

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

AND

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

AND

**IN THE MATTER OF
TALVEST FUND MANAGEMENT INC.**

AND

TALVEST GLOBAL SECTOR MULTI MANAGEMENT FUND

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (collectively, the **ADecision Makers@**) in each of the provinces of British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia and Newfoundland and Labrador (collectively, the **AJurisdictions@**) has received an application from Talvest Fund Management Inc., (the **AManager@**) in its own capacity and on behalf of Talvest Global Sector Multi Management Fund (the **AExisting Top Fund@**) and other mutual funds managed by the Manager after the date of this Decision (defined herein) having as their investment objective to invest all or substantially all of their assets in other mutual funds managed by the Manager (the **AFuture Top Funds@** and together with the Existing Top Fund, the **ATop Funds@**) for a decision by each Decision Maker (collectively, the **ADecision@**) pursuant to the securities legislation of the Jurisdictions (the **ALegislation@**) that the following provisions of the Legislation (the **AApplicable Requirements@**) shall not apply to the Manager or the Top Funds, as the case may be, in respect of certain investments to be made from time to time by a Top Fund in the securities of the Talvest Global Financial Services Fund, Talvest Global Health Care Fund, Talvest Global Resource Fund, Talvest Global Science & Technology Fund and Talvest Global Telecommunication Fund (together, the **AExisting Reference Funds@**) and such other mutual funds established and managed by the Manager in the future (the **AFuture Reference Funds@** and together with the Existing Reference Funds, the **AReference Funds@**):

- (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 security holder, 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 pursuant to the Mutual Reliance Review System (AMRRS®) for Exemptive Relief Applications (the ASystem®), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS the Manager has represented to the Decision Makers as follows:

1. The Manager is a corporation incorporated under the laws of Canada and its registered office is located in Québec. The Manager is or will be the promoter, trustee and manager of the Top Funds.
2. Each of the Top Funds and the Reference Funds is or will be an open-end mutual fund trust established under the laws of the Province of Ontario. Securities of each of the Top Funds and Reference Funds will be qualified for distribution in each of the Jurisdictions under a simplified prospectus and annual information form (together, the AProspectus®) filed with and accepted by the Decision Makers. A Prospectus for the Existing Top Fund and the Existing Reference Funds will be filed shortly in final form under SEDAR project number 401987.
3. Each of the Top Funds and Reference Funds is or will be a reporting issuer in each of the Jurisdictions. The Existing Top Fund and the Existing Reference Funds are not in default of any requirements of the Legislation.
4. In order to achieve its investment objective, each of the Top Funds will invest fixed percentages (the AFixed Percentages®) of its assets, excluding cash and cash equivalents held to meet redemptions and expenses, directly in securities of specified Reference Funds, subject to a variation of 2.5 percent above or below the Fixed Percentages (the APermitted Ranges®) to account for market fluctuations.
5. The Prospectus of each Top Fund will disclose the names, investment objectives, investment strategies, risks and restrictions of the selected Reference Funds, the Fixed Percentages for each, and the Permitted Ranges.
6. Where a Reference Fund or a Fixed Percentage is changed, the Manager will provide 60 days= prior written notice to unitholders of the Top Fund and will amend the Prospectus of the Top Fund to reflect any such change.
7. Each of the Top Funds will not invest in a mutual fund whose investment objective includes investing in other mutual funds.

8. The investments by a Top Fund in securities of the Reference 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.
9. Except to the extent evidenced by this Decision and specific approvals granted by the regulator or the securities regulatory authority in each of the provinces and territories of Canada pursuant to National Instrument 81-102 Mutual Funds (ANI 81-102"), the investments by a Top Fund in the Reference Funds have been structured to comply with the investment restrictions of the Legislation and NI 81-102.
10. 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 security holder. As a result, in the absence of this Decision, each Top Fund would be required to divest itself of any such investments.
11. In the absence of this Decision, the Legislation requires the Manager to file a report on every purchase and sale of securities of the Reference Funds by a Top Fund.

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

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 pursuant to the Legislation is that the Applicable Requirements shall not apply so as to prevent the Top Funds from making and holding an investment in securities of the Reference Funds or require the Manager to file a report relating to the purchase and 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 Reference Funds, the following conditions are satisfied:
 - (a) the securities of both the Top Fund and the Reference Funds are being offered for sale in

the jurisdiction of the Decision Maker pursuant to a simplified prospectus and annual information form which has been filed with and accepted by the Decision Maker;

- (b) the investment by the Top Fund in the Reference Funds is compatible with the fundamental investment objectives of the Top Funds;
- (c) the simplified prospectus of the Top Fund discloses the intent of the Top Fund to invest directly in securities of the Reference Funds, the names of the Reference Funds, the Fixed Percentages and the Permitted Ranges within which such Fixed Percentages may vary;
- (d) the investment objective of the Top Fund discloses that the Top Fund invests in securities of other mutual funds;
- (e) the Reference Funds are not mutual funds whose investment objective includes investing directly or indirectly in other mutual funds;
- (f) the Top Fund invests its assets (exclusive of cash and cash equivalents) in the Reference Funds in accordance with the Fixed Percentages disclosed in the simplified prospectus of the Top Fund;
- (g) the Top Fund's holding of securities in the Reference Funds does not deviate from the Permitted Ranges;
- (h) any deviation from the Fixed Percentages is caused by market fluctuations only;
- (i) where an investment by the Top Fund in any of the Reference 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 the net asset value was calculated following the deviation;
- (j) if the Fixed Percentages and the Reference Funds which are disclosed in the simplified prospectus have been changed, either the simplified prospectus has been amended in accordance with securities legislation to reflect this significant change, or a new simplified prospectus has been filed to reflect the change, and the security holders of the Top Fund have been given at least 60 days' notice of the change;
- (k) there are compatible dates for the calculation of the net asset value of the Top Fund and the Reference Funds for the purpose of the issue and redemption of the securities of such mutual funds;
- (l) no sales charges are payable by the Top Fund in relation to its purchases of securities of

the Reference Funds;

- (m) no redemption fees or other charges are charged by an Reference Fund in respect of the redemption by the Top Fund of securities of the Reference Fund owned by the Top Fund;
- (n) no fees or charges of any sort are paid by the Top Fund and the Reference 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 Reference Funds;
- (o) the arrangements between or in respect of the Top Fund and the Reference Funds are such as to avoid the duplication of management fees;
- (p) any notice provided to security holders of a Reference Fund as required by applicable laws or the constating documents of that Reference Fund has been delivered by the Top Fund to its security holders;
- (q) all of the disclosure and notice material prepared in connection with a meeting of security holders of the Reference Funds 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 Reference Fund in accordance with their direction, and the representative of the Top Fund has not voted its holdings in the Reference Funds except to the extent the security holders of the Top Fund have directed;
- (r) in addition to receiving the annual, and upon request, the semi-annual financial statements, of the Top Fund, security holders of a Top Fund have received appropriate summary disclosure in respect of the Top Fund's holdings of securities of the Reference Funds in the financial statements of the Top Fund; and
- (s) to the extent that the Top Fund and the Reference Funds do not use a combined simplified prospectus and annual information form containing disclosure about the Top Fund and the Reference Funds, copies of the simplified prospectus and annual information form of the Reference Funds have been provided upon request to security holders of the Top Fund and the right to receive these documents is disclosed in the simplified prospectus of the Top Fund.

DATED at Toronto this 29th day January, 2002.

APaul Moore@

Paul Moore

AR. Stephen Paddon@

R. Stephen Paddon

Headnote

Relief from the requirements of clause 111(2)(b) and subsection 111(3), clauses 117(1)(a) and 117(1)(d) in respect of a passive fund-of-fund structure of one mutual fund investing in five unrelated underlying funds.

Statutes Cited

Securities Act (Ontario), R.S.O. 1990, c.S. 5, as am. Ss. 111(2)(b), 111(3), 117(1)(a) &