

2003 BCSECCOM 197

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief granted from certain mutual fund self-dealing restrictions and reporting requirements to permit top funds to invest in securities of certain underlying funds, subject to certain conditions

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 121(2)(b), 123, 126(a) and (d) and 130

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA AND ONTARIO

AND

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

AND

IN THE MATTER OF LOGIX ASSET MANAGEMENT INC.

AND

**LOGIX CANADIAN EQUITY FUND
LOGIX U.S. EQUITY FUND
LOGIX U.S. EQUITY RSP FUND
LOGIX GLOBAL BOND FUND
LOGIX INTERNATIONAL EQUITY FUND**

and

**LOGIX SHORT TERM INVESTMENT FUND (the “Short Term Fund”)
(collectively, the “New Top Funds”)**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (collectively, the “Decision Makers”) in each of the provinces of British Columbia, Alberta and Ontario (collectively, the “Jurisdictions”) has received an application from Logix Asset Management Inc. (“Logix” or the “Manager”) in its own capacity and on behalf of the New Top Funds and other mutual funds established and managed by Logix after the date of this Decision (as defined herein) that have as their

2003 BCSECCOM 197

investment objective the investment of substantially all of their assets in securities of one or more mutual funds (the “Future Top Funds”, which together with the New Top Funds are collectively referred to as the “Top Funds”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the following provisions of the Legislation (the “Applicable Requirements”) shall not apply to a Top Fund or Logix, as the case may be, in respect of certain investments to be made from time to time by a Top Fund in securities of selected prospectus-qualified mutual funds (the “Underlying Funds”, as described in paragraph 4 below):

- (a) the restrictions contained in the Legislation prohibiting a mutual fund from knowingly making or holding an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder; and
- (b) the requirements contained in the Legislation requiring a management company or, in British Columbia, a mutual fund manager, to file a report relating to a purchase or sale of securities between the mutual fund and any related person or company, or any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies.

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

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

AND WHEREAS Logix has represented to the Decision Makers that:

1. Logix is a corporation incorporated under the laws of Ontario and is or will be the manager and trustee of the Top Funds. The head office of Logix is located in Toronto, Ontario.
2. The Top Funds are or will be open-ended mutual fund trusts established under the laws of the Province of Ontario.
3. The securities of each of the Top Funds and Underlying Funds (as described in paragraph 4 below) are or will be qualified for distribution in all the Jurisdictions pursuant to simplified prospectuses and annual information forms filed with and accepted by the Decision Makers, and accordingly are or will be

2003 BCSECCOM 197

reporting issuers in the Jurisdictions. The Top Funds will not be in default of any of the requirements of the Legislation.

4. Each Top Fund will invest substantially all of its assets, other than cash or cash equivalents, in securities of one or more Underlying Funds. The Short Term Fund will invest substantially all of its assets in securities of a single Underlying Fund (the “Specified Underlying Fund”). The Underlying Funds will represent a selection of mutual funds managed by prominent Canadian mutual fund managers (the “Third Party Fund Managers”), not affiliated with the Manager, who are considered to excel in particular investment niches. Third Party Fund Managers are chosen on the basis of their investment style, their choice of portfolio sub-advisers, the performance of their portfolios and their risk control, among other factors.
5. The Underlying Fund or Funds in which a Top Fund invests will be mutual funds whose investment objectives are compatible with those of the Top Fund.
6. The Underlying Funds will not invest in any other mutual funds (other than index participation units) whose investment objectives include investing directly or indirectly in other mutual funds.
7. In order to achieve its fundamental investment objective, each Top Fund (other than the Short Term Fund) will invest fixed percentages (collectively, “Fixed Percentages”, individually, a “Fixed Percentage”) of its assets, excluding cash and cash equivalents, directly in securities of the Underlying Funds, subject to a variation of 2.5% above or below the Fixed Percentages (the “Permitted Ranges”) resulting from market fluctuations and, in respect of certain Top Funds, subject to compliance with restrictions in the *Income Tax Act* (Canada) (the “Tax Act”) relating to holdings of foreign property.
8. The simplified prospectus of each Top Fund (other than the Short Term Fund) will disclose the investment objectives and risks of the Top Fund and the Underlying Funds, the names of the Underlying Funds, the manager of the Underlying Funds, the Fixed Percentages and the Permitted Ranges within which the Fixed Percentages may vary.
9. The simplified prospectus of the Short Term Fund will disclose the manager of the Specified Underlying Fund, the name of the Specified Underlying Fund, that the Short Term Fund will invest substantially all of its assets in securities of the Specified Underlying Fund, and will include the investment objectives, investment strategies, risks and restrictions and top ten holdings of the Specified Underlying Fund.

2003 BCSECCOM 197

10. If a Fixed Percentage or an Underlying Fund (other than the Specified Underlying Fund) that is disclosed in the simplified prospectus has been changed, the Manager will provide 60 days' prior written notice to security holders of the Top Fund and the simplified prospectus will be amended or a new simplified prospectus will be filed with the Decision Makers in the Jurisdictions to reflect the change.
11. The Specified Underlying Fund in which the Short Term Fund invests will not be changed unless the prior approval of security holders has been obtained. A new prospectus or an amended prospectus will be filed with the Decision Makers forthwith disclosing the change of the Specified Underlying Fund.
12. The investments by a Top Fund in securities of the Underlying Fund or Underlying Funds represent the business judgement of "responsible persons" (as defined in the Legislation) uninfluenced by considerations other than the best interests of the Top Fund.
13. Except to the extent evidenced by this Decision and specific approvals granted by the Decision Makers pursuant to National Instrument 81-102-*Mutual Funds* ("NI 81-102"), the investments by a Top Fund in the Underlying Fund or Underlying Funds have been structured to comply with the investment restrictions of the Legislation and NI 81-102.
14. In the absence of this Decision, pursuant to the Legislation, each Top Fund is prohibited from knowingly making or holding an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder. As a result, in the absence of this Decision each Top Fund would be required to divest itself of any such investments.
15. In the absence of the Decision, the Legislation requires Logix to file a report on every purchase or sale of securities of an Underlying Fund by a Top Fund.

AND WHEREAS under 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 under the Legislation is that the Applicable Requirements shall not apply so as to prevent the Top Funds from

2003 BCSECCOM 197

making and holding an investment in securities of the Underlying Funds or to require Logix to file a report relating to the purchase or sale of such securities;

PROVIDED IN EACH CASE THAT:

1. the Decision, as it relates to the jurisdiction of a Decision Maker, will terminate one year after the publication in final form of any legislation or rule of that Decision Maker dealing with matters in section 2.5 of NI 81-102.
2. the Decision shall only apply if, at the time a Top Fund makes or holds an investment in its Underlying Fund or Underlying Funds, the following conditions are satisfied:
 - (a) the securities of both the Top Fund and the Underlying Fund or Underlying Funds are being offered for sale in the jurisdiction of the Decision Maker pursuant to a simplified prospectus and annual information form which have been filed with and accepted by the Decision Maker;
 - (b) the investment by the Top Fund in the Underlying Fund or Underlying Funds is compatible with the fundamental investment objectives of the Top Fund;
 - (c) the simplified prospectus discloses the intent of the Top Fund (other than the Short Term Fund) to invest in securities of the Underlying Funds, the names of the Underlying Funds, the Fixed Percentages and the Permitted Ranges within which such Fixed Percentages may vary;
 - (d) the simplified prospectus of the Short Term Fund discloses the name of the Specified Underlying Fund and the name of its portfolio adviser, the investment objectives, investment strategies, and top ten holdings of the Specified Underlying Fund, and the risks associated with investing in the Specified Underlying Fund;
 - (e) the investment objective of the Top Fund (other than the Short Term Fund) discloses that the Top Fund invests in securities of other mutual funds;
 - (f) the investment objective of the Short Term Fund discloses that the Short Term Fund invests in securities of a mutual fund and the name of the Specified Underlying Fund;
 - (g) the Underlying Funds are not mutual funds whose investment objectives include investing directly or indirectly in other mutual funds;

2003 BCSECCOM 197

- (h) the Top Fund (other than the Short Term Fund) invests substantially all of its assets, exclusive of cash and cash equivalents, in securities of the Underlying Funds in accordance with the Fixed Percentages disclosed in the simplified prospectus;
- (i) the Top Fund's holdings of securities in the Underlying Funds does not deviate from the Permitted Ranges;
- (j) subject to condition (I), any deviation from the Fixed Percentages is caused by market fluctuations only;
- (k) subject to condition (I), if an investment by the Top Fund in any of the Underlying Funds has deviated from the Permitted Ranges as a result of market fluctuations, the Top Fund's investment portfolio was re-balanced to comply with the Fixed Percentages on the next day on which net asset value was calculated following the deviation;
- (l) if, due to the foreign property investment limitations under the Tax Act, the Top Fund was precluded from purchasing additional securities or re-instating the Fixed Percentages in order to comply with condition (k), or the Top Fund was re-balanced in order to comply with those foreign property investment limitations and such re-balancing required the Top Fund to temporarily deviate beyond the Permitted Ranges, the Top Fund complied with condition (k) as soon as it was possible to do so in compliance with those foreign property investment limitations;
- (m) if the Fixed Percentages or the Underlying Funds which are disclosed in the simplified prospectus of the Top Fund (other than the Short Term Fund) have been changed, either the simplified prospectus has been amended or a new simplified prospectus has been filed to reflect the change and the security holders of the Top Fund (other than the Short Term Fund) have been given at least 60 days' notice of the change;
- (n) if the Specified Underlying Fund disclosed in the simplified prospectus of the Short Term Fund has been changed, security holders of the Short Term Fund have given prior approval and the simplified prospectus has been amended or a new simplified prospectus filed to reflect the change;
- (o) there are compatible dates for the calculation of the net asset value of a Top Fund and the Underlying Fund or Underlying Funds for the purpose of the issue and redemption of the securities of such mutual funds;

2003 BCSECCOM 197

- (p) no sales charges are payable by the Top Fund in relation to its purchases of securities of the Underlying Fund or Underlying Funds;
- (q) no redemption fees or other charges are charged by an Underlying Fund in respect of the redemption by the Top Fund of securities of the Underlying Fund owned by the Top Fund;
- (r) no fees or charges of any sort are paid by the Top Fund and the Underlying Funds, by their respective managers or principal distributors, or by any affiliate or associate of any of the foregoing entities, to anyone in respect of the Top Fund's purchase, holding or redemption of the securities of the Underlying Funds;
- (s) the arrangements between or in respect of the Top Fund and the Underlying Funds are such as to avoid the duplication of management fees;
- (t) any notice provided to security holders of an Underlying Fund as required by applicable laws or the constating documents of that Underlying Fund has been delivered by the Top Fund to its security holders;
- (u) all of the disclosure and notice material prepared in connection with a meeting of security holders of the Underlying Fund (other than regular business conducted at an annual meeting of an Underlying Fund that is a mutual fund corporation) and received by the Top Fund has been provided to its security holders, the security holders have been permitted to direct a representative of the Top Fund to vote its holdings in the Underlying Fund in accordance with their direction, and the representative of the Top Fund has not voted its holdings in the Underlying Funds except to the extent the security holders of the Top Fund have directed;
- (v) in addition to receiving the annual and, upon request, the semi-annual financial statements of the Top Fund, security holders of the Top Fund have received appropriate summary disclosure in respect of the Top Fund's holdings of securities of the Underlying Funds in the financial statements of the Top Fund; and
- (w) to the extent that the Top Fund and the Underlying Funds do not use a combined simplified prospectus and annual information form containing disclosure about the Top Fund and the Underlying Funds, copies of the simplified prospectus and annual information form of the Underlying Funds have been provided upon request to security holders of the Top

2003 BCSECCOM 197

Fund and the right to receive these documents is disclosed in the simplified prospectus of the Top Fund.

DATED February 28, 2003.

Robert W. Korthals

Robert L. Shirriff