

**IN THE MATTER OF
TRAYNOR RIDGE CAPITAL INC. ,
TR1 FUND, TR1-I FUND, TR3 FUND, TR1 GP LTD.**

MOTION

(For Extension of a Temporary Order under section 127
of the *Securities Act*, RSO 1990, c. S.5)

A. ORDER SOUGHT

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

1. An Order extending the Temporary Order of the Commission dated November 14, 2023 made with respect to Traynor Ridge Capital Inc. (**Traynor**), TR1 Fund, TR1-I Fund (together the **TR1 Funds**), TR3 Fund (formerly the TR1 Fund LP), TR1 GP Ltd. (**TR1 GP**) until August 8, 2024;
2. If necessary, an Order abridging the time required for service pursuant to Rules 3 and 4(2) of the Capital Markets Tribunal *Rules of Procedure and Forms*;
3. An order that this application be heard in writing pursuant to Rule 23(3); and
4. Such other Order as the Capital Markets Tribunal considers appropriate in the public interest.

B. GROUNDS

The grounds for the request are:

Background:

1. Traynor, a company incorporated under the laws of Canada, was registered under the *Securities Act* as an investment fund manager, an advisor in the category of portfolio manager and

as a dealer in the category of exempt market dealer. On the consent of the Receiver (defined below), Traynor's registration was suspended effective as of December 15, 2023 in Ontario, British Columbia, and Quebec;

2. Prior to his recent death, Christopher Callahan (**Callahan**) was Traynor's sole director, officer and shareholder. He was also Traynor's Ultimate Designated Person and Chief Compliance Officer as required by the *Securities Act*. Callahan was registered as an Advising Representative and Dealing Representative. Other than Callahan, Traynor only has only one other individual registered under the *Securities Act*, William Chyz, who is also registered as an Advising Representative and Dealing Representative;

3. Prior to the appointment of the Receiver, there were no persons or entities able to exercise control over Traynor following Callahan's death. Callahan was the mind and management of Traynor and was the only person or entity legally empowered to make decisions on behalf of Traynor;

4. Traynor is the investment fund manager of the TR1 Funds and the TR3 Fund. Traynor is also the investment advisor for the Cayman Funds;

5. TR3 Fund, formerly TR1 Fund LP, is a limited partnership that was formed on January 17, 2020 and made available to accredited investors resident in any province or territory of Canada. TR1 GP Ltd. is the general partner for TR1 Fund LP. Callahan was the sole director and officer of TR1 GP Ltd. Traynor was appointed as investment manager of TR1 Fund LP;

6. Each of the TR1 Funds are open-ended investment funds established as a trust under the laws of the Province of Ontario on January 1, 2022, with Traynor acting as the trustee. The TR1 Fund was made available to accredited investors, whereas the TR1-I Fund was made available to ultra high net worth and institutional investors;

7. The TR1 Funds have common investment strategies and objectives. Both funds invest net subscription proceeds from the sale of their units in redeemable participating shares of the TR1 International Fund (the **International Fund Shares**). The TR1 International Fund, in turn, invests substantially all of the funds received from the issuance of the International Fund Shares in a corresponding class of redeemable participating shares of the TR1 Master Fund;

8. Each of the Cayman Funds is an exempted company incorporated with limited liability in the Cayman Islands on November 23, 2021. A board of directors (which included Callahan prior to his death) (the **Cayman Directors**) has overall responsibility for the management and administration of the Cayman Funds. All investment decisions for the TR1 Funds and the Cayman Funds (together, the **Funds**) were made by Callahan;

9. Traynor is the investment fund manager of the TR1 Funds and the TR3 Fund. Traynor is also the investment advisor for the Cayman Funds;

Traynor has no Controlling Mind

10. On October 27, 2023, the Canadian Investment Regulatory Organization advised the Enforcement Branch of the Ontario Securities Commission (the **OSC Enforcement**) that three introducing firms had settled trades for Traynor but could not recapture the costs of the trades from one of Traynor's prime brokers. As a result, the three dealers have suffered losses;

11. On October 28, 2023, Traynor's counsel advised OSC Enforcement that Callahan was deceased. OSC Enforcement asked if there was any additional information about who was in control of the firm, but no such information was available or expected from the family;

Temporary Order

12. On October 30, 2023, the Commission issued a Temporary Order (the **Temporary Order**), pursuant to subsections 127(1) and (5.1) of the *Securities Act* ceasing immediately trading in any securities by or of Traynor and by or of TR1 GP Ltd, and in the securities of the TR1 Funds. The Temporary Order also imposed terms and conditions on Traynor's registration, prohibiting Traynor from: (i) reducing its capital in any manner, (ii) reducing or repaying any subordinated indebtedness, and (iii) directly or indirectly making payments to any director, officer, partner, shareholder, related company, or affiliate;

13. The Temporary Order was extended until February 8, 2024 pursuant to an order issued by the Tribunal on November 14, 2023 (the **November 14, 2023 Order**) although the terms and conditions of Traynor's registration were not extended. The November 14, 2023 Order contains a

carve out from the cease trade which permits the Receiver or its agents to engage in such trading as required to carry out its functions as set out in the Appointment Order;

Appointment of the Receiver

14. Based on the above grounds, the Commission applied on November 3, 2023 to the Ontario Superior Court of Justice (Commercial List) (the **Court**) for an order appointing Ernst & Young Inc. as receiver and manager (in such capacities, the **Receiver**), without security, of all the assets, undertakings and property of Traynor and the Funds (the **Receivership Application**). The Receivership Application was heard on November 3, 2023. The Court granted the application and issued an Order on November 3, 2023 appointing the Receiver (the **Appointment Order**);

Extension of the Temporary Order

15. The Receiver reported to the Court in its First Report dated December 15, 2023 regarding its initial activities and its intention to retain an investment advisor to assist with the orderly liquidation of the portfolio of securities held by the Traynor entities. The Court approved the retention of the investment advisor in an order issued on December 20, 2023;

16. The Receiver advises that a further extension of the Temporary Order will assist the Receiver in carrying out its mandate under the Appointment Order. The Receiver has requested the continuation of the carve out in the November 14, 2023 Order which permits the Receiver or its agents to engage in such trading as required to carry out its functions as set out in the Appointment Order;

17. The Receiver further advises that a six-month proposed extension will provide the Receiver with sufficient time to conduct a claims process, if one is determined to be necessary and appropriate in the circumstances, in order to ascertain any claims against the Traynor Group's assets.

Investigation

18. OSC Enforcement has also received information that a preliminary review of Traynor's trading activity shows some trading without any change in beneficial or economic ownership. OSC Enforcement has commenced an investigation into this trading activity which is ongoing;
19. The Order sought by OSC Enforcement is necessary to protect investors and is in the public interest;
20. The Receiver consents to the extension of the Temporary Order and to hearing this motion in writing;
21. Subsections 127(8), 127(2) and paragraph 2 of subsection 127(1) of the Act;
22. Rules 3, 4(2), 13 and 23 of the Capital Markets Tribunal *Rules of Procedure and Forms*; and
23. Such further and other grounds a counsel may advise and the Tribunal may permit.

B. EVIDENCE

The Applicant intends to rely on the following evidence at the Hearing:

1. The materials filed with the Tribunal previously in connection with this proceeding;
2. The consent of the Receiver;
3. The affidavit of Ria Sharma sworn February 6, 2024 and exhibits thereto; and
4. Such further evidence as counsel may advise and the Tribunal may permit.

Date: February 6, 2024

**STAFF OF THE
ONTARIO SECURITIES COMMISSION**

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