|  |  |
| --- | --- |
| *Unofficial English translation* |  |
|

|  |  |
| --- | --- |
| Autorité des marchés financiers c. Larivière | 2023 QCTMF 47 |

FINANCIAL MARKETSADMINISTRATIVE TRIBUNAL |
|  |
| CANADA |
| PROVINCE OF QUÉBEC |
| MONTRÉAL |
|  |
| FILE NO.: | 2022-021 |
|  |
| DECISION NO.: | 2022-021-002 |
|  |
| DATE: | July 21, 2023 |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |
|  BEFORE THE ADMINISTRATIVE JUDGE: |

|  |
| --- |
| NICOLE MARTINEAU |

 |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |
|

|  |
| --- |
| AUTORITÉ DES MARCHÉS FINANCIERS  |
| Applicant |
| v. |
| **VANESSA LARIVIÈRE** |
| and |
| **EVA ROSE BEAUTÉ INC.** and**EVA ROSE CAPITAL INC.** |
| Respondents |
| and |
| **TORONTO DOMINION BANK (TD Bank),** a legal entity having a place of business at66 Wellington Street West, 15th floor, Toronto, Ontario, M5K 1A2, and having a branch at 8330 Boul. Taschereau, Suite 400, Brossard, Quebec, J4X 1C2, as well as at 9780 Boul. Leduc, Suite 5, Brossard, Quebec, J4Y 0B3 |
| and |
| **BANK OF MONTREAL (BMO),** a legally constituted legal entity having its head office at 129 Rue Saint-Jacques, Montréal, Quebec, H2Y 1L6, and having a branch at 119 Rue Saint-Jacques, Montréal, Quebec, H2Y 1L6 |
| and |
| **FP MARKETS LLC,** a legally constituted legal entity having a place of business at First St. Vincent Bank Ltd Building, 1st Floor, James Street, Kingstown, St. Vincent and the GrenadinesImpleaded parties |

 |
|  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |
| DECISION  |
| extension of freeze orders |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |

# OVERVIEW

1. On July 29, 2022[[1]](#footnote-1), the Financial Markets Administrative Tribunal (“Tribunal”) issued, as a matter of urgency and *ex parte*[[2]](#footnote-2)freeze orders against the respondents and the impleaded parties, prohibition orders against engaging in security and derivatives transactions, prohibitions against acting as advisers against the respondents, and measures to ensure compliance with the law.
2. The initial freeze orders were issued in the context of an investigation conducted by the Autorité des marchés financiers (“Authority”) against the respondents. This investigation concerns alleged breaches of sections 11 and 148 of the *Securities Act*[[3]](#footnote-3) and section 54 of the *Derivatives Act*[[4]](#footnote-4). These alleged breaches are mainly related to investment contracts and an investment of a security evidencing a loan of money from the public, as well as engaging in activities as securities or derivatives dealers or advisers, all without holding the registrations required to do so with the Authority and without preparing a prospectus and obtain a receipt therefor from the Authority or benefiting from the exemptions required by the *Securities Act* and the *Derivatives Act*.
3. The freeze orders in the case at hand expire on July 28, 2023.
4. The Authority is asking the Tribunal to extend the freeze orders currently in force in this case for a period of eight (8) months.
5. At the hearing on July 20, 2023, the respondents were represented by counsel, who informed the Tribunal that the Authority’s request for an extension of the freeze orders was not contested. The impleaded parties were not present and were not represented by counsel.
6. The procedure having been duly notified, using a special notification method approved by the Tribunal on June 26, 2023 in the case of FP Markets LLC, the Tribunal authorizes the Authority to proceed on the merits of this application.
7. Accordingly, the Tribunal must decide whether to extend the freeze orders in the public interest and, if so, determine the length of that extension.
8. After giving due consideration to the submissions by the Authority’s counsel, the Tribunal has decided, in the public interest, to extend the freeze orders currently in force in this case for a period of eight (8) months.

# ANALYSIS

1. To extend a freeze order, the Tribunal must determine whether:
2. the Authority’s investigation of the respondents is still in progress; and[[5]](#footnote-5)
3. the reasons for the initial freeze orders still exist.[[6]](#footnote-6)
4. Regarding the length of the freeze order, the law provides a twelve (12)-month period unless the Tribunal decides otherwise.﻿﻿[[7]](#footnote-7)
5. During the hearing, the Authority’s investigator testified and mentioned that a meeting with Vanessa Larivière is scheduled to take place shortly. Her investigation report is currently being drafted and will be submitted to the Authority’s Litigation Services for analysis.
6. The Authority’s counsel confirmed that the investigation, in its strict sense, remains in progress and that the reasons why the Tribunal issued the initial freeze orders in this case still exist. He added that the respondents did not dispute the request.
7. Under these circumstances, the Authority asks the Tribunal to extend, in the public interest, the freeze orders currently in force for a period of eight (8) months, which it deems reasonable under the circumstances.
8. Given that the Authority’s investigation in its strict sense is still in progress and that the reasons for the initial freeze orders still exist, and that the respondents do not contest the Authority’s request, the Tribunal is extending, in the public interest, the freeze orders currently in force in this case for a period of eight (8) months.

**FOR THESE REASONS**, the Financial Markets Administrative Tribunal, pursuant to sections 93 and 97, para. 2o(7) of the *Act respecting the regulation of the financial sector*; sections 249 and 250 of the *Securities Act;* and sections 119 and 120 of the *Derivatives Act*:

**ALLOWS**, in the public interest, the request to extend the freeze orders of the Autorité des marchés financiers; and

**EXTENDS** the freeze orders issued by the Tribunal on July 29, 2022, for eight (8) months starting on **July 28, 2023** and ending on **March 27, 2024** as follows, except as amended or repealed prior to the expiry of such period:

**ORDERS** Vanessa Larivière not to dispose, directly or indirectly, of any funds, securities or other assets in her possession;

**ORDERS** Vanessa Larivière not to withdraw, directly or indirectly, any funds, securities or other assets from the holding of any other person having them on deposit, under control or in safekeeping for her, including the impleaded parties;

**ORDERS** the impleaded party, Toronto Dominion Bank, having a place of business at 66 Wellington Street West, 15th floor, Toronto, Ontario, M5K 1A2 and having a branch at 8330 Boul. Taschereau, Suite 400, Brossard, Quebec, J4X 1C2, as well as at 9780 Boul. Leduc, Suite 5, Brossard, Quebec, J4Y 0B3, not to dispose, directly or indirectly, of any funds, securities or other assets that it has on deposit, under control or in safekeeping for Vanessa Larivière, including but not limited to, in the account bearing number [...], or in any safe deposit box in the name of Vanessa Larivière;

**ORDERS** the impleaded party, Bank of Montreal, having its head office at 129 Rue Saint-Jacques, Montréal, Quebec, H2Y 1L6, and having a branch at 119 Rue Saint-Jacques, Montréal, Quebec, H2Y 1L6, not to dispose, directly or indirectly, of any funds, securities or other assets that it has on deposit, under control or in safekeeping for Vanessa Larivière, including but not limited to, in the account bearing number [...], or in any safe deposit box in the name of Vanessa Larivière;

**ORDERS** the impleaded party, FP Markets LLC,having a place of business at First St. Vincent Bank Ltd Building, 1st floor, James Street, Kingstown, St. Vincent and the Grenadines, not to dispose, directly or indirectly, of funds, securities or other property that it has on deposit, under control or in safekeeping for Vanessa Larivière, including but not limited to, in accounts bearing numbers [...], [...], [...];

**ORDERS** Eva Rose Beauté Inc. not to dispose, directly or indirectly, of any funds, securities or other assets in its possession;

**ORDERS** Eva Rose Beauté Inc. not to withdraw any funds, securities or other assets from the holding of any other person having them on deposit, under control or in safekeeping for it, including the impleaded parties;

**ORDERS** the impleaded party, Toronto Dominion Bank, having a place of business at 66 Wellington Street West, 15th floor, Toronto, Ontario, M5K 1A2 and having a branch at 8330 Boul. Taschereau, Suite 400, Brossard, Quebec, J4X 1C2, as well as at 9780 Boul. Leduc, Suite 5, Brossard, Quebec, J4Y 0B3, not to dispose, directly or indirectly, of any funds, securities or other assets that it has on deposit, under control or in safekeeping for Eva Rose Beauté Inc., including in the account bearing number 5024683-4481, or in any safe deposit box in the name of Eva Rose Beauté Inc.;

**ORDERS** Eva Rose Capital Inc. not to dispose, directly or indirectly, of any funds, securities or other assets in its possession;

**ORDERS** Eva Rose Capital Inc. not to withdraw any funds, securities or other assets from the holding of any other person having them on deposit, under control or in safekeeping for it;

**ORDERS** the Autorité des marchés financiers to notify the parties and their counsel, where applicable, of this decision.

|  |  |
| --- | --- |
|  |  |
|  |  |
|  | **Mtre. Nicole Martineau****Administrative Judge** |
|  |
|  |
| Mtre. Hamza Abouabdelmajid |
| (Litigation Services, Autorité des marchés financiers) |
| For the Autorité des marchés financiers |
|  |
| Mtre. Philippe Morneau |
| (Schurman Grenier Morneau) |
| For Vanessa Larivière, Eva Rose Beauté inc. and Eva Rose Capital inc. |
|  |
|  |
| Hearing date: | July 20, 2023 |

1. *Autorité des marchés financiers* c. *Larivière*, 2022 QCTMF 48. [↑](#footnote-ref-1)
2. Hearing held without the presence of the respondents, section 115.1 of the *Act respecting the regulation of the financial sector*, CQLR c. E-6.1. [↑](#footnote-ref-2)
3. CQLR, c. V-1.1. [↑](#footnote-ref-3)
4. CQLR, c. I-14.01. [↑](#footnote-ref-4)
5. *Securities Act*, s. 249 and *Derivatives Act*, s. 119. [↑](#footnote-ref-5)
6. *Securities Act*, s. 250 (para. 2) and *Derivatives Act*, s. 120 (para. 2). [↑](#footnote-ref-6)
7. *Securities Act*, s. 250 (para. 1) and *Derivatives Ac*t, s. 120 (para. 1). [↑](#footnote-ref-7)