

# 2004 BCSECCOM 470

## Headnote

Relief from requirement to file the required form relating to certain distributions of securities by certain mutual funds

## Exemption Order

**Phillips, Hager & North Investment Management Ltd.**

### Section 9.1 of Multilateral Instrument 45-103

#### Background

- ¶ 1 Phillips, Hager & North Investment Management Ltd. (“PH&N”), the manager of a family of mutual funds known as the Phillips, Hager & North investment funds (the “Funds”), has applied to the British Columbia Securities Commission (the “Commission”) for an order under section 9.1 of Multilateral Instrument 45-103 (“45-103”) that certain distributions of securities of the Funds be exempt from the requirements of Parts 7 and 8 of 45-103.

#### Representations

- ¶ 2 PH&N represents that:
1. it is a company organized under the laws of the province of British Columbia and has its head office in British Columbia;
  2. each of the Funds is or will be an open-end mutual fund trust or mutual fund corporation organized under the laws of, and with a head office in, British Columbia;
  3. the securities of each of the Funds are, or will be, qualified for distribution in British Columbia continuously under a simplified prospectus and an annual information form filed with the Commission and certain other Canadian securities regulators;
  4. securities of the Funds may be distributed to purchasers under a simplified prospectus filed with the Commission or in reliance on exemptions from the registration and prospectus requirements under the Act, including in reliance on the accredited investor exemption contained in section 5.1 of 45-103 (the “accredited investor exemption”);

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5. any Fund (the “Top Fund”) may from time to time invest all or a portion of its net assets in securities of one or more of the other Funds (the “Underlying Funds”) where the investment is consistent with the Top Fund’s investment objectives and strategies and otherwise complies with applicable securities laws;
6. each of the Funds is required to file a notice or report with, and pay the prescribed fee to, the Commission in respect of the distribution of its securities to purchasers in British Columbia, including in respect of the distribution of securities by an Underlying Fund to a Top Fund;
7. the report required to be filed with the Commission by an Underlying Fund in respect of the distribution of its securities to the Top Funds in reliance on the accredited investor exemption contains information that is not meaningful given the identity of the purchasers and the nature of the transactions; and
8. the filing fees paid to the Commission by an Underlying Fund in respect of the distribution of its securities to a Top Fund may duplicate fees paid by the Top Fund to the Commission or another regulator with respect to securities issued by the Top Fund to purchasers in British Columbia or another jurisdiction.

### **Order**

¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 9.1 of 45-103, that effective July 2, 2004, the distribution of securities by an Underlying Fund to a Top Fund in reliance on the accredited investor exemption is exempt from the requirements of Parts 7 and 8 of 45-103, provided that the Underlying Fund files with the Commission a report, in a form acceptable to the Commission, annually not later than the date a new simplified prospectus and annual information form relating to the securities of the Underlying Fund are filed with the Commission.

¶ 4 August 6, 2004

Brenda Leong  
Director