

# **2007 BCSECCOM 571**

August 1, 2007

## **Headnote**

Mutual Reliance Review System for Exemption Relief Application - National Instrument 81-105 s. 9.1 - Mutual Fund Sales Practices - The Filer is similar to a trade organization or industry association and on behalf of mutual fund organizations wants relief from ss 5.4(1) of the Instrument. - The Filer is a not for profit corporation and national association of individuals. The Filer provides education programs and services to a wide range of individuals in the financial services industry. It also grants certification to individuals who complete a specified program. The Filer conducts regular conferences and seminars that mutual fund organizations attend. The Filer is not related to or affiliated with any particular mutual fund organization. The Filers will comply with all the relevant provisions of the Instrument as if they were directly permitted by the Instrument to sponsor industry associated events as described in s 5.4 of the Instrument.

## **Applicable British Columbia Provisions**

*Mutual Fund Sales Practices* (NI 81-105) Section 9.1

**In the Matter of the Securities Legislation of  
British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec,  
New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador,  
Yukon Territory, Northwest Territories and Nunavut Territory  
(the Jurisdictions)**

**and**

**In the Matter of  
The Mutual Reliance Review System  
For Exemptive Relief Applications  
(the System)**

**and**

**In the Matter of  
The Canadian Institute For Financial Planners  
(CIFPs)**

**and**

**In the Matter of  
Franklin Templeton Investments Corp.  
(FTIC)**

**MRRS Decision Document**

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### **Background**

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from CIFPs on behalf of FTIC and on behalf of each member of the organization, as defined in National Instrument 81-105 Mutual Fund Sales Practices (NI 81-105), of any other mutual fund (collectively with FTIC, the Mutual Fund Organizations) for a decision under the securities legislation of the Jurisdictions (the Legislation) to grant an exemption from subsection 5.4(1) of NI 81-105 (the Requested Relief) to permit the Mutual Fund Organizations to pay or reimburse a portion of the direct costs and expenses incurred by CIFPs in organizing and presenting its annual national conference held in June 2007 (the Annual National Conference) and other conferences and seminars organized and presented by CIFPs or its affiliates or its chapters in the future (the Institute's Future Educational Events).

Under the System:

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

### **Interpretation**

Defined terms contained in National Instrument 14-101 Definitions have the same meaning in this decision unless they are defined in this decision.

### **Representations**

This decision is based on the following facts represented by CIFPs on its behalf and on behalf of the Mutual Fund Organizations:

1. CIFPs is a not-for-profit corporation incorporated by letters patent under the laws of Canada on February 24, 2003. The Investment Funds Institute of Canada (IFIC) sponsored the creation of CIFPs to provide an organization that would promote financial planning and provide educational services to the broader financial services industry. IFIC became a sponsoring member of CIFPs but ownership of CIFPs resided with its individual members. CIFPs is a national association for Canadian individuals who have obtained certification as a Certified Financial Planner (CFP™). Membership of CIFPs is open to all Canadian CFP licensees, associates who completed their pre-license educational requirements and students who are currently enrolled in a qualified CFP educational program. CIFPs currently has approximately 2,600 members some of whom are licensed to sell either or both financial products and life insurance products.

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2. CIFPs serves its members and their individual, family and business clients primarily by providing specialized and comprehensive programs of professional development in financial services and also by advocating policy and legislation before government, legislators and regulators at all levels and by collaborating with trade and industry associations in Canada and abroad. CIFPs also supports the Financial Planners Standards Council, which is responsible for awarding the CFP designation to suitably qualified individuals, in achieving its mission and vision.
3. The Canadian Institute of Financial Planning (CIFP) is a not-for-profit corporation primarily engaged in providing education programs for financial planning and continuing education. CIFP is a registered provider of courses leading to the CFP designation.
4. Both CIFPs and CIFP were, until June 5, 2007, affiliates of IFIC. Effective June 6, 2007, CIFPs acquired controlling ownership of CIFP and, from such date, CIFPs and CIFP were no longer affiliated or associated with IFIC. This change was a result of IFIC re-organizing its educational operations to focus on licensing education and not financial planning. Further, IFIC determined its financial planning should be run by CIFPs, an organization dedicated exclusively to financial planning. In addition, CIFPs was now a viable organization that could run independent of IFIC and work directly with the industry and IFIC members to meet its mandate. Finally, the new CIFP/CIFPs entity retains its existing objects, mandate, management, membership, programs and sponsorship from mutual fund organizations. The only change is that CIFPs is now totally owned by its members and IFIC is no longer a sponsoring member on the CIFPs Board.
5. As part of the services that it provides, CIFPs arranges conferences and seminars for its members. CIFPs Annual National Conference took place in Calgary, Alberta and approximately 450 of its members were in attendance. Attendees were able to earn 20 credit hours towards their annual continuing education credits. The primary purpose of the Annual National Conference included the provision of educational information about financial planning, investing in securities, mutual fund industry matters, mutual fund issues generally, and other related topics.
6. FTIC is a corporation existing under the laws of Ontario. FTIC is the manager and principal distributor of a number of mutual funds that are qualified for distribution in each of the provinces and territories of Canada. Accordingly, FTIC is a member of the organization of a mutual fund family within the meaning of NI 81-105.

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7. Subsection 5.4(1) of NI 81-105 prohibits a member of the organization of a mutual fund from paying money, providing non-monetary benefits or paying or reimbursing the costs or expenses relating to a conference, seminar or course that is organized and presented by The Investment Funds Institute of Canada (IFIC), the Investment Dealers Association of Canada (the IDA) or another trade or industry association. Subsection 5.4(2) of NI 81-105 provides an exemption to permit the Mutual Fund Organizations to pay to IFIC, the IDA or their respective affiliates or associates, direct costs incurred by IFIC, the IDA or their respective affiliates or associates relating to a conference or seminar organized and presented by IFIC, the IDA or their respective affiliates or associates, subject to the conditions set out therein.
8. FTIC and other Mutual Fund Organizations have agreed, subject to the grant of this Decision, to pay or reimburse to CIFPs a portion of the direct costs incurred by CIFPs for organizing and presenting the Annual National Conference. CIFPs also anticipates that FTIC and other Mutual Fund Organizations will similarly agree to pay or reimburse CIFPs in respect of the Institute's Future Educational Events. FTIC's and the other Mutual Fund Organizations' payment of a portion of the direct costs incurred by CIFPs in connection with the Annual National Conference or the Insitute's Future Educational Events will comply with the conditions set out in subsection 5.4(2) of NI 81-105. The conditions include:
  - (a) the primary purpose of the Annual National Conference was and the primary purpose of the Institute's Future Educational Events will be the provision of educational information about financial planning and matters relating to mutual funds and related products;
  - (b) none of the Mutual Fund Organizations in a mutual fund family will pay in the aggregate more than ten percent of the total direct costs incurred by CIFPs for the organization and presentation of the Annual National Conference and the Institute's Future Educational Events;
  - (c) the selection of a representative of a participating dealer to attend the Annual National Conference was made exclusively by the participating dealer, uninfluenced by the Mutual Fund Organizations and the selection of a representative of a participating dealer to attend the Institute's Future Educational Events will be made exclusively by the participating dealer, uninfluenced by the Mutual Fund Organizations; and

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- (d) the Annual National Conference was held in Canada and the Institute's Future Educational Events will be held in Canada or the continental United States of America.

### **Decision**

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted so long as the Mutual Fund Organizations comply with the conditions set out in subsections 5.4(2)(a) to (d) of NI 81-105.

The further decision of the Decision Makers under the Legislation is that the Requested Relief will terminate one year after the publication in final form of any legislation or rule that modifies the provisions of section 5.4 of NI 81-105 in a manner which makes the relief provided for in this Decision Document unnecessary or provides similar relief on a different basis or subject to different conditions.

*"Robert L. Shirriff"*

Robert L. Shirriff

*"Paul K. Bates"*

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