

2010 BCSECCOM 546

September 24, 2010

Headnote

Multilateral Instrument 11-102 *Passport System* – National Instrument 31-103 *Registration Requirements and Exemptions* s. 15.1 and 1996 *Securities Act* s. 48 - Exemption from National Instrument 31-103 *Registration Requirements and Exemptions* s. 13.2(2)(b) requirement to take reasonable steps to establish whether the client is an insider of a reporting issuer or any other issuer whose securities are publicly traded – An exempt market dealer seeks relief to continue to offer units of its private mutual funds in reliance on prospectus exemptions - The person does not distribute any securities other than private mutual funds they manage; the funds are subject to concentration restrictions; only in very rare circumstances would a trade raise regulatory obligations relating to insider trading issues

Applicable British Columbia Provisions

National Instrument 31-103 *Registration Requirements and Exemptions* s. 13.2(2)(b) and 15.1
Securities Act, R.S.B.C. 1996, c. 418, s. 48

In the Matter of the Securities Legislation of British Columbia and Ontario
(the Jurisdictions)

and

In the Matter of the Process for Exemptive Relief Applications
in Multiple Jurisdictions

and

In the Matter of North Growth Management Ltd. (the Filer)

Decision

¶ 1 **Background**

The securities regulatory authority or regulator in each the Jurisdictions (the Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer is exempt from the provisions of subsection 13.2(2)(b) of National Instrument 31-103 (NI 31-103) in connection with the Filer's registration in the category of exempt market dealer under NI 31-103 with respect to the distribution of the Funds (as defined below) (the Exemption Sought).

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

- (a) the British Columbia Securities Commission is the principal regulator for this application,
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta and Quebec, and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

¶ 2 Interpretation

Terms defined in Nations Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

¶ 3 Representations

This decision is based on the following facts represented by the Filer:

1. The Filer is a company incorporated under the laws of British Columbia, has its head office located in British Columbia, and is registered as a portfolio manager under NI 31-103 in each of the Jurisdictions.
2. The Filer is not in default of the securities legislation in any jurisdiction.
3. The Filer is seeking registration as an exempt market dealer under NI 31-103 to enable the Applicant to continue to offer units of the North Growth US Equity Fund, the North Growth Canadian Equity Fund and the North Growth Money Market Fund (collectively, the Funds) in reliance on exemptions from the prospectus requirements of applicable securities legislation.
4. Each of the Funds are private mutual funds and are managed by the Filer.
5. The Filer does not distribute any securities other than their own Funds in its capacity as an exempt market dealer.

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¶ 4 **Decision**

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that the Filer will not cause any of the Funds to purchase a security of an issuer if, immediately after the transaction, more than 10 percent of the net assets of a Fund, taken at market value at the time of the transaction, would be invested in securities of any issuer.

Sandra Jakab
Director, Capital Markets Regulation
British Columbia Securities Commission