

2002 BCSECCOM 719

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from the requirement that a mutual fund manager file reports on each purchase and sale effected through a related person, subject to conditions

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 126(c), 130(b)

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 BMO INVESTMENTS INC., GUARDIAN GROUP OF FUNDS LTD., BMO HARRIS INVESTMENT MANAGEMENT INC. BMO NESBITT BURNS INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of the provinces of British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application (the "Application") from BMO Investments Inc., Guardian Group of Funds Ltd., BMO Harris Investment Management Inc., and BMO Nesbitt Burns Inc. (the "BMO Group of Companies") for a decision (the "Decision") pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the provisions of the Legislation requiring a management company, or in British Columbia a mutual fund manager, to file a report, within thirty days after each month end and in respect of each mutual fund to which it provides services, relating to every purchase or sale effected by such mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or both (the "Reporting Requirement") not apply to purchases and sales effected by the Funds (as defined below) through BMO Nesbitt Burns Inc. ("BMONB") or BMO InvestorLine Inc." ("BMOILI") and each Other Dealer (as defined below);

2002 BCSECCOM 719

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 it has been represented by each of the BMO Group of Companies to the Decision Makers that:

1. Each of the BMO Group of Companies is a corporation established under the laws of Canada with its head office in Toronto, Ontario. Members of the BMO Group of Companies act as managers of a group of mutual funds that currently consists of the funds set out in Appendix "A" hereto (such funds, together with such other funds managed by a member of the BMO Group of Companies from time to time, being herein referred to as the "Funds").
2. The Funds are open-ended investment trusts or mutual fund corporations established under the laws of the Province of Ontario or the laws of Canada. Other than as set out in Appendix "A", each Fund is a reporting issuer in each of the provinces and territories of Canada where units (the "Units") of the Fund are sold pursuant to a prospectus accepted by the decision maker in such jurisdictions.
3. Each of the BMO Group of Companies, including BMONB and BMOILI, is a direct or indirect subsidiary of Bank of Montreal. BMONB and BMOILI are related companies to the Funds under the Legislation;
4. BMONB is a federal corporation and is registered as a broker and investment dealer (equities, options, managed accounts and futures). BMOILI is a federal corporation and is registered as an investment dealer (equities and options).
5. As disclosed in the annual information forms of the Funds, portfolio transactions of the Funds may be executed by BMONB or by BMOILI, provided such transactions are made on terms and conditions comparable to those offered by unrelated brokers and dealers. The BMO Group of Companies may enter into similar arrangements with other related registered investment dealers (upon entering into such arrangement with a member of the BMO Group of Companies, such dealer is referred to as an "Other Dealer").
6. The individual portfolio advisors of each of the Funds have discretion to allocate brokerage business in any manner that they believe to be in a Fund's best interests. The purchase or sale of securities effected through BMONB, BMOILI or an Other Dealer (each a "Related Company") represents the business judgement of responsible persons uninfluenced by considerations other than the best interests of the Funds. In allocating brokerage,

2002 BCSECCOM 719

consideration is given to commission rates and to research, execution and other services offered.

7. Each of the BMO Group of Companies have disclosed and will continue to disclose in the Funds' annual financial statements the amount of brokerage commissions paid by each Fund on trades with Related Companies.
8. In the absence of this Decision, the Legislation requires each of the BMO Group of Companies to file a report on a monthly basis in respect of every purchase or sale of securities effected through a Related Company stating the issuer of the securities purchased or sold, the class or designation of the securities, the amount or number of securities, the consideration, the name of the related company receiving the fee, the name of the person that paid the fee to the related company and the amount of the fee received by the related company.
9. Through inadvertence, the BMO Group of Companies have not filed the reports required by the Legislation regarding the portfolio transactions executed through Related Companies.
10. It would be costly and time consuming for the BMO Group of Companies to provide the information required by the Legislation on a monthly and segregated basis.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker;

AND UPON each of the Decision Makers being 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 effective as of the date of this Decision, the Reporting Requirement shall not apply so as to require the BMO Group of Companies to file a report on a monthly basis in respect of every purchase and sale of securities by a Fund which is effected through a Related Company and with respect to which a Related Company received a fee either from the Fund or from the other party to the transaction or both,

PROVIDED THAT the Decision shall only apply if the statement of portfolio transactions prepared and filed for each Fund in accordance with the Legislation discloses, in respect of every class or designation of securities of an issuer bought or sold during the period to which the statement of portfolio transactions relates:

2002 BCSECCOM 719

- (a) the name of each Related Company;
- (b) the amount of fees paid to each Related Company; and
- (c) the person or company that paid the fees.

DATED August 6, 2002.

Howard I. Wetston

Robert W. Korthals

2002 BCSECCOM 719

APPENDIX "A" FUNDS

BMO HARRIS INVESTMENT MANAGEMENT INC. (BMO HARRIS PRIVATE PORTFOLIOS)

BMO Harris Canadian Money Market Portfolio*
BMO Harris Canadian Bond Income Portfolio*
BMO Harris Canadian Total Return Bond Portfolio*
BMO Harris Canadian Corporate Bond Portfolio*
BMO Harris Canadian Dividend Income Portfolio*
BMO Harris Canadian Income Equity Portfolio*
BMO Harris Canadian Conservative Equity Portfolio*
BMO Harris Canadian Growth Equity Portfolio*
BMO Harris Canadian Special Growth Portfolio*
BMO Harris U.S. Equity Portfolio*
BMO Harris U.S. Growth Portfolio*
BMO Harris International Equity Portfolio*

BMO INVESTMENTS INC. (BMO MUTUAL FUNDS)

BMO Security Funds

BMO T-Bill Fund
BMO Money Market Fund
BMO AIR MILES^{®†} Money Market Fund
BMO Premium Money Market Fund

BMO Income Funds

BMO Mortgage Fund
BMO Bond Fund
BMO Monthly Income Fund
BMO Global Bond Fund
BMO International Bond Fund

BMO Growth Funds

BMO Asset Allocation Fund
BMO RSP Global Balanced Fund
BMO Dividend Fund
BMO Equity Index Fund
BMO Equity Fund
BMO RSP U.S. Equity Index Fund
BMO U.S. Growth Fund
BMO U.S. Value Fund

2002 BCSECCOM 719

BMO RSP International Index Fund
BMO International Equity Fund
BMO NAFTA Advantage Fund
BMO European Fund
BMO RSP European Fund
BMO Japanese Fund
BMO RSP Japanese Fund
BMO Aggressive Growth Funds
BMO Special Equity Fund
BMO U.S. Special Equity Fund
BMO RSP Global Opportunities Fund
BMO RSP Global Financial Services Fund
BMO Resource Fund
BMO Precious Metals Fund
BMO RSP Nasdaq® Index Fund
BMO Global Science & Technology Fund
BMO RSP Global Science & Technology Fund
BMO RSP Global Health Sciences Fund
BMO RSP Global Technology Fund
BMO Emerging Markets Fund
BMO Far East Fund
BMO Latin American Fund
BMO U.S. Dollar funds
BMO U.S. Dollar Money Market Fund
BMO U.S. Dollar Bond Fund
BMO U.S. Dollar Equity Index Fund
BMO Global Tax Advantage Funds
BMO Short-Term Income Class
BMO Global Balanced Class
BMO Global Opportunities Class
BMO Global Financial Services Class
BMO Global Health Sciences Class
BMO Global Technology Class

GUARDIAN GROUP OF FUNDS LIMITED (GGOF GROUP OF FUNDS)

GGOF Alexandria Canadian Balanced Fund
GGOF Alexandria RSP International Balanced Fund
GGOF Alexandria Canadian Growth Fund
GGOF Alexandria American Growth Fund
GGOF Alexandria Global Growth Fund
GGOF Alexandria RSP Global Growth Fund

2002 BCSECCOM 719

GGOF Alexandria Global Small Cap Fund
GGOF Alexandria European Growth Fund
GGOF Alexandria Global Technology Fund
GGOF Alexandria RSP Global Technology Fund
GGOF Alexandria Global Biotechnology Fund
GGOF Centurion Canadian Balanced Fund
GGOF Centurion Canadian Value Fund
GGOF Centurion American Value Fund Ltd.
GGOF Centurion RSP American Value Fund
GGOF Centurion American Large Cap Fund
GGOF Centurion Global Value Fund
GGOF Centurion Japanese Value Fund
GGOF Centurion Emerging Markets Fund
GGOF Centurion Global Communications Fund
GGOF Guardian Canadian Money Market Fund
GGOF Guardian RSP U.S. Money Market Fund
GGOF Guardian Canadian Bond Fund
GGOF Guardian Canadian High Yield Bond Fund
GGOF Guardian Monthly Dividend Fund Ltd.
GGOF Guardian Monthly High Income Fund
GGOF Guardian RSP Foreign Income Fund
GGOF Guardian RSP International Income Fund
GGOF Guardian Canadian Equity Fund
GGOF Guardian Canadian Large Cap Fund
GGOF Guardian Enterprise Fund
GGOF Guardian Dividend Growth Fund
GGOF Guardian Global Equity Fund
GGOF Guardian International Equity Fund

Jones Heward Funds

Jones Heward Fund Ltd.
Jones Heward American Fund*
Jones Heward RSP American Fund*

BMO NESBITT BURNS INC. (BMO NESBITT GROUP OF FUNDS)

BMO Nesbitt Burns Canadian Stock Selection Fund
BMO Nesbitt Burns U.S. Stock Selection Fund
BMO Nesbitt Burns Bond Fund
BMO Nesbitt Burns RRSP Stock Selection Fund

* reporting issuers in each of the provinces only and not the territories