



THE MANITOBA
SECURITIES
COMMISSION

THE SECURITIES ACT)

MSC Rule 91-507)

Order No. 7557

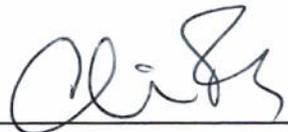
September 29, 2021

CO-ORDINATED REVIEW

DETERMINATION

NETCOINS INC.

The Manitoba Securities Commission makes the same determination on the application as the Principal Jurisdiction, a copy of which is attached, and opts in on the attached Decision Document.



Director

Securities Division

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A DIVISION OF THE MANITOBA FINANCIAL SERVICES AGENCY

September 29, 2021

**In the Matter of
the Securities Legislation of British Columbia and Ontario
and Alberta, Manitoba, New Brunswick, Newfoundland and Labrador,
Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Québec,
Saskatchewan and Yukon (collectively the Jurisdictions)**

and

**In the Matter of
the Process for Exemptive Relief Applications in Multiple**

Jurisdictions and

**In the Matter
of Netcoins Inc.
(the Filer)**

Decision

Background

¶ 1 As set out in CSA Staff Notice 21-327 *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets (CSA SN 21-327)*, securities and derivatives legislation may apply to persons or companies that are in the business of trading contracts or instruments that have an underlying interest in assets that are frequently referred to as crypto assets such as Bitcoin, Ether, and anything commonly considered a crypto asset, digital or virtual currency, or digital or virtual token that are not themselves securities or derivatives (**Crypto Assets**) because these contracts or instruments (**Crypto Contracts**) satisfy the definition of a security or a derivative as defined by the securities legislation of the Jurisdictions.

To foster innovation and respond to novel circumstances, the CSA has considered an interim, time limited, regulatory framework that would allow persons or companies that are trading Crypto Contracts to operate within a regulated environment, with regulatory requirements tailored to the person or company's operations, as appropriate. The overall goal of the regulatory framework is to strike a balance between being flexible to facilitate innovation in the Canadian capital markets, while upholding the regulatory mandate of promoting investor protection and fair and efficient capital markets.

The Filer has made an application to the CSA Regulatory Sandbox, an initiative of the CSA to support fintech businesses seeking to offer innovative products, services and applications in Canada. It allows firms to test their products, services and applications throughout the Canadian market under a flexible process and on a time-limited basis.

The Filer currently operates a platform that permits clients, including clients residing in Canada, to enter into a Crypto Contract, with the Filer, that results in the client obtaining an interest in relation to a Crypto Asset or divesting such rights. The Filer filed an application to be registered, for an interim period, in the category of restricted dealer and an application to be exempted from certain requirements under applicable securities legislation, while it transitions to a final regulatory framework.

Requested Relief

- ¶ 2 The securities regulatory authority or regulator in British Columbia and Ontario (**Dual Exemption Decision Makers**) have received an application from the Filer for a decision under the securities legislation of those jurisdictions (the **Legislation**) for a decision exempting the Filer from:
- A. the prospectus requirements under the securities legislation of British Columbia and Ontario in respect of the Filer entering into Crypto Contracts with clients (the **Prospectus Relief**);
 - B. the requirement in subsection 12.10(2) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) to deliver annual audited financial statements to the regulator and the requirement in section 13.3 of NI 31-103 to take reasonable steps to ensure that, before it makes a recommendation to or accepts instructions from a client to buy or sell a security, the purchase or sale is suitable for the client (the **Registrant Obligations Relief**);

AND

The securities regulatory authority or regulator in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**), exempting the Filer from certain reporting requirements under the Local Trade Reporting Rules (as defined in Appendix A) (the **Trade Reporting Relief**).

Together, the Prospectus Relief, the Registrant Obligations Relief and the Trade Reporting Relief, are referred to as the **Requested Relief**.

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

- (a) the British Columbia Securities Commission is the principal regulator for this Application (the **Principal Regulator**),
- (b) the decision is the decision of the Principal Regulator and the decision evidences the decision of the securities regulatory authority or regulator in Ontario,
- (c) in respect of the Prospectus Relief and the Registrant Obligations Relief, the Filer has provided notice that, in the Jurisdictions where required, subsection 4.7(1) of

Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (the **Non-Principal Jurisdictions**),

and

- (d) the decision in respect of the Trade Reporting Relief is the decision of the Principal Regulator and evidences the decision of each securities authority or regulator and in each of the other Jurisdictions referred to in Appendix A (together with the Principal Regulator, the **Coordinated Review Decision Makers**).

This decision (the **Decision**) has been tailored for the specific facts and circumstances of the Filer, and the securities regulatory authority or regulator in the Jurisdictions or in any other jurisdiction will not consider this Decision as constituting a precedent for other filers, whether in the Jurisdictions or in any other jurisdiction.

Interpretation

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

Representations

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

The Filer

1. The Filer is a corporation incorporated under the laws of British Columbia, with a head office in Vancouver, British Columbia.
2. The Filer is an indirect wholly owned subsidiary of BIGG Digital Assets Inc. (formerly BIG Blockchain Intelligence Group Inc.) (**BIGG**). The securities of BIGG are publicly traded on the Canadian Securities Exchange, the OTCQX and the Frankfurt Stock Exchange.
3. Concurrent with the application for this Decision, the Filer is seeking registration in the Jurisdictions as a dealer in the category of restricted dealer.
4. The Filer's personnel consists, and will consist, of software engineers, executives and compliance professionals who each have experience operating in a regulated financial services environment and expertise in blockchain technology. All of the Filer's personnel have passed criminal records and credit checks, and new personnel will be hired after they pass criminal records and credit checks.
5. The Filer has adopted a business continuity plan designed to ensure the uninterrupted availability of the resources required to support its essential and critical business activities.

6. The Filer will not be a member firm of the Canadian Investor Protection Fund (**CIPF**). The Filer will retain the services of an independent third-party to hold Crypto Assets that satisfy the Filer's obligations under Crypto Contracts. The Crypto Assets "custodied" with the third party will not qualify for CIPF coverage. The Risk Statement (defined in paragraph 27 of the Representations, below) will include disclosure that there will be no CIPF coverage for the Crypto Assets.
7. Although the Filer does not currently prepare non-consolidated audited financial statements for its business, the financial statements of the Filer are consolidated with the audited financial statements of BIGG, the Filer's indirect parent. The Filer anticipates that it will be able to provide audited financial statements in compliance with subsection 12.10(2) for its 2021-22 fiscal year. During the period of this relief, the Filer will deliver to the Principal Regulator both the annual unaudited non-consolidated financial statements of the Filer and the annual audited financial statements of BIGG.
8. Neither the Filer nor BIGG is in default of securities legislation of any of the Jurisdictions, except in respect of the Filer's trading of Crypto Contracts prior to the date of this Decision.

The Platform

9. The Filer operates a proprietary and fully automated internet-based platform (the **Platform**) that enables clients to enter into Crypto Contracts with the Filer that have, as their underlying interest, crypto assets, been accepted for trading on the Platform in accordance with the Filer's written policies and procedures.
10. The Platform will establish and apply policies and procedures to conduct an assessment of each Crypto Assets that underlies a Crypto Contract that the Platform trades. The assessment will be sufficient to allow the Platform to identify material risks to its clients relating to the Crypto Asset, including any material risks resulting from litigation or enforcement action by a securities regulatory authority in Canada or in a foreign jurisdiction. Each material risk will be disclosed in the platform's Risk Statement referred to in paragraph 27 of these Representations.
11. The Platform will not transact Crypto Contracts based on Crypto Assets that the Platform reasonably determines to be securities or derivatives in any jurisdiction in Canada.
12. The Filer acknowledges that the Principal Regulator may implement additional terms and conditions that will require the Platform to stop trading of any Crypto Contract, where it is in the public interest to do so.
13. The Filer's trading of Crypto Contracts is consistent with activities described in CSA SN 21-327 and constitutes the trading of securities or derivatives.
14. The Filer currently operates the Platform and offers trading access to clients in each Jurisdiction. If the Filer provides access to the platform to clients in jurisdictions outside of

Canada, the Filer will take reasonable steps to ensure that the Filer complies with applicable securities or derivatives laws in such jurisdictions before providing such access.

15. Each transaction executed on the Platform results in a Crypto Contract. A Crypto Contract imposes rights and obligations on the Filer and each client. These rights and obligations are set out in an electronic document that is made available to each client (the **Terms of Service**). The client is required to review and accept the Terms of Service at the time the client opens an account. When the Filer intends to make a change to the Terms of Service, the Filer will provide each client with advanced notice of such change. If there is a material change to the Terms of Service applicable to a client, the client will be required to review and accept the new Terms of Service before the client will be allowed to execute a transaction.

Crypto Assets Made Available through the Platform

16. The Filer has established and applies policies and procedures to review Crypto Assets and to determine whether to allow clients on its Platform to enter into Crypto Contracts to buy and sell the Crypto Asset on its Platform. Such review includes, but is not limited to, publicly available information concerning:
 - (a) the creation, governance, usage and design of the Crypto Asset, including the source code, security and roadmap for growth in the developer community and, if applicable, the background of the developer(s) that created the Crypto Asset;
 - (b) the supply, demand, maturity, utility and liquidity of the Crypto Asset;
 - (c) material technical risks associated with the Crypto Asset, including any code defects, security breaches and other threats concerning the Crypto Asset and its supporting blockchain (such as the susceptibility to hacking and impact of forking), or the practices and protocols that apply to them; and
 - (d) legal and regulatory risks associated with the Crypto Asset, including any pending, potential, or prior civil, regulatory, criminal, or enforcement action relating to the issuance, distribution, or use of the Crypto Asset.
17. The Filer only offers, and only allows clients to enter into a Crypto Contract to buy and sell, a Crypto Asset that is not, itself, a security or a derivative.
18. The Filer does not allow clients to enter into a Crypto Contract to buy and sell Crypto Assets unless the Filer has taken steps to
 - (a) assess the relevant aspects of the Crypto Asset, including the information specified in paragraph 16, to determine whether it is appropriate for its clients,
 - (b) approve the Crypto Asset, and Crypto Contracts to buy and sell such Crypto Asset, to be made available to clients, and

- (c) monitor the Crypto Asset for significant changes and review its approval under (b) where a significant change occurs.
19. The Filer is not engaged, and will not engage, in trades that are part of, or designed to facilitate, the creation, issuance or distribution of Crypto Assets by the developer(s) of the Crypto Asset or affiliates or associates of such persons.
20. The Filer has established and applies policies and procedures to determine whether a Crypto Asset available to be bought and sold through a Crypto Contract is a security and/or derivative and is being offered in compliance with securities and derivatives laws, which include but are not limited to:
- (a) consideration of statements made by any regulators or securities regulatory authorities of the Jurisdictions, other regulators in IOSCO-member jurisdictions, or the regulator with the most significant connection to a Crypto Asset about whether the Crypto Asset, or generally about whether the type of Crypto Asset, is a security or derivative; and
 - (b) if the Filer determines it to be necessary, obtaining legal advice as to whether the Crypto Asset is a security or derivative under securities legislation of the Jurisdictions.
21. The Filer monitors ongoing developments related to Crypto Assets available on its Platform that may cause a Crypto Asset's legal status, or the assessment conducted by the Filer described in paragraphs 16 and 20 of these Representations, above, to change.
22. The Filer acknowledges that any determination made by the Filer as set out in paragraphs 16 to 20 of the Representations does not prejudice the ability of any of the regulators or securities regulatory authorities of any province or territory of Canada to determine that a Crypto Asset that a client may enter into a Crypto Contract to buy and sell is a security or derivative.
23. The Filer has established and applies policies and procedures to promptly stop the trading of any Crypto Asset available on its Platform and to allow clients to liquidate their positions in Crypto Contracts with underlying Crypto Assets that the Filer ceases to make available on its Platform.

Account Opening and Risk Disclosure

24. The Platform will be available to clients located in Canada and certain foreign jurisdictions, including any individual who is a resident in the Jurisdictions, who has reached the age of majority, and who has the legal capacity to open a securities brokerage account.
25. Prospective clients of the Filer will be required to complete an onboarding process which includes identity verification, applicable "know your client" account opening requirements under applicable legislation and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its regulations. If a person is client of the Filer before the date of this

Decision, the Filer will ensure that each element of the onboarding process described in the previous sentence is completed for that client prior to allowing the client to execute a transaction.

26. For each client, the Filer will, prior to opening the account, use technology to determine whether it is appropriate for the prospective client to use the Platform to enter into a Crypto Contract in order to buy and sell Crypto Assets.
27. As part of the account opening process, the Filer will provide a prospective client with a separate statement of risks that clearly explains the following, in plain language (the **Risk Statement**)
 - (a) the Crypto Contracts and Crypto Assets,
 - (b) the risks associated with Crypto Contracts and Crypto Assets,
 - (c) that no securities regulatory authority has expressed an opinion about the Crypto Contracts or any of the Crypto Assets made available through the Platform, including an opinion about whether the Crypto Assets are a security or a derivative,
 - (d) the due diligence performed by the Filer before making a Crypto Asset available through the Platform, including the due diligence taken by the Filer to assess whether the Crypto Asset is a security or derivative under the securities legislation of each of the Jurisdictions and, if applicable, the securities and derivatives laws of the foreign jurisdiction with which the Crypto Asset has the most significant connection, and the risks if the Filer has incorrectly determined that the Crypto Asset is not a security or derivative,
 - (e) that the Filer has prepared a plain language description of each Crypto Asset made available through the Platform, with instructions as to where on the Platform the client may obtain the descriptions (each, a **Crypto Asset Statement**),
 - (f) the Filer's policies for halting, suspending and withdrawing a Crypto Asset from trading on the Platform, including criteria that would be considered by the Filer, options available to clients holding such a Crypto Asset, any notification periods and any risks to clients,
 - (g) how and where the Crypto Assets that are the basis for the Crypto Contracts are held and the benefits and risks to the client of the Crypto Assets being held in that manner,
 - (h) if applicable, the manner in which the Crypto Assets are accessible by the Filer, and the risks and benefits to the client arising from the Filer having access to the Crypto Assets in that manner,
 - (i) that the Filer is not a member of the Canadian Investor Protection Fund (CIPF) and the Crypto Contracts and the Crypto Assets will not qualify for CIPF protection, and

- (j) that the statutory rights in sections 131 through 132.2 of the *Securities Act* (British Columbia), and, if applicable, similar statutory rights under the securities legislation of the other Non-Principal Jurisdictions and Ontario, do not apply in respect of the Risk Statement or a Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief.

The statement referenced in paragraph (c) will be prominent.

28. The Filer will also provide each person that is a client on the date of this Decision with the Risk Statement. The Filer will obtain an electronic acknowledgment that the client has received, read and understood the Risk Statement prior to allowing the client to execute a transaction.
29. In order for a prospective client to open and operate an account with the Filer, the Filer will obtain an electronic acknowledgment from the prospective client confirming that the prospective client has received, read and understood the Risk Statement. Such acknowledgment will be prominent and separate from other acknowledgments provided by the prospective client as part of the account opening process and will be made available to the client on the Filer's website.
30. Before a client enters an order relating to Crypto Contract to "buy" a Crypto Asset, the Filer will provide instructions for the client to read the Crypto Asset Statement, which will include a link to the Crypto Asset Statement. The Crypto Asset Statement will include
 - (a) a prominent statement that no securities regulatory authority in Canada has expressed an opinion about any Crypto Contract or Crypto Asset made available through the Platform, including an opinion that the Crypto Assets are not securities or derivatives,
 - (b) a description of the Crypto Asset, including the background of the team that first created the Crypto Asset, if applicable and any risks specific to the Crypto Assets,
 - (c) a description of the due diligence performed by the Filer with respect to the Crypto Asset,
 - (d) a direction to the client to review the Risk Statement for additional discussion of general risks associated with the Crypto Contracts and Crypto Assets,
 - (e) a statement that the statutory rights in sections 131 through 132.2 of the Securities Act (British Columbia), and, if applicable, similar statutory rights under the securities legislation of the Non-Principal Jurisdictions and Ontario, do not apply in respect of

the Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief,

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

31. In addition to the assessment referred to in paragraph 26 of these Representations, the Filer has also established, and will maintain and apply, policies and procedures that are reasonably designed to monitor client activity, and will contact clients to discuss their trading behaviour if it indicates a lack of knowledge or understanding of Crypto Asset trading, in an effort to identify and deter behaviours that may indicate that trading a Crypto Contract is not appropriate for the client, or that additional education is required. The outcome of this engagement with a client may result, in some cases, in a decision by the Filer to close a client's account.
32. The Filer has established, and will maintain and apply, policies and procedures that are reasonably designed to update the Risk Statement, to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts and Crypto Assets, and the Crypto Assets Statement, to reflect any material changes relating to specific Crypto Assets. In the event the Risk Statement or Crypto Asset Statement is updated, existing clients of the Filer will be promptly notified and provided with a copy of the updated Risk Statement or Crypto Asset Statement, as applicable.
33. The Filer will also prepare and make available to its clients, on an ongoing basis and in response to emerging issues in Crypto Assets, educational materials and other informational updates about trading on the Platform and the ongoing development of Crypto Assets and Crypto Asset trading markets.

Deposit of Assets

34. A client can only execute transactions once the client has deposited assets in an amount that would allow the client to fulfill their obligations under any Crypto Contract that the client enters into.
35. Clients can fund their accounts with fiat currencies (currently, CAD or United States dollars (USD)) or supported Crypto Assets, and can use those funds to execute transactions of Crypto Contracts related to Crypto Assets made available through the Platform.
36. The Filer allows clients to fund their accounts with fiat currency by way of electronic funds transfer, e-transfer, online bill payment and wires, as well as credit card payments which are fulfilled through a third-party service provider. In addition, the Filer allows clients to deposit Crypto Assets through the automatic creation of a sub-wallet which is created solely for the purpose of the client's individual deposit of Crypto Assets, and is held by the custodian (as defined below).

Platform Operations

37. The Filer does not have any authority to act on a discretionary basis on behalf of clients and will not manage any discretionary accounts.
38. A Crypto Contract entered into by a client will either provide the client with an interest in relation to a Crypto Asset (**buy**) or divest the client of an interest in relation to a Crypto Asset (**sell**). Orders to buy and sell Crypto Assets will be placed with the Filer through the Platform. Clients will be able to submit buy and sell orders, either in units of the applicable Crypto Asset or in Canadian dollars, 24 hours a day, seven days a week.
39. The Filer does not provide recommendations or advice to clients or conduct a trade-by-trade determination for clients but rather performs account and product assessments, taking into account the client's experience and knowledge in investing in Crypto Assets, the client's experience in using order execution only online brokerages, a client's financial assets and income, the client's risk tolerance and the Crypto Assets that are the underlying interest of Crypto Contracts traded on the Platform. These will be used by the Filer to
 - (a) evaluate whether entering into a Crypto Contract with the Filer is appropriate for prospective clients before the opening of an account. After completion of the assessments, a prospective client will receive appropriate messaging about using the Platform to enter into a Crypto Contract, which could include messaging to a prospective client that the Filer believes that using the Platform to enter into Crypto Contract is not appropriate for them and that as a result the client will not be permitted to open an account with the Filer, and
 - (b) conduct the analysis described in paragraph 18 of the Representations.
40. The Filer will adopt policies and procedures to conduct an assessment to establish appropriate limits on the losses that a client that is not an permitted client, as that term is defined in NI 31-103, can incur and what limits on losses will apply to such client. After completion of the assessment, the Filer will implement controls to monitor and apply such policies and procedures, including any loss limits established.
41. The Filer will rely upon multiple crypto asset trading firms (**Liquidity Providers**) to act as sellers of Crypto Assets that may be purchased by the Filer to facilitate the Filer's obligations to clients. The Filer has a written agreement in place with each of its Liquidity Providers which govern the commercial terms of the relationship and set out the duties and obligations of each party. Liquidity Providers will also buy any Crypto Assets from the Filer that the Filer has purchased to facilitate the Filer's obligations to its clients or that a client has deposited onto the Platform and wishes to sell.
42. In accordance with the Filer's policies and procedures, after the order has been placed by a client, the Platform will obtain a price for the Crypto Asset from at least two unaffiliated Liquidity Providers, after which the Platform will incorporate a 'spread' to compensate the

Filer, and will present this adjusted price to the client as the price at which the Filer is willing to transact with the client.

43. The client will then have approximately 10 seconds to confirm that they want to enter into the Crypto Contract at that price. If the client does not confirm within a 10 second period, the price will automatically refresh using updated information from the Liquidity Providers. If the client finds the price agreeable, the client will accept the price and agree to the trade.
44. In order for a client to initiate a transaction, their account must be pre-funded with the applicable asset (fiat currency or Crypto Asset). When a client initiates a transaction with the Filer, the Filer will in turn enter into a back-to-back transaction with the Liquidity Provider, on a contemporaneous basis, in order to offset the risk to the Filer. The price of the Crypto Contract is equal to an aggregate amount of the cost to the Filer to complete the transaction with the Liquidity Provider and the spread that it charges to the client. As part of the transaction's reconciliation process, once the transaction is confirmed and settled, the Filer instructs the Liquidity Provider to transfer the Crypto Asset to the Filer's custodian for safe-keeping, or in the case of cash, to the Filer to be held in a bank account in the Filer's name.
45. The Filer will not extend margin or otherwise offer leverage to clients.
46. The Filer will not allow clients to enter into a "short position" with respect to any Crypto Asset.
47. In accordance with the Filer's policies and procedures, the Filer will evaluate the price obtained from its Liquidity Providers on an ongoing basis against global benchmarks to provide fair and reasonable pricing to clients.
48. The Filer has verified or will verify, and has established, and will maintain and apply, policies and procedures that are reasonably designed to verify on an ongoing basis, that each Liquidity Provider is appropriately registered and/or licensed to transact in the Crypto Assets in their home jurisdiction, or that their activities do not require registration in their home jurisdiction, and that they are not in default of securities legislation in the Jurisdictions.
49. The Filer has verified that each Liquidity Provider has effective policies and procedures to address concerns relating to fair price, fraud and market manipulation.
50. A Crypto Contract is a bilateral contract between a client and the Filer. Accordingly, the Filer will be the counterparty to each buy or sell transaction initiated by a client. For each client transaction, the Filer will also be a counterparty to a corresponding Crypto Assets buy or sell transaction with a Liquidity Provider. The Filer will transact as a riskless principal, in that the Filer will not take any proprietary positions when trading with clients or with a Liquidity Provider.
51. The Filer will confirm the transaction with the Liquidity Providers.
52. The Filer will record in its books and records the particulars of each transaction.

53. The Filer will promptly, and no later than two days after the Crypto Contract transaction, settle the related Crypto Asset transactions with a Liquidity Provider on a net basis. Where transactions of Crypto Contracts result in a net increase in a client's rights in relation to Crypto Assets, the Filer will arrange for the cash to be transferred to the Liquidity Provider and related Crypto Assets to be sent by the Liquidity Provider to the Filer's custodian. Where transactions of Crypto Contracts result in a net decrease in a client's rights in relation to Crypto Assets, the Filer will arrange for the related Crypto Assets to be sent from the Filer's custodian to the Liquidity Provider and will deposit the cash received by the Filer from the Liquidity Providers in the account referred to in paragraph 75 of these Representations.
54. The Platform is an "open loop" system. Clients are permitted to deposit Crypto Assets acquired outside the Platform into their accounts with the Filer. Crypto Assets deposited will be promptly delivered to the custodian to be held in trust for the benefit of the client. Clients also have the right to obtain delivery of Crypto Assets to which they have an interest in pursuant to their Crypto Contracts with the Filer by requesting that the Filer deliver the Crypto Assets.

Reports to Clients

55. Clients will have access to information relating to their Crypto Contract transactions. The Platform has a transaction history screen that provides detailed information about all transactions completed by a client. The Filer will, during each calendar month, send an electronic communication to each client that indicates that information relating to their account is available to the client through the Platform.
56. Clients will receive electronic transaction confirmations and monthly statements setting out the details of the transaction history in their account with the Filer.
57. Clients will, on a continuous basis, except during periods where the Platform is not available due to systems maintenance, have access to information relating to their accounts with the Filer, including:
- (a) a list of all positions in Crypto Assets including the value of the Crypto Assets;
 - (b) transaction details and history;
 - (c) the amount of all currency deposits into the client's account;
 - (d) value of all crypto asset deposits to the client's account as at the time of deposit;
 - (e) the fees paid per transaction.
58. The information made available to clients through the Platform will provide clients with information regarding the transactions conducted through the Platform and their accounts with the Filer, including the following information:

- (a) the quantity and description of each Crypto Asset that is the underlying interest related to a Crypto Contract transacted;
- (b) the amount, denominated in either CAD or USD, at the client's option, paid or received by the client under the transaction, including the price paid or received for each Crypto Asset that is the underlying interest of the Crypto Contract;
- (c) the amount of each transaction charge, deferred sales charge or other charge in respect of the transaction and the total amount of all charges in respect of the transaction denominated in either CAD or USD, at the client's option;
- (d) the date on which the transaction took place;
- (e) the name and quantity of each Crypto Asset that is the underlying interest related to a Crypto Contract in the client's account;
- (f) the market value of each Crypto Asset that is the underlying interest related to a Crypto Contract in the client's account;
- (g) any cash balance in the client's account;
- (h) the total market value of all cash and Crypto Assets that are the underlying interest related to a Crypto Contract in the account denominated in either CAD or USD, at the client's option.

59. The Filer will provide clients with real-time, continuous access to information relating to each transaction executed by the client on the Platform, including information related to the price for each transaction. The Filer will also provide clients with access to real-time, continuous information relating to assets held in the clients account, including Crypto Assets and fiat currency. This information will be available to the client through the Filer's Platform.

Fees Payable by Clients

60. The Filer will be compensated by the spread on transactions and by charging transaction fees. All transaction fees are disclosed to the clients at the time of a transaction and are available in the Platform's terms of use.

Custody of Crypto Assets and Cash

61. The Filer will not maintain hot or cold wallets to hold Crypto Assets relating to the Crypto Contracts traded by the Filer's clients.

62. The Filer will retain the services of a third party to hold the Crypto Assets purchased by the Filer to facilitate its obligations under each Crypto Contract (the **custodian**).

63. Initially, BitGo Trust Company, Inc. (**BitGo**), a third-party custodian, will act as custodian of the Crypto Assets relating to the Crypto Contracts traded by the Filer's clients. BitGo is a trust company organized under the laws of the State of South Dakota and regulated as a trust company by the Division of Banking in South Dakota, and has completed a SOC 2 Type 2 certification. The Filer has conducted due diligence on BitGo, including a review of the SOC 2 Type 2 examination report, and has not identified any material concerns. The Filer also understands that BitGo is recently obtained New York Trust Charter from the New York State Department of Financial Services (**NYSDFS**) and will be regulated as a trust company by NYSDFS.
64. BitGo meets the requirements of the definition of "foreign custodian" in NI 31-103.
65. BitGo currently maintains a comprehensive insurance policy for digital assets covering \$100,000,000 in losses due to third party hacks, copying, theft or loss of private keys, insider theft or dishonest acts by BitGo employees or executives.
66. BitGo will operate a custody account for the Filer, for the purpose of holding Crypto Assets to ensure that the Filer will meet its obligations under each Crypto Contract. The Filer will ensure that the amount of Crypto Assets held by the custodian will be equal to the obligations of the Filer to clients under Crypto Contracts, subject to delays in the settlement of Crypto Assets transactions with Liquidity Providers. The Filer is not permitted to pledge, re-hypothecate or otherwise use any Crypto Assets held by the custodian or the Filer, that relate to a client's transaction, in the course of its business.
67. BitGo will hold all Crypto Assets, in trust, for the clients of the Filer in an omnibus account. This account will be in the name of the Filer. This account will not be used to hold Crypto Assets of the Filer, the Filer's affiliates or the Crypto Assets of any of BitGo's other clients. Crypto Assets held in trust for clients will be separate and distinct from the Crypto Assets of the Filer, the Filer's affiliates or the Crypto Assets of any of BitGo's other clients.
68. BitGo allows the Filer to generate a unique address for each client account so it can track the client that has an interest in the specific Crypto Assets held by BitGo. When a client opens an account with the Filer, the Filer creates a new BitGo sub-account, which feeds into one main account which is in the name of the Filer.
69. BitGo has established, and will maintain and apply, policies and procedures that are reasonably designed to manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian and to mitigate security breaches and cyber incidents.
70. BitGo has established, and will maintain and apply, written disaster recovery and business continuity plans.
71. The Filer has assessed the risks and benefits of using BitGo as the custodian for Crypto Assets and, has determined that, in comparison to a Canadian custodian (as that term is

defined in NI 31-103), it is more beneficial to its clients to have BitGo, a custodian that is a financial institution that is subject to prudential regulation, hold the Crypto Asset that are the underlying interests of Crypto Contracts, than using an unregulated Canadian custodian.

72. The Filer has assessed BitGo's insurance policy and has determined, based on information that is publicly accessible and on information provided by BitGo and considering the scope of BitGo's business, that the amount of insurance is appropriate.
73. The Filer has established, and will maintain and apply, policies and procedures that are reasonably designed to ensure that BitGo's records relating to the Crypto Assets that BitGo holds in trust for clients of the Filer are accurate and complete.
74. A client can maintain their Crypto Contracts with the Filer indefinitely.
75. All fiat currency owned by clients that is being held by the Filer will be held by a Canadian financial institution in a designated trust account, in the name of the Filer.

Marketplace and Clearing Agency

76. The Filer does not operate a "marketplace" as that term is defined in National Instrument 21-101 *Marketplace Operation* and in Ontario, subsection 1(1) of the *Securities Act* (Ontario).
77. The Filer will not operate a "clearing agency" as defined in securities legislation. Any clearing or settlement activity conducted by the Filer is incidental to the Filer engaging in the business of a Crypto Contract dealer. Any activities of the Filer that may be considered the activities of a clearing agency on behalf of any other person or company other than an affiliate of the Filer are related to the Filer arranging or providing for settlement of obligations resulting from Crypto Contracts entered into on a bilateral basis and without a central clearing counterparty.

Decision

- ¶ 4 Each of the Principal Regulator, the securities regulatory authority or regulator in Ontario and the Coordinated Review Decision Makers is satisfied that the Decision meets the test set out in the Legislation to make the Decision in respect of the Prospectus Relief, the Registrant Obligations Relief, and the Trade Reporting Relief.

The decision of the Dual Exemption Decision Makers and Coordinated Review Decision Makers under the Legislation is that the Requested Relief is granted, provided that:

1. Unless otherwise exempted by a further decision of the Principal Regulator and, if required under securities legislation, the regulator or securities regulatory authority of any other jurisdiction of Canada, the Filer complies with all of the terms, conditions, restrictions and requirements applicable to a registered dealer under securities legislation, including the Legislation, and any other terms, conditions, restrictions or requirements imposed by a securities regulatory authority or regulator on the Filer.

2. The Filer is registered as a restricted dealer or investment dealer in the Jurisdiction and in each Jurisdiction in which a client is a resident.
3. The Filer will work actively and diligently with the Principal Regulator to transition to a final regulatory framework.
4. The Filer, and any representatives of the Filer, will not provide recommendations or advice to any client or prospective client on the Platform.
5. The Filer will only engage in the business of trading Crypto Contracts in relation to Crypto Assets, and in performing its obligations under those contracts. The Filer will seek the appropriate approvals from the Principal Regulator and, if required under securities legislation, the regulator or securities regulatory authority of any other jurisdiction of Canada, prior to undertaking any other activity relating to securities or derivatives.
6. Before trading Crypto Contracts relating to any new Crypto Asset, the Filer will conduct a thorough due diligence relating to the features of and risks relating to the Crypto Asset in accordance with paragraph 16 of the Representations.
7. The Filer will not operate a “marketplace” as the term is defined in National Instrument 21-101 *Marketplace Operation* and in Ontario, in subsection 1(1) of the *Securities Act* (Ontario) or a “clearing agency” as the term is defined in securities legislation.
8. At all times, the Filer’s custodian will hold Crypto Assets in an amount equal to the amount of the Crypto Assets due to clients under Crypto Contracts.
9. The Filer will, before allowing a custodian to hold Crypto Assets relating to obligation under Crypto Contracts, take reasonable steps to verify that the custodian:
 - (a) maintains a comprehensive insurance policy to cover losses of Crypto Assets held by the custodian, including the assets owned by Platform clients;
 - (b) has established, and will maintain and apply, policies and procedures that are reasonably designed to manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Client Crypto Assets for which it acts as custodian;
 - (c) has obtained a SOC 2 Type 2 report within the previous 12 months, unless the Filer has notified the Principal Regulator and the Principal Regulator has provided written notice that it does not object to the Filer relying on a SOC 1 Type 1 or Type 2 report within the previous 12 months;
 - (d) holds the Crypto Assets in trust for the benefit of the Filer’s clients;

(e) holds the Crypto Assets of the Filer's clients separate and distinct from the Crypto Assets of the Filer.

10. The Filer will promptly notify the Principal Regulator if

(a) the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the Financial Industry Regulatory Authority, the National Futures Association, the Division of Banking in South Dakota or the NYSDFS makes a determination that the Filer's custodian is not permitted by that regulatory authority to hold client Crypto Assets, or

(b) if there is any change in the status of the Filer's custodian as a regulated financial institution.

11. The Filer will use at least two Liquidity Providers that are not affiliates of the Filer and that each Liquidity Provider is registered and/or licensed, to the extent required, in the jurisdiction or foreign jurisdiction, as applicable, where their head office or principal place of business is located, to execute transactions in the Crypto Assets.

12. The Filer has established, and will maintain and apply, policies and procedures reasonably designed to provide fair and reasonable prices to its clients, including policies and procedures to evaluate the price obtained from its Liquidity Providers on an ongoing basis against global benchmarks and transition to new Liquidity Providers, as appropriate.

13. Before each prospective client opens an account, the Filer will deliver to the client a Risk Statement. The Filer will require the client to provide electronic acknowledgement of having received, read and understood the Risk Statement.

14. For each client with an existing account at the date of the Decision, the Filer will deliver to the client a Risk Statement. The Filer will require the client to provide electronic acknowledgement of having received, read and understood the Risk Statement the next time they log into their account with the Filer.

15. The disclosures referred to in paragraphs 13 and 14 of these Conditions will be prominent and separate from other disclosures given to the client at that time, and the acknowledgement will be separate from other acknowledgements by the client at that time.

16. A copy of the Risk Statement acknowledged by a client will be made available to the client in the same place as the client's other statements on the Platform.

17. The Filer will promptly update the Risk Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts or Crypto Assets and, in the event of any update to the Risk Statement, will promptly notify each existing client of the update and deliver to them a copy of the updated Risk Statement and will require the client to provide electronic acknowledgement of having received, read and understood the updated Risk Statement.

18. Prior to the Filer delivering a Risk Statement to a client, the Filer will deliver, or will have previously delivered, a copy of that Risk Statement to the Principal Regulator.
19. Before allowing a client to transact a Crypto Contract relating to “buying” a Crypto Asset, the Filer will provide instructions for the client to read the Crypto Asset Statement for the Crypto Asset that will include the information described in paragraph 30 of the Representations. The instructions will include a link to the Crypto Asset Statement on the Filer’s website.
20. The Filer will promptly update each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Asset. In the event of an update to a Crypto Asset Statement, the Filer will promptly notify clients of the update, with links provided to the updated Crypto Asset Statement.
21. For each new client, prior to opening an account, and for each pre-existing client, before allowing the client to execute a transaction or to deposit Crypto Assets on the platform, the Filer will perform the assessments as described in paragraphs 26, 39 and 40 of the Representations. The Filer will regularly, and at least once in each 12 month period, review and update the assessment described in paragraphs 26, 39 and 40 of the Representations.
22. In accordance with the requirements in paragraph 31 of the Representations, the Filer will monitor trading activity in client accounts. Clients will be contacted to discuss their trading behaviour where, in the opinion of a reasonable person, their trading activity reflects lack of knowledge or understanding of Crypto Asset trading or is inconsistent with the client’s account assessment referred to in paragraph 39 of these Representations. This initiative is meant to deter clients from inappropriate trading activity that can be potentially harmful to them and identify that additional education is required.
23. The Filer will ensure that the maximum amount of Crypto Contracts based on Crypto Assets, other than Crypto Contracts based on Bitcoin, Ether, Bitcoin Cash, or Litecoin, that an Client, except a Client resident in Alberta, British Columbia, Manitoba and Québec, may enter into Crypto Contracts to purchase and sell on the Platform (calculated on a net basis and is an amount not less than \$0) in the preceding 12 months does not exceed a net acquisition cost of \$30,000.
24. In the jurisdictions where the Prospectus Relief is required, the first trade of a Crypto Contract is deemed to be a distribution under securities legislation of that jurisdiction.
25. The Filer will provide the Principal Regulator with at least 10 days’ prior written notice of any
 - (a) change to its custodian,
 - (b) change to the fiat currencies that a client can use to fund their accounts,

- (c) change to its Liquidity Providers, and
 - (d) material changes to the Filer's ownership or its business operations, including its systems, or its business model.
26. The Filer will not implement any of the changes referenced in subparagraphs 25(a), (b) or (c) of these Conditions unless the Principal Regulator has delivered written notice that it does not object to the changes.
27. The Filer will not trade Crypto Contracts based on Crypto Assets that are securities or derivatives except in accordance with paragraph 23 of the Representations.
28. The Filer will not allow clients to transact Crypto Contracts that have Tether as their underlying instrument except if the transaction is required to allow a client to liquidate an existing Crypto Contract that has Tether as its underlying instrument.
29. The Filer will evaluate Crypto Assets as set out in paragraphs 16, 20 and 21 of the Representations.
30. the Filer will establish, apply and monitor policies and procedures that establish appropriate limits on the losses a client can incur, as set out in paragraph 40.
31. The Filer will notify the Principal Regulator, promptly, of any material breach or failure of its custodian's system of controls or supervision, and what steps have been taken by the Filer to address each such breach or failure. The loss of any amount of Crypto Asset will be considered a material breach or failure.
32. The Filer will notify the Principal Regulator, promptly, of any material breach or failure of the Filer's system of controls or supervision and of steps taken to address such breach or failure. The loss of any amount of Crypto Asset or of any fiat currency held on behalf of a client will be considered a material breach or failure.
33. The Filer will ensure that clients have access to information relating to their accounts and to past transaction activity that is updated continuously. The Filer will notify the Principal Regulator if the information is not available to a client for a material period of time.

Data Reporting

34. The Filer will provide the following information to the Principal Regulator, and to the securities regulatory authority or regulator in each of the other Jurisdictions with respect to clients in those jurisdictions individually, within 30 days of the end of each March, June, September and December:
- (a) aggregate reporting of activity conducted pursuant to Crypto Contracts that will include the following:

- (i) number of client accounts opened each month in the quarter;
 - (ii) number of client accounts closed each month in the quarter;
 - (iii) number of transactions each month in the quarter;
 - (iv) average value of the transactions each month in the quarter;
 - (v) number of client accounts that hold Crypto Contracts with net acquisitions exceeding \$30,000 of Crypto Assets at the end of each month in the quarter;
 - (vi) number of client accounts with no transactions during the quarter;
 - (vii) number of client accounts that have not been funded at the end of each month in the quarter;
 - (viii) number of client accounts that hold Crypto Contracts at end of each month in the quarter;
- (b) the details of any client complaints received by the Filer during the calendar quarter and how such complaints were addressed;
- (c) the details of any fraudulent activity or cybersecurity incidents on the Platform during the calendar quarter, any resulting harms and effects on clients, and the corrective measures taken by the Filer to remediate such activity or incident and prevent similar activities or incidents from occurring in the future;
- (d) the details of the transaction volume per Liquidity Provider, per Crypto Asset during the quarter.
35. The Filer will deliver to the regulator or the securities regulatory authority in each of the Jurisdictions, in a form and format acceptable to the regulator or the securities regulatory authority, a report that includes the following anonymized account-level data for activity conducted pursuant to a Crypto Contract for each client within 30 days of the end of each March, June, September and December:
- (i) unique account number and unique client identifier, as applicable;
 - (ii) jurisdiction where the client is located;
 - (iii) the date the account was opened;
 - (iv) cumulative realized gains/losses since account opening in CAD;

- (v) the amount of fiat currency held with the Filer at the beginning and end of the reporting period;
 - (vi) unrealized gains/losses as of the report end date in CAD;
 - (vii) quantity of Crypto Contracts transacted, deposited and withdrawn during the quarter, in number of units of the underlying Crypto Asset;
 - (viii) the type of Crypto Assets that underlie the Crypto Contracts transacted, deposited or withdrawn by the client during the quarter;
 - (ix) quantity of each Crypto Asset that a client has rights to under open Crypto Contracts, in units, as of the report end date;
 - (x) CAD equivalent aggregate value of Crypto Contracts transacted by the client, calculated by multiplying the amount in (vii) multiplied by the market price of the Crypto Asset, as of the report end date.
36. The Filer will deliver to the regulator or the securities regulatory authority in each of the Applicable Jurisdictions, in a form and format acceptable to the regulator or the securities regulatory authority, within 30 days of the end of each March, June, September and December, a report that describes, if applicable, the loss limits established by the Filer for each account.
37. If applicable, within 7 calendar days from the end of each month, the Filer will deliver to the regulator or securities regulatory authority in each of the Applicable Jurisdictions, a report of all accounts for which that may be established pursuant to paragraph 40 of the Representations were exceeded during that month.
38. Until such time as the Filer can reasonably deliver annual audited financial statements in accordance with subsection 12.10(2) of NI 31-103, the Filer will deliver to the Principal Regulator for each financial year, as soon as they are available,
- (a) annual unaudited financial statements of the Filer,
 - (b) annual audited financial statements of BIGG for each financial year, and
 - (c) a completed Form 31-103F1 *Calculation of Excess Working Capital (Form 31-103F1)*.
39. In addition to any other reporting required by Legislation, the Filer will provide, on a timely basis, any report, data, document or information to the Principal Regulator, including any information about the Filer's custodian and the Crypto Assets held by the Filer's custodian, that may be requested by the Principal Regulator from time to time as reasonably necessary for the purpose of monitoring compliance with Legislation and the Conditions, in a format acceptable to the Principal Regulator.

40. Upon request, the Filer will provide the Principal Regulator, the securities regulatory authority or regulator in Ontario and the securities regulatory authorities or regulators of each of the Non-Principal Jurisdictions with aggregated and/or anonymized data concerning client demographics and activity on the Platform that may be useful to advance the development of the Canadian regulatory framework for trading crypto assets.
41. The Filer will, if it wishes to operate the platform in Ontario and Québec after the expiry of the Decision, take the following steps:
 - (a) submit an application to the Principal Regulator, the OSC and the Autorité des marchés financiers (AMF) to become registered as an investment dealer no later than 12 months after the date of the Decision;
 - (b) submit an application to become an IIROC dealer member no later than 12 months after the date of the Decision;
 - (c) work actively and diligently with the Principal Regulator, the OSC, AMF and IIROC to transition the platform to investment dealer registration and obtain IIROC membership.
42. This Decision shall expire two years following the date of this Decision.
43. The Filer will promptly make any changes to its business practices or policies and procedures that may be required to address investor protection concerns that may be identified by the Filer or by the Principal Regulator arising from the operation of the Platform.
44. This Decision may be amended by the Principal Regulator upon prior written notice to the Filer.



Gordon Johnson
Vice Chair
British Columbia Securities Commission

Appendix A - Local Trade Reporting Rules

In this Decision the “Local Trade Reporting Rules” collectively means each of the following:

- a. Part 3, Data Reporting, of Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**OSC Rule 91-507**);
- b. Part 3, Data Reporting, of Manitoba Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (**MSC Rule 91-507**); and
- c. Part 3, Data Reporting, of Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan, and Yukon (**MI 96-101**).