

2002 BCSECCOM 72

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – variation of previous decision so as to clarify the clients to which the previous decision applies, and to vary the course requirement for clients.

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 AND
ONTARIO

AND

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

AND

IN THE MATTER OF SWIFT TRADE SECURITIES INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of the provinces of British Columbia and Ontario (collectively, the “Jurisdictions”) has received an application from Swift Trade Securities Inc. (the “Filer”), formerly known as Penson Securities Inc., to vary the MRRS Decision Document dated June 29, 2001, IN THE MATTER OF PENSON SECURITIES INC., which provided, subject to the terms and conditions set out therein, relief from certain suitability obligations on an order-by-order basis with respect to clients of the Filer under the securities legislation of the Jurisdictions and decided, subject to terms and conditions, that certain suitability requirements of the Investment Dealers Association of Canada did not apply to the Filer (the “Suitability Relief Order”);

AND WHEREAS the terms “Suitability Requirements”, “IDA Suitability Requirements” and “Registered Representatives” shall each have the respective meaning ascribed thereto under the Suitability Relief Order;

AND WHEREAS the Filer wishes to vary the Suitability Relief Order in particular to specify the client accounts of the Filer to which the Suitability Relief Order applies and to vary the course requirements with respect to such clients;

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

AND WHEREAS the Filer has represented to the Decision Makers that:

1. the Filer changed its name from Penson Securities Inc. to Swift Trade Securities Inc. on July 10, 2001, is a corporation incorporated under the *Canada Business Corporations Act*, and is registered under the Legislation as an investment dealer and is a member of the IDA;
2. the Filer seeks to vary the Suitability Relief Order as follows:
 - (a) to specify the clients of the Filer to which the Suitability Relief Order applies; and

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(b) to recognize that the Filer will require a new course requirement, comprising a one week theory course followed by an exam on which a passing grade of 70% is required, and that the five week practical course will be removed from the mandatory curriculum, with the option left open to clients to request further hands-on practical training if they desire it;

3. the Filer and its Registered Representatives will otherwise continue to comply with the Suitability Requirements and IDA Suitability Requirements for day trading client accounts on the same basis as in the Suitability Relief Order; and

4. except as noted above, the Filer confirms the representations to the Decision Makers in the Suitability Relief Order;

AND WHEREAS under 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 the Decision Maker under the Legislation is that the Suitability Relief Order is amended by:

(a) replacing the reference in Recital (a) of the Suitability Relief Order to "each client of the Filer" with the reference "each client of the Day Trading Business (as defined below) of the Filer (each, a "Day Trading Client")";

(b) replacing each reference to the word "client" or "customer" thereafter to "Day Trading Client"; and

(c) replacing Representations 4 and 6 with the following:

(i) 4. the Filer provides electronic day trading services (the "Day Trading Business") to certain clients; and

(ii) 6. prospective clients of the Day Trading Business will be required to complete a one week theory course, followed by a three-hour examination on which a passing grade of 70% is required, and only by passing such examination will Day Trading Clients be permitted to use the Filer's facilities in connection with the Day Trading Business.

DATED January 23, 2002

Randee Pavalow

THE DECISION of the Decision Makers is that the Suitability Relief Order is amended by:

(a) replacing the reference in Recital (a) of the Suitability Relief Order to "each client of the Filer" with the reference "each client of the Day Trading Business (as defined below) of the Filer (each,

(b) replacing each reference to the word "client" or "customer" thereafter to "Day Trading Client"; and

(c) replacing Representations 4 and 6 with the following:

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(i) 4. the Filer provides electronic day trading services (the "Day Trading Business") to certain clients; and

(ii) 6. prospective clients of the Day Trading Business will be required to complete a one week theory course, followed by a three-hour examination on which a passing grade of 70% is required, and only by passing such examination will Day Trading Clients be permitted to use the Filer's facilities in connection with the Day Trading Business.

DATED January 23, 2002

Paul Moore

R. Stephen Paddon