Translated from the original French

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| Autorité des marchés financiers c. Allard | | 2024 QCTMF 57 | |
| FINANCIAL MARKETS ADMINISTRATIVE TRIBUNAL | | | |
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| CANADA | | | |
| PROVINCE OF QUEBEC | | | |
| MONTREAL | | | |
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| FILE No.: | 2024-010 | | |
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| DECISION No.: | 2024-010-002 | | |
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| DATE: | September 6, 2024 | | |
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| BEFORE THE ADMINISTRATIVE JUDGE: | | | CHRISTINE DUBÉ | |
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| AUTORITÉ DES MARCHÉS FINANCIERS | | | |
| Applicant | | | |
| v. | | | |
| **VINCENT ALLARD** | | | |
| and | | | |
| **PYROLE CAPITAL INC.** | | | |
| Respondents | | | |
| and | | | |
| **BMO INVESTORLINE INC.**, a legal person constituted under the *Canada Business Corporations Act*, having an establishment at First Canadian Place, 21st Floor, Toronto, Ontario M5X 1A1 | | | |
| Impleaded party | | | |
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| DECISION | | | |
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# WARNING: The Tribunal has issued an order prohibiting the publication, disclosure, or release of Vincent Allard’s residential address and of the names, residential and professional addresses, and other private information of Vincent Allard’s relatives.[[1]](#footnote-1)

# OVERVIEW

1. On April 29, 2024,[[2]](#footnote-2) the Financial Markets Administrative Tribunal issued orders on an urgent and *ex parte* basis[[3]](#footnote-3) against the respondents Vincent Allard and Pyrole Capital inc. (“Pyrole”) to cease trading and acting as a dealer or adviser without being registered, as well as freeze orders against them and the impleaded party BMO Investorline Inc. The freeze orders expire on April 28, 2025.
2. The orders were issued in the context of an investigation of the respondents conducted by the Autorité des marchés financiers (the “Authority”). In particular, this investigation concerns alleged breaches regarding distributions without a prospectus and unregistered dealer activities, in violation of the provisions of the *Securities Act*[[4]](#footnote-4) as well as alleged breaches involving market manipulation and/or fraud within the meaning of sections 195.2 and 199.1 of the *Securities Act*.
3. The respondents ask[[5]](#footnote-5) the Tribunal to partially lift the freeze and cease trade orders issued against them so that they may convert USD Coins (“USDC”) into fiat currency to pay amounts owed to the Canada Revenue Agency and to Revenu Québec, and their attorneys’ fees, including those of experts and professionals assisting them (“legal fees”).
4. These applications for partial lifting are contested by the Authority.
5. The issue is the following:

Should the Tribunal partially lift the freeze and cease trade orders issued against Vincent Allard and Pyrole for the purpose of paying tax debts and legal fees, and if so, on what conditions?

1. The Tribunal grants the respondents’ applications for partial lifting for the reasons and on the conditions set out below.

**ANALYSIS**

1. The Tribunal recalls that a freeze order is a conservatory measure intended to protect funds, securities, or other assets obtained by potentially illegal means and to preserve the status quo so that administrative measures, if any, may be applied in the public interest. These assets are thus better protected when they are removed from the control of those who may have potentially breached the *Act*.[[6]](#footnote-6)
2. Freeze orders usually remain in effect during the investigation, as long as they are not amended or revoked by the Tribunal.[[7]](#footnote-7) The investigation includes measures to enforce the *Act*, including administrative measures that may be rendered by the Tribunal.[[8]](#footnote-8)
3. Any person who is directly affected by a freeze order may apply to have it lifted. The Tribunal must then determine whether the order may be lifted in the public interest. When a party wishes to pay debts while a freeze order is in effect, the Tribunal must ask whether this party has assets other than those subject to the freeze orders,[[9]](#footnote-9) that is, whether the party has sufficient assets to pay its debts without using the assets tied to the impugned activities.
4. In general, this question arises in contexts where respondents do not have sufficient assets and are subject to a general freeze order affecting all their assets, wherever they may be. That is not the case here.
5. Recently, the British Columbia Securities Commission rendered a decision[[10]](#footnote-10) in which it granted in part an application to lift a freeze order. Citing the Court of Appeal,[[11]](#footnote-11) which had rendered an earlier decision in the same file, the British Columbia Securities Commission provided a non-exhaustive list of the factors that might guide the Tribunal when deciding the outcome of certain freeze orders:

[50]   Many factors could be relevant to the public interest in a given case, depending on the circumstances. At para 209, the Court in the *Party A Decision* provided a non-exhaustive list of factors that may be relevant in a given case, including:

1)   the seriousness and scope of the allegations. For example, evidence of a relatively minor breach of the Act might not weigh heavily in favour of an asset freeze order, whereas evidence of a serious breach of the Act could weigh more heavily;

2)   the stage of the investigation, and whether there is urgency or has been delay;

3)   the scope of the asset freeze order in relation to the potential penalties that might flow from the alleged breaches of the Act. This raises the question whether there is proportionality between the scope of the asset freeze order and the magnitude of the prospective monetary claims or penalties arising from the investigation to the extent that can be known;

4)   the potential consequences of the order on the assets’ owner or other parties; and

5)   the strength of the evidence in support of the asset freeze order. Even where the preliminary merits test is met, the relative weakness or strength of the evidence can be a relevant factor to weigh in combination with all other public interest factors.

[51]   Two other factors raised for consideration in the *Party A Decision* were whether the executive director can show a connection between the frozen assets and the alleged wrongdoing, and whether the executive director can show there is a risk of dissipation of the assets absent a freeze order. The Court held that while those may be relevant in a particular case, neither was a necessary pre-condition to the maintenance of a freeze order.

[52]   The Commission is not required to run through a formal checklist of all possible relevant factors but rather to balance those factors that are relevant to the case at hand.

1. As this excerpt states, it is not necessary to analyze every factor individually because the Tribunal need only assess the factors that apply to a given case. In this case, the Tribunal points out the following:

* The investigation in this case is nascent, and it is possible that the Authority will discover facts that may pave the way for further allegations of breaches and additional administrative penalties and amounts to be distributed;
* The alleged breaches are very serious. Market manipulation is a serious breach with significant consequences for all market players;
* Moreover, the amounts involved in the transactions that, to date, have been investigated by the Authority are significant. The Tribunal notes, however, as was established by the evidence at the hearing, that the amounts that are currently frozen represent nearly twice the amounts involved in these transactions.

1. The respondents ask that the freeze and cease trade orders be lifted to allow them to (1) convert USDC into fiat currency to keep sufficient assets in an account frozen in Canada to cover the consequences of the alleged illegal activities and (2) use other USDC, which are not subject to the freeze orders, to pay only tax debts and their legal fees.
2. Following the hearing on the respondents’ applications for partial lifting, the Tribunal accepts the following main facts from Vincent Allard’s testimony, the exhibits filed, and the parties’ submissions:

* The Authority told the Tribunal that, in its view, the freeze orders concerned only what was specifically identified in the conclusions, that is, the accounts with Circle Internet Financial LLC #155435687 and BMO Investorline Inc. #239-34578, and the portfolio in the name of BALD Deployer. Thus, according to the Authority, the general freeze order issued by the Tribunal appears to be moot;
* USDC are stablecoins, whose value is tied to that of the US dollar.[[12]](#footnote-12) In other words, one USDC is worth one US dollar;
* Vincent Allard testified that USDC are currently held in Pyrole’s name in Circle account #155435687 and have an approximate market value of US$7,000,000;
* Vincent Allard testified that he and/or Pyrole held approximately US$10 to 20 million of USDC in other electronic portfolios at other addresses;
* He confirmed to the Tribunal that he would be able to pay Pyrole’s tax debts and any future legal fees without [translation] “touching” the currently frozen assets, including those he proposes to transfer to the BMO Investorline Inc. account to protect the amounts tied to the impugned activities;
* Counsel for the respondents indicated to the Tribunal that they did not have any outstanding amounts owed at the moment. The application for partial lifting regarding legal fees concerns only the future;
* The total amount owed to the Canada Revenue Agency and to Revenu Québec, including interest, is between C$2,100,000 and C$2,500,000;[[13]](#footnote-13)
* The respondents should never have more than C$500,000 available in the trust account held for them by Langlois Lawyers to cover legal fees.

1. At the hearing, the respondents explained the mechanisms by which the orders could be partially lifted.
2. The first step would be to convert all the USDC in Circle account #155435687 into fiat currency (about US$7,000,000). This amount would then be transferred to the BMO Investorline Inc. account #239-34578, which is currently frozen. Following that transfer, the Circle and BMO Investorline Inc. statements of account would be sent to the Authority as a rendering of account for this transaction.
3. The assets concerned by the specific freeze orders represent about C$14,000,000. The respondents would conduct transactions so that the tax debts and legal fees could be paid using their other assets. These transactions would involve transferring USDC held by the respondents in other electronic cryptoasset portfolios to Circle account #155435687, where the USDC would be converted into fiat currency. The money would then be transferred to a new account to be opened with the BMO because it might be impossible to pay the debts from BMO Investorline Inc. account #239-34578. It is understood that this new account would also be frozen. Withdrawals could then be made to pay the tax debts and legal fees.
4. The respondents undertake to provide a rendering of account to the Authority. Indeed, the Authority would receive:

* the Circle statement of account for each USDC conversion, in which the [translation] “source” address of the electronic cryptoasset portfolio would be redacted;
* the respondents’ BMO statement of account to show the correlating deposit, withdrawals, and the receipts/tax documents issued by the tax authorities following the payment of their debts; and
* the bank receipts proving the transfers between the respondents’ BMO account and the Langlois Lawyers’ trust account.

1. Counsel for the respondents submitted that proportionality weighs in favour of a partial lift. They stated that in the event the Tribunal were to approve the proposed mechanisms, nearly C$14,000,000 would be frozen and would be untouched by the payment of the tax debts or legal fees, whereas the transactions that were allegedly made in breach of the *Act*, according to the Authority, amount to C$7,000,000.
2. They further add that the purpose of lifting the bans is not to allow the respondents to continue trading in securities, but only to convert the USDC already in their possession. There would be no impact on the markets, in particular because, in their view, USDC are not securities.[[14]](#footnote-14)
3. They argue that it is in the public interest that the respondents’ tax debts be paid. They also submit that the respondents are entitled to make full answer and defence and as such, must incur legal fees.
4. The Authority, for its part, principally alleges that the respondents have not met their burden of proving that they do not possess other assets that would allow them to ensure their defence and pay their tax debt. The Authority argues in particular that the applications for partial lifting do not provide sufficient guarantees and are not sufficiently transparent. It adds that to grant these applications would be tantamount to allowing the respondents to write blank cheques.
5. Because the Authority’s investigation is not yet completed, the Authority argues that the public interest and its protection weigh in favour of maintaining the freeze and cease trade orders to ensure a substantial distribution to investors as well as the payment, if any, of one or more administrative penalties.
6. In light of the parties’ arguments and the evidence adduced, the Tribunal will grant the respondents’ applications for partial lifting. However, the Tribunal is not indifferent to the Authority’s concerns and has decided to impose conditions on these partial lifts, inspired by the mechanisms proposed by the respondents.
7. The sole objective of the respondents’ applications for partial lifting is to pay amounts owed to the tax authorities and to pay their legal fees. A party’s right to be represented by counsel is a fundamental principle of our justice system. Furthermore, the amounts collected by the tax authorities benefit the public, and it is in the public’s interest that corporate taxes be paid.
8. The Tribunal points out that the Authority’s investigation, while nascent, concerns transactions in connection with the Bald token that amount to about C$7,000,000.[[15]](#footnote-15)
9. Contrary to what the Authority alleges on the lack of evidence concerning the availability of other assets to pay their debts, the testimonial evidence is to the effect that the respondents have many other assets that are not frozen to pay the tax debts and their legal fees.[[16]](#footnote-16)
10. According to Vincent Allard, most of their assets are cryptoassets. What is more, Pyrole was accustomed to using these cryptoassets to pay its tax debts.
11. The respondents have established that they have sufficient other assets to make the payments they wish to make, without affecting those set aside for the measures that could be taken in the public interest against the alleged breaches. The respondents are ready to transfer an amount equal to nearly US$7,000,000 to the frozen BMO Investorline Inc. account to ensure that a sufficient amount is available should administrative penalties and distributions to investors be ordered.
12. The Tribunal notes that, to render its decision, it considered the Authority’s submissions that the only assets subject to freeze orders are those specifically identified in the decision rendered by the Tribunal on April 29, 2024,[[17]](#footnote-17) despite the general freeze order that the Authority had requested. These assets are the following: the BALD Deployer portfolio and the Circle and BMO Investorline Inc. accounts. Thus, it is possible to consider that the amounts the respondents want to use to pay their expenses are not part of the assets that are considered frozen by the Authority.
13. The Authority did not provide evidence that the respondents took part in potentially illegal activities other than those already described in the Tribunal’s initial decision. The Authority cannot, on the one hand, object to lifting the freeze orders by claiming that other assets might be discovered in the investigation concerning activities it alleges are illegal and, on the other hand, fail to assert the application of the general freeze order initially issued by the Tribunal that would have covered these other assets.
14. Contrary to the decisions argued by the Authority, the amounts the respondents wish to use in this case are not covered by the freeze order applied by the Authority, and the future transfer to the frozen BMO Investorline Inc. account will mean that sufficient funds will be protected in the public interest. Furthermore, the respondents possess many other assets that are not frozen to cover their expenses.
15. The Authority’s argument that the lifts should not be granted because there is a risk that most of the respondents’ cryptoassets are the fruit of transactions made through the activities of a market maker – activities that are governed by the *Act* – is undermined by the fact that the respondents do not need the cease trade orders to be lifted to continue to amass cryptoassets or to make a profit, but only to convert and use USDC to pay their tax debts and legal fees.
16. Regarding the concern that the respondents would be trading in securities to pay their debts, Vincent Allard confirmed at the hearing that he did not intend to convert other cryptoassets into USDC to make his payments. He wants to convert only the USDC he already has into fiat currency. The trading will therefore be very limited.
17. As for the mechanisms that would allow the orders to be lifted, the Tribunal is satisfied by the respondents’ proposals for the payment of the tax debts because the Authority would be able to confirm that the payments were in fact made.
18. The Authority contests the mechanisms for payment and the rendering of account of the legal fees. The issue of professional secrecy related to the attorneys’ fees was raised by counsel for the respondents.
19. The Authority submitted to the Tribunal that it did not want to receive a copy of the attorneys’ invoices. It would like to know the total amount of legal fees, however, without needing to know the details.
20. The respondents proposed a mechanism that answers these concerns, insofar as a maximum monthly amount to pay legal fees is provided, that is, a monthly maximum of C$250,000, it being understood that the respondents should never have more than C$500,000 held in their trust account with Langlois Lawyers.
21. The Tribunal is of the view that the means proposed by the respondents to this end are sufficient, such that there is no need to decide the issue of the professional secrecy of the attorneys’ fees. However, the Tribunal will provide for a rendering of account to the Authority showing that the USDC in the Circle account, converted into fiat currency, was deposited into the BMO account, along with confirmation by Langlois Lawyers that they received the amounts.
22. The idea of capping the legal fees at C$5,000,000 was raised at the hearing. Because the respondents have sufficient assets to cover their legal fees without having to use the frozen assets, it is not necessary to impose such a cap in this case.
23. In the circumstances and given the parties’ submissions, the Tribunal considers that it is justified to partially lift the freeze and cease trade orders issued against Vincent Allard and Pyrole so that they may convert USDC into fiat currency for the purpose of paying amounts owed to the Canada Revenue Agency and Revenu Québec and to pay their legal fees.
24. In closing, it should be noted that the tax debts and legal fees cannot be paid until the USDC currently held in the Circle account are converted into fiat currency so that these amounts can then be deposited into the frozen BMO Investorline Inc. account, the whole to protect the amounts tied to the impugned activities.
25. Also, to facilitate the payment of invoices, the respondents will be allowed to open a new bank account with BMO, which account may be used only to pay the tax debts and legal fees.
26. The public interest weighs in favour of partially lifting the orders to allow the respondents to pay tax debts and their legal fees, in a context where the respondents have ample means to pay their debts, while preserving the assets protected by the freeze orders.

**FOR THESE REASONS**, the Financial Markets Administrative Tribunal, pursuant to sections 93 and 94 of the *Act respecting the regulation of the financial sector* and sections 249, 250, 255, and 265 of the *Securities Act*:

**GRANTS** the applications of the respondents Vincent Allard and Pyrole Capital inc. to partially lift the freeze and cease trade orders;

Protection of assets

**PARTIALLY LIFTS** the freeze and cease trade orders it issued on April 29, 2024, against Vincent Allard and Pyrole Capital inc., for the sole purpose of allowing them to convert USDC into fiat currency to protect the assets tied to the impugned activities in this case:

**ORDERS** Vincent Allard and Pyrole Capital inc. to convert into fiat currency all the USD Coins currently held in account #155435687 with Circle Internet Financial LLC and to transfer the proceeds of this conversion to BMO Investorline Inc. account #239-345878;

**ORDERS** Vincent Allard and Pyrole Capital inc. to send to the Autorité des marchés financiers the statement for account #155435687 with Circle Internet Financial LLC and the statement for account #239-34578 with BMO Investorline Inc., confirming these transactions.

The transactions described below cannot be carried out before the Autorité des marchés financiers has sent the respondents an acknowledgment of receipt for the above statements.

Payment of tax debts and legal fees

**PARTIALLY LIFTS** the freeze and cease trade orders it issued on April 29, 2024, against Vincent Allard and Pyrole Capital inc. for the sole purpose of allowing them to open a new bank account with BMO, at the branch of their choice, to make only the deposits and payments of amounts required to pay their tax debts and legal fees, it being understood that the respondents may not carry out any transactions from this account other than those described herein and that they must notify the Autorité des marchés financiers of the number of this new bank account and the contact information for the BMO branch within five (5) days of opening the said bank account;

**PARTIALLY LIFTS** the freeze and cease trade orders it issued on April 29, 2024, against Vincent Allard and Pyrole Capital inc. for the sole purpose of paying the amounts owed to the Canada Revenue Agency and to Revenu Québec, subject to the following conditions:

**ALLOWS** Vincent Allard and Pyrole Capital inc. to add USD Coins they hold in other electronic portfolios to account #155435687 with Circle Internet Financial LLC and to convert them into fiat currency for an amount equal to the respondents’ tax debts. The proceeds of this conversion will be transferred to the new bank account to be opened with the BMO;

**ALLOWS** Vincent Allard and Pyrole Capital inc. to pay the Canada Revenue Agency and Revenu Québec the entire amount currently owed by Pyrole Capital inc. from the new bank account to be opened with the BMO;

**ORDERS** Vincent Allard and Pyrole Capital inc. to send to the Autorité des marchés financiers any documentation that proves payment was made to the tax authorities with proof of the calculation of interest owed to the tax authorities as at the date of payment, as well as the statement for the new bank account to be opened with the BMO and the statement for account #155435687 with Circle Internet Financial LLC from which the additional USD Coins were converted and transferred, confirming these transactions. It is understood that the addresses of the electronic portfolios from which the USD Coins are drawn will be redacted in this statement.

**PARTIALLY LIFTS** the freeze and cease trade orders issued on April 29, 2024, for the sole purpose of allowing the respondents Vincent Allard and Pyrole Capital inc. to deposit a monthly amount up to $250,000 into the trust account of Langlois Lawyers, the firm representing them, which trust account may never hold more than $500,000 for the respondents:

**ALLOWS** Vincent Allard and Pyrole Capital inc. to add USD Coins they hold in other electronic portfolios to account #155435687 with Circle Internet Financial LLC and to convert them into fiat currency for an amount equal to the monthly transfer to the trust account held by Langlois Lawyers. The proceeds of this conversion will be transferred to the new bank account to be opened with the BMO;

**ALLOWS** Vincent Allard and Pyrole Capital inc. to remit to their attorneys, in their trust account, by cheque or transfer from the new bank account to be opened with the BMO, the proceeds of the conversion into fiat currency referred to above, to pay for the legal fees owed;

**ORDERS** Vincent Allard and Pyrole Capital inc. to send to the Authority, within 14 days of each payment to the Langlois Lawyers account, the statement for the new bank account to be opened with the BMO, the statement for account #155435687 with Circle Internet Financial LLC from which the additional USD Coins were transferred and converted, and a bank receipt proving the transfer to the trust account of Langlois Lawyers, confirming these transactions. It is understood that the addresses of the electronic portfolios from which the USD Coins are drawn will be redacted in the statement for the Circle Internet Financial LLC account.

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|  | | **Mtre Christine Dubé**  **Administrative Judge** |
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| Mtre Stéphanie Jolin, Mtre Benjamin Wilner, and Mtre Mathieu Hamel | | | | |
| (Litigation Services, Autorité des marchés financiers) | | | | |
| For the Autorité des marchés financiers | | | | |
| Mtre Gabriel Querry and MtreAurélie Gauthier  LANGLOIS LAWYERS, LLP  For the respondents | | | | |
|  | | | | |
| Dates of hearing: | | August 13, 14, and 16, 2024 | | |

1. The order was issued pursuant to section 115.8 of the *Act respecting the regulation of the financial sector*, CQLR, c. E-6.1 (“*ARFS*”). See the minutes from June 27, 2024, in the Tribunal’s record. [↑](#footnote-ref-1)
2. *Autorité des marchés financiers c.* *Allard*, 2024 QCTMF 42. [↑](#footnote-ref-2)
3. Without first hearing the respondents and impleaded parties, in accordance with section 115.1 of the *ARFS*. [↑](#footnote-ref-3)
4. CQLR, c. V-1.1. [↑](#footnote-ref-4)
5. On July 8, 2024, the respondents filed two separate applications for partial lifting with the Tribunal, one concerning only the payment of legal fees, and the other concerning the payment of amounts owed to the tax authorities. Both applications were amended on August 9, 2024. For the sake of efficiency and the proper administration of justice, both applications were heard at the same time and are the subject of a single decision. [↑](#footnote-ref-5)
6. *Nadeau* *c.* *Autorité des marchés financiers*, 2014 QCBDR 97; *Re Amswiss Scientific Inc*.,1992 LNBCSC 40. [↑](#footnote-ref-6)
7. Sections 249, 250, and 255 of the *Securities Act*; *Autorité des marchés financiers c. Gestion Guychar (Canada) inc.,* 2010 QCBDRVM 13. [↑](#footnote-ref-7)
8. *Autorité des marchés financiers c. Gestion Guychar (Canada) inc.,* 2010 QCBDRVM 13; *Autorité des marchés financiers c.* *Gagné*, 2008 QCBDRVM 24. [↑](#footnote-ref-8)
9. *Autorité des marchés financiers* *c.* *Norbourg gestion d'actifs inc.*, 2006 QCBDRVM 12. [↑](#footnote-ref-9)
10. *Party A (Re)*, 2024 BCSECCOM 69. [↑](#footnote-ref-10)
11. *Party A* *v.* *British Columbia (Securities Commission)*, 2021 BCCA 358. [↑](#footnote-ref-11)
12. See exhibit LPI-6. [↑](#footnote-ref-12)
13. See exhibits LPI-1 to LPI-3. The amount is approximate because the calculation of interest changes over time. Furthermore, for identification security reasons, the Tribunal will not disclose the exact amounts of the notices of assessment filed as exhibits; see the minutes of the decision rendered from the bench on August 16, 2024. [↑](#footnote-ref-13)
14. The Tribunal need not rule on this finding for the purposes of this application because the Tribunal will partially lift the cease trade orders on certain conditions. [↑](#footnote-ref-14)
15. See exhibit LPI-5. [↑](#footnote-ref-15)
16. See in particular exhibit D-14. [↑](#footnote-ref-16)
17. *Autorité des marchés financiers c.* *Allard*, 2024 QCTMF 42. [↑](#footnote-ref-17)