

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA,
SASKATCHEWAN, ONTARIO,
QUEBEC, AND NEWFOUNDLAND & LABRADOR**

AND

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

AND

**IN THE MATTER OF
SCOTIA CASSELS INVESTMENT COUNSEL LIMITED
RBC GLOBAL INVESTMENT MANAGEMENT INC.
NATCAN INVESTMENT MANAGEMENT INC.
TAL GLOBAL ASSET MANAGEMENT INC.
CM INVESTMENT MANAGEMENT INC.
GUARDIAN GROUP OF FUNDS LTD.
BMO HARRIS INVESTMENT MANAGEMENT INC.
BMO NESBITT BURNS INC.
JONES HEWARD INVESTMENT COUNSEL INC.
SCOTIA CAPITAL INC.
(collectively, the APortfolio Managers@)**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the ADecision Maker@) in each of British Columbia, Alberta, Saskatchewan, Ontario, Quebec, Nova Scotia, and Newfoundland (the AJurisdictions@) has received an application from the Portfolio Managers for a decision under the securities legislation of the Jurisdictions (the ALegislation@) that the provision (the AInvestment Prohibition@) contained in the Legislation, which prohibits a portfolio manager from knowingly causing any investment portfolio managed by it to purchase or sell securities of any issuer from or to the account of a responsible person, any associate of a responsible person or the portfolio manager (collectively, the ARelated Persons@), does not apply to the Portfolio Managers, in connection with the purchase or sale (a ATrade@) by mutual funds whose investment portfolios are managed by the Portfolio Managers (collectively, the AManaged Funds@) of

- i. debt securities issued or fully and unconditionally guaranteed by the federal or provincial governments (AGovernment Debt Securities@), or**
- ii. debt securities of an issuer other than the federal and provincial governments (ANon-Government Debt Securities@);**

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

AND WHEREAS the Portfolio Managers have represented to the Decision Makers that:

- 1. Each Portfolio Manager currently acts as portfolio manager for one or more Managed Funds whose investment objectives permit them to invest in debt securities.**
- 2. Except for Natcan Investment Management Inc. (ANIMI@) and TAL Global Asset Management Inc. (ATAL@), the head office of each Portfolio Manager is in Toronto, Ontario. The head office of NIMI and TAL is in Montreal, Quebec.**
- 3. In recent years, the amount of Government Debt Securities available for investment in Canada has declined significantly due to government deficit reduction programs. As a result, investors in debt securities have had to rely increasingly on Non-Government Debt Securities. However, because of the limited supply of Non-Government Debt Securities in the primary market, holders of outstanding Non-Government Debt Securities have tended not to sell their holdings prior to the maturity date of their Non-Government Debt holdings. This has, in turn, led to the limited availability of Non-Government Debt Securities in the secondary market. Moreover, because of their limited availability, the Non-Government Debt Securities that are available in the secondary market are usually sold at prices that are higher than if they were purchased in the primary market, assuming no change in the markets and in the status of the issuer.**
- 4. The debt securities market is primarily a dealers=market where a dealer provides buy or sell price quotes (as the case may be) and, if the price quotes are accepted, the resulting Trade is effected with the dealer acting as principal.**

5. **Most, if not all, of the Portfolio Managers or their associates or affiliates are the principal dealers in the Canadian debt securities market -- both primary and secondary.**

6. **The Investment Prohibition, combined with the circumstances described in paragraphs 3 and 4 above, has made it even more difficult for the Portfolio Managers to acquire debt securities for their Managed Funds in the secondary market.**

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the ADecision@);

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Makers with the Jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that the Investment Prohibition does not apply so as to enable each Portfolio Manager to cause its Managed Funds to purchase Government Debt Securities or Non-Government Securities from, or sell such debt securities to, the account of a Related Person other than a mutual fund, in the secondary market,

PROVIDED THAT

- A. **at the time of causing a Managed Fund to Trade in Government Debt Securities or Non-Government Debt Securities pursuant to this Decision, the following conditions are satisfied:**
 - (1) **the Trade**
 - a. **represents the business judgment of the Portfolio Manager uninfluenced by considerations other than the best interests of the Managed Fund, or**
 - b. **is, in fact, in the best interests of the Managed Fund;**
 - (2) **the Trade is consistent with, or is necessary to meet, the investment objective of the Managed Fund as disclosed in its simplified prospectus;**

- (3) the terms of the Trade are better than the terms quoted by one or more dealers who are neither affiliates nor associates of the Related Person (the Independent Dealers@) with whom the Trade is made;**
 - (4) if the Trade is a purchase of Non-Government Debt Securities,**
 - a. the purchase is not made from the Related Person during the 60-day period after the distribution of such Non-Government Debt Securities, if the Related Person acted**
 - i. as underwriter in the distribution of the Non-Government Debt Securities, or**
 - ii. as a selling group member selling more than 5% of the underwritten securities;**
 - b. the issuer of the Non-Government Debt Securities is not a Related issuer@ or Aconnected issuer@, as defined in National Instrument 33-105 Underwriting Conflicts, of the Related Person;**
 - c. the Related Person is not**
 - i. the issuer of the Non-Government Debt Securities, or**
 - ii. a promoter of the issuer of the Non-Government Debt Securities; and**
 - d. the Non-Government Debt Securities have been given, and continue to have, an Approved rating@ by an Approved rating organization@ as such terms are defined in section 1.1 of NI 44-101 - Short Form Prospectus Distributions;**
- B. prior to effecting any Trade pursuant to this Decision,**
- (1) the simplified prospectus of the Managed Fund discloses that it may purchase or sell Government Debt Securities or Non-Government Debt Securities from or to the account of a Related Person pursuant to this Decision, and**

received from one or more Independent Dealers, in respect of each Trade made with a Related Person;

- c. the Amanager@, as defined in National Instrument 81-102 - Mutual Funds, conducts a timely review of each Managed Fund's Trades with Related Persons to confirm that each Trade
 - i. represented the business judgment of the Portfolio Manager uninfluenced by considerations other than the best interests of the Managed Fund, or
 - ii. was, in fact, in the best interests of the Managed Fund; and

D. the following particulars of each Trade pursuant to this Decision are set out in a report certified by the Portfolio Manager and filed on SEDAR, in respect of each Managed Fund and no later than 30 days after the end of the month in which one or more such Trades were made:

- (1) the issuer of the debt securities,
- (2) the principal amount of debt securities purchased or sold by the Managed Fund,
- (3) the price at which the purchase or sale was made,
- (4) the Related Person with whom the Trade was made, and
 - a. in the case of a Trade in Government Debt Securities, the price paid or received by the Managed Fund, or
 - b. in the case of a Trade in Non-Government Debt Securities, the spread over the relevant Benchmark Bond or US Treasury Bond that was paid or received by the Managed Fund, and
- (5) a certification by the Portfolio Manager that the Trade
 - a. represented the business judgment of the Portfolio Manager uninfluenced by considerations other than the best interest of the Managed Fund, or

- b. was, in fact, in the best interests of the Managed Fund; and
- E. this Decision, as it relates to the jurisdiction of a Decision Maker, will terminate after the coming into force of any legislation or rule of that Decision Maker dealing with the matters regulated by section 4.2 of NI 81-102.

DATED this 10th day of July, 2002.

Harold P. Hands

Robert L. Shirriff

Harold P. Hands

Robert L. Shirriff

Headnote

Mutual Reliance Review System for Exemptive Relief - Portfolio managers of certain mutual funds granted relief from provision in securities legislation that prohibits them from knowingly causing any investment portfolio managed by them to purchase or sell securities of any issuer from or to the account of a responsible person or its associates, subject to a number of conditions.

Applicable Ontario Statute

***Securities Act (Ontario)*, R.S.O. 1990 c. S.5, as am., ss. 118(2)(b) and 121(2)(a)(ii).**

Instruments Cited

National Instrument 33-105 - Underwriting Conflicts; National Instrument 44-101 - Short Form Prospectus Distributions; National Instrument 81-102 - Mutual Funds.