

Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – National Instrument 81-101 *Mutual Fund Prospectus Disclosure*

National Instrument 41-101, Part 19 - An investment fund wants relief from the requirement in s. 3.1(2) to use the prescribed form of prospectus - A fund structure is offering both ETF and non-ETF mutual fund securities, any disclosure required in a standard ETF prospectus form that is not contemplated by a mutual fund's simplified prospectus will be included, an ETF facts document will be filed for the ETF securities, ETF securities investors will receive an ETF Facts document

National Instrument 41-101, Part 19 - Underwriter's Certificate Relief – Requirement under section 5.9 of NI 41-101 to include an underwriter's certificate in the ETF's prospectus - The designated brokers and authorized dealers do not provide the same services in connection with a distribution of the ETF's securities as would typically be provided by an underwriter in a conventional underwriting, will not be involved in the preparation of the fund prospectus, will not perform any review or independent due diligence as to the content of the fund prospectus, and will not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the Filer in connection with the distribution of ETF securities

National Instrument 62-104, Part 6 Take-Over Bids -Exemption from the formal take-over bid requirements - Take-over bid relief – NI 62-104 for the purchases of listed securities of the ETFs in the normal course through the facilities of the NEO Exchange or another marketplace in Canada - It is not possible for one of more securityholders to exercise control or direction over the ETF, the number of outstanding ETF Securities will always be in flux as a result of the ongoing issuance and redemption of listed securities by each ETF, and there is no incentive to acquire control or offer to pay a control premium for outstanding ETF Securities because pricing for each ETF Security will generally reflect its net asset value

National Instrument 81-102, s.19.1 - An investment fund wants relief from the borrowing requirement in s.2.6(1)(a)(i) - The fund may only borrow from its custodian, the borrowing in respect of a distribution cannot exceed the portion of the distribution that represents amounts that are payable to the fund but have not been received by the fund from issuers of securities in the fund's portfolio and also cannot exceed five percent of the net assets of the fund, the borrowing is limited to a 45-day period, security interests granted in respect of the borrowing are consistent with industry practices and is only in respect of amounts owed as a result of the borrowing, the fund's final prospectus will disclose potential borrowing by the fund as well its purpose and risks

National Instrument 81-102, s.19.1 - A fund structure that offers series of both ETF securities and non-ETF mutual fund securities wants technical relief from the requirements in Parts 9, 10 and 14 - The fund's ETF securities and non-ETF mutual fund securities will each comply with Parts 9, 10 and 14 of NI 81-102 as if the ETF securities and non-ETF mutual fund securities were separate funds

Applicable Legislative Provisions

National Instrument 41-101 *General Prospectus Requirements*, subsection 3.1(2), and sections 5.9 and 19.1.

National Instrument 62-104 *Take-Over Bids and Issuer Bids*, Part 2 and section 6.1.

National Instrument 81-102 *Investment Funds*, paragraph 2.6(1)(a), Parts 9, 10 and 14, and section 19.1

October 10, 2025

In the Matter of
the Securities Legislation of
British Columbia and Ontario
(the Jurisdictions)

and

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

and

In the Matter of
Capstone Asset Management Inc.
(the Filer)

Decision

Background

¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application from the Filer on behalf of two proposed mutual funds to be managed by the Filer and expected to be named Capstone Biblically Informed Canadian Equity Fund and Capstone Biblically Informed U.S. Equity Fund (together, the Proposed Mutual Funds) and such other mutual funds (together with the Proposed Mutual Funds, the Mutual Funds) or alternative mutual funds as are managed or may be managed by the Filer now or in the future that offer both ETF Securities (as defined below) and Mutual Fund Securities (as defined below) in the same fund (collectively with the Mutual Funds, the Funds, and each, a Fund) for a decision under the securities legislation of the Jurisdictions (the Legislation) that exempts:

- (a) the Filer and each Fund from the requirement in section 3.1(2) of National Instrument 41-101 *General Prospectus Requirements* (NI 41-101) to prepare and file a long form prospectus for the ETF Securities in the form prescribed by Form 41-101F2 *Information Required in an Investment Fund Prospectus* (Form 41-101F2) (the ETF Prospectus Form Relief);

- (b) the Filer and each Fund from the requirement in section 5.9 of NI 41-101 to include a certificate of an underwriter in a Fund's prospectus in respect of each class or series of ETF Securities (the Underwriter's Certificate Relief);
- (c) a person or company purchasing ETF Securities in the normal course through the facilities of the TSX (as defined below) or another Marketplace (as defined below) from the Take-Over Bid Requirements (as defined below) in Part 2 of National Instrument 62-104 Takeover Bids and Issuer Bids (NI 62-104) (the Take-Over Bid Relief);
- (d) each Mutual Fund that is not an alternative mutual fund from section 2.6(1)(a)(i) of National Instrument 81-102 Investment Funds (NI 81-102) to permit the Mutual Fund to borrow cash from the custodian of the Mutual Fund (the Custodian) and, if required by the Custodian, to provide a security interest over any of its portfolio assets as a temporary measure to fund the portion of any distribution payable to Securityholders (as defined below) that represents, in the aggregate, amounts that are owing to, but not yet received by, the Mutual Fund (the Borrowing Relief); and
- (e) the Filer and each Fund from the requirements of Parts 9, 10 and 14 of NI 81-102 to permit the Filer and each Fund to treat the ETF Securities and the Mutual Fund Securities as if such securities were separate funds in connection with their compliance with the provisions of Parts 9, 10 and 14 of NI 81-102 (the Sales and Redemptions Relief),

(paragraphs (a) to (e), collectively, the Exemption Sought).

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

- (a) the British Columbia Securities Commission (BCSC) is the principal regulator for the application,
- (b) the Filer 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 Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Quebec, Saskatchewan and Yukon, and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

- ¶ 2 Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and NI 81-102 have the same meaning if used in this decision, unless otherwise defined. The following terms used in this decision have the following meanings.

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer (as defined below) or Designated Broker (as defined below) and that participates in the resale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of a Fund authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more Funds on a continuous basis from time to time.

Basket of Securities means, in relation to the ETF Securities of a Fund, a group of securities or assets representing the constituents of the Fund.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with the Filer on behalf of a Fund to perform certain duties in relation to the ETF Securities of the Fund, including the posting of a liquid two-way market for the trading of the Fund's ETF Securities on the TSX or another Marketplace.

ETF Facts means an ETF facts document required pursuant to NI 41-101 in respect of one or more classes or series of ETF Securities being distributed under a prospectus.

ETF Securities means securities of an exchange-traded class or series of a Fund that are listed or will be listed on the TSX or another Marketplace and, under the ETF Prospectus Form Relief, will be distributed pursuant to a simplified prospectus prepared in accordance with NI 81-101 and Form 81-101F1.

Form 81-101F1 means Form 81-101F1 *Contents of Simplified Prospectus*.

Fund Facts means a fund facts document required pursuant to NI 81-101 in respect of one or more classes or series of Mutual Fund Securities being distributed under a prospectus.

Marketplace means a marketplace as defined in National Instrument 21-101 *Marketplace Operation* that is located in Canada.

Mutual Fund Securities means securities of a non-exchange-traded class or series of a Fund that are or will be distributed pursuant to a simplified prospectus prepared in accordance with NI 81-101 and Form 81-101F1.

NI 81-101 means National Instrument 81-101 *Mutual Fund Prospectus Disclosure*.

Other Dealer means a registered dealer that is not an Authorized Dealer, Designated Broker or Affiliate Dealer.

Prescribed Number of ETF Securities means, in relation to a Fund, the number of ETF Securities of the Fund determined by the Filer from time to time for the purpose of subscription orders, exchanges, redemptions or for other purposes.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Securityholders means beneficial or registered holders of ETF Securities or Mutual Fund Securities of a Fund, as applicable.

Take-over Bid Requirements means the requirements of NI 62-104 relating to take-over bids, including the requirement to file a report of a take-over bid and to pay the accompanying fee, in each Jurisdiction.

TSX means the Toronto Stock Exchange.

Representations

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

The Filer

1. the Filer is a corporation organized under the laws of Canada;
2. the head office of the Filer is located at Suite 210 – 19923 80A Avenue, Langley, British Columbia, V2Y 0E2;
3. the Filer is registered as:
 - (a) a portfolio manager in Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Ontario, Prince Edward Island and Quebec;
 - (b) an investment fund manager in British Columbia, Manitoba, Newfoundland and Labrador, Ontario and Quebec; and
 - (c) an exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan.
4. the Filer is, or will be, the investment fund manager of each Fund;
5. the Filer is not in default of securities legislation in any jurisdiction of Canada;

The Funds

6. each Fund is, or will be, a mutual fund structured as a trust or a corporation or a class thereof that is governed by the laws of a jurisdiction of Canada or the laws of Canada. Each Fund is, or will be, a reporting issuer in the jurisdictions of Canada in which its securities are distributed. Each Fund offers, or will offer, ETF Securities and Mutual Fund Securities;
7. subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities, each Fund is, or will be, subject to NI 81-102 and Securityholders will have the right to vote at a meeting of Securityholders in respect of matters prescribed by NI 81-102;
8. the Filer has or will file a preliminary simplified prospectus in respect of the Mutual Fund Securities and the ETF Securities of the Proposed Mutual Funds, as well as Fund Facts for each series of Mutual Fund Securities and ETF Facts for each series of ETF Securities of the Proposed Mutual Funds, with the securities regulatory authorities in each of the jurisdictions of Canada;
9. the Filer has applied to list ETF Securities of the Proposed Mutual Funds on the TSX or another Marketplace. The Filer will not file a final simplified prospectus to qualify ETF Securities for the Proposed Mutual Funds until the applicable Marketplace has conditionally approved the listing of such ETF Securities;
10. mutual fund securities may be subscribed for or purchased directly from a Fund through mutual fund dealers, investment dealers and their representatives that are registered under applicable securities legislation in the jurisdictions in which they are offered for sale;

11. ETF Securities will be distributed on a continuous basis in one or more of the jurisdictions of Canada under a simplified prospectus in the form prescribed by Form 81-101F1. ETF Securities may generally only be subscribed for or purchased directly from the Funds (Creation Units) by Authorized Dealers or Designated Brokers. Generally, subscriptions or purchases may only be placed for a Prescribed Number of ETF Securities (or a multiple thereof) on any day when there is a trading session on the TSX or other Marketplace. Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX or another Marketplace;
12. in addition to subscribing for and reselling their Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers will also generally be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker or Affiliate Dealer;
13. each Designated Broker or Authorized Dealer that subscribes for Creation Units must deliver, in respect of each Prescribed Number of ETF Securities to be issued, a Basket of Securities and/or cash in an amount sufficient so that the value of the Basket of Securities and/or cash delivered is equal to the net asset value of the ETF Securities subscribed for, next determined following the receipt of the subscription order for Creation Units. In the discretion of the Filer, the Funds may also accept subscriptions for Creation Units in cash only, in securities other than Baskets of Securities and/or in a combination of cash and securities other than Baskets of Securities, in an amount equal to the net asset value of the ETF Securities subscribed for next determined following the receipt of the subscription order;
14. upon notice given by the Filer from time to time and, in any event, not more than once quarterly, a Designated Broker may be contractually required to subscribe for Creation Units of a Fund for cash in an amount not to exceed a specified percentage of the net asset value of the Fund or such other amount established by the Filer;
15. the Designated Brokers and Authorized Dealers will not receive any fees or commissions in connection with the issuance of Creation Units to them. On the issuance of Creation Units, the Filer or a Fund may, in the Filer's discretion, charge a fee to a Designated Broker or an Authorized Dealer to offset the expenses incurred in issuing the Creation Units;
16. each Fund will appoint a Designated Broker to perform certain other functions, which include standing in the market with a bid and ask price for its ETF Securities for the purpose of maintaining liquidity for the ETF Securities;
17. except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, ETF Securities generally will not be able to be purchased directly from a Fund. Investors are generally expected to purchase and sell ETF Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another Marketplace. ETF Securities may also be issued directly to Securityholders upon a reinvestment of distributions of income or capital gains;
18. securityholders that are not Designated Brokers or Authorized Dealers that wish to dispose of their ETF Securities may generally do so by selling their ETF Securities on the TSX or other Marketplace, through a registered dealer, subject only to customary brokerage commissions. A Securityholder that holds a Prescribed Number of ETF Securities or

multiple thereof may exchange such ETF Securities for Baskets of Securities and/or cash in the discretion of the Filer. Securityholders may also redeem ETF Securities for cash at a redemption price equal to 95% of the closing price of the ETF Securities on the TSX or other Marketplace on the date of redemption, subject to a maximum redemption price of the applicable net asset value per ETF Security;

ETF Prospectus Form Relief

19. the Filer believes it is more efficient and expedient to include all of the classes and series of each Fund, including the Mutual Fund Securities and ETF Securities of a Fund, in one prospectus form instead of two different prospectus forms and that this presentation will assist in providing full, true and plain disclosure of all material facts relating to all classes and series of securities of a Fund;
20. the Filer will ensure that any additional disclosure included in the simplified prospectus relating to the ETF Securities will not interfere with an investor's ability to differentiate between the Mutual Fund Securities and the ETF Securities and their respective attributes.
21. the Funds will comply with Parts 3B, 3C and 3D of NI 41-101 when preparing, filing and delivering ETF Facts for the ETF Securities;

Underwriter's Certificate Relief

22. authorized Dealers and Designated Brokers will not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting;
23. the Filer will generally conduct its own marketing, advertising and promotion of the Funds to the extent permitted by its registrations;
24. authorized Dealers and Designated Brokers will not be involved in the preparation of a Fund's prospectus, will not perform any review or any independent due diligence to the content of a Fund's prospectus, and will not incur any marketing costs or receive any underwriting fees or commissions from the Funds or the Filer in connection with the distribution of ETF Securities. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities;
25. neither the Filer nor the Funds will pay any fees or commissions to the Designated Brokers and Authorized Dealers. As the Designated Brokers and Authorized Dealers will not receive any remuneration in connection with distributing ETF Securities and as the Authorized Dealers will change from time to time, it is not practical to provide an underwriter's certificate in the prospectus of the Funds;

Take-over Bid Relief

26. as equity securities that will trade on the TSX or another Marketplace, it is possible for a person or company to acquire such number of ETF Securities so as to trigger the application of the Take-over Bid Requirements. However:

- (a) it will be difficult for one or more Securityholders to exercise control or direction over a Fund, as the constating documents of each Fund will provide that there can be no changes made to such Fund that do not have the support of the Filer;
 - (b) in respect of a Fund structured as a corporation or class thereof, it will not be possible for one or more Securityholders to exercise control or direction over the Fund as the Fund will be a class of non-voting shares of a mutual fund corporation (which only has those voting rights available under corporate law and those prescribed by NI 81-102, which, for greater certainty, will not include the right to vote in connection with the election of directors of such mutual fund corporation);
 - (c) it will be difficult for purchasers of ETF Securities of a Fund to monitor compliance with the Take-over Bid Requirements because the number of outstanding ETF Securities of the Fund will always be in flux as a result of the ongoing issuance and redemption of ETF Securities by such Fund; and
 - (d) the way in which ETF Securities will be priced deters anyone from either seeking to acquire control, or offering to pay a control premium for outstanding ETF Securities because pricing for each ETF Security will generally reflect the net asset value of the ETF Securities.
27. the application of the Take-over Bid Requirements to a Fund would have an adverse impact on the liquidity of the ETF Securities, because they could cause the Designated Brokers and other large Securityholders to cease trading ETF Securities once the Designated Brokers or other large Securityholders reach the prescribed threshold at which the Take-over Bid Requirements apply. This, in turn, could serve to provide conventional mutual funds with a competitive advantage over a Fund;

Borrowing Relief

28. section 2.6(1)(a)(i) of NI 81-102 prevents a mutual fund from borrowing cash or providing a security interest over its portfolio assets unless the transaction is a temporary measure to accommodate redemption requests or to settle portfolio transactions and does not exceed five percent of the net assets of the mutual fund. As a result, a Mutual Fund that is not an alternative mutual fund is not permitted under section 2.6(1)(a)(i) to borrow from the Custodian to fund distributions under its Distribution Policy (as defined below);
29. each Mutual Fund that is not an alternative mutual fund will make distributions on a monthly, quarterly or annual basis or at such frequency as the Filer may, in its discretion, determine appropriate, may make additional distributions and, in each taxation year, will distribute sufficient net income and net realized capital gains so that it will not be liable to pay income tax under Part I of the Income Tax Act (Canada) (the Tax Act), and for each Mutual Fund structured as a corporation or a class thereof, under Part IV of the Tax Act on taxable dividends from taxable Canadian corporations (collectively, the Distribution Policy);
30. amounts included in the calculation of net income and net realized capital gains of a Mutual Fund for a taxation year that must be distributed in accordance with its Distribution Policy sometimes include amounts that are owing to but have not actually been received by the Mutual Fund from the issuers of securities held in the Mutual Fund's portfolio (Issuers);
31. while it is possible for a Mutual Fund to maintain a portion of its assets in cash or to dispose of securities in order to obtain any cash necessary to make a distribution in accordance with its Distribution Policy, maintaining such a cash position or making such a disposition (which

would generally be followed, when the cash is actually received from the Issuers, by an acquisition of the same securities) will impact the Mutual Fund's performance. Maintaining assets in cash or disposing of and reacquiring the same securities would preclude a portion of the net asset value of the Mutual Fund from being invested in accordance with its investment objective;

32. the Filer is of the view that it is in the interests of a Mutual Fund that is not an alternative mutual fund to have the ability to borrow cash from its Custodian and, if required by the Custodian, to provide a security interest over its portfolio assets as a temporary measure to fund the portion of any distribution payable to Securityholders that represents, in the aggregate, amounts that are owing to, but have not yet been received by, the Fund from the Issuers. While such borrowing will have a cost, the Filer expects that such costs will be less than the reduction to the Mutual Fund's performance if the Mutual Fund had to hold cash instead of securities in order to fund the distribution;

Sales and Redemptions Relief

33. parts 9, 10 and 14 of NI 81-102 do not contemplate both Mutual Fund Securities and ETF Securities being offered in a single fund structure. Accordingly, without the Sales and Redemptions Relief, the Filer and the Funds would not be able to technically comply with those parts of NI 81-102; and
34. the Exemption Sought will permit the Filer and the Funds to treat the ETF Securities and the Mutual Fund Securities as if such securities were separate funds in connection with their compliance with Parts 9, 10 and 14 of NI 81-102. The Exemption Sought will enable each of the ETF Securities and Mutual Fund Securities to comply with Parts 9, 10 and 14 of NI 81-102, as appropriate, for the type of security being offered.

Decision

- ¶ 4 Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the ETF Prospectus Form Relief is granted, provided that:

- (a) the Filer files a simplified prospectus in respect of the ETF Securities in accordance with the requirements of NI 81-101 and Form 81-101F1, other than the requirements pertaining to the filing of a Fund Facts;
- (b) the Filer includes disclosure required pursuant to Form 41-101F2 (that is not contemplated by Form 81-101F1) in respect of the ETF Securities in the disclosure it otherwise prepares in accordance with Form 81-101F1;
- (c) the Funds comply with the provisions of NI 81-101 when filing any prospectus or amendment thereto; and
- (d) the Filer includes disclosure regarding this decision under the heading Additional Information in each Fund's simplified prospectus.

The decision of the Decision Makers under the Legislation is that each of the Underwriter's Certificate Relief and the Take-Over Bid Relief is granted.

The decision of the Decision Makers under the Legislation is that the Borrowing Relief is granted, provided that each Mutual Fund that is not an alternative mutual fund:

- (a) in respect of a distribution, does not borrow
 - (i) in an amount that exceeds the portion of the distribution that represents, in the aggregate, amounts that are payable to the Mutual Fund but have not been received by the Mutual Fund from the Issuers and, in any event, does not exceed five percent of the net assets of the Mutual Fund, or
 - (ii) for a period longer than 45 days;
- (b) ensures that any security interest it provides in respect of such borrowing is consistent with industry practice for the type of borrowing and is only in respect of amounts owing as a result of the borrowing;
- (c) does not make any distribution to Securityholders where the distribution would impair the Mutual Fund's ability to repay any borrowing to fund distributions; and
- (d) discloses, in the final prospectus or amendment thereto, the potential borrowing, the purpose of the borrowing and the risks associated with the borrowing.

The decision of the Decision Makers under the Legislation is that the Sales and Redemptions Relief is granted, provided that the Filer and each Fund:

- (a) with respect to the Fund's Mutual Fund Securities, comply with the provisions of Parts 9, 10 and 14 of NI 81-102 that apply to mutual funds that are not exchange-traded mutual funds; and
- (b) with respect to the Fund's ETF Securities, comply with the provisions of Parts 9 and 10 of NI 81-102 that apply to exchange-traded mutual funds.

Gordon Johnson
Vice Chair
British Columbia Securities Commission