

July 16, 2020

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

AND

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

AND

IN THE MATTER OF
CI INVESTMENTS INC. (**CI**) OR AN AFFILIATE (collectively, the **Filer**)
AND THE EXISTING AND FUTURE INVESTMENT FUNDS
MANAGED BY THE FILER TO
WHICH NATIONAL INSTRUMENT 81-102 *INVESTMENT FUNDS* (**NI 81-102**)
APPLIES (the **Funds**)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction that exempts each Fund from the requirement in subsection 6.1(1) of NI 81-102, namely that all portfolio assets of an investment fund be held under the custodianship of one custodian that satisfies the requirements of section 6.2 of NI 81-102, solely to permit each Fund to appoint more than one custodian, each of which is qualified to be a custodian under section 6.2 of NI 81-102 and each of which is subject to all of the other requirements in NI 81-102 Part 6 *Custodianship of Portfolio Assets* other than the prohibition against the Fund appointing more than one custodian in subsection 6.1(1) of NI 81-102 pursuant to this decision (the **Exemption Sought**).

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

- (i) the Ontario Securities Commission is the principal regulator for the Application;

(ii) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-202 - Passport System (MI 11-102) is intended to be relied upon in each of the other provinces and territories of Canada (the **Other Jurisdictions** and, 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. For clarity, in this decision:

AIF means an annual information form of a Fund prepared in accordance with Form 81-102F2 *Contents of Annual Information Form*, as the same may be amended from time to time;

Custodian means the custodian of each Fund, other than an Additional Custodian appointed in reliance upon the Exemption Sought;

Prime Broker means any entity that acts as a lender or borrowing agent to investment funds;

Prospectus means a prospectus of a Fund prepared in accordance with Form 81-101F1 *Contents of Simplified Prospectus* or Form 41-101F2 *Information Required in an Investment Fund Prospectus*, as the same may be amended from time to time; and

Securities Lending Agreements means agreements which effect securities lending, repurchase or reverse repurchase transactions between a Fund, as lender of the securities, third party borrowers and the Fund's securities lending agent.

Representations

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

The Filer and the Funds

1. CI is a corporation amalgamated under the laws of the Province of Ontario with its head office located in Toronto, Ontario.

2. CI is registered:

(a) under the securities legislation in Ontario, Québec and Newfoundland and Labrador as an investment fund manager,

(b) under the securities legislation in each of the Jurisdictions as a portfolio manager and exempt market dealer, and

(c) under the *Commodity Futures Act* (Ontario) as a commodity trading counsel and commodity trading manager.

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

4. Each Fund is or will be an investment fund to which NI 81-102 applies, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.

5. Each existing Fund is a reporting issuer under the securities legislation of all the Jurisdictions. Each future Fund will be a reporting issuer under the securities legislation of the Jurisdiction and may be a reporting issuer under the securities legislation of one or more other Jurisdictions.

6. The Filer and each existing Fund is not in default of securities legislation in any Jurisdiction.

Reasons for the Exemption Sought

7. The Filer would like the flexibility for each Fund to engage Prime Brokers as custodians in addition to the Fund's Custodian provided that such Prime Brokers are qualified to act as a custodian under subsection 6.2(3) of NI 81-102 (each, an **Additional Custodian**). Appointment of a Prime Broker to act as an Additional Custodian will increase operational efficiency and reduce execution risk and costs for a Fund as it will avoid the need to transfer the Fund's portfolio assets from a third party custodian to the Prime Broker to effect transactions conducted by the Fund through the Prime Broker. These transactions include, in particular, purchases of corporate bonds hedged through the concurrent short sale of government bonds, which trade in the market as unified transactions and, in reliance on the Exemption Sought, can be settled

through a single Fund account with the Prime Broker. The Filer and any Additional Custodians would be subject to all requirements applicable to custodians under Part 6 of NI 81-102, other than the requirement in subsection 6.1(1) of NI 81-102 that there only be one custodian.

8. An Additional Custodian may also be appointed as a securities lending agent of the Funds and, in such circumstances, would provide the Funds with the opportunity to enter into a greater number of Securities Lending Agreements than would be the case with a single custodian and would therefore have the potential to increase revenues to the Funds from securities lending activities.

9. Prime Brokers are not widely appointed as sub-custodians by Custodians under NI 81-102 as it can be both operationally challenging for the Custodian and the Filer to appoint them to act in such capacity.

10. If the Exemption Sought is granted, an Additional Custodian's responsibility for custody of the Funds' assets will apply only to the assets held by the Additional Custodian on behalf of the Funds (the **Relevant Assets**). The custodial arrangements between the Funds and each Additional Custodian will comply with the requirements of Part 6 of NI 81-102 other than subsection 6.1(1).

11. Any Additional Custodian will meet the requirements of NI 81-102 to act as a custodian for an investment fund and will have experience acting as custodian of the assets of public investment funds governed by NI 81-102. As custodian of the Relevant Assets, an Additional Custodian will comply with the standard of care applicable to qualified

custodians under Section 6.6 of NI 81-102, will hold the Relevant Assets in the name of the applicable Fund in accordance with Section 6.5 of NI 81-102 and will include the provisions prescribed in Section 6.4 of NI 81-102 in its custody agreement with the Filer and the Funds. Each Additional Custodian will complete the review and provide compliance reports to the Filer as contemplated in Section 6.7 of NI 81-102.

12. The ability to terminate an Additional Custodian as custodian of the Relevant Assets of a Fund at any time without cause on written notice will ensure that the Filer maintains ultimate control over all of the portfolio assets of the Funds and can restore all assets to the custody of its Custodian at any time if the Filer considers it to be in the best interests of the Funds and their respective unitholders to do so.

13. The appointment of an Additional Custodian should have no impact on the safety of the portfolio assets of the Funds while also enhancing the Fund's abilities to engage in the efficient short selling of securities under Section 6.8.1 of NI 81-102, including pursuant to the trades described in representation 7 above, and to enter into additional Securities Lending Agreements.

14. Upon receipt of the Exemption Sought and appointment of an Additional Custodian, the Filer will provide notice of the appointment of any Additional Custodian to unitholders and amend the Prospectus and AIF of the applicable Funds to include disclosure regarding the Exemption Sought and particulars of the appointment of an Additional Custodian of the Funds with respect to the Relevant Assets.

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 Fund may appoint one or more Additional Custodians if:

(a) a single entity reconciles all the portfolio assets of the Fund and provides the Fund with valuation and unitholder recordkeeping services and will complete daily reconciliations amongst the custodians before striking a daily net asset value;

(b) the Filer maintains such operational systems and processes, as between two or more custodians and the single entity referred to in condition (a) above, in order to keep a proper reconciliation of all the portfolio assets that will move amongst the custodians, as appropriate; and

(c) Each Additional Custodian will act as custodian and securities lending agent only for the portion of portfolio assets of the Fund transferred to it.

signed "Darren McKall"

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

Application #: 2020/0245

SEDAR Project #s: 3052807, 3052764, 3052765, 3052767, 3052768, 3052770, 3052771, 3052774, 3052775, 3052776, 3052777, 3052779, 3052804, 3052805