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September 28, 2010

Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – 1996 Securities Act s. 48
Exempt Market Dealer – Exemption from s. 34(a) requirement to be registered as an exempt market dealer - A person not registered in BC as an exempt market dealer wants to continue to trade in the exempt market in BC pending exempt market dealer registration as an amalgamated entity - The person is currently registered as an adviser and subject to regulatory oversight; the person is a party to an amalgamation that will result in their business activities being transferred to the amalgamated entity; the relief is temporary as the amalgamated entity will file a registration application within an agreed time period.

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – 1996 Securities Act s. 48
Investment Fund Manager – Exemption from s. 34(c) requirement to be registered as an investment fund manager - A person who resides in BC wants to continue to act as an investment fund manager for BC residents pending investment fund manager registration as an amalgamated entity - The person is currently registered as an adviser and subject to regulatory oversight; the person is a party to an amalgamation that will result in their business activities being transferred to the amalgamated entity; the relief is temporary as the amalgamated entity will file a registration application within an agreed time period.

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – National Instrument 33-109 *Registration Information* s. 7.1 – Exemption from National Instrument 33-109 *Registration Information* s. 6.1 requirement to file a completed Form 33-109F6 on or before September 30, 2010 - A person who resides in BC wants to continue to act as an adviser in BC pending its amalgamation, without submitting a completed Form 33-109F6 on or before the effective date of the requirement - The person requires additional time to file Form 33-109F6 for legitimate commercial reasons; the person will file Form 33-109F6 within a reasonable time period following the amalgamation.

Applicable British Columbia Provisions

National Instrument 33-109 *Registration Information* s. 6.1 and 7.1
Form 33-109F6 *Firm registration*
Securities Act, R.S.B.C. 1996, c. 418, ss. 34 and 48

In the Matter of
The Securities Legislation of British Columbia

and

In the Matter of
The Process for Exemptive Relief

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Applications in Multiple Jurisdictions

and

In the Matter of
RBC Asset Management Inc. (**RBC AM**) and
Phillips, Hager & North Investment Management Ltd. (**PH&N**)
(Collectively, the **Filers**)

Decision

Background

¶ 1 The principal regulator in British Columbia has received an application from the Filers in connection with a proposed amalgamation (the **Amalgamation**) between PH&N and RBC AM to form a new corporate entity, RBC Global Asset Management Inc. (**Amalco**) which is expected to be effective on or about November 1, 2010, for a decision under the securities legislation of the principal regulator (the **Legislation**) for an exemption (the **Passport Exemption**) from:

- (i) the requirement contained in section 34(a) of the Legislation to obtain firm registration in the category of exempt market dealer (**EMD**) and the requirement to obtain registration of certain dealing representatives in connection with that EMD registration (collectively, the **EMD Registration Requirement**), to:
 - (A) permit the Filers and their dealing representatives to continue trading in the exempt market without having obtained the necessary EMD registrations or having filed the necessary registration applications; and
 - (B) permit Amalco and its dealing representatives to continue trading in the exempt market without the required EMD registration for a limited period of time following the completion of the Amalgamation.

The regulator in British Columbia has received an application from PH&N for a decision under the Legislation for an exemption (the **Local Relief**) from:

- (i) the requirement contained in section 34(c) of the Legislation that would require PH&N to obtain registration in the category of investment fund manager (**IFM**), which applies to PH&N effective September 29, 2010 by operation of section 16.4(1)(a) of National

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Instrument 31-103 *Registration Requirements and Exemptions* (**NI 31-103**), to permit PH&N to continue acting as an IFM without having obtained the necessary registration or having filed the necessary registration application (the **IFM Registration Requirement**); and

- (ii) the requirement contained in section 6.1 of NI 33-109 *Registration Information* (**NI 33-109**) that would require PH&N to submit a completed Form 33-109F6 to the British Columbia Securities Commission on or before September 30, 2010 (the **Form Requirement Relief**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

- (a) the British Columbia Securities Commission is the principal regulator for this application, and
- (b) the Filers have provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon by PH&N in all the other provinces and territories of Canada other than Ontario (together with British Columbia, the **PH&N Jurisdictions**) in respect of the exemption from the EMD Registration Requirement, and by RBC AM and Amalco in all the other provinces and territories of Canada other than Ontario and Newfoundland and Labrador (together with British Columbia, the **RBC Jurisdictions**) in respect of the exemption from the EMD Registration Requirement.

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 decision is based on the following facts represented by the Filers:
1. RBC AM is a company organized under the laws of Canada, with a head office in Ontario.
 2. RBC AM is currently registered as an adviser in the category of portfolio manager under securities legislation in all the provinces and territories of Canada, and in addition, is registered under securities legislation in Ontario and Newfoundland and Labrador as a dealer in the category of EMD. RBC

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AM is also registered as a commodity trading manager under the *Commodity Futures Act* (Ontario).

3. PH&N is an affiliate of RBC AM.
4. PH&N is a company organized under the laws of British Columbia, with a head office in British Columbia.
5. PH&N is currently registered as an adviser in the category of portfolio manager under securities legislation in all the provinces and territories of Canada, and in addition, is registered under securities legislation in Ontario as a dealer in the category of mutual fund dealer (collectively, the **PH&N Registrations**).
6. The Filers are not in default of the securities legislation in any jurisdiction.
7. Each of the Filers act as the manager and portfolio adviser of certain proprietary mutual funds and pooled funds established under the laws of Canada, and each of the Filers direct the business, operations and affairs of those funds from their respective head offices located in Canada.
8. Each of the Filers, and their respective dealing representatives, are in the business of trading in securities of those proprietary mutual funds and pooled funds in reliance on exemptions from the prospectus requirements under Canadian securities laws, pursuant to EMD registration or mutual fund dealer registration, respectively, where such registration is currently required.
9. By operation of section 16.7(3)(a) of NI 31-103, each of RBC AM and PH&N are required to apply for dealer registration in the category of EMD pursuant to section 34(a) of the Legislation (and the comparable provisions of the securities legislation in the RBC Jurisdictions and PH&N Jurisdictions, respectively) on or before September 28, 2010.
10. By operation of section 16.7(4)(a) of NI 31-103, each of RBC AM's and PH&N's dealing representatives are required to apply for registration as dealing representatives of an EMD pursuant to section 34(a) of the Legislation (and the comparable provisions of the securities legislation in the RBC Jurisdictions and PH&N Jurisdictions, respectively) on or before September 28, 2010.
11. By operation of section 16.4(1) and (2) of NI 31-103, PH&N is required to apply for IFM registration pursuant to section 34(c) of the Legislation on or before September 28, 2010.

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12. By operation of section 6.1 of NI 33-109, PH&N is required to submit a completed Form 33-109F6 to the British Columbia Securities Commission on or before September 30, 2010 in connection with the PH&N Registrations.
13. The Filers intend to amalgamate effective on or about November 1, 2010 to form a new corporate entity, Amalco. Following the Amalgamation, the Filers will no longer exist as separate legal entities. The head office of Amalco will be in Toronto, Ontario.
14. As of the effective date of the Amalgamation, each of the respective businesses of the Filers will merge and continue as Amalco, and all of the business activities of the Filers will become the responsibility of Amalco.
15. It is proposed that, immediately upon the completion of the Amalgamation, Amalco will continue to be registered in the same categories of registration as RBC AM is currently registered, that is, as an adviser in the category of portfolio manager under securities legislation in all the provinces and territories of Canada, and in addition, as a dealer in the category of EMD under securities legislation in Ontario and Newfoundland and Labrador.
16. In addition, pursuant to section 34(a) of the Legislation (and comparable provisions of the securities legislation in the RBC Jurisdictions) Amalco will be required to be registered as an EMD in the RBC Jurisdictions as of the effective date of the Amalgamation.
17. Upon completion of the Amalgamation, the clients of the Filers will continue as clients of Amalco. Subject to the receipt of the Local Relief and Passport Exemption, it is anticipated that there will be no disruption in the ability of Amalco to conduct the respective businesses of the Filers, and that Amalco will be able to advise and trade (as applicable) for or on behalf of clients immediately upon completion of the Amalgamation. Upon completion of the Amalgamation, Amalco will carry on the businesses transferred to it in substantially the same manner with substantially the same personnel as previously conducted by the Filers.
18. In the absence of the Local Relief, PH&N would be required to:
 - (a) submit a completed Form 33-109F6 to the British Columbia Securities Commission on or before September 30, 2010; and

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- (b) apply for registration as an IFM for the brief period between September 29, 2010 and November 1, 2010, which is the intended effective date of the Amalgamation.

In light of the upcoming Amalgamation, the costs associated with preparing and reviewing such materials on the part of the Filers and the British Columbia Securities Commission outweigh any benefits associated with requiring such materials to be filed.

19. In the absence of the Passport Exemption, the Filers would be required to apply for registration as an EMD for the brief period between September 29, 2010 and November 1, 2010, which is the intended effective date of the Amalgamation.
20. Similarly, in the absence of the Passport Exemption, Amalco would be required to be registered as an EMD in the RBC Jurisdictions immediately upon the effective date of the Amalgamation, where it may be difficult for Amalco to deliver all of the required registration materials and finalize its EMD or other dealer registration in such a timeframe given the Amalgamation.

Decision

- ¶ 4 The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Passport Exemption is granted in respect of the Filers and Amalco provided that the Passport Exemption expires 30 days following the effective date of the Amalgamation.

The decision of the principal regulator under the Legislation is that the Local Relief is granted in respect of PH&N.

Sandra Jakab
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British Columbia Securities Commission