

British Columbia Securities Commission

BC Instrument 81-504

The British Columbia Securities Commission, having considered that to do so would not be prejudicial to the public interest, orders that the attached BC Instrument 81-504 entitled *Transactions Between Mutual Funds and Responsible Persons Relating to Certain Debt Securities, Mortgages and Equity Securities* is made.

September 28, 2009

Brent W. Aitken
Acting Chair

(This part is for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, sections 48 and 187

Other (specify):- National Instrument 31-103 *Registration Requirements and Exemptions*, sections 13.5(2)(b) and 15.1(1)

Transactions Between Mutual Funds and Responsible Persons Relating to Certain Debt Securities, Mortgages, and Equity Securities

Order under sections 48 and 187 of the *Securities Act* and sections 13.5(2)(b) and 15.1(1) of National Instrument 31-103 *Registration Requirements and Exemptions*

Definitions

1. In this Instrument

“approved credit rating” has the same meaning as in National Instrument 81-102 *Mutual Funds* (NI 81-102);

“approved credit rating organization” has the same meaning as in NI 81-102;

“current market price” means

(a) for a security listed on an exchange

- (i) if there are reported trades for the security on the principal exchange that the security trades on before the trade that day, the price of the last trade for the security on that exchange before the trade, or
- (ii) if there is no reported trade for the security on the principal exchange before the trade that day, the average of the highest current independent bid and the lowest current independent offer for the security on that exchange before the trade that day or if there is no offer and bid for that security on that exchange before that trade, on the most recent day when an offer and bid was made for the security,

(b) for a security not listed on an exchange but quoted on a widely available quotation system, the average of the highest current independent bid and the lowest current independent offer reported for the security before the trade that day, or if there is no offer and bid reported for that security before the trade that day, on the most recent day when an offer and bid was made, or

(c) for all other securities, the average of the highest current independent bid and the lowest current independent offer for the security before the trade that day, determined on the basis of reasonable inquiry, of if there is no offer and bid made for that security before the trade that day, on the most recent day when an offer and bid was made, determined on the basis of reasonable inquiry;

“guaranteed mortgage” means a mortgage that is fully guaranteed or insured by the Government of Canada, or the government of a province or territory of Canada, or an agency of any of these governments;

“non-participating affiliate” means a responsible person as defined in section 13.5(1) of National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103) who does not

- (a) participate in the formulation of investment decisions made on behalf of the mutual fund, or
- (b) have access to investment decisions made on behalf of the mutual fund or to advice given to the mutual fund about those decisions before implementation of investment decisions;

“principal transaction” means a purchase or sale of a security by a mutual fund from or to the account of a responsible person;

“specified credit rating” means the credit rating given to the security, by one of the rating agencies listed in Appendix A, that is equal to or higher than the level listed in Appendix A for that type of security and that rating agency.

Interpretation

2. Unless otherwise defined in this Instrument, terms used in this Instrument that are defined or interpreted in the *Securities Act* or *Securities Rules* should be read in accordance with the *Securities Act* or *Securities Rules*.

Transactions by non-participating affiliates

3. The requirements of section 13.5(2)(b) of NI 31-103 do not apply to a purchase or sale of equity securities, forward contracts or over-the-counter options of any issuer from or to the account of a non-participating affiliate.

Exempted principal transactions

4. The requirements of section 13.5(2)(b) of NI 31-103 do not apply to a principal transaction involving the following securities, provided that the requirements of sections 5 and 6 are met
 - (a) a guaranteed mortgage,
 - (b) a mortgage that is not a guaranteed mortgage,

- (c) a bond, debenture or other evidence of indebtedness of or guaranteed by the government of Canada or by a province or territory of Canada,
- (d) a bond, debenture or other evidence of indebtedness issued by a municipal corporation, which is incorporated under the laws of the government of Canada or any province or territory of Canada,
- (e) a debt security issued by or guaranteed by a government of a foreign jurisdiction if the debt security has an approved credit rating from an approved credit rating organization,
- (f) commercial paper, maturing not more than one year from the date of issue,
- (g) a non-convertible bond, debenture or other evidence of indebtedness issued by a corporation, or
- (h) a bankers' acceptance, maturing not more than one year from the date of issue, which is accepted by a bank listed in Schedule I or II to the *Bank Act (Canada)*.

Principal transactions involving mortgages

- 5. (1) A principal transaction involving a guaranteed mortgage must be made in accordance with one of the three methods of valuation prescribed by section III (2.4) of National Policy Statement No. 29.
- (2) A principal transaction involving a mortgage that is not guaranteed must be made in accordance with the method of valuation prescribed by section III (2.4)(c) of National Policy Statement No. 29.
- (3) The terms of a principal transaction involving a mortgage must be reasonable, fair and in the best interests of the mutual fund.

Principal transactions involving debt

- 6. (1) The exemption set out in section 4 does not apply to a security
 - (a) referred to in subsections 4(c) to 4(g) unless the rating of the security meets the specified credit rating set out in Appendix "A",
 - (b) referred to in subsection 4(h), unless the rating of the short-term debt of the accepting bank meets the specified credit rating set out in Appendix "A",
 - (c) referred to in subsections 4(c) to (h) that does not meet the specified credit rating set out in Appendix "A", unless the parties to the transaction do not know or ought not reasonably to know that the rating agency has announced that the rating of the

security may be down-graded to a level below the specified credit rating set out in that appendix, and

- (d) referred to in subsections 4(c) to (h) unless the prospectus or simplified prospectus of the mutual fund states the intention to engage in principal trading transactions with responsible persons.
- (2) The exemption set out in section 4 applies to a security if the proposed transaction is reasonable, fair and in the best interests of the mutual fund and if the terms of the transaction are no less beneficial than terms generally available at the time of the trade to market participants in arm's length transactions.

Transaction price

- 7. The transaction price must be the independent current market price at the time of the transaction.

Effective Date

- 8. This Instrument is effective September 28, 2009.

APPENDIX “A”

Specified Credit Rating Table

Rating Agency	Commercial Paper and Short-Term Debt	Other Debt
CBRS Inc.	A-1 (Low)	A
Dominion Bond Rating Service Limited	R-1 (Low)	A
Duff & Phelps Credit Rating Co.	D-1	A
Fitch IBCA, Inc.	A-1	A
Moody’s Investors Service Inc.	P-1	A3
Standard & Poor’s Corporation	A-1	A
Thomson Bank Watch, Inc.	TBW-2	A