

PROVINCE OF BRITISH COLUMBIA

RULE OF THE BRITISH COLUMBIA SECURITIES COMMISSION

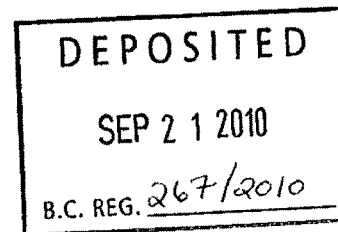
WHEREAS self-dealing in British Columbia is regulated under BC Instrument 81-513 *Self-Dealing*, B.C. Reg. 323/2009, enacted under section 6 of the Rule Making Procedure Regulation, B.C. Reg. 195/97;

AND WHEREAS that instrument will expire on September 24, 2010 pursuant to section 6 (4) of B.C. Reg. 195/97;

AND WHEREAS it is necessary that self-dealing in British Columbia be subject to continued regulation;

THEREFORE the British Columbia Securities Commission orders that, effective September 25, 2010,

- 1 BC Instrument 81-513 *Self-Dealing*, set out in the attached Schedule A, is made,
- 2 Multilateral Instrument 11-102 *Passport System*, B.C. Reg. 58/2008, is amended as set out in the attached Schedule B, and
- 3 National Instrument 81-107 *Independent Review Committee for Investment Funds*, B.C. Reg. 276/2006, is amended as set out in the attached Schedule C.



Sept. 20, 2010  
Date

  
British Columbia Securities Commission

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

Authority under which Order is made:

Act and section: Securities Act, R.S.B.C. 1996, c. 418, s. 184

Other: \_\_\_\_\_

August 25, 2010

R/749/2010/21

## SCHEDULE A

### BC INSTRUMENT 81-513 *SELF-DEALING*

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#### **Definitions**

1 In this Instrument:

“**investment**” means a purchase of a security, a trade in an exchange contract, or a loan or advance to a person, but does not include a loan or advance that

(a) is made by a mutual fund, its mutual fund manager or its mutual fund distributor, and

(b) is ancillary to the main business of the mutual fund, its mutual fund manager or its mutual fund distributor;

“**mutual fund**” means a mutual fund in British Columbia;

“**related mutual funds**” includes more than one mutual fund under common management;

“**related person**” means, in relation to a mutual fund, a person in whom the mutual fund, its mutual fund manager or its mutual fund distributor are not permitted under section 6 to make an investment.

#### **Related person, significant interest, substantial security holder**

2 For the purposes of this Instrument,

(a) an issuer in which

(i) a mutual fund holds voting securities carrying more than 10% of the voting rights attached to all outstanding voting securities of the issuer, or

(ii) a mutual fund and related mutual funds hold voting securities carrying more than 20% of the voting rights attached to all outstanding voting securities of the issuer,

is a related person of that mutual fund or of each of those mutual funds,

- (b) a person or a group of persons has a significant interest in an issuer if, in the case of
  - (i) one person, the person owns beneficially, directly or indirectly, more than 10%, or
  - (ii) a group of persons, the group owns beneficially, directly or indirectly, individually or collectively, more than 50%,of the outstanding securities of the issuer, and
- (c) a person or a group of persons is a substantial security holder of an issuer if that person or group of persons owns beneficially, directly or indirectly, individually or collectively, voting securities carrying more than 20% of the voting rights attached to all outstanding voting securities of the issuer.

**Beneficial ownership**

- 3 For the purposes of this Instrument, if a person or a group of persons owns beneficially voting securities of an issuer, that person or group of persons is deemed to own beneficially a proportion of voting securities of any other issuer that are owned beneficially by the first mentioned issuer, which proportion is equal to the proportion of the voting securities of the first mentioned issuer that are owned beneficially by that person or group of persons.

**Underwriter's securities exclusion**

- 4 For the purposes of section 2 (c), when computing the percentage of voting rights attached to voting securities owned by an underwriter, there must be excluded any voting securities acquired by him or her as underwriter in a distribution of the securities, but the exclusion ceases to have effect on completion or cessation of the distribution by the underwriter.

**Section 3 exemption**

- 5 Despite section 3, a mutual fund is not prevented from making an investment in an issuer only because a person or a group of persons, who owns beneficially voting securities of the mutual fund, its mutual fund manager or its mutual fund distributor, is by reason of that ownership deemed under section 3 to own beneficially voting securities of the issuer.

**Investments of mutual funds**

- 6 (1) A mutual fund must not knowingly make or hold an investment by way of loan to or in
  - (a) an officer or director of the mutual fund, its mutual fund manager or its mutual fund distributor or an associate of any of them, or
  - (b) an individual if the individual or an associate of the individual is a substantial security holder of the mutual fund, its mutual fund manager or its mutual fund distributor.(2) A mutual fund must not knowingly make or hold an investment to or in
  - (a) a person who is a substantial security holder of the mutual fund, its mutual fund manager or its mutual fund distributor,
  - (b) a person in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder, or

- (c) an issuer in which
  - (i) an officer or director of the mutual fund, its mutual fund manager or its mutual fund distributor or an associate of any of them, or
  - (ii) a person who is a substantial security holder of the mutual fund, its mutual fund manager or its mutual fund distributor, has a significant interest.
- (3) A mutual fund manager or mutual fund distributor must not knowingly hold an investment made after February 1, 1987 if the investment is an investment described in this section.

**Indirect investment**

- 7 (1) A mutual fund, its mutual fund manager or its mutual fund distributor must not knowingly enter into a contract or other arrangement that results in its being directly or indirectly liable or contingently liable in respect of an investment in or to a person to whom it is not permitted to make an investment under section 6.
- (2) For the purposes of the application of this section to section 6, a contract or other arrangement referred to in subsection (1) of this section is deemed to be an investment.

**Fees on investment for mutual fund**

- 8 A mutual fund must not make an investment in consequence of which a related person of the mutual fund will receive a fee or other compensation unless the fee is paid under a contract that is disclosed in a preliminary prospectus or prospectus filed by the mutual fund and accepted by the executive director.

**Report of mutual fund manager**

- 9 A mutual fund manager must file a report in the required form for each mutual fund to which the mutual fund manager provides services or advice respecting
  - (a) a purchase or sale of securities or a trade in exchange contracts between the mutual fund and any related person,
  - (b) a loan received by the mutual fund from, or made by the mutual fund to, any of its related persons,
  - (c) a purchase or sale of a security or a trade in an exchange contract effected by the mutual fund through any related person for which the related person received a fee from the mutual fund or from the other person to the transaction, or from both, and
  - (d) a transaction in which the mutual fund, by arrangement other than an arrangement relating to insider trading in portfolio securities, is a joint participant with one or more of its related personswithin 30 days after the end of the month in which the purchase, sale, trade, loan or transaction occurs.

**Filing in other jurisdiction**

- 10 If the law of the jurisdiction in which the reporting issuer carries on business or is incorporated, organized or continued requires substantially the same reports in that

jurisdiction as are required by this Instrument, the filing requirements of this Instrument may be complied with by filing the reports that are required by the law of the other jurisdiction and that are signed or certified.

**Transition –local exemptions granted before September 28, 2009**

- 11 (1) If, as of September 28, 2009, a person was entitled to rely on an exemption granted by the commission or the executive director from a provision of the *Securities Act* listed below, and that exemption would otherwise remain in effect if it were not for the repeal of that provision, the provision of this Instrument listed below opposite that provision does not apply.
- (2) Subsection (1) does not apply unless the person complies with any terms, conditions, restrictions or requirements imposed by the commission or executive director in respect of the *Securities Act* exemption as if they were imposed in respect of an exemption from the equivalent provision of this Instrument.

<i>Securities Act</i> provision	Equivalent provision of this Instrument
s. 121	s. 6
s. 122	s. 7
s. 124	s. 8
s. 126	s. 9

**Transition –exemptions under the Passport System granted before the effective date of this Instrument**

- 12 (1) If a person was granted an exemption from a provision of securities legislation listed in Appendix A, and the exemption was granted by the person’s principal regulator as defined in Multilateral Instrument 11-102 *Passport System*, the equivalent provision of this Instrument listed in Appendix A opposite that provision does not apply to the person if
- (a) the exemption in the principal jurisdiction, as defined in Multilateral Instrument 11-102 *Passport System*, is in effect,
  - (b) the person that made the application for the exemption gave notice to the commission or executive director that section 4.7 of Multilateral Instrument 11-102 *Passport System* is intended to be relied upon with respect to section 121, 122, 124 or 126 of the *Securities Act*,
  - (c) the person relying on the exemption complies with any terms, conditions, restrictions or requirements imposed by the principal regulator as if they were imposed in the local jurisdiction, and
  - (d) the exemption was granted before the effective date of this Instrument.
- (2) For the purpose of paragraph (1) (b), the person or company may give the notice referred to in that paragraph by giving it to the principal regulator.

**APPENDIX A**  
**TABLE OF EQUIVALENT SELF-DEALING PROVISIONS**

Provision	British Columbia (repealed Securities Act section reference)	British Columbia Equivalent provision of BCI 81-513	Alberta	Saskatchewan	Manitoba	Quebec	Nova Scotia	New Brunswick	Prince Edward Island	Newfoundland and Labrador	Yukon	Northwest Territories	Nunavut	Ontario
Investments of mutual funds	s. 121	s.6	s. 185	s. 120	n/a	n/a	s. 119	s. 137	n/a	s. 112	n/a	n/a	n/a	s. 111
Indirect investment	s. 122	s.7	s. 186	s. 121	n/a	n/a	s. 120	s. 138	n/a	s. 113	n/a	n/a	n/a	s. 112
Fees on investment for mutual fund	s. 124	s.8	s. 189	s. 124	n/a	n/a	s. 123	s. 141	n/a	s. 116	n/a	n/a	n/a	s. 115
Report of mutual fund manager	s. 126	s.9	s. 191	s. 126	n/a	n/a	s. 125	s. 143	n/a	s. 118	n/a	n/a	n/a	s. 117

## SCHEDULE B

- 1 Appendix D of Multilateral Instrument 11-102 Passport System, B.C. Reg. 58/2008, is amended in the part entitled “Investment Funds – Self Dealing”, in the column under the heading “British Columbia”,*
- (a) by striking out “s. 121” and substituting “s. 6 of BC Instrument 81-513 Self-Dealing”,*
  - (b) by striking out “s. 122” and substituting “s. 7 of BC Instrument 81-513 Self-Dealing”,*
  - (c) by striking out “s. 124” and substituting “s. 8 of BC Instrument 81-513 Self-Dealing”, and*
  - (d) by striking out “s. 126” and substituting “s. 9 of BC Instrument 81-513 Self-Dealing”, and*

## SCHEDULE C

- 1 National Instrument 81-107 Independent Review Committee for Investment Funds, B.C. Reg. 276/2006, is amended*
- (a) in Appendix A by striking out “Part 15 – Self-Dealing of the Securities Act (British Columbia)” and substituting “BC Instrument 81-513 Self-Dealing”, and*
  - (b) in Appendix B by striking out “Section 127 (1) (b) of the Securities Act (British Columbia)”.*