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Headnote

Mutual Reliance Review for Exemptive Relief Applications –relief granted from registration requirements to permit trades by a group plan administrator under a group retirement savings plan

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 34(1)(a) and 48

IN THE MATTER OF THE CANADIAN SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA SASKATCHEWAN, ONTARIO, NEW BRUNSWICK, 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, FIDELITY RETIREMENT SERVICES COMPANY OF CANADA LIMITED, ALLSTREAM INC. (FORMERLY KNOWN AS “AT&T CANADA INC.”) AND ALLSTREAM CORP.

MRRS DECISIONS DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Registration Exemption Decision Maker”) in each of British Columbia, Alberta, Saskatchewan, Ontario, New Brunswick, Nova Scotia and Newfoundland and Labrador (the “Jurisdictions”) has received an application (the “Registration Exemption Application”) from Fidelity Investments Canada Limited (“FICL”) and Fidelity Retirement Services Company of Canada Limited (“FRS Co.”) for a decision under the securities legislation (the “Legislation”) of each of the Jurisdictions that the dealer registration requirement shall not apply to certain trades in Class B Limited Voting Shares (“Class B Shares”) of Allstream Inc. (“Allstream”) to be made by FICL or FRS Co., as the case may be, with or for persons (each, a “Plan Participant”) that are Employees, Former Employees, Employee RRSPs of Employees, or Employee RRSPs of Former Employees (as such terms are defined below), in its capacity as a group plan administrator of the Allstream Employee Share Ownership Plan (the “Plan”) (which Plan includes Employee ESPs (as defined below) and Employee RRSPs as component plans of the Allstream Corp.

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Retirement Savings Plan, formerly known as the “AT&T Canada Retirement Savings Program”);

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

AND WHEREAS any terms used herein that are defined in National Instrument 14-101 *Definitions* shall, unless otherwise defined or the context otherwise requires, have the same meaning;

AND WHEREAS FICL and FRS Co. have represented to the Registration Exemption Decision Makers that:

1. FICL, a corporation continued under the laws of Ontario, is registered under the Legislation in each of the Jurisdictions, as a dealer in the category of “mutual fund dealer”, and as an “adviser”, in the categories of “investment counsel” and “portfolio manager”.
2. Fidelity Retirement Services (“FRS”) is the division of FICL currently responsible for its business (the “Group Retirement Business”) of servicing Group Retirement Clients (as defined below). FRS Co. has applied to be registered under the Legislation in each of the Jurisdictions as a dealer in the category of “mutual fund dealer” (or the equivalent) and has applied for membership in the Mutual Fund Dealers Association of Canada (the “MFDA”).
3. FICL has obtained relief (the “MFDA Relief”) pursuant to the Legislation of certain of the Jurisdictions, exempting it from the requirements under the Legislation: (i) to be a member of the MFDA on or after July 2, 2002; and (ii) to file with the MFDA an application for membership and corresponding fees for membership before the date specified under the Legislation of the Jurisdiction.
4. The registration of FICL as a “mutual fund dealer” under the Legislation of each of the Jurisdictions, other than New Brunswick, has been restricted to certain trades which are incidental to its principal business. The restricted trading activity includes trades by FICL to participants in employer-sponsored registered plans or other savings plans (the “Group Retirement Clients”) until the earlier of: (i) the assumption of such trading activity by Fidelity Intermediary Securities Company Limited (“FISCo”), a wholly-owned subsidiary of FICL and a member of the Investment Dealers Association of Canada (the “IDA”); and (ii) December 31, 2003.

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5. For some time, FICL has been actively engaged in a project to determine the most appropriate regulatory platform for its Group Retirement Business. Until recently, FICL's plan had been to transfer FRS to FISCo by December 31, 2003. FICL has now decided, subject to all necessary regulatory approvals, to instead transfer the Group Retirement Business from FRS to FRS Co. (the "Transfer") and is endeavouring to effect such Transfer on or before December 31, 2003.
6. Allstream is a corporation incorporated under the laws of Canada and formerly known as "AT&T Canada Inc."
7. Allstream is a reporting issuer (or the equivalent) under the Legislation of each of the Jurisdictions.
8. Allstream Corp., a corporation incorporated under the laws of Canada, is a wholly-owned subsidiary of Allstream.
9. The Class B Shares are listed and posted for trading on the Toronto Stock Exchange and the NASDAQ Market System.
10. Under the Plan, persons (each, an "Employee") who are employees of Allstream Corp., and who participate in the Plan, may purchase shares or units of mutual funds and/or Class B Shares through payroll deductions or through lump-sum payments.
11. Investments made by Employees under the Plan are made through the following plans (collectively, the "Component Plans"):
 - (i) "registered retirement savings plans" (each, an "Employee RRSP"), as defined in the Income Tax Act (Canada), that have been established by or for the benefit of persons who are Employees; and
 - (ii) "employee savings plans" (each, an "Employee ESP"), that have been established by persons who are Employees.
12. Under the Plan, it is proposed that FICL (before the Transfer) and FRS Co. (after the Transfer) carry out the following activities for Plan Participants:
 - (i) receive orders from Plan Participants that are Employees to purchase Class B Shares (including Class B Shares to be purchased upon the automatic reinvestment of dividends paid in

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respect of Class B Shares) through their Employee ESP or their Employee RRSP;

- (ii) receive orders from Plan Participants that are Employees, and from Plan Participants that are persons (“Former Employees”) that were, but have since ceased to be, Employees, to sell Class B Shares held on their behalf through their Employee ESP or their Employee RRSPs; and
 - (iii) transmit orders to purchase or sell Class B Shares, referred to above, for execution through another dealer that is registered as a dealer in a category that permits it to act as a dealer for the subject trade under the applicable securities legislation in each of the Jurisdictions, where the order is received by FICL or FRS Co., as the case may be, and where the order is received by the dealer.
- 13. Under the Plan, FICL (before the Transfer) and FRS Co. (after the Transfer) will maintain books and records in respect of the activities referred to in paragraph 12, reflecting, among other things: all related payments, receipts, account entries and adjustments.
- 14. Under the Plan, Class B Shares will be held on behalf of Plan Participants by a custodian that is not affiliated with any of FICL, FRS Co., Allstream or Allstream Corp., and records of Class B Shares held under the Plan through the Component Plans will be maintained by FICL (before the Transfer) and by FRS Co. (after the Transfer).
- 15. When an Employee becomes a Former Employee, the Former Employee, the Employee ESP of the Former Employee and the Employee RRSP of the Former Employee will not be permitted to make further purchases of Class B Shares under the Plan, other than Class B Shares to be purchased upon the automatic reinvestment of dividends paid in respect of Class B Shares held at the relevant time in the corresponding Component Plans, but the foregoing will be permitted to continue to hold, through FICL (before the Transfer) and FRS Co. (after the Transfer), Class B Shares previously purchased on their behalf under the Plan, and to instruct FICL or FRS Co., as the case may be, to sell Class B Shares then held on their behalf under the Plan or to transfer such Class B Shares to an account with another dealer.
- 16. To participate in the Plan, Employees must enrol through FICL (before the Transfer) or FRS Co. (after the Transfer) by application, which may be completed: in writing; on the telephone, by way of a recorded call; or, through the Internet, by way of secure access to the website.

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17. No Plan Participant will be charged any trading commissions, fees, costs or other expenses in respect of the purchase or sale of any Class B Shares on behalf of the Plan Participant under the Plan.
18. Except for ascertaining the “suitability” of trades made under the Plan, FICL or FRS Co., as the case may be, will comply with all other conditions or other requirements under the Legislation that would be applicable to it as a mutual fund dealer if the Class B Shares were shares or units of a mutual fund, with respect to their purchase, sale or holding of Class B Shares on behalf of Plan Participants under the Plan, including requirements relating to, but not limited to: capital requirements; record keeping; account supervision; segregation of funds and securities; confirmations of trades; “know your client” and statements of account.
19. Employees who enrol in the Plan on or after the fifteenth day (the “Transition Date”) following the date of the Suitability Exemption Decision (as defined below), will be required when completing the enrolment application to acknowledge that the following administrators of the Plan will not be performing any “suitability” analysis with respect to any purchase or sale of Class B Shares on their behalf under the Plan:
 - (a) FICL and FRS Co. as its successor after the Transfer, where the enrolment takes place before the Transfer, and
 - (b) FRS Co., where the enrolment takes place after the Transfer,by signing the application form, where the application is completed in writing; orally, where the application is completed on the telephone; or, by making the appropriate selection on the Website, where the application is completed on the Internet.
20. Employees that are or were enrolled in the Plan before the Transition Date will be sent written or electronic notice from FICL (or Allstream Corp. on behalf of FICL) that neither FICL, nor FRS Co., as the successor group plan administrator of the Plan, will perform “suitability” analysis with respect to any purchase or sale of Class B Shares on their behalf under the Plan.

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

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AND WHEREAS each of the Registration Exemption Decision Makers is satisfied that the test contained in the Legislation that provides the Registration Exemption Decision Maker with the jurisdiction to make the Registration Exemption Decision has been met;

THE DECISION of the Registration Exemption Decision Makers under the Legislation is that the dealer registration requirement contained in the Legislation shall not apply to any trades referred to in paragraph 12, above, that are made by FICL (before the Transfer) or FRS Co. (after the Transfer) with or on behalf of Plan Participants, provided that:

- A. in the case of each trade made in a Jurisdiction, FICL or FRS Co., as the case may be, is, at the time of the trade, registered under the Legislation of the Jurisdiction as a dealer in the category of “mutual fund dealer”, and, the trade is made on their behalf by a person that is registered under the Legislation to trade shares or units of mutual funds on their behalf as a salesperson or officer;
- B. in the case of FRS Co., FRS Co. is a member of the MFDA; and
- C. in the case of FICL, the trade is made before January 1, 2004.

November 12, 2003

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AND WHEREAS FICL and FRS Co. have also made an application (the “Suitability Exemption Application”) to the local securities regulatory authority or regulator (the “Suitability Exemption Decision Maker”) in Alberta and Ontario (the “Suitability Exemption Decision Jurisdictions”) for a decision that the requirements (the “Suitability Requirements”) in the Legislation of each Suitability Exemption Decision Jurisdiction to make enquiries of each Plan Participant – that would otherwise arise as a result of FICL or FRS Co., as the case may be, purchasing or selling Class B Shares for a Plan Participant, as described in the Registration Exemption Decision, above – to determine (a) the general investment needs and objectives of the Plan Participant; and (b) the suitability of a proposed purchase or sale of Class B Shares for the Plan Participant, do not apply to FICL or FRS Co., subject to certain terms and conditions;

AND WHEREAS under the System, the Ontario Securities Commission is the principal regulator for this Suitability Exemption Application;

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

AND WHEREAS each of the Suitability Exemption Decision Makers is satisfied that the test contained in the Legislation that provides the Suitability Exemption Decision Maker with the jurisdiction to make the Suitability Exemption Decision has been met;

THE DECISION of the Suitability Exemption Decision Makers, pursuant to the Legislation, is that the Suitability Requirements of the Legislation shall not apply to FICL or FRS Co. as a result of FICL or FRS Co., as the case may be, purchasing or selling Class B Shares for a Plan Participant, pursuant to and in accordance with the above Registration Exemption Decision, provided that, in the circumstances of each such purchase or sale:

- D. in the case of a Plan Participant that is an Employee, Employee RRSP of an Employee, a Former Employee, or an Employee RRSP of a Former Employee, the Employee or Former Employee, as the case may be, has given the corresponding acknowledgement or has been sent the corresponding notice, referred to in the applicable paragraph 19 or 20 of the Registration Exemption Decision; and
- E. FICL or FRS Co., as the case may be, does not make any recommendation or give any investment advice with respect to the purchase or sale.

November 12, 2003

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