

**In the Matter of
*The Securities Act, 1988***

and

**In the Matter of
Ava Trade Ltd.
Ava Trade EU Limited
Ava Capital Markets Australia Pty Ltd.
and
Ava Trade Japan K.K.**

Order Approving Settlement

WHEREAS, pursuant to section 17 of *The Financial and Consumer Affairs Authority of Saskatchewan Act* (the FCAA Act), the Chairperson of the Financial and Consumer Affairs Authority of Saskatchewan (the Authority) has appointed a panel (the Hearing Panel) to hear this matter;

AND WHEREAS, by virtue of subsection 17(7) of the FCAA Act, a decision or action of the Hearing Panel in relation to this matter is a decision of the Authority;

AND WHEREAS Ava Trade Ltd. (the Respondent) and the Director of the Securities Division (the Director) of the Authority have entered into a settlement agreement dated May 31, 2019 (the Settlement Agreement), the original of which is attached hereto as Schedule "A";

AND WHEREAS the Respondent has admitted to contravening clause 27(2)(b) of *The Securities Act, 1988* (the Act);

AND WHEREAS an application has been received by the Hearing Panel from staff of the Authority for an order that:

1. The Settlement Agreement is approved; and
2. Pursuant to section 135.1 of the Act, the Respondent shall pay an administrative penalty to the Authority, in the amount of \$7,500.00.

AND WHEREAS pursuant to section 135.3 of the Act, proceedings may be disposed of by an agreement approved by the Authority, without the necessity of a hearing;

AND WHEREAS the Respondent has waived its rights to a hearing on the merits in this matter, and has consented to the issuance of this Order;

AND WHEREAS the Hearing Panel is of the opinion that it is in the public interest to make this Order;

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement is approved; and
2. Pursuant to section 135.1 of the Act, the Respondent shall pay an administrative penalty to the Authority, in the amount of \$7,500.00.

DATED at Regina, Saskatchewan on June 13, 2019.



Howard Crofts
Chairperson of the Hearing Panel
Financial and Consumer Affairs Authority of
Saskatchewan

Schedule "A"

**In the Matter of
*The Securities Act, 1988***

and

**In the Matter of
Ava Trade Ltd.
Ava Trade EU Limited
Ava Capital Markets Australia Pty Ltd.
and
Ava Trade Japan K.K.**

SETTLEMENT AGREEMENT

WHEREAS the Director of the Securities Division (the Director) of Financial and Consumer Affairs Authority of Saskatchewan (the Authority) filed a Statement of Allegations of Staff of the Authority, dated December 14, 2018 (the Statement of Allegations), with the Authority, in which it was alleged that Ava Trade Ltd. (the Respondent) and certain of its affiliated entities engaged in specified activities that were contrary to the public interest and in contravention of *The Securities Act, 1988* (the Act);

AND WHEREAS the Respondent and the Director desire to dispose of the allegations against the Respondent and its affiliated entities, as contained in the Statement of Allegations, by way of agreement, as permitted by clauses 135.3(1)(a) and 135.3(1)(b) of the Act;

AND WHEREAS the Respondent and the Director acknowledge that this Settlement Agreement is subject to the approval of the Authority and, if approved by the Authority, will be published on the Authority's website;

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, the Respondent and the Director hereby agree as follows:

1. The following facts are hereby admitted by the Respondent and accepted by Staff:
 - (a) The Respondent, Ava Trade Ltd. is a business corporation registered with the British Virgin Islands' Registry of Corporate Affairs, with a registered office located in Road Town, Tortola, British Virgin Islands;
 - (b) From 2015 to in or around August 2018 (the Relevant Time) the Respondent opened and operated trading accounts for Saskatchewan residents through its online trading platform (the Ava Trade Platform);
 - (c) During the Relevant Time, Ava Trade EU Limited, Ava Capital Markets Australia Pty Ltd. and Ava Trade Japan K.K. had no Canadian client accounts.
 - (d) The Ava Trade Platform offered users the ability to utilize either manual or

automated platforms to “speculate in, and/or purchase, and/or sell, Forex, Contracts for Differences (hereinafter referred to as “CFDs”), Options (hereinafter referred to as “Options”) and Spread Betting, in commodities, metals, currencies and indices”;

- (e) The Ava Trade Platform stated that a “CFD” is a “type of financial instrument allows you to benefit from the fluctuations in the price of stocks, commodities, indices and more, without really purchasing them; i.e. you can profit from the difference between the opening price and the closing price of a certain position opened on a certain CFD instrument. It is important to us to emphasize that you don’t own the asset you trade.”;
 - (f) During the Relevant Time, approximately 46 Saskatchewan residents (the Investors) utilized the Ava Trade Platform in order to trade in securities and/or derivatives;
 - (g) In order to conduct such trades, the Investors accessed the Ava Trade Platform and opened online accounts with the Respondent;
 - (h) During the Relevant Time the Investors made deposits of funds into the above-noted online accounts, for the purpose of funding trades in securities and/or derivatives through the online account. These sums have been detailed in Annex “A” hereto;
 - (i) From time to time during the Relevant Time, the Investors’ online trading accounts, maintained by the Respondent, were used to trade in various securities and/or derivatives, through the Ava Trade Platform;
 - (j) By the end of the Relevant Time, the Investors had suffered financial losses in the amounts outlined in Annex “A” hereto, as a result of trading in various securities and/or derivatives through the Ava Trade Platform;
 - (k) In carrying out the acts indicated in clauses (b) – (i), above, the Respondent engaged in the business of, or held itself out as engaging in the business of trading in securities or derivatives with or on behalf of the Investors and as such acted as a ‘dealer’ as defined in the Act;
 - (l) The Respondent has never been registered as a ‘dealer’ as required by the Act, and therefore, has contravened clause 27(2)(a) of the Act.
2. The Respondent represents to the Director that:
- (a) Staff does not allege, and there has been no dishonest conduct by the Respondent.
 - (b) During Staff’s investigation, the Respondent provided prompt and candid cooperation with Staff, responded to all requests for information from Staff, and produced documents to assist Staff in its inquiries.

(c) The Respondent did not specifically or directly market to or target Saskatchewan residents.

(d) The Respondent has taken the following actions to remediate its conduct:

- i. Prior to January 2018, the Respondent independently and proactively initiated a process to transfer any Canadian clients to Friedberg Mercantile Group Ltd (Friedberg), a firm registered in Saskatchewan as a dealer under the category of Investment Dealer and a Dealer Member of the Investment Industry Regulatory Organization of Canada. The agreement with Friedberg was completed through the Respondent's subsidiary.
- ii. The Respondent also implemented meaningful procedures and internal controls to prevent Canadian residents from opening an account with the Respondent.
- iii. The Respondent also voluntarily undertook the following:
 1. Effective October 16, 2018, the Respondent only permitted trades liquidating Canadian client accounts;
 2. Effective November 14, 2018, the Respondent ceased all trades with Canadian client accounts;
 3. By November 30, 2018, the Respondent terminated all Canadian client accounts.

(e) The Respondent confirms that it has liquidated and/or closed all of its Canadian client accounts and completed the transition of any clients who elected to do so to Friedberg.

(a) The terms of the settlement are appropriate, having regard to the nature of Staff's allegations, mitigating factors, and the principles of general and specific deterrence.

(b) Staff does not dispute the mitigating circumstances set out by the Respondent, above.

3. The Respondent hereby waives its rights to a hearing on the merits of the matters dealt with herein.

4. The Respondent hereby agrees that all of the facts set out in paragraphs 1 and 2, above, are true, and that there are no material facts relating to these matters that are not set out in said paragraphs.

5. The Respondent hereby gives the following undertakings to the Director, which must, in accordance with section 55.15 of the Act be complied with:

(a) The Respondent shall refund to each of the Investors listed in Annex "A" hereto

the sums indicated in the "Agreed Payment" column by no later than November 30, 2019;

- (b) Upon execution of this Settlement Agreement, in order to effect clause 5(a), above, the Respondents will have forwarded the sum indicated as the "Total Agreed Payments" sum in Annex "A" to its counsel, to be held in trust, with irrevocable instructions to pay the sums indicated in clause 5(a) above by November 30, 2019, unless the Respondent has paid a sum stated in Annex "A" to one of the Investors, directly, in which case the said sum which has been paid directly to the Investor may be returned to the Respondent;
 - (c) In the event that the Respondent has been unable to locate any of the Investors by November 30, 2019, the Respondent may apply to the Panel for a variation of clauses 5(a) and/or 5(b), above;
 - (d) The Respondent will not trade in securities or derivatives in Saskatchewan without first complying with Saskatchewan securities laws; and
 - (e) The Respondent will not solicit or advertise in furtherance of trades in securities or derivatives in Saskatchewan without first complying with Saskatchewan securities laws.
6. The Director hereby agrees that, upon approval of this Settlement Agreement by the Authority, the allegations set out in the Statement of Allegations as against Ava Trade EU Limited, Ava Capital Markets Australia Pty Ltd. and Ava Trade Japan K.K will be withdrawn. To give the Director comfort with respect to these parties' continued commitment to adhere to Saskatchewan securities laws, Ava Trade EU Limited, Ava Capital Markets Australia Pty Ltd. and Ava Trade Japan K.K. have provided the Director with an undertaking substantially in the form referred to in clauses 5(d) and 5(e), above.
7. The Respondent and the Director hereby consent to the issuance of an order by the Authority, in substantially the form attached hereto as Appendix "A".
8. Based upon the facts and undertakings contained herein, the Director hereby agrees that the sanction set out in Appendix "A", is the only sanction the Director will seek to have the Authority impose upon the Respondent with respect to the matters set out in the Statement of Allegations, provided that nothing shall prohibit the Director from considering or dealing with any matter not set out in the Statement of Allegations or any new complaint brought to the Director's attention against the Respondent not relating to the matters set out in the Statement of Allegations.
9. The terms of this Settlement Agreement shall be treated as confidential by the Respondent and the Director, and may not be disclosed to any person except with the consent of the Director, or as required by law, until such time as it is signed by all parties and approved by the Authority.
10. The Respondent hereby affirms that it has read and understood the terms of this Settlement Agreement and is signing it voluntarily.

- 11. This Settlement Agreement may be signed in one or more counterparts and shall together constitute a binding agreement.
- 12. An electronic or facsimile copy of any signature shall be as effective as an original signature.
- 13. This Settlement Agreement shall be governed by and construed in accordance with the laws of the province of Saskatchewan.
- 14. The Respondent hereby acknowledges that it has been given a reasonable opportunity to obtain independent legal advice with respect to this Settlement Agreement, and that each has obtained such independent legal advice and is satisfied with the same, prior to executing this Settlement Agreement.
- 15. This Settlement Agreement, and any referenced appendices or annexes hereto constitutes the entire agreement between the Respondent and the Director in connection with the allegations set forth in the Statement of Allegations.
- 16. If the Authority does not approve this Settlement Agreement or does not make the order attached as Appendix "A": (i) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the Settlement Hearing takes place will be without prejudice to Staff and the Respondent; and (ii) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.
- 17. The parties will keep the terms of this Settlement Agreement confidential until the Authority approves this Settlement Agreement, subject to the parties' need to make submissions at the public hearing on the application to approve this settlement.

IN WITNESS WHEREOF

Ava Trade Ltd. has executed this Settlement Agreement at DUBLIN, IRELAND, this 31 day of MAY, 2019.

SIGNED in the presence of:)
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)
)

Name: WEIWEI XU

Per: 
Name: DAINE FERGUSON
Title: CEO

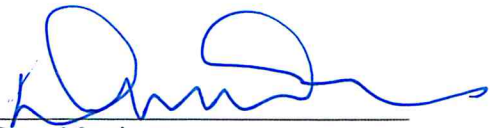
The Director, has executed this Settlement Agreement at Regina, Saskatchewan, this 31 day of May, 2019.

SIGNED in the presence of:)



Name: Dallas Smith

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Dean Murrison
Director, Securities Division
Financial and Consumer Affairs Authority
of Saskatchewan

Annex "A"

INVESTOR	AGREED PAYMENT (SCDN)
██████████	\$4,364.22
██████████	\$260.00
██████████	\$195.00
██████████	\$453.88
██████████	\$1,898.40
██████████	\$130.00
██████████	\$2,860.00
██████████	\$756.17
██████████	\$520.00
██████████	\$651.30
██████████	\$80,287.61
██	\$585.00
████████████████████	\$3,498.60
████████████████████	\$130.00
████████████████████	\$130.00
██████████	\$43.49
████████████████████	\$157.29
██████████	\$260.00
██████████	\$910.00
██████████	\$286.92
████████████████████	\$953.04
██████████	\$130.00

██████████	\$130.00
██████████	\$3,501.06
██████████████████	\$960.64
██████████████████	\$780.00
██████████████████	\$1,949.91
██████████████████	\$19,370.00
██████████████████	\$1,083.21
██████████████████	\$393.03
██████████████████	\$130.74
██████████████████	\$1,100.20
██████████████████	\$211.89
██████████████████	\$130.75
██████████████████	\$130.75
██████████████████	\$130.75
██████████████████	\$130.72
██████████████████	\$4,241.74
██████████████████	\$3,237.38
██████████████████	\$6,500.00
	TOTAL AGREED PAYMENTS (SCDN) \$143,573.69

Appendix "A"

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AND WHEREAS, by virtue of subsection 17(7) of the FCAA Act, a decision or action of the Hearing Panel in relation to this matter is a decision of the Authority;

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AND WHEREAS the Respondent has admitted to contravening clause 27(2)(b) of *The Securities Act, 1988* (the Act);

AND WHEREAS an application has been received by the Hearing Panel from staff of the Authority for an order that:

1. The Settlement Agreement is approved; and
2. Pursuant to section 135.1 of the Act, the Respondent shall pay an administrative penalty to the Authority, in the amount of \$7,500.00.

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AND WHEREAS the Respondent has waived its rights to a hearing on the merits in this matter, and has consented to the issuance of this Order;

AND WHEREAS the Hearing Panel is of the opinion that it is in the public interest to make this Order;

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement is approved; and
2. Pursuant to section 135.1 of the Act, the Respondent shall pay an administrative penalty to the Authority, in the amount of \$7,500.00.

DATED at Regina, Saskatchewan on [DATE].

[NAME]
Chairperson of the Hearing Panel
Financial and Consumer Affairs Authority of
Saskatchewan