

IN THE MATTER OF:

**THE RULES OF THE INVESTMENT INDUSTRY REGULATORY
ORGANIZATION OF CANADA**

AND

FORTRADE CANADA LIMITED

NOTICE OF APPLICATION FOR TEMPORARY ORDER

Enforcement Staff (“Staff”) of the Investment Industry Regulatory Organization of Canada (“IIROC”) will make an application, with notice, to an IIROC hearing panel for a temporary order pursuant to sections 8211 and 8425 of the IIROC Rules.

Enforcement Staff proposes that the application be held by way of video conference on **November 9, 2022 at 10:00 am** or as soon thereafter as the matter may be heard.

THIS APPLICATION IS FOR:

1. a temporary order imposing the following terms and conditions on Fortrade Canada Limited (“Fortrade”):
 - a. Fortrade, by its agents, employees, directors, or otherwise, shall immediately cease making recommendations to clients or prospective clients in connection with trading in securities or contacting any person, whether by email, telephone, SMS, or otherwise, for the purpose of soliciting or recommending trading with Fortrade and shall comply with the requirements applicable to an “order execution only account” as defined in subsection 1201(2) of the IIROC Rules and conduct its activities consistent with the guidance set forth in Guidance Note GN-3400-21-003;
 - b. Fortrade shall not open any new client accounts;

- c. Fortrade shall not seek the deposit of additional funds into existing client accounts, except that Fortrade may contact clients who have a margin deficiency to inform them of such margin deficiency;
 - d. Fortrade shall provide to IIROC Enforcement Staff monthly, within seven days of the last day of the previous month, audio recordings of all telephone calls with its clients during the previous month. In respect of the month of October 2022, Fortrade shall provide audio recordings of telephone calls with its clients by November 16, 2022; and
 - e. Fortrade shall provide to IIROC Enforcement Staff monthly, within seven days of the last day of the previous month, an audit trail of its monitoring of telephone calls and any other form of client communications, which audit trail shall include the number of communications sampled, the time, date and type of the communication, the name of the Fortrade representative, the name of the client, and any queries or other measures taken as a result of the monitoring.
- 2. an order that the above terms and conditions shall remain in effect until the conclusion of the hearing on the merits or until further order of a hearing panel.
 - 3. an order abridging the time for the filing of the Notice of Application and Application Record, if necessary; and
 - 4. such further and other orders as this Hearing Panel considers appropriate in the public interest.

THE GROUNDS FOR THE APPLICATION ARE:

- 1. IIROC Rules set out the basic framework for the order execution only (“OEO”) business model. Subsection 1201(2) of the IIROC Rules defines an “order execution only account” as:

An account which is not subject to a suitability determination (other than as required by clauses 3402(3)(i) and 3403(4)(i)) where:

- (i) the client is solely responsible for making all investment decisions, and
- (ii) the Dealer Member provides no recommendation to purchase, sell, hold or exchange any security, including any class of security or security of a class of issuer

2. The IIROC Rules prohibit Dealer Members from providing any recommendations to clients holding OEO accounts.
3. The IIROC Rules require that any clients holding OEO accounts make their own investment decisions without receiving any recommendations or suitability assessment from the Dealer Member.
4. IIROC, in its *Guidance on Order Execution Only Account Services and Activities* GN-3400-21-003, defines recommendation as meaning:

any communication or statement of opinion sent or made available to an investor (or class of investor) that could, based on the context or circumstances, reasonably be expected to influence that investor (or class of investor) to make an investment decision regarding a security (including any class of securities and the securities of a class of issuers) (collectively, securities).
5. On the basis that Dealer Members do not provide any recommendation to clients holding OEO accounts, IIROC Rules (s. 3404(1)) exempt OEO Dealer Members from certain suitability requirements found at s. 3402 in respect of retail clients and s. 3403 in respect of institutional clients.

Fortrade Makes Recommendations Contrary to Requirements Governing OEO Accounts

6. Fortrade was admitted to membership in IIROC on January 30, 2020 and is currently registered in all Canadian provinces and territories except Québec. Fortrade's head office is located at 81 Fulham Road in London, United Kingdom.
7. Fortrade operates as an OEO Dealer Member offering online trading services to retail customers on contracts for differences ("CFDs").
8. CFDs are widely recognized as complex, high-risk investments.
9. Contrary to the requirement that a Dealer Member not make any recommendations to clients holding order execution only accounts, Fortrade has engaged in making recommendations to its clients, which conduct may be continuing.
10. There is *prima facie* evidence, in the form of audio recordings of calls and emails between Fortrade agents and clients, supporting the allegation that Fortrade has contravened IIROC requirements.

11. Fortrade's conduct poses a serious risk of harm to clients, the investing public, and the integrity and reputation of the securities industry.
12. The temporary order sought by Staff is necessary to protect the public interest in light of the serious and ongoing breaches of IIROC Rules.
13. Staff's investigation is continuing.
14. Staff relies on sections 1201(2), 3404(1), 8211, and 8425 of IIROC Rules.
15. Such further and other grounds as counsel may advise and this Hearing Panel may permit.

EVIDENCE IN SUPPORT OF THE APPLICATION:

Staff will rely on the following evidence in support of the application:

1. the Affidavit of Alex Oustinov, to be sworn; and
2. such further and other evidence as counsel may advise and this Hearing Panel may permit.

DATED this 4th day of November 2022

"National Hearing Officer"

NATIONAL HEARING OFFICER

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