

Headnote

National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – *Securities Act* s. 88 *Cease to be a reporting issuer in BC* - the securities of the issuer are beneficially owned by more than 50 persons and are not traded through an exchange or market - the issuer is a mutual fund; the issuer will not be a reporting issuer in any jurisdiction; the issuer distributes its securities only to accredited investors or client accounts that are fully managed by the issuer's manager; the manager controls all trading in the issuer's securities.

Applicable Legislative Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 88

September 6, 2019

In the Matter of
the Securities Legislation of
British Columbia and Ontario
(the Jurisdictions)

and

In the Matter of
the Process for Cease to be a Reporting Issuer Applications

and

In the Matter of
Genus Capital Management Inc.
(the Filer)

and

Genus Government Bond Fund, Genus Short-Term Bond Fund,
Genus Dividend Equity Fund, Genus Fossil Free Corporate Bond Fund,
Genus Fossil Free Dividend Equity Fund, Genus Fossil Free CanGlobe Equity Fund and
Genus Fossil Free High Impact Equity Fund
(the Funds)

Order

¶ 1 **Background**

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the

Jurisdictions (the Legislation) that each Fund has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the Order Sought).

Under the Process for Cease to be a Reporting Issuer Applications (for a dual application):

- (a) the British Columbia Securities Commission is the principal regulator for this application
- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Québec, Saskatchewan, Northwest Territories, Nunavut and Yukon, and
- (c) the order is the order of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

- ¶ 2 Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

- ¶ 3 This order is based on the following facts represented by the Filer:

The Filer

1. the Filer is a corporation organized under the laws of British Columbia with its head office in Vancouver, British Columbia;
2. the Filer is registered in:
 - (a) all jurisdictions of Canada as a portfolio manager and exempt market dealer; and
 - (b) British Columbia, Ontario, Québec, and Newfoundland and Labrador as an investment fund manager;
3. the Filer's principal business is to provide investment management services through mutual funds and specialty equity and fixed income investment portfolios, to individuals, families, foundations, endowments, not-for-profit organizations, institutions and multi-employer pension and benefit plans (each, a Client) through managed accounts (each, a Managed Account);
4. the Filer serves as the investment fund manager and principal portfolio advisor for each of the Funds;
5. the Filer and the Funds are not in default of securities legislation in any jurisdiction of Canada;

The Funds

6. the Funds are established as trusts organized under the laws of British Columbia;
7. the Funds are reporting issuers in each of the jurisdictions of Canada;
8. each Fund offers Series F units and Series O units;
9. Series F units of each Fund are qualified for sale pursuant to a simplified prospectus dated October 30, 2018 prepared in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (the Simplified Prospectus);
10. as at the date hereof, there are no Series F units of any of the Funds outstanding and no Series F units have been issued pursuant to the Simplified Prospectus; Series F units were established for distribution to retail investors pursuant to the Simplified Prospectus; however, the Filer has determined that it does not wish to offer the Funds to retail investors; the Filer does not intend to sell any units under the Simplified Prospectus and does not intend to renew the Simplified Prospectus following its lapse date;
11. the only outstanding securities issued by the Funds are Series O units; Series O units of each Fund are only offered, and will in the future only be offered, to investors from the following categories in reliance on exemptions from applicable prospectus requirements:
 - (a) investors who qualify as “accredited investors”, as defined in National Instrument 45-106 *Prospectus Exemptions* (NI 45-106), other than pursuant to paragraph (q) of the definition, and
 - (b) investors who have entered into a Managed Account Agreement (as defined below) with the Filer or a similar agreement with another qualified portfolio manager, making the Filer or such other portfolio manager the accredited investor pursuant to paragraph (q) of the “accredited investor” definition in NI 45-106;
12. for so long as the Filer is the manager of the Funds, the portfolio assets of the Funds will be held in the custody of an entity that meets the requirements of section 6.2 of National Instrument 81-102 *Investment Funds* (NI 81-102) for assets held in Canada and section 6.3 of NI 81-102 for assets held outside of Canada or otherwise in compliance with the client asset requirements of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;
13. the Managed Accounts are managed by representatives of the Filer (the Portfolio Managers) who meet the proficiency requirements of an advising representative under the applicable securities legislation in the Jurisdictions;
14. the Portfolio Managers have full discretionary authority to trade in securities for each Managed Account without obtaining the specific consent of the Client to the trade pursuant to investment management services agreements executed by each Client (the Managed

Account Agreements); the Managed Account Agreements set out how the applicable Managed Account operates and informs the Client of the Portfolio Manager's various rules, procedures and policies; at no time have these Clients been provided with a simplified prospectus;

15. at the initial meeting between a new Client and a Portfolio Manager, the Portfolio Manager establishes the Client as a new client of the Filer by describing how the applicable Managed Account operates and informs the Client of the applicable Portfolio Manager's various rules, procedures and policy statements (collectively, the New Client Documentation); the New Client Documentation describes how the applicable Managed Account operates and describes the Client's strategies, asset allocation, risk tolerance and liquidity requirements; to the extent that a Client's goals or circumstances change, there will be updated New Client Documentation that is created to reflect that change;
16. Clients receive a quarterly statement showing current holdings and a summary of all transactions carried out in their Managed Account in each month during which a transaction was effected in such Clients' accounts; the Portfolio Manager is available to review and discuss with the Client all account statements; the Portfolio Manager provides the Client with a comprehensive quarterly portfolio reporting package that includes current holdings, capital allocation, asset mix and performance;
17. ceasing to be a reporting issuer for each of the Funds will reduce the regulatory and financial burdens associated therewith, such as the costs of the preparation of Management Reports of Fund Performance; this will be a benefit to the Unitholders, as the management expense ratio of the Funds will be reduced to the extent the costs and expenses associated with these requirements will no longer be applicable;
18. the Funds are not eligible to cease being reporting issuers pursuant to the simplified procedure in section 19 of NP 11-206 because the number of outstanding securities, including debt securities, of each Fund are beneficially owned, directly or indirectly, by more than 15 securityholders in one or more jurisdictions in Canada and more than 51 securityholders in total worldwide;
19. none of the Funds are OTC reporting issuers under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;
20. no securities of any of the Funds are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
21. the Funds have no intention to seek public financing by way of an offering of securities; and
22. upon granting of the Order Sought, the Funds will not be reporting issuers or the equivalent in any jurisdiction in Canada.

Order

- ¶ 4 Each of the Decision Makers is satisfied that the order meets the test set out in the Legislation for the Decision Makers to make the order.

The decision of the Decision Makers under the Legislation is that the Order Sought is granted.

John Hinze
Director, Corporate Finance
British Columbia Securities Commission