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Headnote

Securities Act s. 48 Adviser - Exemption from s.34(1)(c) requirement to be registered as an adviser - A person who resides outside BC wants to advise BC residents - The person is registered or qualified to provide the advice in the jurisdiction in which they reside or carry on business; the person will only advise a small number of BC clients; the person will not carry on any other business in BC; the BC clients are sophisticated and have a high net worth; the clients are aware that the person is not registered in BC and the consequences.

Exemption Order

Walter Scott & Partners Limited

Section 48 of the *Securities Act*, RSBC 1996, c. 418

Background

- ¶ 1 Walter Scott & Partners Limited (Walter Scott) applied for an exemption from the adviser registration requirement in section 34(1)(c) of the Act in order to provide securities advice to a prospective client resident in British Columbia.

Representations

- ¶ 2 Walter Scott represents that:
1. it is a limited liability company formed pursuant to the laws of Scotland, and its principal place of business is in Edinburgh, Scotland;
 2. it is authorized and regulated in the United Kingdom by the Financial Services Authority under the *Financial Services and Markets Act (2000)* as an investment manager;
 3. it is also registered in the United States as an investment advisor with the Securities and Exchange Commission;
 4. it is also registered in Canada as a portfolio manager and investment counsel with the New Brunswick Securities Commission; in the categories of investment counsel and portfolio manager with the Ontario Securities Commission; as a securities advisor (foreign) with the Manitoba Securities Commission; and as an investment counsel and portfolio manager (foreign) with the Saskatchewan Financial Services Commission;

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5. Walter Scott and its predecessor entity have carried on business as an adviser in Scotland since 1983; it currently has assets under management in excess of US\$27 billion;
6. it is engaged in advising on the buying and selling of securities, primarily to institutional clients (including pension plans, corporations, endowments, foundations, public funds and mutual funds) and high net worth investors;
7. it intends to provide securities advice to the University of Victoria Foundation (the Foundation), resident in British Columbia;
8. the Foundation:
 - (a) was established under the authority of the *University of Victoria Foundation Act, 1954* (British Columbia),
 - (b) is an “accredited investor” as defined in National Instrument 45-106 *Prospectus and Registration Exemptions*, and
 - (c) has professional advisers including legal counsel and chartered accountants;
9. it has advised the Foundation that:
 - (a) it is not registered as an adviser under the Act,
 - (b) it may not have the same proficiency requirements as other persons registered under the Act, and
 - (c) the Foundation may not have the same protection that it would otherwise have if Walter Scott were registered as an adviser under the Act;
10. it does not:
 - (a) maintain an office or sales force in British Columbia,
 - (b) have any client other than the Foundation resident in British Columbia, or
 - (c) intend to actively solicit other clients in British Columbia;
11. in providing securities advice to the Foundation, it would be considered to be acting as an adviser under the Act and, without this order, would be required

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to be registered or otherwise exempt from registration, as an adviser under the Act; and

12. there are no exemptions in the Act from the adviser registration requirement that it can rely on to provide securities advice to the Foundation.

Order

- ¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 48 of the Act that Walter Scott be exempt from the adviser registration requirements of section 34(1)(c) of the Act for securities advice provided to the Foundation, provided that Walter Scott remains authorized by and in good standing with the Financial Services Authority (United Kingdom).

- ¶ 4 July 31, 2006

L.E. Evans, CA
Director
Capital Markets Regulation