

2003 BCSECCOM 756

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief granted from time limits for distributing securities under a simplified prospectus and annual information form, on certain conditions

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 76

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, ONTARIO

AND

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

AND

IN THE MATTER OF OPUS 2 CANADIAN GROWTH EQUITY FUND OPUS 2 CANADIAN VALUE EQUITY FUND OPUS 2 CANADIAN FIXED INCOME FUND OPUS 2 U.S. GROWTH EQUITY FUND OPUS 2 U.S. VALUE EQUITY FUND OPUS 2 INTERNATIONAL EQUITY (E.A.F.E.) FUND OPUS 2 GLOBAL EQUITY (RSP) FUND

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the “Decision Maker”) in each of the provinces of British Columbia, Alberta and Ontario (the “Jurisdictions”) has received an application (the “Application”) from Opus 2 Financial Inc. (“Opus 2 Financial”), the manager of Opus 2 Canadian Growth Equity Fund, Opus 2 Canadian Value Equity Fund, Opus 2 Canadian Fixed Income Fund, Opus 2 U.S. Growth Equity Fund, Opus 2 U.S. Value Equity Fund, Opus 2 International Equity (E.A.F.E.) Fund and Opus 2 Global Equity (RSP) Fund (collectively, the “Funds”) for a decision pursuant to the securities legislation of the Jurisdictions (the “Legislation”) that the time limits pertaining to the distribution of securities under the simplified prospectus and annual information form relating to the Funds dated November 1, 2002 (together, the “Fund Prospectus”) be extended to permit the continued distribution of units of the Funds until the earlier of (i) the termination of the Funds; and (ii) December 31, 2003.

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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, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions;

AND WHEREAS it has been represented by Opus 2 Financial to the Decision Makers that:

1. Opus 2 Financial is a corporation incorporated under the laws of Ontario. Opus 2 Financial is the manager, trustee and promoter of the Funds.
2. The Funds are open-ended mutual fund trusts established under the laws of Ontario.
3. Each of the Funds is a reporting issuer in each of the Jurisdictions. The Funds are not in default of any filing requirements under the Legislation.
4. The Funds are currently offered for sale on a continuous basis in each of the Jurisdictions pursuant to the Fund Prospectus. The lapse date of the Fund Prospectus is November 1, 2003. There are no new investments being made in the Funds other than through existing pre-authorized chequing plans and those described in paragraph 5 below. Similarly, no new investments will be made in the Funds, other than through existing pre-authorized chequing plans and those described in paragraph 5 below, for the duration of the extension of the distribution period granted pursuant to this Application.
5. Each of Opus 2 Ambassador Growth Portfolio, Opus 2 Ambassador Balanced Portfolio and Opus 2 Ambassador Conservative Portfolio (collectively, the “Portfolios”) invests its assets in units of the Funds.
6. The Portfolios are open-ended mutual fund trusts established under the laws of Ontario. Opus 2 Financial is the manager, trustee and promoter of the Portfolios.
7. Each of the Portfolios is a reporting issuer in each of the Jurisdictions and is offered for sale on a continuous basis in the Jurisdictions under a simplified prospectus and annual information form dated November 1, 2002 (together, the “Portfolios Prospectus”). The lapse date of the Portfolios Prospectus is November 1, 2003.

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8. As part of a fund reorganization (the “Reorganization”), the Funds will be terminated on or about December 10, 2003 and in conjunction with the renewal of the Portfolios Prospectus, the Portfolios will invest in the Emissary Funds, which are public mutual funds also managed by Opus 2 Financial, and whose investment objectives are similar to those of the Funds. A press release and material change report were filed September 10, 2003 on SEDAR advising of the termination of the Funds. A letter advising of the termination of the Funds has also been sent to unitholders of the Funds.
9. In order to change the underlying funds in which the Portfolios are permitted to invest, the Portfolios’ securityholders must be provided with at least 60 days’ notice of such changes. Consequently, the Funds will need to continue to be in distribution to meet the notice requirement and to facilitate the continued distribution of the Portfolios. It is expected that a letter advising of the change in underlying funds will be sent to unitholders of the Portfolios on September 30, 2003.
10. To renew the Fund Prospectus would involve financial costs and time associated with producing, filing and printing the Fund Prospectus, and would be unduly onerous for Opus 2 Financial considering that the Reorganization anticipates the termination of the Funds on or about December 10, 2003.
11. The Fund Prospectus provides accurate information regarding the Funds. The Portfolios Prospectus is being renewed in the normal course with an anticipated filing date of approximately October 1, 2003. The requested extension will not affect the currency or accuracy of the information contained in the Fund Prospectus and therefore will not be prejudicial to the public interest.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of the Decision Maker (collectively, the “Decision”);

AND WHEREAS 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;

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THE DECISION of the Decision Makers under the Legislation is that the time limits provided by the Legislation as they apply to a distribution of securities under the Fund Prospectus are hereby extended to permit the continued distribution of units to existing unitholders of the Funds pursuant to the Fund Prospectus until the earlier of (i) the termination of the Funds; and (ii) December 31, 2003.

DATED September 30, 2003

Robert L. Shirriff

Paul M. Moore