

# **2008 BCSECCOM 143**

February 26, 2008

## **Headnote**

Mutual Reliance Review System for Exemption Relief Application - National Instrument 81-105 s. 9.1 - Mutual Fund Sales Practices - A trade or industry association wants relief to allow a member of an organization of a mutual fund to sponsor certain educational conferences. - The applicant provides professional development programs about financial planning and other matters relating to mutual funds and related financial products to its members; its members must be licensed to sell life insurance or certain other financial products or registered to sell or provide advice on mutual funds or other securities; none of the members of the organization of mutual funds will pay more than 10% of the total direct costs incurred by the applicant for the organization and presentation of the programs; the selection of representatives of participating dealers to attend the programs will be made exclusively by the participating dealer; the seminars will be held in Canada.

## **Applicable British Columbia Provisions**

National Instrument 81-105 *Mutual Fund Sales Practices*, s. 5.4(1), 9.1

**In the Matter of  
The Securities Legislation of Alberta, British Columbia, Manitoba,  
New Brunswick, Nova Scotia, Ontario and Quebec  
(The Jurisdictions)**

**and**

**In the Matter of  
The Mutual Reliance Review System for Exemptive Relief Applications**

**and**

**In the Matter of  
Independent Financial Brokers of Canada  
and  
Goodman And Company, Investment Counsel Ltd.  
(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 section 9.1 of National Instrument 81-105 *Mutual Fund Sales Practices* (**NI 81-105**) exempting the Mutual Fund Organizations (as defined herein) from the prohibition in subsection 5.4(1) of NI 81-105 to permit them to pay the direct costs (as such term is defined in NI 81-105) incurred by IFB relating to a conference, seminar, course or other educational event (collectively, the **Summits**) that is organized and presented by IFB (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* or in NI 81-105 have the same meanings in this decision unless they are otherwise defined in this decision.

“Mutual Fund Organizations” shall mean a member of the organization of a mutual fund (as defined in NI 81-105) that wishes to pay the direct costs relating to a Summit organized and presented by IFB and shall include Goodman and Company, Investment Counsel Ltd., as Filer.

“IFB” shall refer to Independent Financial Brokers of Canada, as Filer.

“GCICL” shall refer to Goodman and Company, Investment Counsel Ltd., as Filer.

### Representations

1. IFB is a not-for-profit industry association for financial intermediaries and advisors who sell life insurance, mutual funds and other related financial products and services. The head office of the association is located in Mississauga, Ontario. IFB has approximately 4,000 members, who reside in the Jurisdictions. IFB serves its members primarily by providing specialized and comprehensive programs of professional development in financial services. In addition, IFB advocates policy and legislation before government regulators at all levels, collaborates with other trade and industry associations in Canada, and administers a code of ethics that its members agree to abide by.

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2. Members of IFB are required to hold a license to sell life insurance or certain other financial products that are ordinarily provided by life insurance companies or must be appropriately registered to sell mutual funds or other securities or provide advice with respect to mutual funds or other securities. Approximately 70 percent of IFB members are registered to sell mutual funds and other securities in one or more of the Jurisdictions. The common activity of IFB members may be described as providing financial advice to Canadians, using life and health insurance, mutual funds and other financial products to achieve financial objectives.
3. As part of its services, IFB annually arranges and holds regional Summits for its members and non-members. These Summits are usually held in Toronto (Ontario), Calgary (Alberta), and Vancouver (British Columbia). IFB members who may be registered to trade in mutual funds in those provinces and other Jurisdictions may attend. Attendees generally earn 15 credit hours towards their annual continuing education credits through attending the Ontario Summit, 7.5 hours at the Alberta Summit and 6 hours at the British Columbia Summit. The primary purpose of the Summits is to provide educational information about financial planning, investing in securities, mutual fund industry matters, and mutual fund issues generally, and therefore complies with the requirements of paragraph 5.4(2)(a) of NI 81-105.
4. GCICL is a corporation existing under the laws of Ontario, with its head office being located in Toronto, Ontario. GCICL is the manager and principal distributor of a number of mutual funds that are qualified for distribution in each of the Jurisdictions and the other provinces and territories of Canada. Accordingly, GCICL is a member of the organization of a mutual fund family within the meaning of NI 81-105.
5. GCICL wishes to sponsor certain or all of the Summits. However, subsection 5.4(1) of NI 81-105 prohibits Mutual Fund Organizations from sponsoring the costs or expenses relating to a conference, seminar or course that is organized and presented by The Investment Funds Institute of Canada (**IFIC**), the Investment Dealers Association of Canada (**IDA**) or another trade or industry association. IFB can be considered “another trade or industry association”. Subsection 5.4(2) of NI 81-105 provides an exemption to permit members of the organization of a mutual fund to sponsor conferences, seminars or courses organized and presented by IFIC, the IDA or their respective affiliates in accordance with the conditions set out therein. No other exemption is granted to trade or industry associations such as IFB.

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6. GCICL proposes to sponsor the Summits in accordance with the conditions set out in subsection 5.4(2) of NI 81-105 that are applicable to a conference organized and presented by IFIC or the IDA.
7. IFB anticipates that other Mutual Fund Organizations will similarly wish to sponsor a portion of the costs of its Summits and agree to pay such costs for such Summits on similar conditions. If the Requested Relief is granted, IFB will ensure that GCICL and other Mutual Fund Organizations sponsor the Summits in accordance with the following conditions:
  - (a) the primary purpose of a Summit will be the provision of educational information about financial planning, investing in securities, mutual fund industry matters, and mutual fund issues generally;
  - (b) none of the Mutual Fund Organizations will pay in the aggregate more than ten percent of the total direct costs incurred by IFB for the organization and presentation of a Summit;
  - (c) the selection of a representative of a participating dealer to attend any Summit will be made exclusively by the participating dealer, uninfluenced by the Mutual Fund Organizations; and
  - (d) Summits will be held in Canada(collectively, the **Conditions**).

### **Decision**

Each of the Decision Makers is satisfied that the test contained in NI 81-105 that provides the Decision Makers with the jurisdiction to make the decision has been met;

The decision of the Decision Makers under NI 81-105 is that the Requested Relief is granted, provided that:

- (i) the Mutual Fund Organizations and IFB comply with the Conditions;
- (ii) IFB, on behalf of each Mutual Fund Organization (other than GCICL) whose mutual funds are reporting issuers in Ontario and who wishes to sponsor a Summit in reliance on this decision, file an advance written notice with the Director of the Investment Funds Branch of the Ontario Securities Commission that:

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- a. names the Mutual Fund Organization that intends to sponsor the Summit in reliance on this decision, and
  - b. confirms that the Mutual Fund Organization has agreed to sponsor the Summit in accordance with the Conditions of this decision;
- (iii) this decision, as it relates to the Jurisdiction of a Decision Maker, will terminate in that Jurisdiction one year after the publication in final form of any legislation or rule of that Decision Maker which modifies the provisions of section 5.4 of NI 81-105 in a manner which makes the relief provided for in this decision unnecessary or provides similar relief on a different basis or subject to different conditions.

"Robert L. Shirriff"

Commissioner

Ontario Securities Commission

"Suresh Thakrar" (Name)

Commissioner (Title)

Ontario Securities Commission