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Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Investment by RSP “clone” fund in another mutual fund for specified purpose exempted from the reporting requirements and self-dealing provisions of the Act.

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 121(2)(b), 126(a), 126(d) and 130

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA,
SASKATCHEWAN, ONTARIO, NOVA SCOTIA, AND NEWFOUNDLAND AND LABRADOR

AND

IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF
APPLICATIONS

AND

IN THE MATTER OF FIDELITY INVESTMENTS CANADA LIMITED AND
FIDELITY RSP GLOBAL OPPORTUNITIES FUND

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of the provinces of British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia and Newfoundland and Labrador (the “Jurisdictions”) has received an application from Fidelity Investments Canada Limited (“Fidelity”), as manager of the Fidelity RSP Global Opportunities Fund (the “Existing Top Fund”) and other mutual funds managed by Fidelity after the date of this Decision (defined herein) having an investment objective that is linked to the returns of another specified Fidelity mutual fund while remaining 100% eligible for registered plans (together with the “Existing Top Fund”, the “Top Funds”) for a decision by each Decision Maker (collectively, the “Decision”) pursuant to the securities legislation of the Jurisdictions (the “Legislation”) that the following provisions of the Legislation (the “Applicable Requirements”) shall not apply to the Top Funds or Fidelity, as the case may be, in respect of certain investments to be made by the Top Funds in an Underlying Fund (as hereinafter defined) from time to time:

1. the restrictions contained in the Legislation prohibiting a mutual fund from knowingly making or holding an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder; and
2. the requirements contained in the Legislation requiring the management company, or in British Columbia, a mutual fund manager, to file a report relating to a purchase or sale of securities between the mutual fund and any related person or company, or any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies.

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS Fidelity has represented to the Decision Makers that:

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1. Fidelity is a corporation established under the laws of the Province of Ontario and its head office is located in Ontario. Fidelity is or will be the manager of the Top Funds and the Underlying Funds (collectively, the “Funds”).
2. The Top Funds are or will be open-end mutual fund trusts and the Underlying Funds are or will be open-end mutual fund trusts or classes of shares of a mutual fund corporation, each established under the laws of a Province of Canada. Securities of the Funds are or will be qualified for distribution under a simplified prospectus and annual information form filed in each of the Jurisdictions.
3. Each of the Funds is or will be a reporting issuer and not in default of any requirements of the Legislation.
4. Fidelity is the manager of the Fidelity Global Opportunities Fund (the “Existing Underlying Fund”). Fidelity may in the future be the manager of other mutual funds in which the Top Funds will invest their assets (the “Future Underlying Funds” and collectively with the Existing Underlying Fund, the “Underlying Funds”).
5. The simplified prospectus of the Top Funds will disclose the investment objectives, investment strategies, risks and restrictions of the Top Funds and the Underlying Funds. The investment objective of each Top Fund will disclose the name of the Underlying Fund.
6. To achieve its investment objective, each Top Fund will invest its assets such that the units of the Top Fund will, in the opinion of tax counsel to the Top Fund, be “qualified investments” for registered retirement savings plans, registered retirement income funds, deferred profit sharing plans and similar plans (“Registered Plans”) and will not constitute “foreign property” under the *Income Tax Act* (Canada) (the “Tax Act”). This will primarily be achieved through the implementation of a derivative strategy that provides a return linked to the returns of a specified Underlying Fund. The Top Fund will also invest a portion of its assets directly in securities of the Underlying Fund. This investment will at all times be below the maximum foreign property limit for Registered Plans (the “Permitted Limit”).
7. The investment objective of each Underlying Fund is or will be achieved through investment primarily in foreign securities.
8. The amount of direct investment by each Top Fund in its corresponding Underlying Fund will be adjusted from time to time so that, except for the transitional cash (i.e. cash from purchases not yet invested or cash held to satisfy redemptions), the aggregate of the derivative exposure to, and direct investment in, the Underlying Fund will equal 100% of the assets of the Top Fund.
9. Except to the extent evidenced by this Decision and specific approvals granted by the Decision Makers pursuant to National Instrument 81-102 (“NI81-102”), the investments by the Top Funds in the Underlying Funds have been structured to comply with the investment restrictions of the Legislation and NI 81-102.
10. In the absence of this Decision, each Top Fund is prohibited from knowingly making or holding an investment in an Underlying Fund in which the Top Fund alone or together with one or more related mutual funds is a substantial securityholder.
11. In the absence of this Decision, Fidelity is required to file a report on every purchase or sale of securities of the Underlying Funds by each of the Top Funds.

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12. The investments by the Top Funds in securities of the Underlying Funds represents the business judgment of "responsible persons" (as defined in the Legislation), uninfluenced by considerations other than the best interests of the Top Funds.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker;

AND WHEREAS each Decision Maker 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 Applicable Requirements shall not apply so as to prevent the Top Funds from making or holding an investment in securities of the Underlying Funds, or so as to require Fidelity to file a report relating to the purchase or sale of such securities;

PROVIDED THAT IN RESPECT OF the investments by the Top Funds in securities of the Underlying Funds:

1. the Decision, as it relates to the jurisdiction of a Decision Maker, will terminate one year after the publication in final form of any legislation or rule of that Decision Maker dealing with matters in subsection 2.5 of NI81-102.

2. the Decision shall only apply if, at the time a Top Fund makes or holds an investment in an Underlying Fund, the following conditions are satisfied:

(a) the securities of both the Top Fund and the Underlying Fund are being offered for sale in the jurisdiction of the Decision Maker pursuant to a simplified prospectus and annual information form which has been filed with and accepted by the Decision Maker;

(b) the investment by the Top Fund in the Underlying Fund is compatible with the fundamental investment objectives of the Top Fund;

(c) the investment objective of the Top Fund discloses that the Top Fund invests directly and indirectly (through derivative exposure) in the Underlying Fund, the name of the Underlying Fund and that the Top Fund is fully eligible for registered plans;

(d) the Underlying Fund is not a mutual fund whose investment objective includes investing directly or indirectly in other mutual funds;

(e) the Top Fund restricts its direct investment in the Underlying Fund to a percentage of its assets that is within the Permitted Limited;

(f) there are compatible dates for the calculation of the net asset value of the Top Fund and the Underlying Fund for the purpose of the issue and redemption of the securities of such mutual funds;

(g) no sales charges are payable by the Top Fund in relation to its purchases of securities of the Underlying Fund;

(h) no redemption fees or other charges are charged by the Underlying Fund in respect of the redemption by the Top Fund of securities of the Underlying Fund owned by the Top Fund;

(i) no fees and charges of any sort are paid by the Top Fund and the Underlying Fund, by their respective managers or principal distributors, or by any affiliate or associate of any of the

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foregoing entities to anyone in respect of the Top Fund's purchase, holding or redemption of the securities of the Underlying Fund;

(j) the arrangements between or in respect of the Top Fund and the Underlying Fund are such as to avoid the duplication of management fees;

(k) any notice provided to securityholders of the Underlying Fund, as required by applicable laws or the constating documents of the Underlying Fund, has been delivered by the Top Fund to its securityholders;

(l) all of the disclosure and notice material prepared in connection with a meeting of securityholders of the Underlying Fund and received by the Top Fund has been provided to its securityholders, the securityholders have been permitted to direct a representative of the Top Fund to vote its holdings in the Underlying Fund in accordance with their direction, and the representative of the Top Fund has not voted its holdings in the Underlying Fund except to the extent the securityholders of the Top Fund have directed;

(m) in addition to receiving the annual and, upon request, the semi-annual financial statements, of the Top Fund, securityholders of the Top Fund have received the annual and, upon request, the semi-annual financial statements, of the Underlying Fund in either a combined report, containing financial statements of the Top Fund and Underlying Fund, or in a separate report containing the financial statements of the Underlying Fund; and

(n) to the extent that the Top Fund and the Underlying Fund do not use a combined simplified prospectus and annual information form containing disclosure about the Top Fund and the Underlying Fund, copies of the simplified prospectus and annual information form of the Underlying Fund have been provided upon request to securityholders of the Top Fund and the right to receive these documents is disclosed in the simplified prospectus of the Top Fund.

DATED this 15th day of January, 2002.

Howard I. Wetston

R. Stephen Paddon