

2003 BCSECCOM 191

Headnote

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

Exemption Order

Janus Capital Management LLC

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

Background

- ¶ 1 Janus Capital Management LLC (Janus) applied for an exemption from the adviser registration requirement in section 34(1)(c) of the Act (the Adviser Registration Requirement) in order to advise a client resident in British Columbia on the investment in or sale and purchase of securities (Securities Advice).

Representations

- ¶ 2 Janus represents that:
- (a) it is incorporated under the laws of Colorado and its principal place of business is Denver, Colorado;
 - (b) it is currently registered in good standing as an investment adviser with the United States Securities and Exchange Administrator under the *Investment Advisors Act of 1940*;
 - (c) it is registered with the Ontario Securities Commission as an International Adviser in the categories of investment counsel and portfolio manager;
 - (d) it has carried on business as investment advisers in the United States since 1970, and currently has assets under management in excess of US\$182,245,000,000 for over 340 clients;
 - (e) it specializes in account management for investors in equity and fixed income securities and its client base is comprised of institutional accounts including

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major corporate pension funds, academic institutions, government agencies, mutual funds, endowment funds and foundations and high net worth individuals throughout the United States;

- (f) it intends to provide the Securities Advice to a client, a certain family trust organized under the laws of British Columbia (Trust) and a company controlled by the Trust (collectively, the Client);
- (g) the Client is located in Vancouver, British Columbia, and is a sophisticated investor having professional advisers including legal counsel and chartered accountants;
- (h) Janus has advised the Client that:
 - (i) it is not registered as an adviser under the Act,
 - (ii) it may not have the same proficiency requirements as other persons registered under the Act, and
 - (iii) the Client may not have the same protection that it otherwise might have if Janus were registered as an adviser under the Act;
- (i) Janus does not:
 - (i) maintain an office or sales force in British Columbia,
 - (ii) have any other clients resident in British Columbia, and
 - (iii) intend to actively solicit other clients in British Columbia;
- (j) in providing the Securities Advice to the Client, Janus 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
- (k) there are no exemptions from the Adviser Registration Requirement that Janus can rely on to provide the 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 Janus be exempt from the Adviser Registration Requirement for Securities Advice provided to the Client, provided that Janus

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maintains in good standing its registration as an investment adviser with the United States Securities and Exchange Commission.

¶ 4 February 24, 2003

Noreen Bent
Manager