

## Chapter 2

# Decisions, Orders and Rulings

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### 2.1 Decisions

#### 2.1.1 ZED Network Inc.

##### Headnote

CSA Regulatory Sandbox – Application for relief from the dealer registration and prospectus requirement – prospectus relief to allow the Filer to distribute tokens to Registered MTOs and the trade of tokens, from time to time, to Registered MTOs – dealer registration relief in respect of the distribution of tokens – relief granted subject to certain conditions set out in the decision, including investment limits and suitability for accredited investors – prospectus relief, with respect to initial distributions only, and registration relief is time-limited to allow the Filer to operate in a test environment and will expire in twenty-four (24) months – relief granted based on the particular facts and circumstances of the application with the objective of fostering capital raising by innovative businesses in Canada – decision should not necessarily be viewed as a precedent for other filers in the jurisdictions of Canada.

##### Statute Cited

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(1), 25, 53, 74.

##### Instruments Cited

Multilateral Instrument 11-102 Passport System, s. 4.7.

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 13.3.

May 21, 2019

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO  
(the Jurisdiction)**

**AND**

**IN THE MATTER OF  
PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS  
IN MULTIPLE JURISDICTIONS**

**AND**

**IN THE MATTER OF  
ZED NETWORK INC.  
(the Filer)**

**DECISION**

##### Background

The Canadian Securities Administrators (the **CSA**) operate a regulatory sandbox to support financial technology businesses seeking to offer innovative products, services and applications in Canada (the **CSA Regulatory Sandbox**). The CSA Regulatory Sandbox allows firms to obtain exemptive relief from certain requirements of securities legislation that may be an impediment to their innovative business models, provided that investor protection is not compromised.

The Filer wishes to create a blockchain token-based foreign exchange remittance network system intended to be used by (i) money transfer operators (**MTOs**) registered as money services businesses in Canada with the Financial Transactions and Reports Analysis Centre of Canada (**FINTRAC Registered MTOs**), and (ii) MTOs appropriately registered or authorized to operate as money services businesses, or its equivalent, in accordance with the laws of foreign jurisdictions, as applicable (**Foreign Registered MTOs**, and together with FINTRAC Registered MTOs, **Registered MTOs**).

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In the context of the CSA Regulatory Sandbox, the Filer submitted its business model and subsequently filed an application to be exempted from certain requirements under applicable securities legislation. This Decision should not be viewed as a precedent for other filers in the Jurisdictions (as defined below) or in any other jurisdictions.

The principal regulator in the Jurisdiction has received an application from the Filer (the **Application**) for a decision under the securities legislation of the Jurisdictions (the **Legislation**) exempting the Filer from:

- (a) the prospectus requirements under the Legislation in respect of: (i) the distribution, from time to time, of Tokens (as defined below) of the Filer to FINTRAC Registered MTOs; or (ii) the trade of Tokens, from time to time, to Registered MTOs (the **Prospectus Relief**), and
- (b) the dealer registration requirements under the Legislation in respect of the distribution of Tokens, in each of the Jurisdictions (as defined below) (the **Registration Relief**, and together with the Prospectus Relief, the **Exemption Sought**).

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

- (a) the Ontario Securities Commission (**OSC**) is the principal regulator for this Application, and
- (b) the Filer has provided notice that 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 **Passport Jurisdictions** and together with the Jurisdiction, the **Jurisdictions**).

### Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 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 Ontario with its head office located at 100 College Street, Suite 150, Toronto, Ontario, M5G 1L5, Canada as part of the University of Toronto's Creative Destruction Lab at Entrepreneurship ONRamp.
2. The Filer is a start-up company in the global foreign exchange and remittance industry and provides a software as a service platform (the **ZED Network**), which can be used to instantaneously transmit value through "mining"-free ZED tokens issued by the Filer (the **Tokens**) across the globe without reliance on an intermediary.
3. The Filer is not a reporting issuer under applicable securities laws of any of the Jurisdictions and has no present intention of becoming a reporting issuer in any of the Jurisdictions.
4. The Filer is not in default of securities legislation of any of the Jurisdictions and will not be, as a result of the Token Generation Event (as defined below), in default of securities legislation in any jurisdiction in which it intends to offer the Tokens.
5. All of the issued and outstanding shares of the Filer are currently beneficially owned, controlled or directed by Alan Safahi or members of his immediate family.
6. The Filer is distributing the Tokens in order to raise capital, create liquidity and establish a user base in order to carry out its business plan of establishing the ZED Network.
7. Foreign exchange, payment and remittance transactions conducted via the ZED Network will not include either forward sales or options transactions.
8. The ZED Network is configured, through a process referred to as "integration", to interact with the Stellar network (the **Stellar Network**), an open-source distributed payments blockchain infrastructure.

9. Through integration with the Stellar Network and use of the Tokens, the Filer intends to address certain shortcomings of the foreign exchange and remittance industry to allow small and medium sized Registered MTOs to overcome banking, technology, cash flow and competitive issues.

**Registered MTOs**

10. The Tokens are primarily designed to be transferred among Registered MTOs to effect foreign exchange, payment and remittance transactions in the ordinary course of business.
11. Registered MTOs are expected to be the primary users of the ZED Network as part of their foreign exchange and remittance business.
12. A transaction on the ZED Network involves, directly or indirectly, four parties: the sending customer, the sending Registered MTO (**Sending MTO**), the receiving Registered MTO (**Receiving MTO**) and the receiving customer. The transaction will consist of a sending customer transacting with the Sending MTO in order to send fiat currency from the sending customer to a receiving customer through a Receiving MTO. This transaction may also include conversion of the fiat currency provided by the sending customer to another fiat currency to be received by the receiving customer. Accordingly, there are three separate transactions taking place between different counterparties, as follows: (i) a sending customer transfers fiat currency to a Sending MTO, (ii) the Sending MTO transfers an equivalent amount of Tokens (equal in value to the fiat currency provided by the sending customer, subject to applicable fees charged by the Filer) to the Receiving MTO, and (iii) the Receiving MTO transfers an equivalent amount of fiat currency (equal in value to the Tokens provided by the Sending MTO), which can be either the same as the fiat currency provided by the sending customer or a different fiat currency, to the receiving customer.
13. The Filer expects that Registered MTOs will benefit from joining the ZED Network as it is designed to increase competition, efficiency and accessibility while reducing costs associated with the foreign exchange, payment and remittance business. Additionally, Registered MTOs participating on the ZED Network will be provided with access to a complete suite of AML and identity verification tools.
14. The Filer expects that Registered MTOs will join the ZED Network and purchase Tokens for use in the ordinary course of business and to take advantage of the benefits of the ZED Network. The Tokens are neither intended nor marketed by the Filer to be purchased by Registered MTOs for speculation.
15. On current estimates, it is anticipated that only a small portion of Tokens authorized for issuance would be held or acquired by Canadian residents.
16. Any business in Canada that offers foreign exchange dealing or money transferring services is a “money services business”. All money services businesses are required to be registered with FINTRAC and are subject to its requirements. Accordingly, all FINTRAC Registered MTOs trading in the Tokens will be subject to FINTRAC requirements.
17. Registered MTOs are commercially sophisticated and knowledgeable about money services businesses and understand the key risks associated with such a business. By virtue of their experience in the foreign exchange and remittance industry, Registered MTOs have a better understanding of the nature of the business and its associated risks than the general public.
18. Money transfer operators in Canada that are not registered as a money services business with FINTRAC will not be permitted to join or use the ZED Network and will not be eligible to purchase or trade in Tokens except in accordance with applicable securities laws.
19. The FINTRAC requirements include a comprehensive and effective compliance program, which provides the basis for meeting all obligations under the *Proceeds of Crime (Money-Laundering) and Terrorist Financing Act* (Canada) (the **PCMLTFA**).
20. Through this compliance program, FINTRAC Registered MTOs are subject to know-your-client (**KYC**) requirements and must verify the identity of clients for certain activities and transactions in accordance with the PCMLTFA. FINTRAC Registered MTOs are also subject to FINTRAC’s record keeping requirements. Finally, FINTRAC Registered MTOs are required to complete reports about certain transactions and property, which reports are submitted to FINTRAC and are subject to quality review.
21. Registered MTOs that offer funds transfer services or foreign or currency exchange services to persons in Quebec will also be required to hold a license issued by the *Autorité des marchés financiers* (the **AMF**) pursuant to the provisions of the *Money-Services Businesses Act* (Québec) (the **Québec MSB Act**). MTOs licensed under the Québec MSB Act are subject to disclosure, recordkeeping and KYC requirements. Accordingly, all Registered MTOs trading in the Tokens that do business in Quebec will be required to hold a license issued by the AMF.

22. Foreign Registered MTOs will be required to be registered or authorized as money transfer businesses, or its equivalent, in accordance with the laws of the relevant foreign jurisdictions, to the extent applicable.
23. Where applicable, the Filer will perform an online check of each MTOs status as a Registered MTO during the initial application review and at least once annually following integration.
24. All Registered MTOs will enter into a master services agreement (the **MTO Services Agreement**), governing their business relationship with the Filer and their use of the ZED Network and ancillary services provided by the Filer. The MTO Services Agreement outlines the obligations of Registered MTOs, all applicable fees payable by Registered MTOs and contains representations and warranties of the Filer and the Registered MTO relating to intellectual property rights and confidentiality, data protection and privacy, disclaimers and limitation of liability, indemnification and dispute resolution.
25. The Filer will establish, maintain and apply policies and procedures that establish a system of controls and supervision designed to manage the risks associated with the Filer's business, including risks resulting from use of the Stellar Network, cybersecurity breaches and potential conflicts of interest between the Filer and Registered MTOs.
26. Some, but not necessarily all, Registered MTOs meet the definition of accredited investor.

### **The Offering**

27. The Filer intends to create, issue and distribute up to a maximum of 100 billion Tokens. The Filer expects that up to 21 billion Tokens will be sold and distributed through SAFTs and sales to accredited investors and Registered MTOs in the Filer's limited token generation event (the **Token Generation Event**); a total of 15 billion Tokens will be retained by the Filer and distributed to certain members of management, the board of directors, strategic advisors, software developers, and staff of the Filer (**Employees**); a total of 49 billion Tokens will be reserved to fund the Filer's bounty program, designed to reward partners, developers, and the community for supporting the ZED Network; and a total of 15 billion Tokens will be released within the first 5 years of the Token Generation Event, beginning on the first anniversary of the Token Generation Event closing, and repeating each year on such anniversary date.
28. Current or future Employees may be granted Tokens from the 15 billion Tokens retained by the Filer as they achieve certain milestones (on a quarterly or annual basis) which will be mutually agreed upon by the Filer and the Employees.
29. Tokens issued to Employees will be at a deemed price of US\$0.03 and subject to a one-year hold period from the date of issuance.
30. The Filer will implement policies requiring its insiders, employees and consultants to not trade in Tokens with knowledge of any adverse material fact or adverse material change (as such terms are defined in the *Securities Act* (Ontario)) with respect to the Filer that has not been generally disclosed.
31. In order to purchase and trade in the Tokens, Registered MTOs and accredited investors will be obligated to enter into a token purchase agreement (the **Token Purchase Agreement**) with the Filer.
32. The Filer will make commercially reasonable efforts, on its own behalf or through a third-party service provider, to monitor and oversee the Filer's bounty program and the bounty program participants to ensure compliance with the rules of the program and that the bounty program participants are not engaging in registerable activity.
33. In the initial phase of the launch of the ZED Network, the Filer will act as a market maker for the Tokens by placing large cash deposits into Receiving MTO's bank accounts against which the Receiving MTO may instantly convert Tokens to local currency. Accordingly, the Filer would act as a market maker only in the sense of guaranteeing buyback of the Tokens from Receiving MTOs if and to the extent necessary to ensure that Tokens remain sufficiently liquid for the functioning of the ZED Network.
34. At the launch of the ZED Network and until the Filer undertakes an offering in the U.S. under Regulation A or Regulation A+, or files a registration statement in the U.S. (a **U.S. Public Offering**), Tokens issued by the Filer will be at a price of US\$0.03, a price determined by the board of directors of the Filer. The Filer's services will be provided to parties joining and participating on the ZED Network for administration fees and transfer fees, which will be a combination of fixed fees and transaction-based fees and which are disclosed in the MTO Services Agreement.
35. The Filer is selling the Tokens, through Simple Agreements for Future Tokens (**SAFTs**) and subsequently directly, to raise capital to launch and advance the ZED Network in accordance with its business plan.

36. At the time when the ZED Network is ready for launch, in order to establish the initial user base and to create liquidity, the Filer intends to distribute Tokens to the holders of the SAFTs in accordance with their agreements and subject to the applicable legislation of the relevant jurisdictions, and also to sell Tokens (i) in Canada, to accredited investors and qualified employees pursuant to the applicable securities legislation of the Jurisdictions and to Registered MTOs, (ii) in the U.S., pursuant to a U.S. Public Offering, and (iii) outside of the U.S. and Canada, where permitted under the applicable securities laws of the relevant foreign jurisdictions.
37. No dealer or other registrant is, or is expected to be, involved in the offering of Tokens.
38. Any of the Filer's employees involved in soliciting sales of Tokens are not employed to raise capital as the principal purpose of their employment, will not spend the majority of their time raising capital in this manner and their compensation will not be based primarily on the amount of capital they raise for the Filer. Any solicitation of investors by officers, directors or other employees of the Filer will be solely incidental to their primary roles with the Filer.
39. For each purchaser in Canada under a Token Purchase Agreement who is not verified as a Registered MTO and who represents itself as an accredited investor, the Filer will conduct a comprehensive onboarding process which will determine the identity of such purchaser and whether such purchaser is an accredited investor, and:
  - (i) subject to clause (ii) below, if such purchaser is an accredited investor and either (a) seeks to purchase Tokens having a then-current value in excess of US\$25,000 in a single acquisition under a Token Purchase Agreement or (b) seeks to purchase Tokens, which purchase would result in such purchaser having acquired, in any one calendar year, Tokens having a then-current value in excess of US\$50,000, then the Filer will comply with the know-your-client and suitability requirements of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* as if the Filer was a registered dealer;
  - (ii) clause (i) above does not apply if such purchaser is a permitted client (as such term is defined in section 1.1 of NI 31-103) (**permitted client**), who has waived in writing the know-your-client and suitability requirements of NI 31-103.
40. The Filer will comply with available prospectus exemptions and applicable securities legislation in connection with the issuance of Tokens in Canada to accredited investors and qualified employees.

**Limited Access to the ZED Network**

41. The ZED Network is ready to be launched with full functionality in a pilot capacity, at which point a select group of participants in the pilot phase will immediately have the ability to use the ZED Network and the Tokens.
42. The funds raised in the Token Generation Event will be used to support the growth of the ZED Network by providing liquidity for the Tokens and to attract additional Registered MTOs to use the ZED Network.
43. At the time of launching the ZED Network, the Tokens will only be able to be transferred among either existing Token holders or new parties who join the ZED Network by satisfying the KYC and AML risk management requirements of the ZED Network, which will require new parties in Canada to either satisfy the relevant accredited investor or qualified employee purchaser standards under the Legislation or to be Registered MTOs. Thus, the ZED Network will represent a closed system for transfer of the Tokens.
44. Pursuant to the Token Purchase Agreement, all Registered MTOs will be required to immediately notify the Filer in the event they cease to be Registered MTOs, in which case they acknowledge that trading in Canada of their Tokens, including with Registered MTOs, will become subject to registration and prospectus requirements, or exemptions therefrom, under applicable securities legislation of the Jurisdictions.
45. All Sending MTOs are required to verify registration of the relevant Receiving MTOs prior to completing a transfer of Tokens from the Sending MTO to the Receiving MTO on the ZED Network.
46. If any MTO on the ZED Network ceases to be a Registered MTO, it will not be able to continue sending or receiving remittances from or to other Registered MTOs on the ZED Network.
47. The Token Purchase Agreement will include disclosure respecting the risks associated with trading in the Tokens, use of the ZED Network and any other services provided by the Filer in relation thereto.

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48. The Token Purchase Agreement will require each purchaser to abide by certain Token transfer restrictions, including the restriction on trade of the Tokens only to parties on the ZED Network.
49. Following the initial distribution of Tokens at the launch of the ZED Network and a U.S. Public Offering, the future value of the Tokens will be as established by the secondary market, not by the Filer, and is expected to be a function of the Tokens' utility for facilitating foreign exchange, payment and remittance transactions across currencies, similar to international currency cross rates.
50. There is no market for the common shares or Tokens of the Filer and the Filer has no present intention of listing its common shares or Tokens on any marketplace (as the term is defined in National Instrument 21-101 *Marketplace Operation*).
51. The Filer has no present intention of listing its Tokens on any organized market or crypto-asset trading platform, except in accordance with applicable securities laws.
52. FINTRAC Registered MTOs, that are not also accredited investors, to which the Filer issues Tokens will be provided with a contractual right of action against the Filer with respect to any misrepresentation included in the Token Purchase Agreement equivalent to the statutory right provided by section 130.1 of the *Securities Act* (Ontario) (the **Contractual Right of Action**). The Token Purchase Agreement will contain a description of the Contractual Right of Action and a statement that the Contractual Right of Action is in addition to any other right or remedy available at law to the FINTRAC Registered MTO.
53. The Filer will disclose to Registered MTOs utilizing the ZED Network that purchases of Tokens on the ZED Network on a resale basis will be afforded less protection under applicable securities legislation than purchasing Tokens directly from the Filer.

### Decision

The principal regulator is satisfied that the Decision meets the test set out in the Legislation for the principal regulator to make the Decision.

The Decision of the principal regulator in the Jurisdiction under the Legislation is that the Exemption Sought is granted, provided that the following conditions are met:

1. For each purchaser in Canada under a Token Purchase Agreement who is not verified as a Registered MTO and who represents itself as an accredited investor, the Filer will conduct a comprehensive onboarding process, which will determine the identity of such purchaser and whether such purchaser is an accredited investor, and:
  - (i) subject to clause (ii) below, if such purchaser is an accredited investor and either (a) seeks to purchase Tokens having a then-current value in excess of US\$25,000 in a single acquisition under a Token Purchase Agreement or (b) seeks to purchase Tokens, which purchase would result in such purchaser having acquired, in any one calendar year, Tokens having a then-current value in excess of US\$50,000, then the Filer will comply with the know-your-client and suitability requirements of NI 31-103 as if the Filer was a registered dealer;
  - (ii) clause (i) above does not apply if such purchaser is a Permitted Client, who has waived in writing the know-your-client and suitability requirements of NI 31-103.
2. The Filer will deal fairly, honestly and in good faith with all purchasers of Tokens.
3. The Filer will establish, maintain and apply policies and procedures that establish a system of controls and supervision designed to manage the risks associated with the Filer's business, including risks resulting from use of the Stellar Network, cybersecurity breaches and potential conflicts of interest between the Filer and Registered MTOs.
4. Neither the Filer nor any of its directors, officers, employees, agents or representatives will make recommendations or provide investment advice to any purchaser of Tokens, including representations regarding the potential future increase in value of the Tokens.
5. The Filer will not operate a marketplace as the term is defined in subsection 1(1) of the *Securities Act* (Ontario) and National Instrument 21-101 *Marketplace Operation*.
6. Every Token holder will be provided with a copy of the Token Purchase Agreement.

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7. FINTRAC Registered MTOs, that are not also accredited investors, to which the Filer issues Tokens will be provided with the Contractual Right of Action.
8. Tokens issued to Employees will be subject to a one-year hold period from the date of issuance.
9. The Filer notifies holders of Tokens of the following events, within 10 days of the occurrence of such event:
  - a discontinuation of the Filer's business;
  - the Filer receiving notice of any regulatory related investigations or proceedings in any jurisdiction in which it intends to offer the Tokens; and
  - a change of control of the Filer;provided that this obligation of the Filer will only apply until the earliest of the following events: (a) the Filer becomes a reporting issuer; (b) the Filer has completed a winding up or dissolution; and (c) the Tokens of the Filer are beneficially owned, directly or indirectly, by fewer than 51 holders worldwide.
10. The Filer publishes the following information on its website on a quarterly basis:
  - number of Tokens in circulation;
  - value of Tokens in circulation;
  - number of Registered MTOs on the ZED Network;
  - number of transactions completed;
  - total value of transactions;
  - jurisdictions of operation of participating Registered MTOs; and
  - unaudited cash reserves of the Filer;and, on an annual basis, audited cash reserves of the Filer.
11. The Filer will document and, in a manner that a reasonable purchaser would consider fair and effective, respond to each complaint relating to the Token Generation Event.
12. The Filer will provide the Principal Regulator with:
  - quarterly reporting (within 10 days of the end of each quarter) which includes the information required by Schedule 1 of Form 45-106F1 in respect of distributions to Registered MTOs; and
  - any report, document or information that may be requested for the purpose of monitoring compliance with securities legislation and the conditions of this Decision, on a timely basis, in a format acceptable by the Principal Regulator.
13. The first trade of Tokens acquired by a Registered MTO pursuant to this Decision, to a person other than a Registered MTO or the Filer, is deemed to be a distribution under the Legislation.
14. This Decision may be amended by the Principal Regulator from time to time upon written notice to the Filer.
15. The Prospectus Relief, with respect to the issuance of Tokens by the Filer only, shall expire twenty-four (24) months after the date of the Decision.
16. The Registration Relief shall expire twenty-four (24) months after the date of the Decision.

“Grant Vingoe”  
Vice-Chair  
Ontario Securities Commission

“Tim Moseley”  
Vice-Chair  
Ontario Securities Commission