

2003 BCSECCOM 524

Headnote

Securities Act s. 48 Adviser - Exemption from s.34(1)(c) requirement to be registered as an adviser and the obligations of advisers in Part 5 of the Act and rules - A person who resides outside BC wants to advise BC residents. - The person is hired under a written agreement with a BC registered dealer or adviser to provide advice to the BC registrant and its BC clients; the person is registered or qualified to provide the advice in the jurisdiction in which they reside; under a written agreement with its BC clients or the person, the BC registrant accepts responsibility for all losses resulting from inappropriate advice provided by the person.

Exemption Order

Asset Logics Capital Management Inc. and StrategicNova Managed Futures Hedge Fund

Section 48 of the *Securities Act*, R.S.B.C. 1996, c. 418

Background

- ¶ 1 Asset Logics applied for an exemption from the requirement in section 34(1)(c) of the Act to be registered as an adviser (the registration requirement) to permit certain non-resident commodity trading advisers (CTAs) to provide advice in respect of investing in, purchasing or selling securities and exchange contracts to the StrategicNova Managed Futures Hedge Fund (the Fund).

Representations

- ¶ 2 Asset Logics represents that:
1. the Fund is a mutual fund trust established under the laws of British Columbia;
 2. the Fund has filed a prospectus, dated July 19, 2002 and on or after the lapse date of that prospectus will be filing a new prospectus (the Filing Date) to qualify the sale of units of the Fund;
 3. the investment objectives, strategy and restrictions of the Fund are and will be described in its current prospectus;
 4. Matisse Investment Management Ltd. is the manager and portfolio manager of the Fund;
 5. effective on or about the Filing Date:

2003 BCSECCOM 524

- (a) Asset Logics will replace Matisse as the Fund's portfolio manager;
 - (b) Asset Logics will engage CTAs to manage portions of the Fund's capital and allocate the Fund's capital among the CTAs;
 - (c) Asset Logics will only retain CTAs that are registered with, or a member of, the U.S. Commodity Futures Trading Commission and the National Futures Association, or similar regulatory bodies;
 - (d) each CTA engaged by Asset Logics will be responsible for making and executing investment decisions for that portion of the Fund's investment portfolio allocated to it; and
 - (e) Asset Logics will monitor the performance of the CTAs retained to provide advice to the Fund on a daily basis and allocate and reallocate the Fund's capital among the CTAs based on their performance;
6. Asset Logics is registered as a portfolio manager under the Act and permitted to advise in respect of securities and exchange contracts; and
7. the CTAs may not be registered as advisers under the Act.

Order

¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 48 of the Act that the CTAs retained to provide advice for the benefit of the Fund are exempt from the registration requirement in respect of the advice provided for the benefit of the Fund by them provided that:

- 1. the obligations and duties of each CTA retained to provide advice for the benefit of the Fund are set out in a written agreement with Asset Logics;
 - 2. Asset Logics contractually agrees with the Fund to be responsible for any loss to the Fund that arises out of the failure of a CTA:
 - (a) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Fund, or
 - (b) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances,
- and this responsibility cannot be waived; and

2003 BCSECCOM 524

3. the current prospectus of the Fund discloses Asset Logics' responsibility for the advice of a CTA retained by Asset Logics to provide advice for the benefit of the Fund and, to the extent applicable, that there may be difficulty enforcing any legal rights against the CTA and all or a substantial portion of the CTA's assets are situated outside Canada.

¶ 4 July 25, 2003

Noreen Bent
Manager