

2007 BCSECCOM 112

February 13, 2007

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 130 - Relief from certain self-dealing restrictions in Part 15 of the Act - A mutual fund manager wants relief from the requirement in section 126(c) of the Act to report any purchase or sale effected through a related person of the mutual fund - The portfolio advisers of the mutual funds have discretion to allocate brokerage business in any manner consistent with the fund's best interests; the allocation of brokerage business represents the business judgement of responsible persons uninfluenced by considerations other than the best interests of the mutual funds; the management report of fund performance for the funds will disclose the names of and fees paid to related persons; the fund's records of portfolio transactions will include information about purchases or sales effected through a related person on a per transaction basis

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 126(c), 130

In the Matter of
the Securities Legislation of
British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia,
New Brunswick and Newfoundland and Labrador
(the Jurisdictions)

and

In the Matter of
the Mutual Reliance Review System For Exemptive Relief Applications

and

In the Matter of
Fidelity Investments Canada Limited (FICL)

and

Pyramis Global Advisors, LLC (Pyramis)
(collectively, the Filers)

MRRS Decision Document

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Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the Legislation) that the provisions of the Legislation requiring a management company, or in British Columbia and New Brunswick, a mutual fund manager, to file a report, within thirty days after each month end and in respect of each mutual fund to which it provides services, relating to every purchase or sale effected by such mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or both (the Reporting Requirement) shall not apply to purchases and sales effected by the Funds through Fidelity Brokerage Services, LLC, Fidelity Distributors Corporation, Fidelity Investments Institutional Services Company, Inc., National Financial Services LLC, Correspondent Services Corporation, Fidelity Global Brokerage Group, Inc., eBX LLC or eBX ATS, or any other broker or dealer that may in the future become a related person or company (as defined in the Legislation) of either of the Filers (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

“Funds” means the mutual funds set out in Schedule A hereto, together with such other funds managed by FICL and for which FICL or Pyramis provide investment advice from time to time.

“Portfolio Advisers” means the portfolio advisers or sub-advisers of the Funds appointed by FICL.

“Related Company” or “Related Companies” means Fidelity Brokerage Services, LLC, Fidelity Distributors Corporation, Fidelity Investments Institutional Services Company, Inc., National Financial Services LLC, Correspondent Services Corporation, Fidelity Global Brokerage Group, Inc., eBX LLC or eBX ATS, or any other related broker or dealer that will become a related company of either of the Filers in the future.

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“NI 81-106” means National Instrument 81-106 *Investment Fund Continuous Disclosure*.

Representations

This Decision is based on the following facts represented by the Filers:

1. FICL is a corporation amalgamated under the laws of Ontario with its head office currently in Toronto, Ontario. FICL is registered as an adviser in the categories of investment counsel and portfolio manager (or their equivalent) under the securities legislation in all the provinces and territories in Canada.
2. Pyramis is a corporation organized under the laws of the State of Delaware with its head office currently in Boston, Massachusetts, U.S.A. Pyramis is registered as a non-Canadian adviser under the *Securities Act* (Ontario), R.S.O. 1990, c.S.5, as amended.
3. The Funds are open-ended mutual fund trusts established under the laws of the Province of Ontario (the Trusts), or classes of Fidelity Capital Structure Corp. established under the laws of the Province of Alberta (the Classes). Each Fund is a reporting issuer in each of the provinces and territories of Canada.
4. FICL acts as the manager of mutual funds that currently consist of the funds set out in Schedule A hereto. FICL also provides investment advice to the Classes pursuant to an agreement that constitutes a “management contract” under the Legislation.
5. Pyramis provides investment advice to the Trusts pursuant to an agreement that constitutes a “management contract” under the Legislation.
6. As the parent company of FICL and of Pyramis, FMR Corp. is a “substantial security holder” (as defined in the Legislation) of each of FICL and Pyramis.
7. Fidelity Brokerage Services, LLC, Fidelity Distributors Corporation, Fidelity Investments Institutional Services Company, Inc., National Financial Services LLC and Correspondent Services Corporation are registered broker-dealers under the *Securities Exchange Act of 1934* in the United States. National Financial Services LLC is also registered as an investment adviser under the *Investment Advisers Act of 1940* in the United States. FMR Corp. has a significant interest in each of these dealers.
8. Fidelity Global Brokerage Group, Inc., a wholly-owned subsidiary of FMR Corp., has a significant interest (as defined in the Legislation) in eBX LLC.

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eBX LLC was formed for the purpose of developing, owning and operating an alternative trading system, the eBX ATS. eBX ATS is a registered broker-dealer under the *Securities Exchange Act of 1934* in the United States.

9. Given the relationships described above, each of the Related Companies is a “related person or company” (as defined in the Legislation) of FICL and of Pyramis.
10. The Portfolio Advisers of the Funds may allocate brokerage business of the Funds to a Related Company, provided such transactions are made on terms and conditions comparable to those offered by unrelated brokers and dealers.
11. The Portfolio Advisers of the Funds have discretion to allocate brokerage business in any manner that they believe to be in a Fund’s best interests. The purchase or sale of securities effected through a Related Company represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Funds. In allocating brokerage, consideration is given to commission rates and to research, execution and other services offered.
12. The Funds will disclose in their interim and annual financial statements and in their interim and annual management reports of fund performance the amount of brokerage commissions paid by each Fund on trades with Related Companies.
13. In the absence of this Decision, reports must be filed on a monthly basis in respect of every purchase or sale of securities effected through a Related Company stating the issuer of the securities purchased or sold, the class or designation of the securities, the amount or number of securities, the consideration, the name of the Related Company receiving the fee, the name of the person or company that paid the fee to the Related Company and the amount of the fee received by the Related Company.
14. It would be costly and time consuming to the Filers to provide the information required by the Legislation on a monthly and segregated basis.
15. NI 81-106 requires the Funds to prepare and file annual and interim management reports of fund performance that include a discussion of transactions involving related parties to the Funds. When discussing portfolio transactions with related parties, NI 81-106 requires the Funds to include the dollar amount of commission, spread or any other fee paid to a related party in connection with a portfolio transaction.

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Decision

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 Makers under the Legislation is that the Requested Relief is granted provided that:

- (a) the annual and interim management reports of fund performance for each Fund disclose
 - (i) the name of the Related Company;
 - (ii) the amount of fees paid to each Related Company; and
 - (iii) the person or company who paid the fees, if they were not paid by the Fund; and
- (b) the records of portfolio transactions maintained by each Fund include, separately for every portfolio transaction effected by the Fund through a Related Company,
 - (i) the name of the Related Company;
 - (ii) the amount of fees paid to the Related Company; and
 - (iii) the person or company who paid the fees.

David L. Knight
Commissioner
Ontario Securities Commission

Suresh Thakrar
Commissioner
Ontario Securities Commission

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SCHEDULE A LIST OF FUNDS

FIDELITY FUNDS

Fidelity Canadian Disciplined Equity[®] Fund
Fidelity Canadian Growth Company Fund
Fidelity Canadian Large Cap Fund
Fidelity Canadian Opportunities Fund
Fidelity Dividend Fund
Fidelity True North[®] Fund
Fidelity American Disciplined Equity[®] Fund
Fidelity American Opportunities Fund
Fidelity American Value Fund
Fidelity Growth America Fund
Fidelity Small Cap America Fund
Fidelity AsiaStar[™] Fund
Fidelity China Fund
Fidelity Emerging Markets Fund
Fidelity Europe Fund
Fidelity Far East Fund
Fidelity Global Disciplined Equity[®] Fund
Fidelity Global Fund
Fidelity Global Opportunities Fund
Fidelity Global Real Estate Fund
Fidelity International Disciplined Equity[™] Fund
Fidelity International Value Fund
Fidelity Japan Fund
Fidelity Latin America Fund
Fidelity NorthStar[®] Fund
Fidelity Overseas Fund
Fidelity Focus Consumer Industries Fund
Fidelity Focus Financial Services Fund
Fidelity Focus Health Care Fund
Fidelity Focus Natural Resources Fund
Fidelity Focus Technology Fund
Fidelity Focus Telecommunications Fund
Fidelity Canadian Asset Allocation Fund
Fidelity Canadian Balanced Fund
Fidelity Monthly Income Fund
Fidelity Global Asset Allocation Fund
Fidelity ClearPath[™] 2005 Portfolio

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Fidelity ClearPath™ 2010 Portfolio
Fidelity ClearPath™ 2015 Portfolio
Fidelity ClearPath™ 2020 Portfolio
Fidelity ClearPath™ 2025 Portfolio
Fidelity ClearPath™ 2030 Portfolio
Fidelity ClearPath™ 2035 Portfolio
Fidelity ClearPath™ 2040 Portfolio
Fidelity ClearPath™ 2045 Portfolio
Fidelity ClearPath™ Income Portfolio
Fidelity Canadian Bond Fund
Fidelity Canadian Money Market Fund
Fidelity Canadian Short Term Bond Fund
Fidelity American High Yield Fund
Fidelity American High Yield Currency Neutral Fund
Fidelity U.S. Money Market Fund
Fidelity Income Trust Fund
Fidelity Monthly High Income Fund

FIDELITY CAPITAL STRUCTURE CORP.

Fidelity Canadian Disciplined Equity® Class
Fidelity Canadian Growth Company Class
Fidelity Canadian Opportunities Class
Fidelity True North® Class
Fidelity American Disciplined Equity® Class
Fidelity American Opportunities Class
Fidelity Growth America Class
Fidelity Small Cap America Class
Fidelity Europe Class
Fidelity Far East Class
Fidelity Global Disciplined Equity® Class
Fidelity Global Class
Fidelity Japan Class
Fidelity NorthStar® Class
Fidelity Focus Consumer Industries Class
Fidelity Focus Financial Services Class
Fidelity Focus Health Care Class
Fidelity Focus Natural Resources Class
Fidelity Focus Technology Class
Fidelity Focus Telecommunications Class
Fidelity Canadian Balanced Class
Fidelity Canadian Short Term Income Class