

2002 BCSECCOM 1053

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – decision to extend previous orders granting relief from the requirement to be a member of the MFDA for trades in mutual fund securities to participants in employee sponsored registered plans – relief extended to December 31, 2003

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 171

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, ONTARIO and NOVA SCOTIA

AND

IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF FIDELITY INVESTMENTS CANADA LIMITED MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of the Provinces of British Columbia, Alberta, Saskatchewan, Ontario and Nova Scotia (individually, a “Jurisdiction”, and, collectively, the “Jurisdictions”) has received an application from Fidelity Investments Canada Limited (“FICL”) for decisions, pursuant to the securities legislation (the “Legislation”) of each of the Jurisdictions, to vary terms and conditions (the “Terms and Conditions”) attaching to and forming part of decisions (the “Previous Decisions”) previously granted by the Decision Makers in each of the Jurisdictions that are identified in the attached in Schedule “A”.

AND WHEREAS each of the Previous Decisions had the effect of permitting FICL to continue to be registered under the corresponding Legislation as a mutual fund dealer and carry on certain specified trading activities related to mutual funds, in some cases for a limited period, without having to obtain membership in the Mutual Fund Dealers Association (the “MFDA”).

AND WHEREAS FICL has applied for the variations so that FICL may continue, without having to obtain membership in the MFDA, to carry on activities (the “Group Retirement Business”) that consist of trades in securities of any mutual

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fund where the trade is made to a participant in an employer-sponsored Registered Plan (as referred to in the Previous Decisions) or other savings plan on the same terms and conditions permitted by the Previous Decisions (other than in respect of the date by which FICL must cease to conduct such trading activities) until the earlier of:

- (i) the assumption of such activities by Fidelity Intermediary Securities Company Limited ("FISCO"); and
- (ii) December 31, 2003.

AND WHEREAS pursuant to the Mutual Reliance Review System ("MRRS") for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application.

AND WHEREAS FICL has represented to the Decision Makers that:

1. FICL is registered under the Legislation of each of the Jurisdictions as a dealer, in the category of a "mutual fund dealer" (or the equivalent), and as an adviser, in the categories of "investment counsel" and "portfolio manager" (or the equivalent). FICL is also registered as a commodity trading manager under the *Commodity Futures Act (Ontario)*.
2. FISCO is registered as a dealer in the category of "investment dealer" under the Legislation of each Jurisdiction other than Quebec. FISCO has applied for registration as an investment dealer in Quebec.
3. FISCO is a member of the Investment Dealers Association of Canada (the "IDA") and it is proposed that all trading activities in connection with the Group Retirement Business be transferred from FICL to FISCO.
4. The Group Retirement Business can only be transferred to FISCO once it is ensured that the systems used in these business operations are IDA-compliant.
5. The Terms and Conditions of each Previous Decision currently permit FICL to carry on the Group Retirement Business until the earlier of:
 - (i) the assumption of such trading activity by FISCO, and
 - (ii) December 31, 2002.

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6. FISCO has been engaged in setting up the requisite systems since the fall of 2001 and had, until recently, anticipated that it would be in a position to accept a transfer of the Group Retirement Business from FICL by December 31, 2002.

7. Due to unforeseen difficulties, the availability of the IDA-compliant systems necessary to permit the transfer of the Group Retirement Business to FISCO will be delayed until some time in 2003.

8. Except as modified by the foregoing, the representations made by FICL that are set out in the Previous Decisions continue to be accurate.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the Decision of each Decision Maker (collectively, the "Decision");

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

THE DECISION of each of the Decision Makers, pursuant to the Legislation, is that the Terms and Conditions in the Previous Decision made by the Decision Maker be varied by changing the deadline in respect of the Group Retirement Business, referred to in subparagraph 5(ii), above, from "December 31, 2002" to "December 31, 2003".

December 23, 2002

David M. Gilkes

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SCHEDULE “A”

DECISIONS TO BE VARIED

Jurisdiction	Date	Title	Legislation
British Columbia	May 2, 2002	Fidelity Investments Canada Limited and Fidelity Retirement Services Company of Canada Limited	Securities Act, R.S.B.C. 1996, c. 418, ss. 48 and 76
Alberta	March 26, 2002	Fidelity Investments Canada Limited	Securities Act R.S.A 2000, c. S-4 s. 213(a)
Saskatchewan	June 18, 2002 varied June 25, 2002	Fidelity Investments Canada Limited	Securities Act 1988, S.S. 1988, c. S-42.2, s. 158(3)
Ontario	March 14, 2002	Fidelity Investments Canada Limited	Ontario Securities Commission Rule 31-506, s. 5.1.
Nova Scotia	April 5, 2002	Fidelity Investments Canada Limited	R.S.N.S. 1989, C.418 as amended - Rule 31-501, s. 151A(1)