforcement Agency. Furthermore, Participants must report actual or suspected Rule breaches by email, whether accidental or otherwise, providing all relevant information in a timely manner to enable the matter to be investigated. This obligation is in addition to any obligations Participants have to make a STOR to relevant Competent Authorities themselves where they reasonably suspect that an Order(s), or a Transaction(s) (or a pattern thereof) might be indicative of Market Abuse, including insider dealing or market manipulation.

Participants must also cooperate with the Applicant and the FCA, as applicable, and any other relevant Competent Authority or Law Enforcement Agency in any regulatory investigation, including facilitating the monitoring of compliance with conduct rules, in an open and honest manner and promptly provide either soft or hard copies of data or records upon request. The Applicant has a regulatory obligation to report significant Rule Book breaches, disorderly trading conditions and suspicions of Market Abuse to the FCA and any other relevant Competent Authority or Law Enforcement Agency, and will assist any Competent Authority or Law Enforcement Agency in any investigation of Market Abuse or fraudulent conduct as requested.

To assist in the maintenance of orderly trading, the Applicant:

- may, either on its own initiative, or further to instructions from the Participant concerned, or at the request of a Competent Authority, suspend a Participant's or a User's access to the MTF;
- will operate a kill functionality to cancel unexecuted Orders submitted by a Participant;
- upon request of the Participant where the User is technically unable to delete its own Orders;
 - where the Order book contains erroneous or duplicated Orders;
 - where the Participant has consistently breached TACs (see the MTF Supplementary Annex);
 - a suspension initiated by either the Applicant or the Competent Authority; and/or
- may cancel or revoke Transactions in case of malfunction of the MTF mechanisms to manage volatility or of the operational functions of the trading system.

11.2 Orders - Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

All Participants are required to implement their own pre- and post-trade controls consistent with the regulatory requirements of MiFID II. See Section 5.4 for a description of certain pre-trade controls.

Participants must ensure that all Orders are made with a clear and genuine intent to trade and that all Orders are entered correctly. Participants must be able to identify which trading algorithm and which User or trading desk is responsible for each Order that has been sent to the MTF, and must, during the hours they are sending Orders to the MTF, monitor in real time all Algorithmic Trading activity that takes place under their trading codes, for signs of disorderly trading.

To prevent disorderly trading, RTSL implements TACs in relation to maximum Order size and Order price tolerance checks. Once triggered, these controls will prevent Orders from being executed. These TACs are outlined in Chapter 13 of the MiFID II Article 48 Procedures as follows:

For RFQ:

Venue Maximum Order Size

RTSL sets an RFQ maximum order size on the MTF trading venue. The RFQ maximum order size is currently set to \$61 billion USD. The maximum order size is checked against the dealt currency amount requested on the eligible FXall MTF RFQ, converted in USD equivalent. For multi-leg instruments, the maximum order size is checked against each individual leg; if one leg fails, the entire order fails the TACs controls.

Price Tolerance

RTSL sets a price tolerance maximum percentage to the MTF trading venue. The price tolerance maximum percentage value will vary according to the instrument parameters as set for that currency pair. A check will be done to ensure that the trade rate is no more than a pre-defined percentage from a reference rate.

11.3 Transparency – The MTF has adequate arrangements to record and publish accurate and timely trade and order information. This information is provided to all participants on an equitable basis.

The MTF currently operates under a pre-trade waiver under MiFID II; this applies to all Trading Segments on the basis of liquidity of FX derivatives. As such, RTSL is not required to provide MiFID II pre-trade transparency data; nevertheless, to enable Participants to form investment decisions, available rates can be viewed in LSEG FX Eikon or via accessing FX Trading for the FXall RFQ.

Transactions concluded via the MTF are reported by RTSL to (and post-trade data is published via) Tradeweb APA under a post-trade publication deferral under MiFID II.

On a quarterly basis, RTSL publishes information on the MTF Website on the quality of execution of Transactions effected via the MTF for the immediately preceding quarter.

RTSL will report to the FCA to meet its regulatory reporting obligations with respect to transaction reporting and reference data under MiFIR. RTSL has entered into outsourcing arrangements with TradeWeb with respect to post-trade reporting. TradeWeb is

part of the LSEG Group. RTSL has arranged to provide post-trade data to TradeWeb, who manages the publication and apply the relevant deferrals from its post-trade reporting waiver.

12 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT

12.1 Jurisdiction - The MTF or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

See Section 6.1(b) regarding ensuring compliance with applicable legislation.

Failure to adhere to the Rules may result in the Applicant imposing one of the following sanctions in accordance with the Rules: a verbal warning; a written warning; a temporary suspension; or a termination of access to the MTF.

In addition to the Rules imposed by the MTF, the FCA has the jurisdiction to enforce rules governing the MTF and the conduct of Participants, independently of any disciplinary or enforcement action undertaken by LSEG FX.

12.2 Member and Market Regulation - The MTF or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with MTF and legislative requirements and for disciplining participants.

The MTF devotes significant resources to evaluating compliance with MTF and legislative requirements and for disciplining Participants, which are detailed throughout this Application. In particular, RTSL has a dedicated Compliance Officer with responsibility for RTSL's day-to-day compliance function and for any compliance reporting required to be submitted to regulators and reports to the Head of Capital Markets. The Compliance Officer's specific duties in relation to RTSL include providing routine reports and regulatory updates to the Board, ensuring regulatory obligations are met in a correct and timely fashion, and managing regulatory relationships.

The Rules provide for a comprehensive system to monitor and investigate compliance with MTF and legislative requirements, and if appropriate, discipline Participants.

Where appropriate, and in its absolute discretion, the Applicant may refer instances of breaches and suspected breaches of the Rules to the LSEG FX Disciplinary Committee for consideration. As noted above, failure to adhere to the Rules may result in the Applicant imposing one of the following sanctions in accordance with the Rules: a verbal warning; a written warning; a temporary suspension; or a termination of access to the MTF.

12.3 Availability of Information to Regulators - The MTF has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the OSC, on a timely basis.

As indicated above, the Rules state that the Applicant monitors Participants' activity on the MTF to identify breaches of compliance with the Rules, including identifying disorderly trading conditions or abusive conduct (as defined in the Rules).

RTSL also has a mandatory obligation under the rules of the FCA and Principle 11 to make the FCA aware of any material information that RTSL feels the FCA ought to know.

13 RECORD KEEPING

13.1 Record Keeping – The MTF has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the MTF, audit trail information on all trades, and compliance with, and/or violations of MTF requirements.

The Rules specify practices for record keeping with respect to the MTF. The Rules state that as a matter of best practice, Participants should keep records of their Order and Transactions activity adequate to meet compliance with their regulatory record keeping obligations. It is recommended that Participants maintain those records for a minimum of five years. Some jurisdictions may require records to be kept for seven years or longer. RTSL maintains its records for seven years.

The Rules also state that in addition to the Personal Data for Investment Decision Makers and Executing Users, all Participants must provide all the relevant fields required for Order record keeping purposes to the Applicant, including:

- the trading capacity of the executing Participant (with reference to the MTF Supplementary Annex); and
- the client entity on whose behalf the Participant submitted the Order to the MTF where the Participant is trading as agent (to be provided at Order entry).

The Rule state that the Applicant may record and maintain records of telephone conversations between Participants and the Helpdesk, and will retain such records for seven years.

With respect to the internal audit program of RTSL itself, RTSL's CFO, who is a Finance Director within the LSEG Group, is ultimately responsible for RTSL's financial reporting, leveraging the large LSEG Group finance and accounting team.

RTSL's primary approach to auditing its control environment is to use the independent internal audit services of LSEG FX IA. The LSEG FX IA personnel who provide internal audit services are employed by LSEG.

To ensure adequate financial oversight by the Board, the Board maintains oversight of the internal audit arrangements, including monitoring the implementation of an internal audit plan. The Board may request input from IA on matters related to risk, internal controls and compliance with applicable rules. In executing the audit plan, IA specifically examine and evaluate the adequacy and effectiveness of RTSL's systems, internal control mechanisms and arrangements in accordance with the MiFID framework. CCA auditors performing the reviews on behalf of RTSL have unrestricted access to all individuals, information and data.

RTSL has to submit audited financial statements to FCA within 80 working days. The 2022 accounts are the latest submitted to FCA and this was done on time.

14 OUTSOURCING

14.1 Outsourcing – Where the MTF has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations, and that are in accordance with industry best practices.

RTSL has adopted the LSEG Group Third Party Risk Management Policy and Framework. This policy requires that the Board remain fully responsible and accountable for ensuring that RTSL continues to meet its regulatory obligations and cannot delegate any part of this responsibility to a third party. It also requires that RTSL avoid undue operational risk when outsourcing operational functions that are critical for the performance of regulated activities, and that RTSL not outsource critical or important operational functions if it materially impairs the quality of RTSL's internal control environment and the FCA's ability to monitor RTSL's compliance with its regulatory obligations.

RTSL ensures that the rights and obligations of RTSL and the service provider are clearly set out and quantitative and qualitative service standards are documented in a Service Level Agreement. In addition to commercial and legal obligations, the agreements have provisions to address the regulatory themes contained in the following (*indicates item is specifically relevant to the MTF and algorithmic trading in addition to be generally relevant):

Regulatory Obligation
Service provider obligation to comply with the regulatory environment.
*Responsibilities assumed by each party and a clear description of outsourced functions.
Choice of law.
*Assignment of rights and obligations.
Provision of warranties, guarantees and indemnities.
Fees and payment arrangements.
Subcontracting conditions.
Service standard levels and performance monitoring process.
IT security, data protection and data confidentiality obligations.
Service standard levels and performance monitoring process
Protection of RTSL proprietary information and software.
Dispute resolution arrangements.
Agreement breach remedies.
Business continuity management arrangements.
*Access to data, premises, books and records.
*Termination, amendment, early exit and substitution.
Notification of adverse developments.

Regulatory Obligation
*Cooperation with the FCA and any other relevant competent authority.
Record of personal transactions.
*Conflicts of interest.

RTSL must notify the FCA when it intends to either enter into a new, or materially change a, critical or important material outsourcing arrangement.

RTSL has entered into agreements with affiliates as set out below:

- a transaction services and technology agreement with Financial & Risk Organisation Limited (**FROL**) in respect of RTSL's FXall RFQ services. This provides for the provision of the MTF and certain IT services. The intellectual property in the Group's common technology platforms is collectively held by TRGRC and FROL, which are the Group's intellectual property holding companies, as the MTF is used by multiple regulated entities within the Group;
- an outsourcing agreements with Refinitiv Limited (RL) (United Kingdom) for the provision of human resources, accounting, legal, tax, anti-money laundering, surveillance, internal audit and compliance services to RTSL in respect of RTSL's FXall RFQ services, respectively;
- an outsourcing agreements with Refinitiv Inc LLC (TRM) (United States) for the provision of legal, anti-money laundering, surveillance and compliance services to RTSL in respect of RTSL's FXall RFQ services; and
- a post-trade reporting agreement that is currently in place between RTSL and Tradeweb UK Limited (UK). This will provide for services in relation to FXall RFQ.

Arrangements to ensure the ongoing adequacy and effectiveness of outsourcing arrangements are in place, in line with the requirements in the Policy and the Programme of Operations.

All marketing and promotion of the MTF is undertaken by intra-group entities with which RTSL has entered into marketing support service agreements (**MSSAs**). These MSSAs ensure a direct contractual relationship through which to control the marketing efforts of the sales teams and pursuant to which the sales teams have clear and enforceable contractual parameters setting out what they are permitted to do in relation to RTSL's products. The MSSAs set out, amongst other things, the products that the sales staff are allowed to market for RTSL (i.e. FXall RFQ), the scope of such marketing activities and the parameters within which they take place and the liability and indemnity provisions in respect of any breach by either party.

15 FEES

15.1 Fees

- (a) All fees imposed by the MTF are reasonable and equitably allocated and do not have the effect of creating unreasonable condition or limit on access by participants to the services offered by the MTF.**

See 15.1(b) below.

- (b) The process for setting fees is fair and appropriate, and the fee model is transparent.**

For RTSL, fees are set according to RTSL's Rate Cards, posted on the MTF's website. The fee structure is standard for a service of this type and available to all Participants equally. The MTF offers three pricing plans, which are available to all Makers. Each plan also specifies a tariff of per-transaction fees.

Fees are subject to regulation under MiFID. MiFID II RTS 10 Article 3 requires that:

- the same fees/discounts be charged for all types of users for MTF transactions and must be determined by objective criteria;
- fee structures must be granular – each fee for each service must be stated separately;
- services must be made available without being bundled with other services;
- there be no cliff-edge pricing; and

- market operators publish objective criteria for establishment of fees / and fee structures.

INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

15.2 Information Sharing and Regulatory Cooperation – The MTF has mechanisms in place to enable it to share information and otherwise co-operate with the OSC, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

The MTF does not have any formal information sharing arrangement with anyone. The only time the MTF would provide details is if compelled to do so by regulators due to an investigation or if there is a market issue.

As noted above, the Rules state that RTSL has a regulatory obligation to report material Rules breaches, disorderly trading conditions and suspicions of Market Abuse to the FCA and any other relevant Competent Authority or Law Enforcement Agency charged with the detection or investigation of a criminal offence. RTSL will also assist any investigation as requested and may disclose any information, data or documents received from any Participant in connection with its use of the MTF to any Competent Authority or Law Enforcement Agency for these purposes. RTSL has a mandatory obligation under Market Abuse Regulation (EU 2014/596) as retained in UK law to notify the FCA as soon as it becomes aware of, inter alia, any breach of supervisory and regulatory requirements and any situation or event which impacts, on the investment firm to a significant extent.

The Applicant undertakes to make information requested by the OSC available on a timely basis, provided that it is required by the exemption order or the Act.

15.3 Oversight Arrangements – Satisfactory information sharing and oversight agreements exist between the OSC and the Foreign Regulator.

The OSC and the FCA are signatories of the Memorandum of Understanding Concerning Consultation, Cooperation and the Exchange of Information Related to the Supervision of Cross-Border Regulated Entities dated September 19, 2013, which sets forth the signatory authorities' intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective laws and regulations of the jurisdictions of the signatory authorities.

16 IOSCO PRINCIPLES

16.1 IOSCO Principles – To the extent it is consistent with the laws of the foreign jurisdiction, the MTF adheres to the standards of the International Organization of Securities Commissions (IOSCO) including those set out in the “Principles for the Regulation and Supervision of Commodity Derivatives Markets” (2011).

The MTF adheres to the IOSCO principles set out in the “Objectives and Principles of Securities Regulation” (2003) applicable to exchanges and trading systems. The MTF maintains operations to achieve the following:

- a. ensure the integrity of trading through fair and equitable rules that strike an appropriate balance between the demands of different market Participants;
- b. promote transparency of trading;
- c. detect and deter manipulation and other unfair trading practices; and
- d. ensure proper management of large exposures, default risk and market disruption.

Part III Submissions by Applicant

Submissions Concerning the MTF Relief

The instruments for which the Applicant seeks approval for Ontario Participants to trade on the MTF fall under the definition of “derivative,” as set forth in the Act.

The MTF falls under the definition of “marketplace” set out in the Act because it brings together buyers and sellers of derivatives and uses established, non-discretionary methods under which orders interact with each other.

An “exchange” is not defined under the Act; however, subsection 3.1(1) of the companion policy to NI 21-101 provides that a “marketplace” is considered to be an “exchange” if it, among other things, sets requirements governing the conduct of marketplace participants. A MTF has certain obligations to monitor participants' trading activity. Because a MTF sets requirements for the conduct of its participants and surveils the trading activity of its participants, it will be considered by the OSC to be an exchange for purposes of the Act.

Pursuant to OSC Staff Notice 21-702 *Regulatory Approach for Foreign-Based Stock Exchanges*, the OSC considers an exchange located outside Ontario to be carrying on business as an exchange in Ontario if it provides Ontario Participants with direct access

to the exchange. We understand that the Decision Makers other than the Ontario Securities Commission take a similar position in those Jurisdictions.

The Applicant understands that since the MTF provides Ontario Participants with direct access to trading of the MTF Instruments on the MTF it will be considered by the OSC to be "carrying on business as an exchange" in Ontario, and therefore must either be recognized or exempt from recognition by the OSC.

The Applicant submits that an exemption from recognition is appropriate for the MTF because the Applicant is subject to regulation by the FCA and full regulation by the OSC would be duplicative and inefficient.

The Applicant understands that this Application will be reviewed and discussed with Staff of the OSC and that it will be published by the OSC, along with a draft order, for a 30-day comment period.

Based on the foregoing, we submit that it would not be prejudicial to the public interest to grant the Requested Relief.

Similar Relief has been Granted

The Applicant notes that exemptive relief similar to the Requested Relief has been granted by the OSC in *In the Matter of Bloomberg Trading Facility Limited* (June 28, 2021), *In the Matter of Onechicago, LLC* (October 14, 2016) and *In the Matter of Nodal Exchange, LLC* (October 7, 2014). The OSC, Autorité des marchés financiers, Financial and Consumer Affairs Authority of Saskatchewan, Nova Scotia Securities Commission and Financial and Consumer Services Commission also granted relief substantially similar to the Requested Relief to FRTSIL in various orders issued in 2019.

Part IV Other Matters

In support of this Application, we are enclosing the following: (a) a verification statement from an officer of the Applicant confirming our authority to prepare and file this Application, and certifying the truth of the facts contained herein as Appendix A; and (b) a draft Order for the Requested Relief, including draft terms and conditions.

The Applicant consents to the publication of this Application for public comment by the applicable Decision Makers.

Appendix A

Verification Certificate

To: Ontario Securities Commission

Dear Sirs/Mesdames:

Re: Application by Refinitiv Transaction Services Limited

I, Bart Joris, as Chief Executive Officer of Refinitiv Transaction Services Limited, do hereby certify that the preparation and compilation of the attached application to the Ontario Securities Commission is authorized and confirm the truth of the facts contained therein as they relate to the operation of the Multilateral Trading Facility by Refinitiv Transaction Services Limited.

DATED Sep 6, 2023

"Bart Joris"

[Bart Joris \(Sep 6, 2023 10:56 GMT+1\)](#)

Mr. Bart Joris
Chief Executive Officer, Refinitiv Transaction Services Limited

Appendix B

Draft Decision

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

AND

IN THE MATTER OF
REFINITIV TRANSACTION SERVICES LIMITED

ORDER
(Section 147 of the Act)

WHEREAS Refinitiv Transaction Services Limited (**RTSL** or the **Applicant**) has filed an application dated September 6, 2023 (the **Application**) with the Ontario Securities Commission (the **Commission**) requesting an order for the following relief (collectively, the **Requested Relief**):

- a) exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act pursuant to section 147 of the Act; and
- b) exempting the Applicant from the requirements in National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) pursuant to section 15.1 of NI 21-101, the requirements of National Instrument 23-101 *Trading Rules* (**NI 23-101**) pursuant to section 12.1 of NI 23-101 and the requirements of NI 23-103 *Electronic Trading and Direct Access to Marketplaces* (**NI 23-103**) pursuant to section 10 of NI 23-103;

AND WHEREAS the Applicant has represented to the Commission that:

- 1 RTSL currently operates a multilateral trading facility (the **Facility**). The following types of investment are offered for trading on the Facility: foreign exchange FX forwards (swaps), FX forwards (outrights), FX swaps, FX non-deliverable forwards (**NDFs**) and FX options. These Financial Instruments are admitted in various currency pairs.
- 2 RTSL received authorization on December 1, 2001 from the Financial Services Authority, the United Kingdom's (**UK**) financial services regulator at that time (now superseded by the Financial Conduct Authority (**FCA**)), to act as the operator of the Facility. A formal approval to operate a multilateral trading facility as defined under the European Union's Markets in Financial Instruments Directive 2004/39 was obtained in November 2007.
- 3 On January 3, 2018, the Markets in Financial Instruments Directive (Directive 2014/65/EU of the European Parliament and of the Council) (**MiFID II**) entered into force as implemented in the UK by transposition into national law together with the Markets in Financial Instruments Regulation (Regulation (EU) No 600/2014 of the European Parliament and of the Council) (**MiFIR**) which is directly applicable in the UK, containing the amended regulatory framework for the operator of a multilateral trading facility.
- 4 Without the Requested Relief, participants in Ontario will be precluded from trading with UK participants on the Facility, a UK-regulated trading venue.
- 5 The Facility comprises one trading segment known as FXall RFQ which is governed by the MTF Rule Book (the **Rules**). A client who enters into a Participant Agreement in respect of the Facility (a **Participant**) must comply with both the Rules applicable to the Facility as a whole.
- 6 The Applicant is subject to regulatory supervision by the FCA, pursuant to an authorization to operate a multilateral trading facility granted November 1, 2007.
- 7 Accordingly, the Applicant is required to comply with the FCA's regulatory framework, which includes, among other things, rules on (i) the conduct of business (including rules regarding client categorization, communication with clients and other investor protections and client agreements), (ii) market conduct (including rules applicable to firms operating a multilateral trading facility), and (iii) systems and controls (including rules on outsourcing, governance, record-keeping and conflicts of interest). The FCA requires the Applicant to comply at all times with a set of threshold conditions for authorization, including requirements that the Applicant is "fit and proper" to be authorized and that it has appropriate resources for the activities it carries on. The Applicant is subject to prudential regulation, including minimum regulatory capital requirements, and is capitalized in excess of regulatory requirements. The Applicant is required to maintain a

permanent and effective compliance function. The Applicant's Compliance Department is responsible for implementing and maintaining adequate policies and procedures designed to ensure that the Applicant (and all associated staff) comply with their obligations under the FCA rules. These policies and procedures are set forth in the RTSL Compliance Manual and associated internal policies and procedures.

- 8 The Facility is obliged to have requirements governing the conduct of Participants, to monitor compliance with those requirements and report to the FCA (a) significant breaches of the Rules, (b) disorderly trading conditions, and (c) conduct that may involve market abuse. The Applicant may also notify the FCA when a Participant's access is terminated, temporarily suspended or subject to condition(s). As required, the Applicant has implemented a trade surveillance program. As part of the program, the Applicant's Compliance Department conducts real-time market monitoring of trading activity on the Facility to identify disorderly trading and market abuse or anomalies. The trade surveillance program is designed to maintain a fair and orderly market for Participants.
- 9 Participants may only connect to the Facility using a connection method permitted by RTSL. These connection methods are described more fully in the rules relevant to each specific trading segment. FXall RFQ currently permits connections through an application programming interface (**API**) for FX Forwards. Participants may allow remote-manned use of LSEG APIs if the Participant ensures that the API applications in use at the remote site are at all times monitored and managed from that remote monitoring site. The Facility offers publicly available pricing plans based on trading segment, rate engine or pricing tool selected. The rate stated is purely for the Facility transaction component and does not include any pricing for the rates engine or pricing tools used.
- 10 Participants are responsible for ensuring the prompt exchange and processing of transaction confirmations directly with their counterparties in accordance with market practice. Failure to settle transactions will constitute a breach of the Rules. Participants are also responsible for ensuring that transactions are not required to be cleared pursuant to applicable law. If Participants are required or choose to clear a transaction, they are responsible for making the necessary arrangements.
- 11 The Applicant requires that all Participants meet the criteria of an Eligible Counterparty, either "per se" or "elective" as defined in Article 30(2) of European Union Directive 2014/65 and as incorporated into UK regulations. Each prospective participant must (i) comply and ensure that its authorized traders comply, and, in each case, continue to comply, with the Rules and applicable law (ii) have a sufficient level of trading ability, skill, competence and experience to conduct activities on the Facility; (iii) must be of adequate financial soundness; (iv) have adequate organizational arrangements commensurate with meeting their own regulatory obligations (v) have in place adequate systems and controls to ensure their on-going compliance with the Rules and management of their trading activities, and (vi) must satisfy any other criteria that RTSL may reasonably require from time to time.
- 12 RTSL will offer direct access to trading on the Facility to participants that are located in Ontario (**Ontario Participants**) and are appropriately registered as applicable under Ontario securities laws or are exempt from or not subject to those requirements, and qualify as an "eligible counterparty" (either "per se" or "elective"), as defined in Article 30(2) of European Union Directive 2014/65 and as incorporated into UK regulations. Ontario Participants will be required to immediately notify the Applicant if they cease to meet the criteria of an Eligible Counterparty. Participants must also supply any information requested by the Facility or Applicant to enable monitoring of responsibilities with respect to eligibility and operational criteria.
- 13 The Facility also requires information to be provided regarding the operational functions of the participants, including the qualifications required of staff in key positions and pre- and post-trade controls.
- 14 Ontario Participants may include financial institutions, asset managers, dealers, government entities, pension funds and other well-capitalized entities that meet the criteria described above.
- 15 Because the Facility sets requirements for the conduct of its participants and surveils the trading activity of its Participants, it is considered by the Commission to be an exchange.
- 16 Since the Applicant seeks to provide Ontario Participants with direct access to trading on the Facility, the Facility is considered by the Commission to be "carrying on business as an exchange" in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act.
- 17 The Facility has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein;

AND WHEREAS the products traded on the Facility are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Facility is not considered to be carrying on business as a commodity futures exchange in Ontario;

AND WHEREAS the Applicant has acknowledged to the Commission that the scope of the Requested Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring

of developments in international and domestic capital markets or the Applicant or the Facility's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

AND WHEREAS based on the Application, together with the representations made by and acknowledgments of the Applicant to the Commission, the Commission has determined that the granting of the Requested Relief would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission that, (i) pursuant to section 147 of the Act, the Applicant is exempt from recognition as an exchange under subsection 21(1) of the Act, and by the regulator that (ii) pursuant to sections 15.1(1) of NI 21-101, 12.1 of NI 23-101 and 10 of NI 23-103, the Applicant is exempt from the requirements of NI 21-101, NI 23-101, and NI 23-103,

PROVIDED THAT the Applicant complies with the terms and conditions contained in Schedule "A".

Schedule A

Terms and Conditions

Meeting Criteria for Exemption

1. The Applicant will continue to meet the criteria for exemption included in Appendix 1 to this Schedule.

Regulation and Oversight of the Applicant

2. The Applicant will maintain its authorization to operate as a multilateral trading facility (**MTF**) with the UK Financial Conduct Authority (**FCA**) and will continue to be subject to the regulatory oversight of the FCA.
3. The Applicant will continue to comply with the ongoing requirements applicable to it as the operator of an MTF authorized by the FCA.
4. The Applicant will promptly notify the Commission if its authorization to operate as an MTF has been revoked, suspended, or amended by the FCA, or the basis on which its registration as an MTF has been granted has significantly changed.
4. The Applicant must do everything within its control, which includes cooperating with the Commission as needed, to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with the Ontario securities law.

Access

5. The Applicant will not provide direct access to a participant in Ontario (an **Ontario User**) unless the Ontario User is appropriately registered as applicable under the Ontario securities laws or is exempt from or not subject to those requirements and qualifies as an "eligible counterparty" (either "per se" or "elective"), as defined by Article 30(2) of the European Union Directive 2014/65 and as incorporated into UK regulations.
6. For each Ontario User provided direct access to its Facility, the Applicant will require, as part of its application documentation or continued access to the Facility, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. The Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, provided the Applicant notifies such Ontario User that this representation is deemed to be repeated each time it enters an order, request for quote or response to a request for quote or otherwise uses the Applicant's Facility.
8. The Applicant will require Ontario Users to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User's access to the Facility if the Ontario User is no longer appropriately registered or exempt from those requirements.

Trading by Ontario Users

9. The Applicant will not provide access to an Ontario User to trading in products other than swaps, as defined in section 1a(47) of the United States Commodity Exchange Act as amended, without prior approval of the Commission.

Submission to Jurisdiction and Agent for Service

10. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
11. The Applicant will submit to the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the Applicant's activities in Ontario.

Prompt Reporting

12. The Applicant will notify staff of the Commission promptly of:

- (a) any authorization to carry on business granted by the FCA is revoked or suspended or made subject to terms or conditions on the Applicant's operations;
- (b) the Applicant institutes a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it;
- (c) a receiver is appointed for the Applicant or the Applicant makes any voluntary arrangement with creditors;
- (d) the Applicant marketplace is not in compliance with this Order or with any applicable requirements, laws or regulations of the FCA where it is required to report such non-compliance to the FCA;
- (e) any known investigations of, or disciplinary action against, the Applicant by the FCA or any other regulatory authority to which it is subject; and
- (f) the Applicant makes any material change to the eligibility criteria for Ontario Users.

Semi-Annual Reporting

13. The Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a semi-annual basis (by July 31 for the first half of the calendar year and by January 31 of the following year for the second half), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users and whether the Ontario User is registered under the securities laws of Ontario or is exempt from or not subject to registration, and, to the extent known by the Applicant, other persons or companies located in Ontario trading on the Applicant's Facility as customers of participants (**Other Ontario Participants**);
 - (b) the legal entity identifier assigned to each Ontario User, and, to the extent known by the Applicant, to Other Ontario Participants in accordance with the standards set by the Global Legal Entity Identifier System;
 - (c) a list of all Ontario Users whom the Applicant has referred to the FCA, or, to the best of the Applicant's knowledge, whom have been disciplined by the FCA with respect to such Ontario Users' activities on the Applicant's Facility and the aggregate number of all participants referred to the FCA since the previous report by the Applicant;
 - (d) a list of all active investigations since the previous report by the Applicant relating to Ontario Users and the aggregate number of active investigations since the previous report relating to all participants undertaken by the Applicant;
 - (e) a list of all applicants in Ontario for status as a participant who were denied such status or access to the Applicant since the previous report, together with the reasons for each such denial; and
 - (f) for each product,
 - (i) the total trading volume and value on the Facility originating from Ontario Users, and, to the extent known by the Applicant, from Other Ontario Participants, presented on a per Ontario User or per Other Ontario Participant basis; and
 - (ii) the proportion of worldwide trading volume and value on the Facility conducted by Ontario Users, and, to the extent known by the Applicant, by Other Ontario Participants, presented in the aggregate for such Ontario Users and Other Ontario Participants;

provided in the required format.

Information Sharing

14. The Applicant will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

Attachment 1

CRITERIA FOR EXEMPTION OF A FOREIGN EXCHANGE TRADING OTC DERIVATIVES FROM RECOGNITION AS AN EXCHANGE

PART 1 REGULATION OF THE EXCHANGE

Regulation of the MTF

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (**Foreign Regulator**).

Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

PART 1 GOVERNANCE

Governance

The governance structure and governance arrangements of the exchange ensure:

- a) effective oversight of the exchange,
- b) that business and regulatory decisions are in keeping with its public interest mandate,
- c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:
 - a. appropriate representation of independent directors, and
 - b. a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,
- d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and
- e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

Fitness

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

PART 2 REGULATION OF PRODUCTS

Review and Approval of Products

The products traded on the exchange and any changes thereto are reviewed by the Foreign Regulator and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

Product Specifications

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

Risks Associated with Trading Products

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange including, but not limited to, margin requirements, intra-day margin calls, daily trading limits, price limits, position limits, and internal controls.

PART 3 ACCESS

Fair Access

- a) The exchange has established appropriate written standards for access to its services including requirements to ensure
 - a. participants are appropriately registered as applicable under the securities laws or commodity futures laws of Ontario, or exempted from these requirements,
 - b. the competence, integrity and authority of systems users, and
 - c. systems users are adequately supervised.
- b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.
- c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.
- d) The exchange does not
 - a. permit unreasonable discrimination among participants, or
 - b. impose any burden on competition that is not reasonably necessary and appropriate.
- e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

PART 4 REGULATION OF PARTICIPANTS ON THE EXCHANGE

Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 5 RULEMAKING

Purpose of Rules

- a) The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.
- b) The Rules are not contrary to the public interest and are designed to
 - a. ensure compliance with applicable legislation,
 - b. prevent fraudulent and manipulative acts and practices,
 - c. promote just and equitable principles of trade,
 - d. foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,
 - e. provide a framework for disciplinary and enforcement actions, and
 - f. ensure a fair and orderly market.

PART 6 DUE PROCESS

Due Process

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

- a) parties are given an opportunity to be heard or make representations, and
- b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

PART 7 CLEARING AND SETTLEMENT

N/A

PART 8 SYSTEMS AND TECHNOLOGY**Systems and Technology**

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

- a) order entry,
- b) order routing,
- c) execution,
- d) trade reporting,
- e) trade comparison,
- f) data feeds,
- g) market surveillance,
- h) trade clearing, and
- i) financial reporting.

System Capability/Scalability

Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

- (a) makes reasonable current and future capacity estimates;
- (b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;
- (c) reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;
- (d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;
- (e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;
- (f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and
- (g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

PART 9 FINANCIAL VIABILITY

Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 10 TRADING PRACTICES

Trading Practices

Trading practices are fair, properly supervised and not contrary to the public interest.

Orders

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

Transparency

The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or the Foreign Regulator. This information is also provided to all participants on an equitable basis.

PART 11 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT

Jurisdiction

The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

Member and Market Regulation

The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

Availability of Information to Regulators

The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.

PART 12 RECORD KEEPING

Record Keeping

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

PART 13 OUTSOURCING

Outsourcing

Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

PART 14 FEES

Fees

All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.

The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 15 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

Oversight Arrangements

Satisfactory information sharing and oversight agreements exist between the Commission and the Foreign Regulator.

PART 16 IOSCO PRINCIPLES

IOSCO Principles

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organization of Securities Commissions (**IOSCO**) including those set out in the “Principles for the Regulation and Supervision of Commodity Derivative Markets” (2011).

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