

2006 BCSECCOM 162

Headnote

Securities Act s. 48 Dealer - Exemption from s.34(1)(a) requirement to be registered as a dealer to trade securities - A person not registered as a dealer in BC wants to do a trade that requires a BC registered dealer - The person is registered or qualified as a dealer in the jurisdiction in which they reside or carry on business; the person will only trade exchange contracts with “accredited investors”; the person is not providing advice on the trades.

Exemption Order

Man Financial Inc.

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

Background

- ¶ 1 Man Financial Inc. (the Applicant) applied for an exemption from the requirement in section 34(1)(a) of the Act to be registered as a dealer (the registration requirement) in order to trade in exchange contracts on markets located outside of Canada, on behalf of clients (the clients) in British Columbia that are accredited investors under National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106).

Representations

- ¶ 2 The Applicant represents that:
1. it is formed under the laws of Delaware and its head office is located in New York, New York;
 2. it is registered with the Commodity Futures Trading Commission as a futures commission merchant and is a member of the National Futures Association;
 3. it will advise each of the clients that:
 - (a) it is not registered as a dealer under the Act; and
 - (b) the clients may not have the same protection that they otherwise might have if the Applicant were registered as a dealer under the Act;
 4. it will not:
 - (a) maintain an office or sales force in British Columbia;

2006 BCSECCOM 162

- (b) provide securities advice to the clients, and does not intend to act as an adviser to the clients;
- 5. the accredited investor dealer registration exemption in NI 45-106 is available in respect of securities trading activities in British Columbia; and
- 6. exchange contracts are separately regulated in British Columbia and there are no statutory exemptions from the registration requirement that the Applicant could rely on to provide trading and brokerage services to the clients with respect to exchange contracts.

Order

- ¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 48 of the Act that the Applicant is exempt from the registration requirement for trading in exchange contracts on behalf of clients provided that:
- 1. each client purchases the exchange contract as principal and is an accredited investor as that term is defined in NI 45-106;
 - 2. the Applicant maintain its registrations with the United States Commodity Futures Trading Commission and the National Futures Association.
- ¶ 4 March 22, 2006

Sandra Jakab
Manager, Policy and Exemptions
Capital Markets Regulation