

2002 BCSECCOM 750

Headnote

Relief granted from filing financial statements electronically by SEDAR for certain mutual funds in British Columbia which are not reporting issuers

Exemption Order

Leith Wheeler Investment Counsel Ltd. Leith Wheeler Pooled Funds

Section 7.1 of National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR)

Background

- ¶ 1 Leith Wheeler Investment Counsel Ltd. (Leith Wheeler) has applied, on behalf of the Leith Wheeler Pooled Funds (defined below), for an exemption from the requirement in section 2.1 of National Instrument 13-101 (NI 13-101) to file financial statements electronically by SEDAR.

Representations

- ¶ 2 Leith Wheeler represents that:
1. it acts as investment manager for pooled funds created from time to time under a master trust agreement (the Leith Wheeler Pooled Funds);
 2. the Leith Wheeler Pooled Funds are governed by, and organized under, the laws of British Columbia;
 3. two Leith Wheeler Pooled Funds have been created: Leith Wheeler Diversified Pooled Fund and Leith Wheeler Total Return Bond Pooled Fund;
 4. other Leith Wheeler Pooled Funds can be created by attachment of an appendix or schedule to the master trust agreement;
 5. when created under the master trust agreement, Leith Wheeler Pooled Funds fit within the definition of “mutual fund in British Columbia” in section 1(1) of the *Securities Act*, R.S.B.C. 1996, c. 418;
 6. the Leith Wheeler Pooled Funds are offered on a private placement basis and no prospectus for the Leith Wheeler Pooled Funds has been filed in British Columbia or elsewhere in Canada;

2002 BCSECCOM 750

7. sections 144 and 145 of the *Securities Rules*, B.C. Reg. 194/97 require that mutual funds in British Columbia file interim and annual financial statements with the Commission (the financial statement requirements);
8. each Leith Wheeler Pooled Fund complies with the financial statement requirements and concurrently delivers its financial statements to each of its unitholders as required by section 149 of the Rules; and
9. section 2.1 of NI 13-101 requires every issuer that is required to file a document under the Act or the Rules to comply with NI 13-101.

Order

¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders, effective August 29, 2002, under section 7.1 of NI 13-101 that a Leith Wheeler Pooled Fund is exempt from the requirement to file its financial statements electronically by SEDAR, for so long as it:

1. complies with the financial statement requirements; and
2. is not a reporting issuer or the equivalent in British Columbia or any other jurisdiction in Canada.

¶ 4 August 30, 2002

Derek E. Patterson
Acting Director