



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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File No.: 2021-15

IN THE MATTER OF

**BRIDGING FINANCE INC., DAVID SHARPE, BRIDGING INCOME FUND LP,
BRIDGING MID- MARKET DEBT FUND LP, BRIDGING INCOME RSP FUND,
BRIDGING MID-MARKET DEBT RSP FUND, BRIDGING PRIVATE DEBT
INSTITUTIONAL LP, BRIDGING REAL ESTATE LENDING FUND LP, BRIDGING
SMA 1 LP, BRIDGING INFRASTRUCTURE FUND LP, AND BRIDGING
INDIGENOUS IMPACT FUND**

MOTION

(For Extension of a Temporary Order
Under Subsection 127(1) of the
Securities Act, RSO 1990 c S.5)

A. ORDER SOUGHT

The moving party, the Ontario Securities Commission (the **Commission**), requests that the Capital Markets Tribunal (the **Tribunal**) make the following orders:

1. An order pursuant to subsections 127(8), 127(2) and paragraph 2 of subsection 127(1) of the *Securities Act*, RSO 1990 c S.5 (the **Act**) that, until March 31, 2023, all trading in securities of Bridging Income Fund LP, Bridging Mid-Market Debt Fund LP, Bridging Income RSP Fund, Bridging Mid-Market Debt RSP Fund, Bridging Private Debt Institutional LP, Bridging Real Estate Lending Fund LP, Bridging SMA 1 LP, Bridging Infrastructure Fund LP, and Bridging Indigenous Impact Fund (collectively, the **BFI Funds**) shall cease, except that PricewaterhouseCoopers Inc. (**PwC** or the **Receiver**) in its capacity as receiver and manager, without security, of all the assets, undertakings and properties of Bridging Finance Inc. (**BFI**) and the BFI Funds may trade in or facilitate the issuance or

redemption of units of a BFI Fund with prior approval of the Ontario Superior Court of Justice (the **Court**);

2. If necessary, an order abridging the time required for service and filing of the Commission's motion record pursuant to Rules 3 and 4(2) of the *Capital Market Tribunal Rules of Procedure and Forms* (the **Rules**);

3. An order that this motion be heard in writing pursuant to Rule 23(3); and

4. Such other order as the Tribunal considers appropriate in the public interest.

B. GROUNDS

The grounds for the request are:

The Investigation

1. An investigation was conducted into, *inter alia*, BFI and David Sharpe (**Sharpe**);

2. During the course of the investigation, evidence was found that (i) BFI had appropriated \$35 million from investment vehicles under its control, including the BFI Funds, which raise funds from external investors, in order to complete an acquisition for its own benefit, (ii) Sharpe received approximately \$19.5 million in undisclosed payments into his personal chequing account from a company owned and controlled by an individual during the same period that BFI loaned over \$100 million to other companies connected to the same individual, (iii) during the period that a different individual was negotiating to purchase half of BFI, BFI loaned companies owned by that individual almost \$100 million, including \$32 million two weeks before the acquisition closed, and (iv) it appears that BFI did not make complete or timely disclosure of the above to investors in the BFI Funds;

3. On March 31, 2022, the Tribunal issued a Notice of Hearing commencing proceeding no. 2022-9 (the **Enforcement Proceeding**) against BFI and others. The allegations made against BFI include;

(a) that it and certain of its directors and officers engaged in or participated in acts, practices or courses of conduct relating to securities which they knew or reasonably ought to have known perpetrated a fraud on unitholders in the BFI Funds contrary to section 126.1(1)(b) of the Act;

(b) that it and certain of its directors and officers made statements in material, evidence and/or information submitted to the Commission that, in a material respect and at the time and in light of the circumstances under which the statements were made, were misleading or untrue, or did not state a fact that was required to be stated or that was necessary to make the statements not misleading, contrary to clause 122(1)(a) of the Act; and

(c) that it and certain of its directors and officers failed to take reasonable steps to identify and respond to material conflicts of interest, contrary to subsections 13.4(1), (2) and (3) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) and contrary to clause 32(1)(g) of the Act;

The Temporary Order and the Extensions

4. On April 30, 2021, the Tribunal issued a temporary order (the **Temporary Order**);

5. The Temporary Order provided that:

(a) all trading in securities of the BFI Funds shall cease;

(b) Sharpe's registration as the ultimate designated person (**UDP**) of BFI is suspended; and

(c) the Temporary Order shall take effect immediately and expire on the 15th day after its making unless extended by order of the Tribunal;

6. On May 12, 2021, the Tribunal issued an order (the **May 12 Order**) that, pursuant to subsection 127(8) and paragraph 2 of subsection 127(1) of the Act, until August 12, 2021, all trading in securities of the BFI Funds shall cease;

7. No application was made to extend the suspension of Sharpe's registration as UDP of BFI in connection with the May 12 Order;

8. The May 12 Order was extended on August 10, 2021. Further extensions of the cease trade provisions of the Temporary Order were granted on December 22, 2021, March 21, 2022 and June 29, 2022. Under the order dated June 29, 2022, the cease trade provisions of the Temporary Order are currently due to expire on September 30, 2022

The Receivership

9. On application by the Commission, the Court issued an order dated April 30, 2021 (the **Appointment Order**) appointing PwC as receiver and manager, without security, of all the assets, undertakings and properties of BFI and the BFI Funds (the **Receivership Proceeding**);

10. On May 3, 2021, the Court issued an order (the **Additional Appointment Order**) appointing PwC as receiver and manager, without security, of all the assets, undertakings and properties of certain other entities connected to BFI;

11. On May 14, 2021, the Court issued an order (the **Continuation Order**) continuing PwC's appointment as Receiver under the Appointment Order and the Additional Appointment Order until further order of the Court;

12. In its Twelfth Report to the Court (the **Twelfth Report**), dated July 7, 2022, the Receiver, beginning at paragraph 46, provides an update concerning the timing of distributions to BFI unitholders. The Receiver indicates that there are a number of the issues which must be resolved in order for the Receiver to determine the quantum of funds available for initial distribution to BFI unitholders (**Distribution Issues**);

13. The Distribution Issues include the identification of claims other than BFI unitholder claims and the confirmation of certain information relevant to BFI unitholder claims as reflected in BFI's books and records;

14. At paragraph 47 of the Twelfth Report, the Receiver states that it is unable to determine, at this time, how much time will be required to resolve the Distribution Issues;

15. The Twelfth Report also contains, at paragraphs 84 to 95, an update concerning the Unitholder Priority Motion (as described in the Receiver's Eleventh Report to the Court dated April 12, 2022 previously filed with the Tribunal);

16. The Receiver has also indicated, in separate correspondence dated September 14, 2022, that the deadline for filing claims against Bridging is September 19, 2022 and that the Unitholder Priority Motion is now scheduled for November 17, 2022. The Receiver also notes that while it does not expect all the claims to be adjudicated and valued within the next

six months, it does hope that by that time, the Receiver will be in a better position to assess when distributions to creditors and unitholders might be made; and

17. Based on the above, it is expected to be some time before the Receiver is in a position to make a distribution to BFI unitholders although there may be better insight as to the timing in six months time. Accordingly, the Commission requests that the order included in draft form in the moving party's motion record be effective until March 31, 2023;

Ongoing Proceedings and Consent

18. The Enforcement Proceeding and the Receivership Proceeding are ongoing;

19. The order sought is necessary to protect investors and is in the public interest;

20. PwC, in its capacity as Receiver of BFI and the BFI Funds, consents to the relief sought;

21. Given the consent of the Receiver, it would be just and expeditious to conduct this motion in writing. An oral hearing of this motion would needlessly consume Tribunal resources;

22. Subsections 127(1), 127(2) and 127(8) of the Act;

23. Rules 3, 4(2), 23(3) and 28 of the Rules; and

24. Such further grounds as counsel may advise and the Tribunal may permit.

C. EVIDENCE

The moving party intends to rely on the following evidence for the motion:

1. The materials filed with the Tribunal previously in connection with this proceeding;
2. The consent of the Receiver;
3. The affidavit of Chandra Miles dated September 19, 2022 and exhibits thereto; and
4. Such further evidence as counsel may advise and the Tribunal may permit.

Date: September 19, 2022

**ONTARIO SECURITIES
COMMISSION**

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