

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF VOYAGER DIGITAL LTD.

APPLICATION OF VOYAGER DIGITAL LTD. UNDER SECTION  
46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.  
1985, c. C-36, AS AMENDED

**THIRD REPORT  
OF THE INFORMATION OFFICER  
ALVAREZ & MARSAL CANADA INC.**

**DECEMBER 12, 2022**

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## 1.0 INTRODUCTION

### Voyager Chapter 11 Proceedings

- 1.1 On July 5, 2022 (the “**Petition Date**”), Voyager Digital Holdings, Inc. (“**Voyager Holdings**”), Voyager Digital Ltd. (“**VDL**”) and Voyager Digital, LLC (“**OpCo**”) (each a “**Debtor**” and collectively, the “**Debtors**”, and together with their direct and indirect non-Debtor affiliates, the “**Voyager Group**”), commenced voluntary reorganization proceedings<sup>1</sup> (the “**Chapter 11 Proceedings**”) pursuant to Chapter 11 of the U.S. Code (the “**U.S. Bankruptcy Code**”) before the United States Bankruptcy Court for the Southern District of New York (the “**U.S. Court**”).
- 1.2 On July 8, 2022, the U.S. Court granted various interim and final orders in the Chapter 11 Proceedings (the “**First Day Orders**”), including an order (the “**Foreign Representative Order**”) authorizing VDL to act as foreign representative of the Debtors (in such capacity, the “**Foreign Representative**”) in a proceeding to be commenced in the Ontario Superior Court of Justice (Commercial List) (the “**Canadian Court**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**” and these proceedings the “**CCAA Recognition Proceedings**”, and together with the Chapter 11 Proceedings, the “**Restructuring Proceedings**”). The Foreign Representative Order also authorizes VDL to:
- (a) seek recognition of the Chapter 11 Proceedings in a proceeding in Canada;

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<sup>1</sup> On July 6, 2022, the U.S. Court granted an order directing, for procedural purposes only, joint administration of the Chapter 11 Proceedings as Voyager Digital Holdings, Inc. *et al.* This order does not provide for consolidation for substantive purposes.

- (b) request that the Canadian Court lend assistance to the U.S. Court in protecting the property of the estates; and
- (c) seek any other appropriate relief from the Canadian Court that VDL deems just and proper in furtherance of the protection of the Debtors' estates.

CCAA Recognition Proceedings

- 1.3 On July 11, 2022, the Foreign Representative brought an application before the Canadian Court for certain relief pursuant to Part IV of the CCAA.
- 1.4 On July 12, 2022, VDL obtained two orders from the Canadian Court:
  - (a) an initial recognition order (the “**Initial Recognition Order**”), among other things,
    - (i) declaring that VDL is the foreign representative in respect of the Chapter 11 Proceedings;
    - (ii) recognizing the Chapter 11 Proceedings of VDL as a foreign proceeding under Part IV of the CCAA;
    - (iii) granting a stay of proceedings in respect of VDL and their property and business; and
    - (iv) prohibiting VDL from selling or otherwise disposing of any property in Canada outside of the ordinary course of business, without leave of the Canadian Court; and
  - (b) a supplemental order, among other things,
    - (i) recognizing certain of the First Day Orders;

- (ii) appointing Alvarez & Marsal Canada Inc. as information officer in respect of the CCAA Recognition Proceedings (in such capacity, the “**Information Officer**”); and
- (iii) granting a super-priority charge up to a maximum of CDN\$500,000 over VDL’s property in Canada in favour of counsel to VDL, the Information Officer and counsel to the Information Officer, Blake, Cassels & Graydon LLP, as security for their professional fees and disbursements in respect of these CCAA Recognition Proceedings.

1.5 On August 5, 2022, the Canadian Court issued an amended and restated Initial Recognition Order setting out that the center of main interest of VDL is the United States and that the Chapter 11 Proceeding of VDL is a foreign main proceeding.

1.6 On August 11, 2022, the Canadian Court made an order recognizing and giving effect in Canada to nine orders of the U.S. Court, including:

- (a) the NOL Order;
- (b) the Wages Order;
- (c) the Taxes Order;
- (d) the Second Interim Cash Management Order;
- (e) the Stretto Appointment Order;
- (f) the Bar Date Order;
- (g) the Insurance Order;
- (h) the OCP Order; and

(i) the Bidding Procedures Order;

each as defined and described in the First Report of the Information Officer dated August 8, 2022 (the “**First Report**”).

1.7 On October 6, 2022, the Canadian Court made an order recognizing and giving effect in Canada to four orders of the U.S. Court, including:

(a) the Kirkland Retention Order;

(b) the BRG Retention Order;

(c) the Moelis Retention Order; and

(d) the KERP Order;

each as defined and described in the Second Report of the Information Officer dated September 30, 2022 (the “**Second Report**”).

1.8 Further information regarding these CCAA Recognition Proceedings, including both the First Report and Second Report, can be found on the Information Officer’s website at <https://alvarezandmarsal.com/VoyagerDigital> (the “**Case Website**”). Copies of documents filed in the Chapter 11 Proceedings can be found on the case website maintained by Stretto, Inc. (“**Stretto**”) at <https://cases.stretto.com/Voyager> (the “**Chapter 11 Website**”), which can also be accessed via the Case Website.

## **2.0 TERMS OF REFERENCE AND DISCLAIMER**

2.1 In preparing this report of the Information Officer (the “**Third Report**”), the Information Officer has relied solely on information and documents provided by the Foreign Representative, the other Debtors, and their Canadian legal counsel (collectively, the

**“Information”**). Except as otherwise described in this Third Report, the Information Officer has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Information Officer has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the *Chartered Professional Accountants Canada Handbook*, and accordingly, the Information Officer expresses no opinion or other form of assurance contemplated under CASs in respect of the Information.

2.2 This Third Report should be read in conjunction with the Affidavit of Raajan Aery sworn December 6, 2022 (the “**December Aery Affidavit**”).

2.3 Unless otherwise stated, all monetary amounts contained herein are expressed in USD.

### **3.0 PURPOSE OF THIS THIRD REPORT**

3.1 The purpose of this Third Report is to provide the Canadian Court with information or additional information regarding the following:

- (a) the status of the Chapter 11 Proceedings;
- (b) the six orders that the Foreign Representative is seeking to have recognized and given effect by the Canadian Court pursuant to the CCAA being (i) the Marcum Retention Order, (ii) the Deloitte Tax Retention Order, (iii) the Deloitte Accounting Retention Order, (iv) the Third Interim Cash Management Order (v) the Fourth Interim Cash Management Order, and (vi) the Exclusivity Extension Order (each as defined and described below); and

- (c) the subsequent activities of the Information Officer since the date of the Second Report.

#### **4.0 STATUS OF THE CHAPTER 11 PROCEEDINGS**

##### Restructuring

- 4.1 As discussed in the Second Report, in late June 2022, the Voyager Group, with the assistance of its investment banker, Moelis & Company LLC, commenced a comprehensive marketing process (the “**Marketing Process**”) to solicit investor interest in either (a) a sale of the Debtors’ entire business to either a financial sponsor or a strategic company in the cryptocurrency industry pursuant to section 363 of the U.S. Bankruptcy Code, or (b) a capital raise whereby a third party (individually or as part of a consortium) would provide a capital infusion into the Voyager Group’s business enterprise.
- 4.2 Shortly after the Petition Date, the Debtors crafted bidding procedures (the “**Bidding Procedures**”) to further effectuate the Marketing Process. On August 5, 2022, the U.S. Court entered an Order (i) Approving the Bidding Procedures and Related Dates and Deadlines, and (ii) Scheduling Hearings and Objection Deadlines with respect to the Debtors’ Sale, Disclosure Statement and Plan Confirmation (the “**Bidding Procedures Order**”). As noted above, the Bidding Procedures Order was recognized by the Canadian Court on August 11, 2022.

##### Proposed Sale (and Subsequent Cancellation)

- 4.3 As discussed in the Second Report, on September 26, 2022, the Debtors gave notice that, upon the conclusion of an auction and various other steps contemplated by the Bidding Procedures, the Debtors, in the exercise of their business judgement, and in consultation



with the official committee of unsecured creditors (the “UCC”), selected West Realm Shires Inc. (“FTX US”) as the successful bidder with respect to certain of the Debtors’ assets (the “**Proposed Sale**”). On September 27, 2022, OpCo and FTX US executed an asset purchase agreement (the “**Asset Purchase Agreement**”) memorializing the terms of the Proposed Sale.

- 4.4 On October 5, 2022, the Debtors filed a Second Amended Joint Plan of Voyager Digital Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (the “**Second Amended Joint Plan**”) and filed a First Amended Disclosure Statement Relating to the Second Amended Joint Plan of Voyager Digital Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (the “**First Amended Disclosure Statement**”).
- 4.5 On October 20, 2022, the U.S. Court entered an Order Authorizing Entry into the Asset Purchase Agreement and an Order Approving (i) the Adequacy of the Disclosure Statement, (ii) the Solicitation and Notice Procedures, (iii) the Forms and Ballots and Notices in Connection Therewith and (iv) Certain Dates with Respect Thereto (the “**Disclosure Statement Approval Order**”).
- 4.6 The Disclosure Statement Approval Order provided, among other things, certain key dates for the proposed restructuring of the Chapter 11 Debtors, including (i) a deadline on November 29, 2022, by which all ballots must be properly executed, completed and delivered (the “**Voting Deadline**”) and by which objections to the Plan (as defined in the First Amended Disclosure Statement) must be filed with the U.S. Court (the “**Plan Objection Deadline**”) and, (ii) a hearing on December 8, 2022 at which the U.S. Court will consider Confirmation of the Plan (the “**Confirmation Hearing**”).

- 4.7 On November 11, 2022 and November 14, 2022, FTX Trading Ltd. and 101 affiliated debtors (collectively, the “**FTX Debtors**”) each filed a voluntary petition for relief under the U.S. Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “**FTX Bankruptcy**”). The FTX Debtors included FTX US.
- 4.8 In light of circumstances surrounding the FTX Bankruptcy, including a material breach of the Asset Purchase Agreement, at a hearing on November 15, 2022 before the U.S. Court (the “**November 15<sup>th</sup> Hearing**”), counsel to the Debtors advised that the Proposed Sale would not move forward, the Confirmation Hearing would be cancelled, and other related deadlines approved by the U.S. Court within the Disclosure Statement Approval Order, (including the Voting Deadline and Plan Objection Deadline) would no longer apply.
- 4.9 Also at the November 15<sup>th</sup> Hearing, counsel to the Debtors advised they had reopened the Marketing Process and were considering three alternatives including (i) sale of the OpCo platform, (ii) individual asset sales, and/or (iii) a return of cryptocurrency to customers.
- 4.10 On November 16 2022, the UCC announced via twitter (<https://mobile.twitter.com/voyagerucc>) that the UCC was working with the Debtors and other potential bidders on the best path forward, including a structure that distributes crypto outside of a sale to a third party.
- 4.11 In light of the cancellation of the Confirmation Hearing, the reopening of the Marketing Process and the tweet above, the Information Officer understands that status of both the Second Amended Joint Plan and First Amended Disclosure Statement are uncertain, depending on the outcome of the ultimate transaction structure.

Adversary Proceeding

4.12 As previously reported:

- (a) as of the date of the Second Report, the Information Officer understood that the amount owing to VDL from OpCo in respect of unsecured intercompany debt was approximately \$217.5 million, including \$80.4 million documented by way of certain loan agreements and \$137.1 million which was characterized as debt on the books and records of VDL, but for which no intercompany loan agreements exist (the “**VDL/OpCo Intercompany Obligations**”); and
- (b) as of the date of the Second Report, the Information Officer understood the amount owing to VDL from Voyager Holdings included approximately \$6.3 million pursuant to an unsecured intercompany debt facility for which an intercompany loan agreement is in place (the “**VDL/Voyager Holdings Intercompany Obligations**”).

4.13 Although the status of the Second Amended Joint Plan and the First Amended Disclosure Statement is uncertain at this time, the Information Officer understands that the Debtors intend to treat the VDL/OpCo Intercompany Obligations as capital contributions for reasons set out in the First Amended Disclosure Statement.

4.14 The Information Officer further understands that the Second Amended Joint Plan characterized the VDL/Voyager Holdings Intercompany Obligations as a debt obligation.

4.15 As previously reported, on August 2, 2022, a proposed representative plaintiff (the “**Proposed Plaintiff**”) filed a proposed class action in Ontario on behalf of certain equity investors.

- 4.16 On September 19, 2022, the Ad Hoc Group of Equity Interest Holders of VDL (of which the Proposed Plaintiff is a member), retained Kilpatrick Townsend & Stockton LLP (“**Ad Hoc Equity Counsel**”) and Dundon Advisers, LLC in the Chapter 11 Proceedings.
- 4.17 On November 3, 2022, Ad Hoc Equity Counsel sent a letter to the Information Officer (the “**Ad Hoc Equity Letter**”) posing a number of questions to the Information Officer in respect of the Information Officer’s review of intercompany transactions among the Debtors. A copy of the Ad Hoc Equity Letter is attached as **Appendix “A”**.
- 4.18 On November 11, 2022, Ad Hoc Equity Counsel filed a complaint for declaratory judgement in an adversary proceeding under Rule 7001 of the Federal Rules of Bankruptcy Procedure in the U.S. Bankruptcy Court (the “**Equity Interest Holders Complaint**”).
- 4.19 The Equity Interest Holders Complaint seeks declaratory relief as to:
- (a) the VDL/OpCo Intercompany Obligations and VDL/Voyager Holdings Intercompany Obligations to be characterized as valid and enforceable debt obligations and not subject to recharacterization or subordination; and
  - (b) one guaranty claim allegedly owed by VDL to be invalid or unenforceable, on its own or together with the invalidity or unenforceability of the Alameda Loan Facility (as defined in the First Report) against its borrower.
- 4.20 On November 22, 2022, counsel to the Information Officer responded to the Ad Hoc Equity Letter. A copy of such response is attached as **Appendix “B”**. To date, the Information Officer has not received a response to this letter.

- 4.21 The Information Officer understands the Equity Interest Holders Complaint is scheduled to be heard by the U.S. Court on January 24, 2023.

## **5.0 ADDITIONAL ORDERS OF THE U.S. COURT**

- 5.1 Since the date of the Second Report, the U.S. Court has made the following orders which, as described in greater detail in the December Aery Affidavit, the Foreign Representative is seeking recognition of at a hearing before the Canadian Court on December 15, 2022:

- (a) Order Authorizing the Employment and Retention of Marcum LLP (“**Marcum**”), as Auditor and Foreign Compliance Services Provided Effective as of the Petition Date (“**Marcum Retention Order**”);
- (b) Order Authorizing the Employment and Retention of Deloitte Tax LLP (“**Deloitte Tax**”), as Tax Services Provider Effective as of August 1, 2022 (“**Deloitte Tax Retention Order**”);
- (c) Order Authorizing the Employment and Retention of Deloitte & Touche LLP (“**Deloitte Accounting**”) as Accounting Advisors, Effective as of August 24, 2022 (“**Deloitte Accounting Retention Order**”);
- (d) Third Interim Order Authorizing the Debtors to (i) Continue to Operate Their Cash Management System, (ii) Honour Certain Prepetition Obligations Related Thereto, (iii) Maintain Existing Business Forms, and (iv) Perform Intercompany Transactions (the “**Third Interim Cash Management Order**”);
- (e) Fourth Interim Order Authorizing the Debtors to (i) Continue to Operate Their Cash Management System, (ii) Honour Certain Prepetition Obligations Related Thereto,

- (iii) Maintain Existing Business Forms, and (iv) Perform Intercompany Transactions (the “**Fourth Interim Cash Management Order**”); and
  - (f) Order Extending the Debtors’ Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances Thereof Pursuant to Section 1121 of the Bankruptcy Code (the “**Exclusivity Extension Order**”).
- 5.2 Copies of all such orders and other documents related to the Chapter 11 Proceedings are available on the Chapter 11 Website, a link to which is included on the Case Website. The above orders and their relevance to the Canadian stakeholders are discussed below.

#### Marcum Retention Order

- 5.3 On October 19, 2022, the U.S. Court entered the Marcum Retention Order. Pursuant to the Marcum Retention Order, the Debtors were authorized to retain Marcum to provide auditing services and foreign compliance services, effective as of the Petition Date, pursuant to an engagement letter as modified and authorized by the U.S. Court.
- 5.4 The Debtors have retained Marcum to provide auditing services and foreign compliance services, including auditing VDL’s consolidated statements of financial position as of June 30, 2022, the related consolidated statements of loss and comprehensive loss, changes in equity and cash flows for the year ended June 30, 2022 and notes to these financial statements.

#### Deloitte Tax Retention Order

- 5.5 On October 20, 2022, the U.S. Court entered the Deloitte Tax Retention Order. Pursuant to the Deloitte Tax Retention Order, the Debtors were authorized to retain Deloitte Tax as

tax services provider, effective as of August 1, 2022, pursuant to an engagement letter between Voyager Holdings and Deloitte Tax as modified and authorized by the U.S. Court.

- 5.6 The Debtors have retained Deloitte Tax to provide tax services including the performance of certain services related to tax matters arising in connection with the Chapter 11 Proceedings.

Deloitte Accounting Retention Order

- 5.7 On October 20, 2022, the U.S. Court entered the Deloitte Accounting Retention Order. Pursuant to the Deloitte Accounting Retention Order, the Debtors were authorized to retain Deloitte Accounting as the Debtors' accounting advisors, effective as of August 24, 2022, pursuant to an engagement letter between Voyager Holdings and Deloitte Accounting as modified and authorized by the U.S. Court.

- 5.8 The Debtors have retained Deloitte Accounting to provide accounting advisory services including, among other things, advising on management's internal control design and implementation, regulatory requirements associated with securities listings, blockchain audit readiness and various matters relating to digital asset transactions.

Third & Fourth Interim Cash Management Order

- 5.9 On July 12, 2022, the Canadian Court recognized an Interim Order Authorizing the Debtors to (i) Continue to Operate Their Cash Management System, (ii) Honor Certain Prepetition Obligations Related Thereto, (iii) Maintain Existing Business Forms, and (iv) Perform Intercompany Transactions (the "**First Interim Cash Management Order**").

- 5.10 The First Interim Cash Management Order authorized the Debtors on a final basis to continue their Cash Management System and continue to perform Intercompany

Transactions (as described above and in the First Report). Post-Petition Date transfers and payments from one Debtor to another Debtor under any Intercompany Transactions authorized under the Cash Management Order are accorded superpriority administrative expense status.

5.11 On August 4, 2022, the U.S. Court made a further interim order in respect of the First Interim Cash Management Order (the “**Second Interim Cash Management Order**”) which provided:

- (a) additional assurance that the Debtors would not engage in any intercompany transactions that involve payments from a Debtor entity to a non-Debtor entity without prior written consent of the UCC;
- (b) that the Debtors shall provide the UCC with rolling 13-week cash flow budgets as soon as reasonably practicable after the entry of the Second Interim Cash Management Order and every subsequent month thereafter; and
- (c) an acknowledgement that nothing in the Second Interim Cash Management Order constitutes a finding as to whether the cash management system complies with federal or state securities laws.

5.12 The Second Interim Cash Management Order was recognized by the Canadian Court on August 11, 2022.

5.13 On October 20, 2022, the U.S. Court made a further interim order in respect of the Second Interim Cash Management Order (the Third Interim Cash Management Order) which contains provisions substantially similar to those included in the Second Interim Cash Management Order as well as additional provisions:



- (i) providing for additional accounting of the crypto currencies held by the Debtors;
- (ii) providing certain delegated authorities to OpCo to investigate, dispute, and prosecute certain ACH chargebacks<sup>2</sup>; and
- (iii) amending various dates, including the date of a final hearing.

5.14 On November 15, 2022, the U.S. Court made a further interim order in respect of the Third Interim Cash Management Order (i.e. the Fourth Interim Cash Management Order) which amended various dates, including the date of a final hearing.

#### Exclusivity Extension Order

5.15 On November 15, 2022, the U.S. Court entered the Exclusivity Extension Order, which provided an extension of the Filing Exclusivity Period pursuant to section 1121(b) of the U.S. Code, to January 2, 2023 and the Soliciting Exclusivity Period pursuant to section 1121(c) of the U.S. Code, to March 1, 2023. At the time of filing, the Debtors sought the extensions to bring these Chapter 11 Proceedings to an orderly close. In light of the cancellation of the Confirmation Hearing and the reopening of the Marketing Process, the Information Officer assumes further extensions will be necessary.

## **6.0 ACTIVITIES OF THE INFORMATION OFFICER**

6.1 The activities of the Information Officer since the date of the Second Report (September 30, 2022) have included:

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<sup>2</sup> ACH Transfers, or automated clearing house transfers, are electronic payments made between banks and other financial institutions. ACH Chargebacks arise when a party to an ACH Transfer disputes the completion of that transfer.

- (a) reviewing relevant materials filed in the Chapter 11 Proceedings and drafts of the application materials for the CCAA Recognition Proceedings;
- (b) maintaining the Case Website for the CCAA Recognition Proceedings to make available copies of the orders granted in the proceedings and other non-confidential materials. As noted above, there is also a link on the Information Officer's website to the Chapter 11 Website which includes copies of the U.S. Court materials and orders, petitions and notices and other materials relevant to the Chapter 11 Proceedings;
- (c) reviewing and considering the orders made in the Chapter 11 Proceedings;
- (d) monitoring the Chapter 11 Website for activity in the Chapter 11 Proceedings;
- (e) communicating with counsel to VDL regarding matters relevant to the CCAA Recognition Proceedings and the Chapter 11 Proceedings;
- (f) communicating with Ad Hoc Equity Counsel;
- (g) attending hearings before the Canadian Court on October 6, 2022;
- (h) attending hearings telephonically before the U.S. Court on October 19, 2022 and November 15, 2022;
- (i) responding to inquiries from investors; and
- (j) with the assistance of legal counsel, preparing this Third Report.

## **7.0 RECOMMENDATIONS**

- 7.1 The Information Officer understands that recognition by the Canadian Court of the requested orders is relevant to the conduct of the Restructuring Proceedings. The

Information Officer, together with its legal counsel, has reviewed the Marcum Retention Order, the Deloitte Tax Retention Order, the Deloitte Accounting Retention Order, the Third Interim Cash Management Order, the Fourth Interim Cash Management Order and the Exclusivity Extension Order and is of the view that granting recognition of these orders is reasonable and appropriate in the circumstances. Based on the foregoing, the Information Officer respectfully recommends that the Canadian Court grant the relief requested by the Foreign Representative.

All of which is respectfully submitted to the Court this 12<sup>th</sup> day of December, 2022.

**ALVAREZ & MARSAL CANADA INC.**  
**Information Officer of Voyager Digital Ltd.,**  
**and not in its personal or corporate capacity**

Per:



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Stephen Ferguson  
Senior Vice-President

## **APPENDIX “A”**

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**By Email**

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Re: In re Voyager Digital Holdings, Inc., et al. - Bankr. S.D.N.Y. 22-10943

Dear Linc:

As you are aware, we represent the Ad Hoc Group of Equity Holders of Voyager Digital Ltd. (the “Ad Hoc Group”) in the chapter 11 cases (the “Chapter 11 Cases”) of Voyager Digital Holdings, Inc. and its affiliates (the “Debtors”) filed in the United States Bankruptcy Court for the Southern District of New York on July 5, 2022 (Case No. 22-10943). On October 24, 2022, the Debtors filed their *Second Amended Joint Plan of Voyager Digital Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Dkt. No. 590] in the Chapter 11 Cases, which the Debtors will seek to have confirmed on December 8, 2022. As we discussed, the Ad Hoc Group is seeking discovery in connection with a potential objection to the confirmation of the Plan. You advised that as an officer of the Court, information officers are generally not subject to oral deposition in practice and that the Information Officer will aggressively oppose an effort we make to seek an oral deposition. Rather, you advised that the practice is to pose written questions to the Information Officer which they will then answer. While we reserve the right to challenge this position in the context of the ongoing Chapter 11 Cases, at this stage, if we are satisfied with the answers to the questions posed below, perhaps any need for a deposition under oath can be avoided.

Below are questions posed by the Ad Hoc Group to your client, Alvarez & Marsal Canada Inc. in its capacity as Information Officer in the Voyager Digital Ltd. CCAA proceeding pending before the Ontario Superior Court of Justice.

1. Please provide copies of all documents and communications received from the Debtors regarding the Intercompany Obligations<sup>1</sup>, the Intercompany Transactions and the Alameda Loan.
2. Please identify all documents and communications reviewed in connection with the preparation of either of the Reports with respect to the Intercompany Obligations, the Intercompany Transactions, or the Alameda Loan.
3. With whom did you speak to at the Debtors (including any professionals) in connection with your review of the Intercompany Obligations and Intercompany Transactions?
4. What did any of them say to you about the nature or character of the Intercompany Obligations and Intercompany Transactions? Did you take notes or were those discussions recorded in some other manner? Please provide any evidence of such communications.
5. Did any officer or director of the Debtors express the view or take the position that the Intercompany Obligations or Intercompany Transactions were invalid, or give reasons for such a statement? If so, what were the reasons given. Did you take notes or were those discussions recorded in some other manner? Please provide any evidence of such communications.
6. Did any officer or director of the Debtors express the view or take the position that the Intercompany Obligations or Intercompany Transactions were subject to subordination or give reasons for such a statement? If so, what were the reasons given. Did you take notes or were those discussions recorded in some other manner? Please provide any evidence of such communications.
7. Did any officer or director of the Debtors express the view or take the position that the Intercompany Obligations or Intercompany Transactions were subject to recharacterization? or give reasons for such a statement? If so, what were the reasons given. Did you take notes or were those discussions recorded in some other manner? Please provide any evidence of such communications

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<sup>1</sup> Capitalized terms used herein shall have the definition or meaning set forth in the Disclosure Statement or Plan, unless otherwise noted. The “Disclosure Statement” shall mean the *First Amended Disclosure Statement Relating to the Second Amended Joint Plan of Voyager Digital Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* dated October 24, 2022 and filed at docket number 591 in *In re Voyager Digital Holdings, Inc.* (Bankr. S.D.N.Y. No. 22-10943). The “Plan” shall mean the *Second Amended Joint Plan of Voyager Digital Holdings, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* dated October 24, 2022 and filed at docket number 590 in *In re Voyager Digital Holdings, Inc.* (Bankr. S.D.N.Y. No. 22-10943). The “First Information Officer Report” shall mean the *First Report of the Information Officer* dated August 8, 2022. The “Second Information Officer Report” shall mean the *Second Report of the Information Officer* dated September 30, 2022. The “Reports” shall mean the First Information Officer Report and the Second Information Officer Report, collectively.

8. Did you interview Matthew Ray in connection with the preparation of either of your reports?
9. If not, why not?
10. If so, what did Mr. Ray say to you, if anything, about the Intercompany Obligations or Intercompany Transactions? If so, did you take notes or were those discussions recorded in some other manner? Please provide any evidence of such communications.
11. In the Reports, you do not disclose any obligations or liabilities of TopCo to any of its Debtor or non-debtor subsidiaries. Please confirm that you continue to believe that to be the case? If so, why?
12. In the Reports, you do not disclose any obligations or liabilities of TopCo to any account holders. Please confirm that you continue to believe that account holders are not creditors of TopCo? If so, why?
13. The Second Information Officer's Report states that the Information Officer understands that the amount owing to TopCo, as of the Petition Date, is \$217.5 million, \$80.4 million of which is documented by certain loan agreements and \$137.1 million of which the Information Officer asserts is characterized as debt on the books and records of TopCo. What documents did you review to reach that conclusion? Did you interview any of the Debtors' officers or directors in connection with those statements? If so, what did they say? Whom did you speak to? Did you take notes or were those discussions recorded in some other manner? Please provide any evidence of such communications.
14. The Second Information Officer's Report also states that the Information Officer understands that the amount owing to TopCo from Voyager Digital Holdings, Inc. includes (i) a \$6.3 million intercompany unsecured debt facility for which a loan agreement is in place, and (ii) \$2.1 million on account of unsecured intercompany receivables relating to allocation of expenses and management fees, recharges of bills paid on behalf of one another and cash movements between the two entities. What documents did you review to reach that conclusion? Did you interview any of the Debtors' officers or directors in connection with those statements? If so, what did they say? Whom did you speak to? Did you take notes or were those discussions recorded in some other manner? Please provide any evidence of such communications.

The Second Information Officer's Report further states that the Information Officer further understands that approximately \$46 million was advanced to OpCo from TopCo in the form of equity and \$16 million was advanced to Voyager European

Holdings ApS by TopCo in the form of equity for acquisition of Coinify in 2022. What documents did you review to reach that conclusion? Did you interview any of the Debtors' officers or directors in connection with those statements? If so, what did they say? Whom did you speak to? Did you take notes or were those discussions recorded in some other manner? Please provide any evidence of such communications.

15. The First Information Officer's Report describes TopCo as "a holding company whose primary functions are (i) to raise capital and fund the operations of the Voyager Group through various intercorporate funding arrangements, and (ii) act as an unsecured guarantor of the Alameda Loan Facility." What documents did you review in connection with the Alameda loan?
16. Did you discuss the Alameda Loan with any of the Debtors' officers? If so, what did they say about the loan? Did they ever state that the loan was invalid? Did they ever state that the Debtors intended to cancel the loan or give reasons for such a statement? If so, what were the reasons given. Did you take notes or were those discussions recorded in some other manner? Please provide any evidence of such communications.
17. Did you discuss the Alameda Loan with the Debtors' directors? Did you discuss the Alameda loan with Matthew Ray? If so, did he state to you that the loan was invalid or TopCo would not be held liable on the guaranty or give reasons for such a statement? If so, what were the reasons given. Did you take notes or were those discussions recorded in some other manner? Please provide any evidence of such communications

We would request that your client provide written responses to the below on or before November 18, 2022. Should you have any questions, please do not hesitate to contact me.

Best regards,

/s/ David M. Posner

David M. Posner

cc: Christine A. Okike, P.C., Esq.  
Michael Slade, Esq.  
Richard U.S. Howell, P.C., Esq.  
Paul M. Rosenblatt, Esq.

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## **APPENDIX “B”**



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199 Bay Street  
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**Linc Rogers**

Partner

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November 22, 2022

VIA E-MAIL

Reference: 99766/20

Mr. David M. Posner  
Kilpatrick Townsend & Stockton LLP  
The Grace Building  
1114 Avenue of the Americas  
New York, NY 10036-7703  
U.S.A.

**RE: In re Voyager Digital Holdings, Inc.**

**Re: Information Request**

Dear David:

Reference is made to your letter of November 3, 2022, ("**November 3 Letter**") wherein you pose certain questions to our client, Alvarez and Marsal Canada Inc. in its capacity as court-appointed information officer (in such capacity, the "**Information Officer**") in the Voyager Digital Ltd. ("**TopCo**") recognition proceedings ("**Recognition Proceedings**") pending before the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**") pursuant to Part IV of the *Companies' Creditors Arrangement Act* (Canada) ("**CCAA**").

We understand you are counsel to the Ad Hoc Group of Equity Holders of TopCo in the chapter 11 cases (the "**Chapter 11 Proceedings**") of Voyager Digital Holdings, Inc. and its affiliates (collectively, the "**Debtors**"), including TopCo. Your questions relate primarily to the Second Report of the Information Officer dated August 8, 2022, as filed with the Canadian Court (the "**Second Report**") in the Recognition Proceedings. In the Second Report, the Information Officer communicated that the Information Officer's understanding at the time was that the amount owing to TopCo, as of the date of the commencement of the Chapter 11 Proceedings, was \$217.5 million.<sup>1</sup> In essence, your letter seeks to understand the basis for the Information Officer's understanding.

To confirm, it is the practice of court officers appointed in insolvency proceedings in Ontario to review and consider written questions posed to them, in respect of their reports, and provide appropriate responses in the circumstances. For obvious reasons, court officers do not reply to any and all questions put to them irrespective of scope, nature or relevance to their mandate. Court officers will also consider whether they are the best source for the information requested or whether it is more appropriate for the requesting party to make inquiry with a primary source with direct knowledge.

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<sup>1</sup> Section 6.2. All references to currency are USD.  
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This letter is the Information Officer's response to the November 3 Letter, following consideration of those factors.

#### Role of Information Officer

As a preliminary matter, we note that the Information Officer is not the equivalent of a trustee or examiner appointed in chapter 11 proceedings or a monitor appointed in a plenary CCAA proceedings. The Information Officer was appointed by the Court primarily to report to the Court and creditors as to the status of the Chapter 11 Proceedings.

The Information Officer also provides its views and recommendations on relief requested by TopCo in its position as foreign representative in the Recognition Proceedings, for the Canadian Court's consideration. In discharging this obligation, the Information Officer, among other things, attends (telephonically) proceedings before the US Bankruptcy Court, reviews pleadings in the Chapter 11 Proceedings and makes information requests of the Debtors, germane to TopCo and the Recognition Proceedings. The Information Officer then summarizes the information provided to it by the Debtors and communicates it to the Canadian Court and Canadian stakeholders. Given the scope and nature of its mandate, the Information Officer would not take additional investigatory steps unless directed to do so by the Canadian Court. To date, the Information Officer has received no such direction.

In that regard, paragraph 12(b) of the Supplemental Order dated July 12, 2022 of the Canadian Court reads:

**THIS COURT ORDERS** that the Information Officer:

...

shall report to this Court at such times and intervals that the Information Officer considers appropriate or as this Court may direct with respect to the status of these proceedings and the status of the Foreign Proceeding, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;

Section 2.1 of the Second Report, under the heading "Terms of Reference and Disclaimer" is also instructive in understanding the mandate of the Information Officer:

In preparing this Report of the Information Officer (the "**Second Report**"), the Information Officer has relied solely on information and documents provided by the Foreign Representative, the other Debtors, and their Canadian legal counsel (collectively, the "**Information**"). Except as otherwise described in this Second Report, the Information Officer has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Information Officer has not audited or otherwise attempted to verify the accuracy or

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completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the *Chartered Professional Accountants Canada Handbook* (the “**Handbook**”), and accordingly, the Information Officer expresses no opinion or other form of assurance contemplated under CASs in respect of the Information.

Information communicated in reports of the Information Officer should be understood and considered in this context.

#### Intercompany Debt

In the First Report of the Information Officer dated August 8, 2022 (the “**First Report**”), the Information Officer reported its understanding that approximately \$71.5 million was owing to TopCo by Voyager Digital, LLC (“**OpCo**”).<sup>2</sup> This understanding was based largely on an e-mail received from Ashwin Prithipaul who was at the time, the Chief Financial Officer of OpCo, dated August 8, 2022. As noted above, consistent with the scope and nature of its mandate and the disclaimer included in the First Report, the Information Officer did not audit or otherwise attempt to verify the information provided. It communicated the information provided to it.

Following the issuance of the First Report, the Debtors published their statements of financial affairs (“**SOFAs**”), which were reviewed by the Information Officer. The SOFAs disclosed a greater amount of intercompany debt owing to TopCo. by OpCo than previously indicated to the Information Officer. The Information Officer then made further inquiry, seeking clarification. The results of that further inquiry are set out in detail at Section 6.0 of the Second Report and not repeated here.

In addition to Mr. Prithipaul, the other individuals with whom the Information Officer recalls communicating with, that were employed by the Debtors are Manisha Lalwani (in house Regulatory Counsel), Evan Psaropoulos (Chief Commercial Officer) and Migle Bukauskaite (Director of Accounting).

We understand you have requested from the Debtors, all non-privileged documentation provided to the Information Officer by the Debtors. The Information Officer will review the Debtors’ response to such information request when available to confirm such response is consistent with the Information Officer’s records. The Information Officer will advise of any inconsistency.

Yours very truly,



Linc Rogers

c: Steve Ferguson (A&M Canada)

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<sup>2</sup> Section 4.20  
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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED** Court File No.:CV-22- 00683820-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF VOYAGER  
DIGITAL LTD.**

**APPLICATION OF VOYAGER DIGITAL LTD. UNDER SECTION 46 OF THE *COMPANIES'*  
*CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**THIRD REPORT OF THE INFORMATION  
OFFICER**

**BLAKE, CASSELS & GRAYDON LLP**

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**Linc Rogers (LSO: 43562N)**

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Tel: 416 863 4168

Counsel for Alvarez & Marsal Canada Inc., solely in  
its capacity as the Information Officer and not in its  
personal or corporate capacity