

# 2003 BCSECCOM 162

## **Headnote**

Relief from adviser registration requirement to permit U.S. investment advisor to advise one sophisticated client

## **Exemption Order**

**Evergreen Investment Management Company, LLC**

**Section 48 of the *Securities Act*, R.S.B.C. 1996, c. 418**

### **Background**

¶ 1 Evergreen 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 client resident in British Columbia.

### **Representations**

¶ 2 Evergreen represents that:

1. it is a limited liability company incorporated under the laws of Delaware and its principal place of business is Boston, Massachusetts;
2. it is currently registered in good standing as an investment advisor with the United States Securities and Exchange Commission under the *Investment Advisors Act of 1940* (the 1940 Act);
3. it is registered with the Ontario Securities Commission as an international adviser in the categories of investment counsel and portfolio manager;
4. it and its predecessor entities have carried on business as investment advisors in the United States since 1932 and currently has assets under management of approximately US\$236 billion for over four million clients;
5. it is among the United States' largest asset management companies, and specializes in asset management for both institutional and individual accounts;
6. it intends to provide securities advice to a client, Teck Cominco Limited (the "Client"), resident in British Columbia;
7. the Client is a sophisticated investor and has professional advisers including legal counsel and chartered accountants;

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8. it has advised the Client that:
  - (a) it is not currently registered as an adviser under the Act;
  - (b) it may not have the same proficiency requirements as persons registered under the Act; and
  - (c) the Client may not have the same protections it would otherwise have if Evergreen were registered as an adviser under the Act;
9. it does not currently:
  - (a) maintain an office or sales force in British Columbia;
  - (b) have any client other than the Client resident in British Columbia; or
  - (c) intend to actively solicit clients in British Columbia without first obtaining appropriate registration under the Act;
10. in providing securities advice to the Client, it would be considered to be acting as an adviser under the Act and, without this order, would be required to be registered, or otherwise exempt from registration, as an adviser under the Act; and
11. there are no exemptions in the Act from the adviser registration requirement that Evergreen could rely on to provide securities advice to the Client.

### **Order**

¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 48 of the Act that Evergreen is exempt from the requirements of section 34(1)(c) of the Act for securities advice provided to the Client, provided that Evergreen maintains its registration as an investment advisor under the 1940 Act in good standing.

¶ 4 February 25, 2003

Derek E. Patterson  
Manager