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Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Portfolio manager granted relief from self-dealing prohibition in securities legislation for the purpose of allowing mutual funds managed by it to purchase or sell debt securities of any issuer from or to the account of a related principal dealer. – Related dealer “responsible person” under securities legislation

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 127(1)(b), 130

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

AND

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

AND

IN THE MATTER OF ALTAMIRA MANAGEMENT LTD. (the “Applicant”)

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of British Columbia, Alberta, Saskatchewan, Ontario, Quebec, Nova Scotia, and Newfoundland & Labrador (the “Jurisdictions”) has received an application from the Applicant for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the provision (the “Self-Dealing Prohibition”) contained in the Legislation, which prohibits a portfolio manager from knowingly causing any investment portfolio managed by it to purchase or sell securities of any issuer from or to the account of a responsible person, any associate of a responsible person or the portfolio manager, does not apply to the Applicant in connection with the purchase from or sale to (a “Trade”) the account of National Bank Financial Inc. (“NB Financial”) by the existing or future mutual funds whose investment portfolios are, or will be, managed by the Applicant (collectively, the “Altamira Funds”) of

- (i) securities issued or fully and unconditionally guaranteed by the federal or provincial

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governments (“Government Debt Securities”),
or

- (ii) debt securities of an issuer other than the federal and provincial governments (“Non-Government Debt Securities”);

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

AND WHEREAS the Applicant has represented to the Decision Makers that:

1. Altamira Investment Services Inc. currently acts, and may in the future act, as manager (the “Manager”) of the Altamira Funds. The Manager’s head office is in Toronto, Ontario.
2. The Applicant, a wholly owned subsidiary of the Manager, currently acts, and may in the future act, as portfolio adviser of the Altamira Funds.
3. Natcan Investment Management Inc. is currently a sub-advisor to each of the following Altamira Funds: Altamira Precision Canadian Index Fund, Altamira Precision Dow 30 Index Fund, Altamira Precision European Index Fund, Altamira Precision European RSP Index Fund, Altamira Precision International RSP Index Fund, Altamira Precision U.S. RSP Index Fund, Altamira Precision U.S. Midcap Index Fund, Altamira High Yield Bond Fund, Altamira Dividend Fund and Altamira Canadian Value Fund.
4. On August 12, 2002, National Bank of Canada acquired all of the issued and outstanding shares of the Manager (the “Acquisition”). As a result of the Acquisition, the Applicant is now an affiliate of NB Financial, as National Bank of Canada now owns all of the issued and outstanding shares of both the Applicant and NB Financial.
5. The securities of each of the Altamira Funds are qualified for distribution in each of the provinces and territories of Canada pursuant to a simplified prospectus and annual information form that has been prepared and filed in accordance with applicable securities legislation. Accordingly, each of the Altamira Funds is a reporting issuer in each of the provinces and territories of Canada, where such concept exists.

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6. Each of the Altamira Fund's investment objectives permits investment in debt securities.
7. In recent years, the amount of Government Debt Securities available for investment in Canada has declined significantly due to government deficit reduction programs. As a result, investors in debt securities have had to rely increasingly on Non-Government Debt Securities. However, because of the limited supply of Non-Government Debt Securities in the primary market, holders of outstanding Non-Government Debt Securities have tended not to sell their holdings prior to the maturity date of their Non-Government Debt holdings. This has, in turn, led to the limited availability of Non-Government Debt Securities in the secondary market. Moreover, because of their limited availability, the Non-Government Debt Securities that are available in the secondary market are usually sold at prices that are higher than if they were purchased in the primary market, assuming no change in the markets and in the status of the issuer.
8. The debt securities market is primarily a dealers' market where a dealer provides buy or sell price quotes (as the case may be) and, if the price quotes are accepted, the resulting Trade is effected with the dealer acting as principal.
9. National Bank Financial is a principal dealer in the primary and secondary Canadian debt securities market.
10. The Self-Dealing Prohibition, combined with the circumstances described in paragraphs 7 to 9 above, has made it even more difficult for the Applicant to acquire debt securities for the Altamira Funds in the secondary market.
11. On July 10, 2002, the Ontario Securities Commission, as principal regulator under the System, issued a decision (the "July 10 Decision") exempting Scotia Cassels Investment Counsel Inc., RBC Global Investment Management Inc. and certain other portfolio managers affiliated with registered dealers from the Self-Dealing Prohibition contained in the Legislation, subject to certain terms and conditions.
12. As the Acquisition was completed after the July 10 Decision was issued, the Applicant was not a party to the application in respect thereof. Accordingly, the Applicant and the Altamira Funds cannot rely on the July 10 Decision for relief from the Self-Dealing Prohibition.

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AND WHEREAS pursuant to the System, this MRRS Decision Document evidences the decision of each 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 Makers with the Jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that the Self-Dealing Prohibition does not apply so as to enable the Applicant to cause the Altamira Funds to purchase Government Debt Securities or Non-Government Securities from, or sell such debt securities to, the account of NB Financial in the secondary market,

PROVIDED THAT

- A. at the time of causing an Altamira Fund to Trade in Government Debt Securities or Non-Government Debt Securities pursuant to this Decision, the following conditions are satisfied:
- (1) the Trade
 - (a) represents the business judgment of the Applicant uninfluenced by considerations other than the best interests of the Altamira Fund, or
 - (b) is, in fact, in the best interests of the Altamira Fund;
 - (2) the Trade is consistent with, or is necessary to meet, the investment objective of the Altamira Fund as disclosed in its simplified prospectus;
 - (3) the terms of the Trade are better than the terms quoted by one or more dealers who are neither affiliates nor associates of NB Financial (the “Independent Dealers”); and
 - (4) if the Trade is a purchase of Non-Government Debt Securities,
 - (a) the purchase is not made from NB Financial during the 60-day period after the distribution of such Non-Government Debt Securities, if NB Financial acted
 - (i) as underwriter in the distribution of the Non-Government Debt Securities, or

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- (ii) as a selling group member selling more than 5% of the underwritten securities;
 - (b) the issuer of the Non-Government Debt Securities is not a “related issuer” or “connected issuer”, as defined in National Instrument 33-105 Underwriting Conflicts, of NB Financial;
 - (c) NB Financial is not
 - (i) the issuer of the Non-Government Debt Securities, or
 - (ii) a promoter of the issuer of the Non-Government Debt Securities; and
 - (d) the Non-Government Debt Securities have been given, and continue to have, an “approved rating” by an “approved rating organization” as such terms are defined in section 1.1 of National Instrument 44-101 - Short Form Prospectus Distributions;
- B. prior to effecting any Trade pursuant to this Decision,
 - (1) the simplified prospectus of the Altamira Fund discloses that it may purchase or sell Government Debt Securities or Non-Government Debt Securities from or to the account of NB Financial pursuant to this Decision, and
 - (2) the annual information form of the Altamira Fund describes the policies or procedures referred to in paragraph (C) below;
- C. prior to effecting any Trade pursuant to this Decision, the Altamira Fund has in place written policies or procedures to ensure that,
 - (1) there is compliance with the conditions of this Decision,
 - (2) in connection with any Trade in Government Debt Securities or Non-Government Debt Securities with NB Financial,
 - (a) each Altamira Fund maintains an itemized daily record of all such Trades showing, for each Trade,

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- (i) the name and principal amount of the debt securities,
 - (ii) if the Trade is in Government Debt Securities, the relevant benchmark Canada bond (the “Benchmark Bond”), the bid-ask price of the Benchmark Bond, and the price that was paid or received by the Altamira Fund on the Trade,
 - (iii) if the Trade is in Non-Government Debt Securities, the relevant Benchmark Bond (or, in the case of US\$-Pay Non-Government Debt Securities, the relevant US Treasury Bond), the bid-ask price of the Benchmark Bond or US Treasury Bond, and the spread over the Benchmark Bond US Treasury Bond that was paid or received by the Managed Fund on the Trade,
 - (iv) the time and date of the Trade, and
 - (v) the name of the dealer on the Trade,
- (b) the Applicant maintains written records of the quotations received from Independent Dealers, and each Altamira Fund maintains a daily consolidated record of the quotations (including the price, quantity, times and date) received from one or more Independent Dealers, in respect of each Trade made with NB Financial, and
- (c) the Manager conducts a timely review of each Altamira Fund's Trades with NB Financial to confirm that each Trade
 - (i) represented the business judgment of the Applicant uninfluenced by considerations other than the best interests of the Altamira Fund, or

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- (ii) was, in fact, in the best interests of the Altamira Fund;

D. the following particulars of each Trade pursuant to this Decision are set out in a report certified by the Applicant and filed on SEDAR, in respect of each Altamira Fund and no later than 30 days after the end of the month in which one or more such Trades were made:

- (1) the issuer of the debt securities;
- (2) the principal amount of debt securities purchased or sold by the Altamira Fund;
- (3) the price at which the purchase or sale was made;
- (4) the fact that the trade was made with NB Financial, and
 - (a) in the case of a Trade in Government Debt Securities, the price paid or received by the Altamira Fund, or
 - (b) in the case of a Trade in Non-Government Debt Securities, the spread over the relevant Benchmark Bond or US Treasury Bond that was paid or received by the Altamira Fund; and
- (5) a certification by the Applicant that the Trade
 - (a) represented the business judgment of the Applicant uninfluenced by considerations other than the best interest of the Altamira Fund, or
 - (b) was, in fact, in the best interests of the Altamira Fund; and

E. this Decision, as it relates to the jurisdiction of a Decision Maker, will terminate after the coming into force of any legislation or rule of that Decision Maker dealing with the matters regulated by section 4.2 of National Instrument 81-102 Mutual Funds.

DATED May 30, 2003

H. Lorne Morphy, Q.C.

Mary Theresa McLeod