

2003 BCSECCOM 703

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from certain disclosure statement and client consent requirements in National Instrument 81-105 for an employee’s equity interest in a corporation that is a member of a group of mutual funds

Applicable British Columbia Provisions

National Instrument 81-105 *Mutual Fund Sales Practices*, ss. 8.2(3), 8.2(4), 9.1

**IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH
COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,
NEW BRUNSWICK, NOVA SCOTIA, NEWFOUNDLAND AND
LABRADOR, PRINCE EDWARD ISLAND, THE YUKON TERRITORIES,
THE NORTHWEST TERRITORIES, AND NUNAVUT**

AND

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

AND

IN THE MATTER OF TWC FINANCIAL CORP.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authorities or regulators (the “Decision Makers”) in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, the Yukon Territories, the Northwest Territories, and Nunavut (the “Jurisdictions”) have received an application from TWC Financial Corp. (“TWC”) on its own behalf and on behalf of its current and future representatives from time to time (the “Representatives”) for a decision pursuant to section 9.1 of National Instrument 81-105 Mutual Fund Sales Practices (“NI 81-105”) that the point of sale disclosure and consent requirements contained in subsections 8.2(3) and 8.2(4) of NI 81-105 shall not apply in respect of the equity interest of an employee of TWC in ClaringtonFunds Inc. (“Clarington”).

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the Saskatchewan Financial Services Commission, is the principal regulator for this application;

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AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Quebec Commission Notice 14-101;

AND WHEREAS TWC has represented to the Decision Makers that:

1. TWC is registered as a mutual fund dealer (or the equivalent), in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Yukon and Northwest Territories and as a limited market dealer in Ontario and may in the future become registered in more or all of the remaining jurisdictions in Canada.
2. The spouse of an employee of TWC (the "Spouse") beneficially owns 0.01901% of the outstanding shares of Clarington (the "Clarington Equity Interest"). The employee (the "Employee") is engaged in the employment of TWC in the capacity of Manager, Business Development and is not an officer or director of TWC and does not otherwise have a position of authority or supervision over the Representatives. The Employee may, in the future, become a Representative in Alberta.
3. Clarington is a member of the organization (as that term is defined in NI 81-105) of the Clarington group of mutual funds (the "Clarington Funds"). The Clarington Funds are, and will continue to be, sold in all provinces and territories under one or more simplified prospectuses.
4. No registered representative of TWC holds shares of Clarington or has an equity interest (as defined in NI 81-105) of any other member of the organization of the Clarington Funds. The Spouse does not have an equity interest in any other member of the organization of the Clarington Funds.
5. Subsection 8.2(3) of NI 81-105 would require of the Representatives in all applicable jurisdictions of Canada to give those clients who wish to acquire units of the Clarington Funds a disclosure statement outlining the Employee's Clarington Equity Interest. Subsection 8.2(4) of NI 81-105 would require each of the Representatives to obtain a consent from any client wishing to acquire units of the Clarington Funds.

AND WHEREAS under the System this Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in NI 81-105 that provides the Decision Maker with the jurisdiction to make the Decision has been met;

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THE DECISION of the Decision Makers under section 9.1 of NI 81-105 is that TWC and the Representatives are exempted from compliance with subsections 8.2(3) and 8.2(4) of NI 81-105 with respect to the Clarington Equity Interest of the Employee provided that in respect of such Clarington Equity Interest:

1. TWC complies with the requirements of subsections 8.2(3) and 8.2(4) of NI 81-105 in connection with clients of TWC who deal directly with the Employee in connection with the purchase of securities of Clarington Funds;
2. The Employee complies with the requirements of subsections 8.2(3) and 8.2(4) of NI 81-105; and
3. In the event the Employee assumes a position of authority or supervision over the Representatives, the Representatives and TWC comply with subsections 8.2(3) and 8.2(4) of NI 81-105.

DATED October 1, 2003.

Dave Wild
Chairperson