

2003 BCSECCOM 381

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief from requirement to send trade confirmations to clients of a portfolio management program where client has given applicant full discretionary authority

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 36(3) and 48

Securities Rules, B.C. Reg. 194/97, s. 80(1)

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

AND

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

AND

IN THE MATTER OF RBC DOMINION SECURITIES INC. AND RBC INVESTMENTS PRIVATE INVESTMENT MANAGEMENT PROGRAM

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”), in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Newfoundland and Labrador, the Yukon Territory, Northwest Territories and Nunavut (collectively, the “Jurisdictions”) has received an application (the “Application”) from RBC Dominion Securities Inc. (“RDC DS”) for a decision under the securities legislation (the “Legislation”) of each Jurisdiction that the provisions (the “Trade Confirmation Requirement”) contained in the Legislation that require a registered dealer, who has acted as principal or agent in connection with a trade in a security, to promptly send or deliver to the customer a written confirmation (a “Trade Confirmation”) of the transaction, setting forth certain information specified in the Legislation, shall not apply to RBC DS in respect of trades (a “Managed Account Trade”) where the customer (a “Customer”) has a Managed Account (as defined below) with RBC DS under a portfolio management program (the “Program”) operated by RBC DS and known as the “RBC Investments Private Investment Management Program” and the trade is made for the Managed Account;

2003 BCSECCOM 381

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS RBC DS has represented to the Decision Makers that:

1. RBC DS is a corporation incorporated under the laws of Canada and has its head office in Toronto, Ontario.
2. RBC DS is registered under the legislation of each Jurisdiction as a dealer in the category of “investment dealer” (or the equivalent), and is authorized to act as an adviser, pursuant to an exemption from the “adviser registration requirement” (as defined in National Instrument 14-101 – Definitions) that is made available under the Legislation of each Jurisdiction to dealers who are members of the Investment Dealers Association of Canada (the “IDA”).
3. RBC DS provides both discretionary managed and non-discretionary advisory services to individuals, corporations and other entities seeking wealth management or related services.
4. RBC DS intends to offer the Program through its network of branches across Canada. Under the Program, RBC DS will act as portfolio manager for Customers who desire certain discretionary managed services (“Managed Services”) from RBC DS through an investment portfolio account (“a Managed Account”) under which RBC DS, pursuant to a written agreement (“Customer Agreement”) made between RBC DS and the Customer, makes investment decisions for the account and has full discretionary authority to trade in securities for the account without obtaining the specific consent of the Customer to the trade.
5. The Program is subject to Investment Dealers Association Regulation 1300 “Supervision of Accounts” and, in each Jurisdiction, all adviser activities in respect of the Managed Account will be provided by employees of RBC DS who meet the proficiency requirements of a portfolio manager or associate portfolio manager under the Legislation of the Jurisdiction.
6. For each Customer, the Managed Services will be described in the Customer Agreement and will include the following services (the “Wrap Services”) for which the Customer will pay to RBC DS a fixed percentage “wrap” fee (the “Wrap Fee”): investment research, portfolio selection and management with respect to all securities or other assets in the Managed Account, custody, reporting, and, except as described in paragraph 7, below, trade execution.

2003 BCSECCOM 381

The Wrap Fee will be calculated on the basis of assets under administration in the Managed Account and will not depend upon the number of transactions effected on behalf the Managed Account (i.e., except as described in paragraph 7, below, no trading commission will be charged to the Managed Account). The Customer may, in addition to being charged the Wrap Fee for Wrap Services also be charged by RBC DS for other Managed Services of a minor nature, such as: wire transfer requests, account transfers, withdrawals, de-registration and other administrative services.

7. Under the Program, a Customer may be charged commissions for the sale of securities that the Customer transferred into the Managed Account at the time the Customer entered the Program, where the securities are subsequently sold in circumstances where an arm's-length third-party broker is required to settle the trade because the principal market for the securities is outside of North America and such arm's length third party broker charges a fee to RBC DS. In these cases, the fee will be passed on to the Customer on a cost-recovery basis only and the Customer will receive a Trade Confirmation.
8. Under the Program, RBC DS will send to the Customer of each Managed Account:
 - (a) not less than once every three months, a performance report for the Managed Account; and
 - (b) not less than once a month, a statement of account (a "Statement of Account") for the Managed Account which identifies the assets of the Customer being managed on behalf of the Customer through the Managed Account, and includes, for each Managed Account Trade made during the period, the information which RBC DS would otherwise have been required to include in a written confirmation of the Managed Account Trade that was sent or delivered in accordance with the Trade Confirmation Requirement, except for the following information (which will be maintained by RBC DS in its books and records and made available to the Customer upon request):
 - (i) where RBC DS acted as agent, the name of the person or company from, to or through whom the security was bought or sold;
 - (ii) the date name of the stock exchange, if any, upon which the transaction took place; and
 - (iii) the name of the salesperson, if any, in the transaction.

2003 BCSECCOM 381

9. Customers paying a fixed percentage fee for a discretionary managed service, such as the RBC Investments Private Investment Management Program, have advised RBC DS that they would prefer not to receive Trade Confirmations for Managed Account Trades.
10. There will be no impact on fees or expenses to be paid by a Customer resulting from the Customer instructing RBC DS that the Customer does not wish to receive Trade Confirmations for Managed Account Trades.

AND WHEREAS pursuant to the System, this MRRS 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 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 RBC DS shall not be subject to the Trade Confirmation Requirement for any Managed Account Trade, other than a Managed Account Trade referred to in paragraph 7, above, provided that:

- (A) the Customer has previously informed RBC DS that the Customer does not wish to receive Trade Confirmations for Managed Account Trades; and
- (B) in the case of each such Managed Account Trade, RBC DS sends to the Customer the corresponding Statement of Account, that includes the information for the Managed Account Trade, referred to in paragraph 8(b), above.

May 14, 2003

Paul M. Moore

Harold P. Hands