

September 4, 2018

**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 NINEPOINT PARTNERS LP

AND

**IN THE MATTER OF
THE NI 81-102 FUNDS (as defined below)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from Ninepoint Partners LP for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption from the prohibition in section 4.2(1) of National Instrument 81-102 *Investment Funds* (NI 81-102), to permit each NI 81-102 Fund (as defined below) to purchase debt securities from, or sell debt securities to, a Pooled Fund (as defined below)) (the **Section 4.2(1) 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 the Application; and
- (b) Ninepoint Partners LP has provided notice that Section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the provinces and territories of Canada other than Ontario.

Interpretation

Terms defined in MI 11-102, National Instrument 14-101 *Definitions*, NI 81-102 and National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**) have the same meaning if used in this decision, unless otherwise defined. The following additional terms shall have the following meanings:

Filer means Ninepoint Partners LP and any affiliate of Ninepoint Partners LP;

Specified NI 81-102 Fund means each existing investment fund listed in Exhibit A;

Enumerated Fund means each of Ninepoint UIT Alternative Health Fund, Ninepoint

Concentrated Canadian Equity Fund and Ninepoint International Small Cap Fund;

NI 81-102 Fund means each Specified NI 81-102 Fund, each Enumerated Fund or any investment fund to be established in the future, that is a reporting issuer and subject to NI 81-102, for which the Filer acts as manager and/or portfolio adviser. For greater clarity, NI 81-102 Funds will include existing and future mutual funds and closed-end investment funds that are reporting issuers and subject to NI 81-102, for which the Filer acts as manager and/or portfolio adviser.

Pooled Fund means each existing investment fund, or an investment fund to be established in the future, that is not a reporting issuer, to which NI 81-102 does not apply, for which the Filer acts as manager and/or portfolio adviser.

Funds means, collectively, the NI 81-102 Funds and the Pooled Funds.

Representations

The decision is based on the following facts represented by Ninepoint Partners LP:

The Filer

- 1 Ninepoint Partners LP is a limited partnership formed and organized under the laws of the Province of Ontario. The general partner of Ninepoint Partners LP is Ninepoint Partners GP Inc. (**GP Inc.**), a corporation incorporated under the laws of the Province of Ontario. The head office of the Filer is located in Ontario
- 2 Ninepoint Partners LP is registered as (i) an investment fund manager in Ontario, Quebec and Newfoundland and Labrador, (ii) a portfolio manager in Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia and Newfoundland and Labrador, and (iii) an exempt market dealer in Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Newfoundland and Labrador and Quebec.
- 3 The Filer acts, or will act, as manager and/or portfolio adviser of each of the Funds.
- 4 Ninepoint Partners LP became the manager and portfolio adviser of the Specified NI 81-102 Funds when the management agreements relating to the Specified NI 81-102 Funds were transferred to Ninepoint Partners LP by Sprott Asset Management LP pursuant to an Asset Purchase Agreement among, *inter alia*, Sprott Asset Management LP, Sprott Private Wealth LP and Ninepoint Financial Group Inc. (formerly 2568004 Ontario Inc.) (**NFG**) dated April 10, 2017, as filed on SEDAR under the profile of Sprott Inc., as the same may be amended, supplemented or modified from time to time in accordance with its terms.
- 5 Ninepoint Partners LP acquired the management agreement relating to Ninepoint UIT Alternative Health Fund from Redwood Asset Management Inc. pursuant to the approval of securityholders of that fund on March 19, 2018 and pursuant to regulatory approval of the change of manager in a decision dated March 12, 2018. Ninepoint Partners LP recently launched the Ninepoint Concentrated Canadian Equity Fund and Ninepoint International Small Cap Fund by way of simplified prospectus and annual information form dated April 23, 2018.

Relationships among the Entities

- 6 GP Inc. is a wholly-owned subsidiary of NFG. NFG is a corporation established under the laws of the Province of Ontario and is the sole limited partner of Ninepoint Partners LP.

- 7 The general partners of the Pooled Funds that are organized as limited partnerships are affiliates of Ninepoint Partners LP. In addition, Ninepoint Partners LP may in the future be the trustee of certain of the Pooled Funds organized as trusts, and therefore such Pooled Funds would be deemed to be associates of the Ninepoint Partners LP.

Existing Relief

- 8 Each of the Specified NI 81-102 Funds obtained the same relief as the Section 4.2(1) Relief evidenced by a decision dated August 27, 2010 (the **Specified Prior Relief**). Ninepoint Partners LP, as the current manager of the Specified NI 81-102 Funds and the Enumerated Funds, is now seeking to obtain the Section 4.2(1) Relief in a separate, new decision, reflecting itself as the current manager of the Specified NI 81-102 Funds and the Enumerated Funds, and on behalf of NI 81-102 Funds that Ninepoint Partners LP may establish in the future.
- 9 Should the Section 4.2(1) Relief be granted, neither the Filer nor any of the NI 81-102 Funds will rely on the Specified Prior Relief. The Specified Prior Relief will continue to apply to existing and future investment funds managed by Sprott Asset Management LP.

The NI 81-102 Funds and the Pooled Funds

- 10 Each NI 81-102 Fund is, or will be, a mutual fund trust or closed-end investment fund established as a trust under the laws of the Province of Ontario, a class of a corporation established under the laws of the Province of Ontario or of Canada, or a limited partnership established under the laws of the Province of Ontario, and a reporting issuer under the laws of one or more provinces and territories of Canada.
- 11 Each Pooled Fund is, or will be, a trust or limited partnership. One or more Pooled Funds is, or will be, an associate or affiliate of the manager, portfolio adviser or trustee of the NI 81-102 Funds because of the relationships described above.

Inter-Fund Trades involving the NI 81-102 Funds

- 12 The Filer wishes to effect purchases or sales of debt securities between the NI 81-102 Funds and the Pooled Funds (**Inter-Fund Trades**).
- 13 Section 4.3(2) of NI 81-102 permits an NI 81-102 Fund to purchase debt securities from or sell debt securities to an entity that would otherwise be prohibited by section 4.2 of NI 81-102 if certain conditions are met. One of the conditions of section 4.3(2) is that the NI 81-102 Fund is purchasing from, or selling to, another investment fund to which NI 81-107 applies.
- 14 The Filer cannot rely on section 4.3(2) of NI 81-102 to permit an NI 81-102 Fund to purchase debt securities from or sell debt securities to a Pooled Fund because the Pooled Funds are not subject to NI 81-107.

Fund Governance for the NI 81-102 Funds and the Pooled Funds

- 15 At the time of an Inter-Fund Trade, the Filer as manager of an NI 81-102 Fund, will have policies and procedures in place to enable the applicable NI 81-102 Funds to engage in Inter-Fund Trades.
- 16 Ninepoint Partners LP has established an independent review committee (**IRC**) in respect of the existing NI 81-102 Funds in accordance with the requirements of NI 81-107. The Filer, as manager of an NI 81-102 Fund, will establish an IRC for each future NI 81-102 Fund in accordance with the requirements of NI 81-107.

- 17 Inter-Fund Trades by the NI 81-102 Funds will be referred to the IRC of the NI 81-102 Funds as contemplated by section 5.2(1) of NI 81-107. The Filer, as manager of an NI 81-102 Fund, and the IRC of the NI 81-102 Fund, will comply with section 5.4 of NI 81-107 in respect to any standing instructions the IRC has provided in connection with the Inter-Fund Trade. The IRC of the NI 81-102 Funds will not approve such purchase or sale transactions unless it has made the determinations set out in section 5.2(2) of NI 81-107.
- 18 Ninepoint Partners LP has established an IRC in respect of each existing Pooled Fund. The Filer, as manager, will establish an IRC for each future Pooled Fund. The IRC of the Pooled Funds is, or will be, composed in accordance with section 3.7 of NI 81-107 and will comply with the standard of care set out in section 3.9 of NI 81-107. The mandate of the IRC of the Pooled Funds will include approving Inter-Fund Trades. The IRC of the Pooled Funds will not approve Inter-Fund Trades unless the IRC has made the determination set out in section 5.2(2) of NI 81-107.
- 19 Each Inter-Fund Trade will be consistent with the fundamental investment objective of the Funds engaged in the trade.
- 20 When the Filer engages in an Inter-Fund Trade, the Filer will follow the following procedures:
- (a) the Filer, as the portfolio manager, will deliver the trade instruction in respect of a purchase or sale of a debt security by a Fund (**Fund A**), to a trader on the Filer's trading desk;
 - (b) the Filer, as the portfolio manager, will deliver the trade instruction in respect of a purchase or sale of a debt security by another Fund (**Fund B**), to a trader on the Filer's trading desk;
 - (c) the trader on the Filer's trading desk will have the discretion to execute the trade as an Inter-fund Trade between Fund A and Fund B, prior to the execution of the trade;
 - (d) the policies applicable to the Filer's trading desk will require that all orders are to be executed on a timely basis and will remain open only for 30 days unless the Filer, as portfolio manager, cancels the order sooner; and
 - (e) upon execution of the trade, the trader on the Filer's trading desk will advise the portfolio manager of the price at which the Inter-Fund Trade occurred.
- 21 If the IRC of a Fund becomes aware of an instance where the Filer as investment fund manager of the Fund, did not comply with the terms of this decision, or a condition imposed by securities legislation or the IRC in its approval, the IRC of such Fund will, as soon as practicable, notify in writing the securities regulatory authority or regulator in the jurisdiction under which the Fund is organized.

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 Section 4.2(1) Relief is granted provided that the following conditions are met.

In respect of the Section 4.2(1) Relief:

- (a) the Inter-Fund Trade is consistent with the investment objectives of each Fund involved in the trade;
- (b) the IRC of each Fund involved in the Inter-Fund Trade has approved the transaction in accordance with the terms of section 5.2(2) of NI 81-107; and
- (c) the transaction complies with paragraphs (c) to (g) of section 6.1(2) of NI 81-107.

“Darren McKall”

Darren McKall

Manager, Investment Funds & Structured Products

Ontario Securities Commission

SEDAR# 2700550, 2700554, 2700558, 2700562

Application #2017/0663

EXHIBIT A

SPECIFIED NI 81-102 FUNDS

Public Trust Funds

1. Ninepoint Gold Bullion Fund
2. Ninepoint Silver Bullion Fund
3. Ninepoint Diversified Bond Fund
4. Ninepoint Energy Fund
5. Ninepoint Global Infrastructure Fund
6. Ninepoint Global Real Estate Fund
7. Ninepoint Gold and Precious Minerals Fund
8. Ninepoint Short Term Bond Fund
9. Ninepoint Enhanced Balanced Fund

Public Corporate Class Funds

- 1 Ninepoint Diversified Bond Class
- 2 Ninepoint Real Asset Class
- 3 Ninepoint Resource Class
- 4 Ninepoint Short-Term Bond Class
- 5 Ninepoint Silver Equities Class
- 6 Ninepoint Enhanced Balanced Class
- 7 Ninepoint Enhanced Equity Class
- 8 Ninepoint Enhanced U.S. Equity Class
- 9 Ninepoint Focused Global Dividend Class
- 10 Ninepoint Focused U.S. Dividend Class

Public Listed Funds

- 1 Ninepoint Energy Opportunities Trust