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## Headnote:

Mutual Reliance Review System for Exemptive Relief Applications - Investment by mutual funds in securities of other existing and future mutual funds that are under common management exempted from certain self-dealing requirements, subject to certain specified conditions.

## Applicable British Columbia Provisions

*Securities Act*, R.S.B.C. 1996, c. 418, s. 130

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, ONTARIO, NOVA SCOTIA AND NEWFOUNDLAND

AND

IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF CI MUTUAL FUNDS INC.

## DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application from CI Mutual Funds Inc. ("CI"), as manager of the Top Funds (as defined below) for a decision by each Decision Maker (collectively, the "Decision") under the securities legislation of the Jurisdictions (the "Legislation") that:

- i. the restrictions in the Legislation prohibiting a mutual fund from knowingly making or holding an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder shall not apply in respect of investments by the Top Funds in the Underlying Funds (as defined below);
- ii. the restrictions contained in the Legislation prohibiting a mutual fund from knowingly making an investment in an issuer in which any officer or director of the mutual fund, its management company or distribution company or an associate of any of them has a significant interest, shall not apply in respect of investments by the Top Funds in the Underlying Funds;
- iii. the restrictions contained in the Legislation prohibiting a portfolio manager, or in British Columbia, the mutual fund, from knowingly causing an investment portfolio managed by it to invest in any issuer in which a "responsible person" (as that term is defined in the Legislation) or an associate of a responsible person, is an officer or director, unless the specific fact is disclosed to the client and, if applicable, the written consent of the client to the investment is obtained before the purchase shall not apply in respect of investments by the Top Funds in the Underlying Funds; and
- iv. the requirements contained in the Legislation requiring the management company, or in British Columbia, a mutual fund manager, to file a report relating to the purchase or sale of securities between the mutual fund and any related person or company, or any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies, shall not apply in respect of investments by the Top Funds in the Underlying Funds.

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The above requirements and restrictions contained in the Legislation are herein collectively referred to as the "Applicable Requirements".

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS CI has represented to the Decision Makers as follows:

1. CI is a corporation established under the laws of Ontario and its head office is located in the Province of Ontario. CI is or will be the manager of the Top Funds and the Underlying Funds (collectively, the "Funds").
2. The Funds are or will be open-end mutual fund trusts or classes of shares of CI Sector Fund Limited ("CI Sector"), each established under the laws of Ontario. Securities of the Funds are or will be qualified for distribution under a simplified prospectus and annual information form filed in all provinces and territories of Canada.
3. Each of the Funds is or will be a reporting issuer and not in default of any of the requirements of the Legislation.
4. CI is the manager of mutual funds in which the Top Funds will invest their assets (collectively, the "Existing Underlying Funds").
5. CI may in the future be the manager of other mutual funds in which the Top Funds will invest their assets (the "Future Underlying Funds" and collectively with the Existing Underlying Funds, the "Underlying Funds").
6. CI proposes to establish a new group of mutual funds (the "CI Portfolio Series") which includes CI Conservative Portfolio, CI Conservative RSP Portfolio, CI Balanced Portfolio, CI Balanced RSP Portfolio, CI Growth Portfolio, CI Growth RSP Portfolio, CI Maximum Growth Portfolio and CI Maximum Growth RSP Portfolio (the "Existing Top Funds"). CI may in the future establish other mutual funds with investment objectives similar to the CI Portfolio Series (the "Future Top Funds" and collectively with the Existing Top Funds, the "Top Funds").
7. As part of its investment objective, each Top Fund will invest a certain fixed percentage (the "Fixed Percentages") of its assets (excluding cash and cash equivalents) directly and, in some instances, indirectly, in securities of specified Underlying Funds, subject to a variation of 2.5% above or below the Fixed Percentages (the "Permitted Ranges") to account for market fluctuations. Investments by each of the Top Funds will be made in accordance with the fundamental investment objectives of the Top Funds.
8. Certain of the Top Funds (the "RSP Top Funds") seek to achieve their investment objectives while ensuring that their units do not constitute "foreign property" for registered retirement savings plans, registered retirement income funds, deferred profit sharing plans and similar plans ("Registered Plans").
9. To achieve their investment objective, the RSP Top Funds invest their assets in securities such that their units will be "qualified investments" for Registered Plans and will not constitute foreign property in a Registered Plan.
10. Each of the RSP Top Fund's total direct investments in the Underlying Funds which constitute foreign property in a Registered Plan will at all times not exceed the maximum foreign property limit under the Income Tax Act (Canada) for Registered Plans (the "Permitted Limit").

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11. The Top Funds will not invest in an Underlying Fund with an investment objective which includes investing directly or indirectly in other mutual funds.

12. As part of its investment objective, each RSP Top Fund will enter into forward contracts or other specified derivatives ("Forward Contracts") based on the returns of Underlying Funds considered to be foreign property for Registered Plans with one or more financial institutions (each a "Counterparty") that link the RSP Top Fund's returns to the Underlying Funds.

13. There may be directors and/or officers of CI who are also directors and/or officers CI Sector.

14. Except to the extent evidenced by this Decision and specific approvals granted by the Decision Makers pursuant to National Instrument 81-102 ("NI 81-102"), the investments by the Top Funds in the Underlying Funds have been structured to comply with the investment restrictions of the Legislation and NI 81-102.

15. In the absence of this Decision, each of the Top Funds is prohibited from knowingly making or holding an investment in the Underlying Funds in which the Top Fund alone or together with one or more related mutual funds is a substantial securityholder.

16. In the absence of this Decision, each of the Top Funds is prohibited from knowingly making an investment in an issuer in which any officer or director of the mutual fund, its management company or distribution company or an associate of any of them has a significant interest.

17. In the absence of this Decision, CI is prohibited from causing each of the Top Funds to invest in the Underlying Funds unless the specific fact is disclosed to investors and, if applicable, the written consent of investors is obtained before the purchase.

18. In the absence of this Decision, CI is required to file a report on every purchase or sale of securities of the Underlying Funds by each of the Top Funds.

19. The investments by the Top Funds in securities of the Underlying Funds represents the business judgement of "responsible persons" (as defined in the Legislation) uninfluenced by considerations other than the best interests of the Top Funds.

AND WHEREAS under the System, this MRRS Decision Document evidences the Decision of each Decision Maker;

AND WHEREAS each Decision Maker 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 pursuant to the Legislation is that the Applicable Requirements shall not apply so as to prevent the Top Funds from making or holding an investment in securities of the Underlying Funds, or so as to require CI to disclose such purchases to investors and, if applicable, obtain written consent, or to require CI to file a report relating to the purchase or sale of such securities;

PROVIDED THAT IN RESPECT OF the investments by the Top Funds in securities of the Underlying Funds:

1. the Decision, as it relates to the jurisdiction of the Decision Maker, will terminate one year after the publication in final form of any legislation or rule of that Decision Maker dealing with the matters in section 2.5 of NI 81-102.

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2. the Decision shall only apply if, at the time a Top Fund makes or holds an investment in its Underlying Funds, the following conditions are satisfied:

(a) the securities of both the Top Fund and the Underlying Funds are being offered for sale in the jurisdiction of each Decision Maker pursuant to a simplified prospectus and annual information form which has been filed with and accepted by the Decision Maker;

(b) the investment by the Top Fund in the Underlying Funds is compatible with the fundamental investment objective of the Top Fund;

(c) the simplified prospectus of the Top Fund discloses the intent of the Top Fund to invest directly and, if applicable, indirectly (through derivative exposure), in the Underlying Funds, the names of the Underlying Funds, the Fixed Percentages and the Permitted Ranges within which such Fixed Percentages may vary;

(d) the investment objective of the Top Fund discloses that the Top Fund invests directly and, if applicable, indirectly (through derivative exposure), in other mutual funds, and in the case of the RSP Top Fund, that the RSP Top Fund will maintain 100% eligibility for Registered Plans;

(e) the Underlying Funds are not mutual funds whose investment objective includes investing directly or indirectly in other mutual funds;

(f) each RSP Top Fund restricts its direct investment in the Underlying Funds which constitute foreign property in Registered Plans to a percentage of its assets that is within the Permitted Limit;

(g) the Top Fund's direct investment in, and, if applicable, derivative exposure to, the Underlying Funds does not deviate from the Permitted Ranges;

(h) any deviation from the Fixed Percentages is caused by market fluctuations only;

(i) if a direct or, if applicable, indirect, investment by the Top Fund in any of the Underlying Funds has deviated from the Permitted Ranges as a result of market fluctuations, the Top Fund's investment portfolio was re-balanced to comply with the Fixed Percentages on the next day on which the net asset value was calculated following the deviation;

(j) if the Fixed Percentages and the Underlying Funds which are disclosed in the simplified prospectus of the Top Fund have been changed, either the simplified prospectus has been amended or a new simplified prospectus filed to reflect the change, and the securityholders of the Top Fund have been given at least 60 days' notice of the change;

(k) there are compatible dates for the calculation of the net asset value of the Top Fund and the Underlying Funds for the purpose of the issue and redemption of securities of such mutual funds;

(l) no sales charges are payable by the Top Fund in relation to its purchase of securities of the Underlying Funds;

(m) no redemption fees or other charges are charged by an Underlying Fund in respect of the redemption by the Top Fund of securities of the Underlying Fund owned by the Top Fund;

(n) no fees or charges of any sort are paid by the Top Fund and the Underlying Funds, by their respective managers or principal distributors, or by any affiliate or associate of any of the foregoing entities, to anyone in respect of the Top Fund's purchase, holding or redemption of the securities of the Underlying Funds;

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(o) the arrangements between or in respect of the Top Fund and the Underlying Funds are such as to avoid the duplication of management fees;

(p) any notice provided to securityholders of an Underlying Fund as required by applicable laws or the constating documents of that Underlying Fund, has been delivered by the Top Fund to its securityholders;

(q) all of the disclosure and notice material prepared in connection with a meeting of securityholders of the Underlying Funds and received by the Top Fund has been provided to its securityholders, the securityholders have been permitted to direct a representative of the Top Fund to vote its holdings in the Underlying Fund in accordance with their direction, and the representative of the Top Fund has not voted its holdings in the Underlying Funds except to the extent the securityholders of the Top Fund have directed;

(r) in addition to receiving the annual and, upon request, the semi-annual financial statements, of the Top Fund, securityholders of the Top Fund have received appropriate summary disclosure in respect of the Top Fund's holdings of securities of the Underlying Funds in the financial statements of the Top Fund; and

(s) to the extent that the Top Fund and the Underlying Funds do not use a combined simplified prospectus and annual information form containing disclosure about the Top Fund and the Underlying Funds, copies of the simplified prospectus and annual information form of the Underlying Funds have been provided upon request to securityholders of the Top Fund and this right is disclosed in the simplified prospectus of the Top Fund.

DATED at Toronto this 29<sup>th</sup> day of November, 2001.

K.D. Adams

Lorne Morphy